

all possessors of Class I wildlife to guarantee financial responsibility. The proposed rule also addresses the strength of material used for facilities housing captive wildlife.

SUBJECT AREA TO BE ADDRESSED: Subject areas to be covered in the proposed rules include guarantees of financial responsibility for possessors of Class I wildlife and facility requirements for captive wildlife.

RULEMAKING AUTHORITY: Art. IV, Sec. 9, Florida Constitution, 379.303, 379.304, 379.305, 379.373, 379.374 FS.

LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution, 379.372, 379.373, 379.374, 379.305, 379.304 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Bud Vielhauer, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

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

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

RULE NOS.:	RULE TITLES:
69A-47.011	Adoption of the Florida Elevator Safety Code
69A-47.012	Uniform Elevator Keys
69A-47.019	Lockboxes

PURPOSE AND EFFECT: The purposes of the rule chapter amendments are to clarify the effective date of Rule Chapter 61C-5, F.A.C., adopted by reference, and to conform the rules to recent legislative changes. The effect of the rule is to authorize the use of an elevator key lockbox in lieu of requiring a uniform regional elevator key, when the lockbox and its placement meet the requirements of the rule.

SUBJECT AREA TO BE ADDRESSED: Uniform Regional Elevator Keys.

RULEMAKING AUTHORITY: 633.01, 399.15 FS.

LAW IMPLEMENTED: 633.01, 633.022, 399.15 FS.

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

DATE AND TIME: Monday, October 18, 2010, 1:30 p.m.
PLACE: Third Floor Conference, Atrium Building, 325 John Knox 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: Jim Goodloe, Chief, Bureau of Fire Prevention, (850)413-3620; Jim.Goodloe@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Jim Goodloe, Chief, Bureau of Fire Prevention, (850)413-3620; Jim.Goodloe@myfloridacfo.com

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

**Section II
Proposed Rules**

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Community Planning

RULE NOS.:	RULE TITLES:
9J-5.003	Definitions
9J-5.006	Future Land Use Element
9J-5.013	Conservation Element
9J-5.019	Transportation Element

PURPOSE AND EFFECT: The purpose and effect are to amend Chapter 9J-5, F.A.C., to implement Chapter 2008-191, Laws of Florida (CS/HB697).

SUMMARY: The proposed amendments to Chapter 9J-5, F.A.C., pertaining to criteria for the review of local government comprehensive plans and plan amendments, modify the rules to implement Chapter 2008-191, Laws of Florida (CS/HB 697), regarding energy efficient land use patterns accounting for existing and future electric power generation and transmission systems, greenhouse gas reduction strategies, strategies to address reduction in greenhouse gas emissions from the transportation sector, factors that affect energy conservation, depicting energy conservation on the future land use map series, and the discouragement of urban sprawl.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that these proposed amendments will have no impact on small business. A statement of estimated regulatory costs was prepared. A copy can be obtained from Robert Pennock at the address listed below.

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

RULEMAKING AUTHORITY: 163.3177(9), (10), 163.3180(4) FS.

LAW IMPLEMENTED: 163.3177, 163.3177(6)(a), (b), (d), (j) FS.

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

DATE AND TIME: October 25, 2010, 1:00 p.m.

PLACE: Department of Community Affairs, Randall Kelley Training Center, Room 305, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Sheri Coven, Director of Intergovernmental and Public Affairs, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1600. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Robert Pennock, Strategic Planning Coordinator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1735

THE FULL TEXT OF THE PROPOSED RULES IS:

9J-5.003 Definitions.

As used in this rule chapter, the terms defined in Section 163.3164, F.S., shall have the meanings provided in that section. In addition, the following definitions are provided to clarify terms used in this rule chapter and not to establish or limit regulatory authority of other agencies or programs; however, local governments may choose alternative definitions which the Department shall review to determine whether such definitions accomplish the intent of both this rule chapter and of Chapter 163, Part II, F.S. The use of definitions in this rule which were adopted by rule amendment shall not have the effect of rendering not in compliance a plan or plan amendment adopted prior to the effective date of the rule amendment, nor of changing definitions of terms used in a plan or plan amendment adopted prior to the effective date of the rule amendment.

(1) through (40) No change.

(41) “Energy efficient land use pattern” means an arrangement of land uses that reduces energy use per capita for transportation, housing, and infrastructure, accounting for existing and future electric power generation and transmission systems.

(41) through (142) renumbered (42) through (143) No change.

Rulemaking Specific Authority 163.3177(9), (10) FS. Law Implemented 163.3177, 163.3178 FS. History—New 3-6-86, Amended 10-20-86, 11-22-89, 4-2-92, 3-23-94, 5-18-94, 3-21-99, 2-25-01, _____.

9J-5.006 Future Land Use Element.

The purpose of the future land use element is the designation of future land use patterns as reflected in the goals, objectives and policies of the local government comprehensive plan elements. Future land use patterns are depicted on the future land use map or map series within the element.

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

(h) An analysis of urban sprawl based on the methodology provided in subsection 9J-5.006(5), F.A.C.

(i) Identification of land use strategies to achieve energy efficient land use patterns, increase energy conservation, and reduce greenhouse gas emissions. At a minimum, the following strategies shall be analyzed for areas planned for urban development or redevelopment:

1. Compact, mixed use development that increases the proximity of complementary uses, including housing, jobs, schools, other public services, shopping, and recreation, and transit services;

2. Minimum density and intensity standards that support transit, walking, and bicycling;

3. Higher gross densities and gross intensities;

4. Incentives for urban infill and redevelopment, including provisions for adequate infrastructure and services; and

5. Design standards which support the development of energy efficient places, neighborhoods, and transportation corridors, including standards that promote water conservation.

(3) through (b)9. No change.

10. Encourage the use of innovative land development regulations which may include provisions for planned unit developments and other mixed land use development techniques; ~~and~~

11. Ensure the availability of dredge spoil disposal sites for coastal counties and municipalities that have spoil disposal responsibilities; ~~and-~~

12. Achieve energy efficient land use patterns that conserve energy and reduce per capita greenhouse gas emissions.

(c) through 6. No change.

7. Establishment of standards for maximum and, where appropriate, minimum densities or intensities of use for each future land use category;

8. Identification, designation and protection of historically significant properties; ~~and~~

9. Designation of dredge spoil disposal sites for counties and municipalities located in the coastal area and include the criteria for site selection established in consultation with navigation and inlet districts and other appropriate state and federal agencies and the public. Site selection criteria shall

ensure sufficient sites to meet future needs, be consistent with environmental and natural resource protection policies established in the elements of this plan and meet reasonable cost and transportation requirements:-

10. Discouragement of urban sprawl; and

11. Achievement of energy efficient land use patterns that conserve energy and reduce per capita greenhouse gas emissions.

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

5. Minerals and soils; ~~and~~

6. Coastal high hazard areas; ~~and~~:-

7. Other natural resource factors that affect energy conservation.

Rulemaking Specific Authority 163.3177(9), (10), 163.3180(14) FS. Law Implemented 163.3177(1), (2), (4), (5), (6)(a), (d), (8), (9), (10), (11), 163.3178, 163.3180(13), (15) FS. History--New 3-6-86, Amended 10-20-86, 4-2-92, 3-23-94, 5-18-94, 3-21-99, 2-25-01, _____.

9J-5.013 Conservation Element.

The purpose of the conservation element is to promote the conservation, use and protection of natural resources.

(1) through (c) No change.

(d) Identify natural resource factors that affect energy conservation.

(2) through (b)2. No change.

3. Conserve, appropriately use and protect minerals, soils and native vegetative communities including forests; ~~and~~

4. Conserve, appropriately use and protect fisheries, wildlife, wildlife habitat and marine habitat; ~~and~~:-

5. Conserve and protect natural resource factors that affect energy conservation.

(c) through 8. No change.

9. Designation of environmentally sensitive lands for protection based on locally determined criteria which further the goals and objectives of the conservation element; ~~and~~

10. Management of hazardous wastes to protect natural resources; ~~and~~:-

11. Conserve and protect natural resource factors that affect energy conservation.

(3) No change.

Rulemaking Specific Authority 163.3177(9), (10) FS. Law Implemented 163.3177, 163.3178 FS. History--New 3-6-86, Amended 10-20-86, 5-18-94, _____.

9J-5.019 Transportation Element.

(1) APPLICATION AND PURPOSE. A local government which has all or part of its jurisdiction included within the urban area of a Metropolitan Planning Organization (MPO) pursuant to Section 339.175, F.S., shall prepare and adopt a transportation element consistent with the provisions of this Rule and Chapter 163, Part II, F.S. Local governments that are not located within the urban area of a MPO shall adopt traffic

circulation, mass transit, and ports, aviation and related facilities elements consistent with the provisions of this rule and Chapter 163, Part II, F.S., except that local governments with a population of 50,000 or less, as determined under Section 186.901, F.S., shall not be required to prepare mass transit or ports, aviation and related facilities elements. Within a designated MPO area, the transportation elements of the local plans shall be coordinated with the long range transportation plan of the MPO. The purpose of the transportation element shall be to plan for a multimodal transportation system that places emphasis on public transportation systems. All local governments shall adopt strategies to reduce greenhouse gas emissions from the transportation sector and support energy efficient land use patterns.

(2) through (3)(e) No change.

(f) An analysis of the projected transportation system levels of service and system needs based upon the future land use categories, including their densities or intensities of use as shown on the future land use map or map series, and the projected integrated transportation system. The analysis shall demonstrate integration and coordination among the various modes of transportation, including public transit, bicycle, pedestrian, rail, airport and seaport facilities. The analysis shall address the need for new facilities and expansions of alternative transportation modes to provide a safe and efficient transportation network and enhance mobility. The methodologies used in the analysis, including the assumptions used, modeling applications, and alternatives considered shall be included in the plan support document. The analysis shall address the effect of transportation concurrency management areas, if any pursuant to subsection 9J-5.0055(5), F.A.C., and the effect of transportation concurrency exceptions if any, pursuant to subsections 9J-5.0055(6) and (7), F.A.C.

(g) through (i) No change.

(j) An analysis which identifies land uses and transportation management programs necessary to promote and support a multimodal public transportation system to reduce vehicle miles traveled and greenhouse gas emissions in designated public transportation corridors.

(k) No change.

(l) An analysis of transportation strategies to reduce greenhouse gas emissions from the transportation sector including: transportation demand management, multimodal mobility, and reducing vehicle miles traveled.

(4) through (a) No change.

(b) The element shall contain one or more specific objectives for each goal statement which address the requirements of subsections 163.3177(6)(b), (6)(j), (7)(a), and (7)(b), F.S., and which:

1. Provide for a safe, convenient, and energy efficient multimodal transportation system that furthers the reduction of greenhouse gas emissions;

2. through 10. No change.

(c) The element shall contain one or more policies for each objective which address implementation activities for the:

1. through 22. No change.

23. Establishment of strategies to reduce greenhouse gas emissions.

(5) No change.

Rulemaking Specific Authority 163.3177(9), (10) FS. Law Implemented 163.3177(1), (3), (5), (8), (9), (10), 163.3178, 163.3180(13), (15) FS. History—New 3-6-86, Amended 3-21-99, 2-25-01,_____.

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

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

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

DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 24, 2008; November 13, 2009; January 8, 2010, April 2, 2010, August 20, 2010

DEPARTMENT OF TRANSPORTATION

RULE NOS.:	RULE TITLES:
14-57.003	Railroad Safety Standards and Clearance Requirements
14-57.010	Definitions for Use in Part II
14-57.011	Public Railroad-Highway Grade Crossings Costs
14-57.012	Public Railroad-Highway Grade Crossings – Opening and Closure
14-57.013	Installation Criteria and Warning Devices for Public Railroad-Highway Grade Crossings
14-57.014	Rail Corridor Crossing Management

PURPOSE AND EFFECT: Rule Chapter 14-57, F.A.C., is being amended to update, reorganize, and clarify the rule chapter.

SUMMARY: The overall organization of the rule chapter is addressed.

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: 334.044(2) FS.

LAW IMPLEMENTED: 335.141, 337.242(3), 339.05, 341.302, 351.35 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: Deanna R. Hurt, Assistant General Counsel and Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULES IS:

PART I RAILROAD SAFETY AND CLEARANCE STANDARDS

14-57.003 Railroad Safety Standards and Clearance Requirements.

(1) This rule adopts the federal minimum safety standards for track, freight car, and locomotive inspections prescribed by 49 C.F.R. Parts 213, 214, 215, 216, 217, 218, 219, 220, 221, 223, 225, 228, 229, 230, 231, 232, 233, 234, 236, 238, 239, and 240, as printed in the annual edition of Title 49, Code of Federal Regulations, dated October 1, 2009 ~~2000~~, and the federal minimum safety standards for the transportation of hazardous material by rail as prescribed by 49 C.F.R. Parts 171, 172, 173, 174, 178, 179, and 180, as printed in the annual edition of Title 49, Code of Federal Regulations, dated October 1, 2009 ~~2000~~, as rules of the Florida Department of Transportation; and prescribes reasonable requirements governing clearances above, beside, and between railroad tracks in the State of Florida. If a later version of an individual part is subsequently issued and adopted by the Florida Department of Transportation; that individual part will include the effective date of the revised standard.

(2) Definitions. In this rule, the words or terms are defined as follows:

(a) “Department” means the Florida Department of Transportation.

(b) “Height of a Conventional Railroad Car” means ~~is~~ the distance between the top of the rail and the highest part or appurtenance of a car.

(c) “Overhead Clearance” means ~~is~~ the vertical distance from the level of the top of the highest rail to a structure or obstruction above.

(d) “Railroad” means ~~is~~ as defined in Section 341.301, F.S.

(e) “Side Clearance” means ~~is~~ the shortest distance from the center line of track to a structure or obstruction at the side of the track.

(f) “Side of a Conventional Railroad Car” means ~~is~~ that part or appurtenance of a car at the maximum distance measured at right angles from the center line of the car.

(g) “Standard Gage” means ~~is~~ the established distance of four feet, eight and a half inches between the heads of the two rails of a railroad track measured at right angles to the rails in a plane five-eighths of an inch below the top of the rail head.

(3) The following federal minimum safety standards for inspections of track, conventional railroad cars, locomotives, and train operations inspections are hereby incorporated by reference and made rules of the Department:

- (a) Track Safety Standards. 49 C.F.R. Part 213.
- (b) Railroad Workplace Safety. 49 C.F.R. Part 214.
- (c) Railroad Freight Car Safety Standards. 49 C.F.R. Part 215.
- (d) Special Notice and Emergency Order Procedures: Railroad Track, Locomotive and Equipment. 49 C.F.R. Part 216.
- (e) Railroad Operating Rules. 49 C.F.R. Part 217.
- (f) Railroad Operating Practices. 49 C.F.R. Part 218.
- (g) Control of Alcohol and Drug Use. 49 C.F.R. Part 219.
- (h) Radio Standards and Procedures. 49 C.F.R. Part 220.
- (i) Rear End Marking Device – Passenger, Commuter and Freight Trains. 49 C.F.R. Part 221.
- (j) Safety Glazing Standards – Locomotives, Passenger Cars and Caboose. 49 C.F.R. Part 223.
- (k) Railroad Accidents/Incidents: Reports Classification, and Investigations. 49 C.F.R. Part 225.
- (l) Hours of Service of Railroad Employees. 49 C.F.R. Part 228.
- (m) Railroad Locomotive Safety Standards. 49 C.F.R. Part 229.
- (n) Locomotive Inspection. 49 C.F.R. Part 230.
- (o) Railroad Safety Appliance Standards. 49 C.F.R. Part 231.
- (p) Railroad Power Brakes and Drawbars. 49 C.F.R. Part 232.
- (q) Signal Systems Reporting Requirements. 49 C.F.R. Part 233.
- (r) Grade Crossing Signal System Safety. 49 C.F.R. Part 234.
- (s) Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances. 49 C.F.R. Part 236.
- (t) Passenger Equipment Safety Standards. 49 C.F.R. Part 238.
- (u) Passenger Train Emergency Preparedness. 49 C.F.R. Part 239.
- (v) Qualification and Certification of Locomotive Engineers. 49 C.F.R. Part 240.

(4) The following federal minimum safety standards for the transportation of hazardous materials by rail are hereby incorporated by reference and made rules of the Department:

- (a) General Information, Regulations, and Definitions. 49 C.F.R. Part 171.
- (b) Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements. 49 C.F.R. Part 172.
- (c) Shippers – General Requirements for Shipments and Packagings. 49 C.F.R. 173.
- (d) Carriage by Rail. 49 C.F.R. Part 174.
- (e) Specifications for Packagings. 49 C.F.R. Part 178.
- (f) Specifications for Tank Cars. 49 C.F.R. Part 179.
- (g) Continuing Qualification and Maintenance of Packagings. 49 C.F.R. Part 180.
- (5) Railroad Clearance Requirements.

(a) Overhead Clearance. The minimum overhead clearance above the top of the rail of standard gage railroad tracks, which are used or proposed to be used for transporting conventional railroad cars, shall be 22 feet, except as otherwise provided in this rule. The minimum overhead clearance above the top of the rail on such tracks located inside buildings shall be 17 feet. Where the overhead clearance is less than 22 feet inside buildings, appropriate warning signs directing the attention of railroad employees, and others, to the reduced clearance shall be erected as specified in subparagraph ~~Subsection~~ (5)(f)1. of this ~~r~~Rule at each point where the affected track enters the building.

(b) Side Clearances. The minimum side clearance from the center line of a curved railroad track, shall be one inch per thirty minutes of curvature; in addition to the minimum side clearance from the center line of tangent standard gage railroad tracks. The minimum side clearance used or proposed to be used for tangent standard gage railroad tracks shall be as follows:

1. The minimum side clearance for all structures and obstructions above the top of the rail, except those hereinafter specifically mentioned, shall be eight feet. (~~N~~ote: posts, pipes, warning signs, and similar obstructions should, where practicable, have a side clearance of ten feet.)

2. The minimum side clearance for tracks adjacent to platforms for loading and unloading conventional railroad cars, where the tops of such platforms are approximately level with the floors of such cars serving such platforms, may be reduced to not less than five feet nine inches, on one side of the tracks only. Warning signs, which direct attention of railroad employees and others to the reduced clearance, shall be erected as specified in subparagraph ~~Subsection~~ (5)(f)1. of this ~~r~~Rule.

3. The minimum side clearance for tracks adjacent to or entering engine terminal or shop structures, such as engine houses and car repair shops, outdoor locomotive fueling and servicing facilities, and turntables shall be six feet. When a side clearance of less than eight feet exists on such tracks, warning signs which direct attention of railroad employees to the reduced clearance shall be erected at each end of the structure.

The clearance requirements of this rule do not apply to repair or servicing platforms and structures inside engine houses and repair shops.

4. The minimum side clearance for platforms, eight inches or less above the top of the rail, shall be four feet eight inches.

5. The minimum side clearance for switch boxes, switch operating mechanisms, and accessories necessary for the control and operation of signals, switches, and derails, projecting four inches or less above the top of the rail, shall be three feet.

6. The minimum side clearance for signals and switch stands, three feet or less above the top of the rail and located between tracks, where not practicable to provide clearances otherwise prescribed by this rule because of the distance between the tracks, shall be six feet.

7. The minimum side clearance for fences of cattle guards shall be six feet nine inches.

(c) Clearances Between Tracks.

1. The minimum distance between the center lines of parallel standard gage tracks shall be 13 feet six inches.

2. The minimum distance between the center line of any standard gage ladder track and any other adjacent track shall be 19 feet.

3. The minimum distance between the center lines of parallel team, house, and industry tracks shall be 13 feet.

(d) Obstructions and Conditions Adjacent to Tracks.

1. The space between tracks within railroad yards, and the space beside such tracks within eight feet of the center line thereof, shall be kept clear of grass, weeds, mud, slime, debris, and similar obstructions.

2. No merchandise, material, or other articles shall be placed or permitted to remain either on the ground or on the platforms adjacent to any track, during the movement of trains or engines on such adjacent track, at a distance less than eight feet from the center line of track. This prohibition shall not apply to materials used in the construction, maintenance, or repair of the tracks. Notice of the general location of such materials to be used for the construction, maintenance, or repair of the tracks shall be posted where general notices concerning the movement of trains are posted, or shall otherwise be made available to railroad employees working in such area.

3. A line or other marker shall be maintained eight feet from the center line of track on all platforms, excluding passenger platforms, to indicate the space along the edge of the platform which must be kept clear of merchandise, material, or other articles.

(e) Applicability.

1. The clearances prescribed in this rule shall not apply to building structures or facilities constructed or relocated adjacent to any tracks prior to September 17, 1953, and to all tracks therein.

2. The clearances prescribed in this rule shall not apply to the extension of tracks or the adjacent buildings, structures, or facilities provided the track or buildings or structure or facility to be extended was constructed prior to September 17, 1953.

(f) Deviation from Clearance. In the event that the required railroad clearance cannot be met after any new construction of railroad track or any adjacent building, structure, or facility, the owner, or other designated person, of the adjacent building, structure, or facility shall take the following safety measures:

1. Install appropriate warning signs at a location at least 100 feet in advance of the location where less than the required clearance exists. Such signs must be installed at both ends of any location which can be approached by a train from either direction, exclusive of any switching activity on a stub end track.

2. Install markings, decals, or paint on any and all obstructions that have less than the required side clearance. Such markings, decals, or paint shall be in a pattern of diagonal stripes to call attention to the obstruction.

(6) Penalties. Failure to comply with the provisions of this rule chapter will result in a penalty in accordance with Section 351.35(2), F.S., as provided for in applicable federal regulations specified in subsection Section 14-57.003(1), F.A.C., and hereby incorporated by reference under subsections Sections 14-57.003(3) and (4), F.A.C.

Rulemaking Specific Authority 334.044(2), 351.35(1) FS. Law Implemented 341.302(7), (8), 351.35(1), (2) FS. History—New 1-27-81, Formerly 14-57.03, Amended 7-27-97, 10-6-01, _____.

PART II PUBLIC RAILROAD-HIGHWAY GRADE CROSSINGS

14-57.010 Definitions for Use in Part II.

The following definitions apply to this Part II:

(1) "Applicant" means any person, group, railroad, governmental entity, or the Department.

(2) "Application" means a Railroad Grade Crossing Application, Form 725-090-66, (Rev. 03/03 ~~01/03~~), incorporated herein by reference. Form 725-090-66 can be obtained from <http://www.dot.state.fl.us/rail/> ~~http://www11.myflorida.com/rail/xingopenclse.htm~~ or the Central Rail Office, Department of Transportation, 605 Suwannee Street, MS 25, Tallahassee, Florida 32399-0450.

(3) "Department" means the Florida Department of Transportation.

(4) "Governmental Entity" means as defined in Section 11.45(1)(d), F.S.

(5) "Public Railroad-Highway Grade Crossing" or "Crossing" means as defined in Section 335.141(1)(b), F.S.

(6) "Railroad" means as defined in Section 341.301(5), F.S.

(7) "State Highway System" means as defined in Section 334.03(25), F.S.

(8) “Stipulation of Parties” means a voluntary agreement between the railroad(s), the governmental entity(ies), the Department, and the applicant, if different from the aforementioned.

Rulemaking Specific Authority 334.044(2) FS. Law Implemented 335.141, 339.05 FS. History–New 3-20-03, Amended_____.

14-57.011 Public Railroad-Highway Grade Crossings Costs.

(1) Purpose. To establish the degree of Department and railroad participation in the cost of public railroad-highway grade crossings.

(2) Installation and Modification. The method of determining responsibility for installation or modification costs shall be as follows: At all public railroad-highway grade crossings, the method of determining railroad responsibility will be in accordance with the Federal Highway Administration Federal-Aid Policy Guide, Subchapter B, Part 140, Subpart I, January 31, 2002, Transmittal 30, incorporated herein by reference. To obtain copies of this document, go to <http://www.fhwa.dot.gov/legregs/directives/cfr23toc.html> <http://www.fhwa.dot.gov/> ~~link to Legislation and Regulations.~~

(3) Maintenance. The method of determining participation in public railroad-highway grade crossing maintenance costs shall be as follows:

(a) Grade Crossing Traffic Control Devices. The Department shall participate in 50% of the cost of maintaining grade crossing traffic control devices so long as the devices are located on the State Highway System.

(b) Travel Way. When the grade crossing is located on the State Highway System, the railroad shall be responsible for the maintenance cost of all trackbed and rail components, and the highway roadbed for the width of the rail ties within the crossing area. The Department shall be responsible for the maintenance cost of the highway roadbed outside of the railway ties on crossings where the railroad has a property interest. The railroad shall be responsible for the maintenance cost of the highway roadbed where the crossing occupies public right of way.

(c) Grade Separation Structures. The Department shall be responsible for the maintenance cost of railroad overpasses when the structure is located on the State Highway System and carries highway traffic over a railroad. The railroad shall be responsible for the maintenance cost of railroad underpasses which carry highway traffic under a railroad.

Rulemaking Specific Authority 334.044(2) FS. Law Implemented 335.141 FS. History–New 3-20-03, Amended_____.

14-57.012 Public Railroad-Highway Grade Crossings – Opening and Closure.

(1) Purpose. To establish standards for the opening and closing of public railroad-highway grade crossings. The objectives of these uniform standards will be to reduce the

accident/incident frequency and severity at public railroad-highway grade crossings, and improve rail and motor vehicle operating efficiency.

(2) Opening and Closing Public Railroad – Highway Grade Crossings. The Department will accept applications for the opening and closing of public railroad-highway grade crossings from the governmental entity that has jurisdiction over the public street or highway; any railroad operating trains through the crossing; any other applicant for a public railroad-highway grade crossing provided there is in existence an agreement between the applicant and governmental entity to assume jurisdiction as a public crossing. The Department, on behalf of the State of Florida, will also open or close public railroad-highway grade crossings in accordance with the criteria set forth herein. Closure applications will also be accepted from individual citizens or groups, such as neighborhood associations. Opening and closure of public railroad-highway grade crossings shall be based upon Notices of Intent issued by the Department, Final Orders of the Department following administrative hearings conducted pursuant to Chapter 120, F.S., or upon a Stipulation of Parties executed by any applicant, governmental entity, the appropriate railroad, and the Department. The burden of proof for the opening or closing of a crossing is on the applicant. A Final Order or a Stipulation of Parties concludes the application process. Acceptance of any application for processing by the Department shall not be construed as indicating the Department’s position regarding the application. If the preliminary review of the application does not support the crossing opening or closure, or the application does not demonstrate a material change of circumstances has occurred at the crossing since the execution of a Final Order or a Stipulation of Parties, the applicant will be advised of these findings. The applicant may choose to withdraw the application or continue the process. If withdrawn, the process is concluded. An applicant may suspend an application at any time. If the applicant chooses to pursue the opening or closure of the public railroad-highway crossing, the railroad and governmental entity having jurisdiction at the location are notified and provided a copy of the application. The governmental entity should provide a public forum for community involvement and contact affected individuals or groups to obtain input on impacts to the community. The expense of crossing closures or openings, which shall include installation, maintenance, and replacement of grade crossing traffic control devices and grade crossing surfaces, will be the responsibility of the applicant, unless otherwise negotiated and accepted by all parties.

(a) Opening of Public Railroad-Highway Grade Crossings. In considering an application to open a public railroad-highway grade crossing, the following criteria will apply:

1. Safety.

2. Necessity for rail and vehicle traffic.
3. Alternate routes.
4. Effect on rail operations and expenses.
5. Closure of one or more public railroad-grade crossings to offset opening a new crossing.
6. Design of the grade crossing and road approaches.
7. Presence of multiple tracks and their effect upon railroad and highway operations.

(b) Conversion of Crossings. Conversion of private railroad-highway grade crossings to public use constitutes opening a new public crossing, and shall meet the same requirements. Active grade crossing traffic control devices meeting the criteria set forth in subsection 14-57.012(3), F.A.C., are required at all new public railroad-highway grade crossings.

(c) Closure of Public Railroad-Highway Grade Crossings. In considering an application to close a public railroad-highway grade crossing, the following criteria will apply:

1. Safety.
2. Necessity for rail and vehicle traffic.
3. Alternate routes.
4. Effect on rail operations and expenses.
5. Excessive restriction to emergency type vehicles resulting from closure.
6. Design of the grade crossing and road approaches.
7. Presence of multiple tracks and their effect upon railroad and highway operations.

(d) Closure of Public Railroad-Highway Grade Crossings by the Department. The Department will initiate and maintain a crossing consolidation and closure program based on analysis of engineering and safety factors, and impact on operating efficiency to vehicle and rail traffic. Governmental entities will be provided the listing of potential closures for review and recommendation. Closures by the Department will be considered based upon following:

1. Systems or Corridor Approach. Review of crossings on a specific corridor by railroads, cooperative teams (railroads, state, governmental entity), or state rail personnel, to determine redundant or unused crossings that are viable candidates for closure.

2. Diagnostic Team Safety Review. Diagnostic teams review and recommend crossing candidates for closure on a rail corridor, based on overall safety index, specific hazards, or response to a serious accident(s) / incident(s).

3. Rail Changes, Construction, or Improvement Impacts. Crossing cClosure candidates may result from track rehabilitation, new highway or railroad construction, adjacent crossing improvements or signalization, and changes in passenger or freight service.

4. Individual Recommendations: Recommendations for closure may be submitted by federal or state Safety Inspectors, Operation Lifesaver volunteers, Railroad Safety Committees, engineers involved in "near misses," neighborhood associations, or other persons.

(e) Grade Separation. When estimated highway traffic has 30,000 vehicles a day across main line tracks, an engineering and benefit-cost analysis must be performed by the applicant to determine if a grade separation is warranted.

~~(3) Installation Criteria. Warning devices:~~

~~(a) Basic Equipment. All existing public railroad highway grade crossings without active warning devices shall have reflectorized railroad crossbucks on the right hand side of the road on both sides of the tracks as specified by the U.S. Department of Transportation Manual on Uniform Traffic Control Devices (MUTCD), incorporated by reference under Rule 14-15.010, F.A.C. The reflectorized railroad advance warning sign and pavement markings shall be located at those public grade crossings which are specified in the MUTCD.~~

~~(b) Minimum Active Grade Crossing Traffic Control Devices. All new public railroad highway grade crossings shall have, as a minimum, roadside flashing lights and gates on all roadway approaches to the crossing, usually placed on the right of approaching traffic. Lamp units shall be in accordance with the standards recommended by the MUTCD. The location of the roadside flashing lights and gates shall be in accordance with the Department's Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System, "Railroad Grade Crossing Traffic Control Devices," January 2002, with the primary emphasis being the visibility of the flashing lights and gates. The Department's Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System, "Railroad Grade Crossing Traffic Control Devices," January 2002, is hereby incorporated by this rule and made a part of the rules of this Department. Copies of this document and any amendments thereto are available at <http://www11.myflorida.com/rddesign/Design%20Standards/designstds.htm>. <http://www.dot.state.fl.us/officeofdesign>.~~

~~(c) Cantilevered Flashing Lights. Pairs of flashing lights placed on cantilevered arms extended over traffic lanes shall be employed when any one or more of the following conditions exist:~~

~~Multilane highways (two or more lanes in each direction) are present or when median lights and gates are not in place.~~

~~Sight restrictions to the grade crossing affect either the motorist or train crew.~~

~~Signal stanchion is located greater than 23 feet from centerline of roadway. The length of the cantilever arm shall be in accordance with the Department's Standard Index, "Railroad Grade Crossing Traffic Control Devices."~~

~~(d) Automatic Crossing Gates. Automatic crossing gates in conjunction with flashing lights shall be installed if any one of the following conditions exists:~~

~~Multilane highway.~~

~~Multiple railroad tracks including passing tracks.~~

~~High speed train operation (greater than 65 mph) or commuter train operation (greater than 45 mph).~~

~~Traffic counts greater than 5,000 vehicles per day.~~

~~Greater than 30 through trains per day.~~

~~Traffic with greater than nine school buses per day.~~

~~Continuance of accident history after installation of flashing lights.~~

~~(e) Traffic Signal Preemption. When new and existing grade crossings are within 200 feet of an intersection with traffic signals, a train activated preemption phase shall be provided in the active grade crossing traffic control device for the traffic signal system. The design of the traffic signal and phase sequencing shall be as specified in the MUTCD. Crossings located between 200 and 500 feet from a signalized intersection must either be preempted or be supported by an engineering study that determines that preemption is not in the interest of public safety.~~

~~(f) Train Speed Detection Devices. The activation of automatic flashing lights shall precede the train by a minimum of 20 seconds. Train speed detection devices are designed to activate automatic flashing lights preceding the arrival of the train at the crossing. Train arrival at the crossing shall not exceed 35 seconds from the start of the flashing lights. When train speeds on a given track vary considerably under normal operation, special devices or circuits shall be installed to provide notice in advance of all train movements over the crossing.~~

~~(g) Delay of Installation.~~

~~A new public railroad-highway grade crossing over an industrial spur track may be considered for a delay in the installation of active grade crossing traffic control devices when train movements are two trains per day or less, and if the Department determines that the characteristics of the highway traffic is conducive to requiring a flagman; the Department will require the crossing to be manually flagged (e.g., two lane less than 5,000, operating speed crossing must be illuminated). The Department will grant a temporary delay for the installation of such signals at a new public railroad-highway grade crossing when the installation of such signals would adversely affect the scheduled installation of signal improvements at those grade crossings deemed to have a higher statewide priority.~~

~~Public Railroad-Highway Grade Crossing Traffic Control Devices. All public railroad-highway grade crossing traffic control devices shall conform to the Department's *Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System*, "Railroad Grade Crossing Traffic Control Devices."~~

Rulemaking Specific Authority 334.044(2) FS. Law Implemented 335.141 FS. History—New 3-16-03, Amended 11-13-06, _____.

14-57.013 Installation Criteria and Warning Devices for Public Railroad-Highway Grade Crossings.

(1) Basic Equipment. All existing public railroad-highway grade crossings without active warning devices shall have reflectorized railroad crossbucks on the right hand side of the road on both sides of the tracks as specified by the U.S. Department of Transportation *Manual on Uniform Traffic Control Devices (MUTCD)*, incorporated by reference under Rule 14-15.010, F.A.C. The reflectorized railroad advance warning sign and pavement markings shall be located at those public grade crossings which are specified in the MUTCD.

(2) Minimum Active Grade Crossing Traffic Control Devices. All new public railroad-highway grade crossings shall have, as a minimum, roadside flashing lights and gates on all roadway approaches to the crossing, usually placed on the right of approaching traffic. Lamp units shall be in accordance with the standards recommended by the MUTCD. The location of the roadside flashing lights and gates shall be in accordance with the Department's *Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System*, "Railroad Grade Crossing Traffic Control Devices," with the primary emphasis being the visibility of the flashing lights and gates. The Department's 2010 *Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System*, "Railroad Grade Crossing Traffic Control Devices," is hereby incorporated by this rule and made a part of the rules of this Department. Copies of this document and any amendments thereto are available at <http://www.dot.state.fl.us/officeofdesign>.

(3) Cantilevered Flashing Lights. The Department recommends for rail safety that traffic signals be placed on cantilevers along with grade crossing flashing lights if the original placement of the traffic signal obstructs the visibility of the flashing lights. Pairs of flashing lights placed on cantilevered arms extended over traffic lanes shall be employed when any one or more of the following conditions exist:

(a) Multilane highways (two or more lanes in each direction) are present or when median lights and gates are not in place.

(b) Sight restrictions to the grade crossing affect either the motorist or train crew.

(c) Signal stanchion located greater than 23 feet from centerline of roadway. The length of the cantilever arm shall be in accordance with the Department's Standard Index, "Railroad Grade Crossing Traffic Control Devices."

(4) Automatic Crossing Gates. Automatic crossing gates in conjunction with flashing lights shall be installed if any one of the following conditions exists:

(a) Multilane highway.

(b) Multiple railroad tracks including passing tracks.

(c) High speed train operation (greater than 65 mph) or commuter train operation (greater than 45 mph).

(d) Traffic counts greater than 5,000 vehicles per day.

(e) Greater than 30 through trains per day.

(f) Traffic with greater than nine school buses per day.

(g) Tracks on which hazardous materials are transported.

(h) Continuance of accident history after installation of flashing lights.

(i) Signalized intersections located within 200 feet of track that result in limited vehicle storage space between the track and parallel road.

(5) Traffic Signal Preemption. When new and existing grade crossings are within 200 feet of an intersection with traffic signals, a train activated preemption phase shall be provided in the active grade crossing traffic control device for the traffic signal system. The design of the traffic signal and phase sequencing shall be as specified in the MUTCD. Crossings located between 200 and 500 feet from a signalized intersection must either be preempted or be supported by an engineering study that determines that preemption is not in the interest of public safety.

(6) Train Speed Detection Devices. Train speed detection devices are designed to activate automatic flashing lights preceding the arrival of the train at the crossing. When train speeds on a given track vary considerably under normal operation, special devices or circuits shall be installed to provide notice in advance of all train movements over the crossing.

(7) Delay of Installation.

(a) A new public railroad-highway grade crossing over an industrial spur track may be considered for a delay in the installation of active grade crossing traffic control devices when train movements are two trains per day or less, and if the Department determines that the characteristics of the highway traffic is conducive to requiring a flagman; the Department will require the crossing to be manually flagged (e.g., two lane highway, average daily traffic is less than 5,000 vehicles, less than vehicular operating speed is less than 30 mph crossing must be illuminated). When train movements require manual flagging at night, the grade crossing must be illuminated.

(b) The Department will grant a temporary delay for the installation of such signals at a new public railroad-highway grade crossing when the installation of such signals would adversely affect the scheduled installation of signal improvements at those grade crossings deemed to have a higher statewide priority.

(8) Public Railroad-Highway Grade Crossing Traffic Control Devices. All public railroad-highway grade crossing traffic control devices shall conform to the Department's *Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System*. "Railroad

Grade Crossing Traffic Control Devices." Copies of this document and any amendments thereto are available at <http://www.dot.state.fl.us/officeofdesign>.

Rulemaking Authority 334.044(2) FS. Law Implemented 335.141 FS. History--New.

PART III RAIL CORRIDOR CROSSING MANAGEMENT

14-57.014 Rail Corridor Crossing Management.

(1) Definitions for Use in Part III.

(a) "Applicant" means any person or local governmental entity.

(b) "Application" means the Rail Corridor Crossing Permit Application, DOT Form 725-080-86, Rev. 01/06, incorporated herein by reference. DOT Form 725-080-86 can be obtained from <http://www.dot.state.fl.us/rail/> ~~<http://www.formserver.tot.state.fl.us/capture/listings/FormListing.aspx?ListType=FormOffice&office=RAIL>~~ or the Central Rail Office, Department of Transportation, 605 Suwannee Street, MS 25, Tallahassee, Florida 32399-0450.

(c) "Corridor" or "Rail Corridor" means Department-owned lineal property acquired from a railroad that is not incorporated into the state highway system.

(d) "Department" means the Florida Department of Transportation.

(e) "Local Governmental Entity" means as defined in Section 11.45(1)(e), F.S.

(f) "Rail Corridor Crossing" means either a public or private travel way intended to be used for vehicular ingress and egress to and from a state highway way across a rail corridor.

(g) "State Highway" means a component of the State Highway System as defined in Section 334.03(25), F.S.

(2) Existing Crossings. The Department ~~recognize~~ recognizes existing public and private rail corridor crossings identified and described by a railroad at the time a rail corridor is transferred from a railroad to the Department. All other rail corridor crossings shall be closed if rail corridor crossing permits are not obtained by an applicant consistent with this rule chapter within six months following completion of acquisition of the rail corridor by the Department.

(3) Rail Corridor Crossing Permits. The issuance of a rail corridor crossing permit does not create a property right or vested interest in a rail corridor crossing and such permit is revocable in accordance with the provisions of this rule chapter. Prior to submitting an application, potential applicants are encouraged to contact the Department Central Rail Office to inquire as to the feasibility of a proposed rail corridor crossing.

(a) Public Crossing. An application by a local governmental entity for a rail corridor crossing permit for a corridor where rail service has been abandoned will be evaluated and conditioned upon the following criteria:

1. Jurisdiction over the county road or city street at the proposed crossing and acceptance of maintenance responsibility for the county road or city street, including the rail corridor crossing area by the local governmental entity is required.

2. A demonstrated transportation need on the part of the public for the crossing.

3. Consistency with any applicable Metropolitan Planning Organization (MPO) long range plans and local governmental entity comprehensive plans.

4. Closure of an existing public crossing for each new public crossing.

5. Construction of the crossing in a way that is compatible with the present use of the rail corridor.

6. Payment of construction and maintenance costs for the new public crossing, as well as any additional costs to modify the corridor to accommodate its planned use.

7. Agreement to indemnify, defend, and hold harmless the Department from all claims arising out of the use of the new public rail corridor crossing.

(b) Private Crossing. An application for a rail corridor crossing permit by a person who owns property abutting a rail corridor where rail service has been abandoned will be evaluated and conditioned upon the following criteria:

1. The private property must have no other legal access, including no access to frontage roads that exist or that could be cost-effectively constructed.

2. The new private crossing must be consistent with applicable MPO long range plans and local governmental entity comprehensive plans.

3. The new private crossing must be constructed in a way that is compatible with the present use of the rail corridor, and the design of the new private crossing shall be signed and sealed by a professional engineer registered in the State of Florida.

4. A corridor crossing permit is revocable, without compensation, upon a Department determination that the crossing is incompatible with the Department's use of the corridor and written notice of not less than 30 days.

5. The owner must indemnify, defend, and hold the Department harmless from all claims arising out of the use of the new private rail corridor crossing.

(4) Traffic Signals and Other Traffic Control Devices. Traffic signals and other traffic control devices, installed by an applicant, shall conform to the MUTCD and Department design and construction standards referenced herein. All construction and maintenance on the Department corridor shall conform to the Manual on Uniform Traffic Control Devices (MUTCD), incorporated by reference under Rule 14-15.010, F.A.C., and the Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, incorporated by reference under Rule 14-15.002,

F.A.C.

(a) Disruption of Traffic. For safety and operational purposes, the Department will require or restrict hours of construction if construction will cause disruption of traffic on the State Highway System. When construction activity on a rail corridor crossing causes undue disruption of traffic, or creates safety hazards on a state highway, the permittee will be advised of the need for immediate corrective action by a specified time and a stop work order will be issued if the permittee does not comply.

(b) Rail Corridor Crossing Completion Time Limit. Construction shall be completed within one year of the date of issuance of the rail corridor crossing permit. Failure to comply with the one year time limit shall result in an automatic expiration of the rail corridor crossing permit. A stop work order will be issued by the Department if work exceeds the imposed time restrictions. For any rail corridor crossing permit which expires for failure to construct the rail corridor crossing within the one year limit, a new application will be required. The corridor right of way shall be returned to the condition existing prior to the permit being issued, at the permittee's expense, unless a new permit is obtained pursuant to this rule ~~Chapter~~.

(c) Assurance of Performance. Assurance of performance conforming to Section 334.187, F.S., will be required if the rail corridor crossing permit requires extensive work within the right of way, such as relocation of structures or traffic signals.

1. Prior to the issuance of a rail corridor crossing permit, the applicant shall provide a security instrument in the estimated dollar amount of the improvements in the right of way. The Department shall be named as the beneficiary. The security instrument shall be provided to the Department before the rail corridor crossing permit is issued. The security instrument shall be valid for the time of the construction and inspection of the permitted work, but for not less than 18 months.

2. The applicant shall provide the estimated cost of improvements on right of way in a document signed, sealed, and dated by a professional engineer registered in the State of Florida.

3. Security Instrument Receipt, Form 850-040-20, Rev. 04/93, must be used, and is incorporated ~~herein~~ by reference in Rule Chapter 14-87, F.A.C. DOT Form 850-040-20 can be obtained from <http://www.formserver.tot.state.fl.us/capture/listings/FormListing.aspx?ListType=FormOffice&office=RAIL> <http://www.dot.state.fl.us/rail/> or the Central Rail Office, Department of Transportation, 605 Suwannee Street, MS 25, Tallahassee, Florida 32399-0450.

4. Such security instruments shall be required except when a performance bond covering the work on the right of way is included as part of the bond necessary for development approval by a local governmental entity and the Department is a named beneficiary.

5. The Department will waive the security instrument requirement when there is an agreement with the local governmental entity to withhold a certificate of occupancy until any problems are corrected and there is no indication that the requirements of this rule will be violated.

6. The security instrument will be returned to the applicant when final inspection by the Department shows that the work has been completed as permitted.

(d) Posting of rail corridor crossing permit. The approved rail corridor crossing permit shall be displayed in a prominent location in the vicinity of the crossing construction.

(e) The applicant is responsible for securing any additional permit or local governmental entity approval needed for traffic signalization and regulatory signing and marking.

(f) Professional Engineer Statement of Construction for Extensive Roadway Construction or Large Developments. If the rail corridor crossing permit requires extensive work within the right of way, such as relocation of structures or traffic signals, a statement from the project’s professional engineer will be necessary. The applicant will provide documentation by a professional engineer registered in the State of Florida that construction was accomplished in accordance with the requirements set out in the corridor crossing permit.

(g) Utility and Right of Way User Notification. The applicant has the responsibility to determine, and notify, the users of the right of way of the permitted construction. The applicant shall also resolve any conflicts within the right of way. Before a rail corridor crossing permit is issued, the applicant shall show documentation of this notification and resolution of conflicts.

(h) A rail corridor crossing permit for a crossing that is intended to be used for vehicular ingress and egress to and from a State Highway System is not a permit for a connection to the state highway under Section 335.182(3)(a), F.S., and a separate access connection permit must be obtained pursuant to Rule Chapter 14-96, F.A.C., prior to the construction of an access connection.

Rulemaking Specific Authority 334.044(2) FS. Law Implemented 334.044(14), 337.242(3) FS. History–New 8-14-06, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Janice L. Bordelon, Management Analyst
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Stephanie C. Kopelousos
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 31, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 25, 2010

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

PUBLIC SERVICE COMMISSION

RULE NO.: 25-30.0371
RULE TITLE: Acquisition Adjustments

PURPOSE AND EFFECT: The proposed rule amendments are intended to eliminate some of the excessive complex language, and to modify the amortization schedule for negative acquisitions for water and wastewater utilities. The main substantive revisions to the rule affect the treatment of negative acquisition adjustments. The proposed changes are designed to give more of the benefit of the negative acquisition adjustment to the ratepayers by increasing the amortization period of the acquisition adjustment especially, for those cases in which the systems are purchased at a significant discount. Docket No. 100338-WS.

SUMMARY: The proposed rule amendments separate cases involving negative acquisitions adjustments in water and wastewater into two groups – those in which the difference between purchase price and net book value is greater than 50 percent, and those in which the difference is 50 percent or less. If the purchase price is 50 percent or less of net book value, half of the negative acquisition adjustment is amortized over seven years, and half over the remaining life of the assets purchased. This amortization provides a greater sharing with customers and puts downward pressure on rate base.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The proposed rule changes would affect any company that acquires a water and wastewater system for less than net book value. Any ordered negative acquisition adjustment would flow through accounts thereby reducing rates over a longer period of time. Small businesses that purchase a system for less than net book value could be affected by the proposed rule changes. There would be benefits to the Commission from clarifying and streamlining the rule language.

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: 350.127(2), 367.121(1)(f) FS. LAW IMPLEMENTED: 367.071(5), 367.081(2)(a), 367.121(1)(a) FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Office of Commission Clerk, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6770. 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: Cindy Miller, Senior Attorney, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6082, cmiller@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

25-30.0371 Acquisition Adjustments.

(1) Definition. For the purpose of this rule, an acquisition adjustment is defined as the difference between the purchase price of utility system assets to an acquiring utility and the net book value of the utility assets. A positive acquisition adjustment exists when the purchase price is greater than the net book value. A negative acquisition adjustment exists when the purchase price is less than the net book value.

(2) Positive Acquisition Adjustments. A positive acquisition adjustment shall not be included in rate base absent proof of extraordinary circumstances. Any entity that believes a full or partial positive acquisition adjustment should be made has the burden to prove the existence of extraordinary circumstances. In determining whether extraordinary circumstances have been demonstrated, the Commission shall consider evidence provided to the Commission such as anticipated improvements in quality of service, anticipated improvements in compliance with regulatory mandates, anticipated rate reductions or rate stability over a long-term period, ~~and anticipated cost efficiencies, and whether the purchase was made as part of an arms-length transaction.~~ Amortization of a positive acquisition adjustment shall be pursuant to paragraph (4)(a) below.

(3) Negative Acquisition Adjustments. ~~If the purchase price is greater than 80 percent of net book value, a negative acquisition adjustment will not be included in rate base. When the purchase price is equal to or less than 80 percent of net book value, a negative acquisition adjustment shall not be included in rate base and will be equal to 80 percent of net book value less the purchase price. Amortization of a negative acquisition adjustment shall be pursuant to subparagraph (4)(b)1. or (4)(b)2. below unless there is proof of extraordinary circumstances or where the purchase price is less than 80 percent of net book value. If the purchase price is less than 80 percent of net book value then the inclusion of a negative acquisition adjustment shall be calculated pursuant to paragraph (b) below.~~

~~(a) Contested. Any entity that believes a full or partial negative acquisition adjustment should be made has the burden to prove the existence of extraordinary circumstances. Under no circumstance, however, shall the purchaser be required to record on its books more than 70 percent of a negative acquisition adjustment. In determining whether extraordinary circumstances have been demonstrated, the Commission shall consider evidence provided to the Commission such as the anticipated retirement of the acquired assets and the condition of the assets acquired.~~

~~(b) Uncontested. If the purchase price is less than 80 percent of net book value, then the amount of the difference in excess of 20 percent of net book value shall be recognized for ratemaking purposes as a negative acquisition adjustment. The negative acquisition adjustment shall not be recorded on the books for ratemaking purposes or used for any earnings review unless the purchaser files for a rate increase pursuant to Section 367.081(2), 367.0814, 367.0817 or 367.0822, F.S., that will be effective during the amortization period. The negative acquisition adjustment shall be amortized over a 5 year period from the date of issuance of the order approving the transfer of assets.~~

(4) Amortization Period.

~~(a) In setting the amortization period for a Commission approved positive acquisition adjustment pursuant to (2) or (3)(a) above, the Commission shall consider evidence provided to the Commission such as the composite remaining life of the assets purchased and the condition of the assets purchased. Amortization of the acquisition adjustment shall begin on the date of issuance of the order approving the transfer of assets.~~

(b) The appropriate period over which to amortize a Commission approved negative acquisition adjustment pursuant to subsection (3) above, shall be determined as follows:

1. If the purchase price is greater than 50 percent of net book value, the negative acquisition adjustment shall be amortized over a 7-year period from the date of issuance of the order approving the transfer of assets. In this case, the negative acquisition adjustment shall not be recorded on the books for ratemaking purposes or used for any earnings review unless the purchaser files for a rate increase pursuant to Section 367.081(2), 367.0814, 367.0817 or 367.0822, F.S., that will be effective during the amortization period.

2. If the purchase price is 50 percent of net book value or less, the negative acquisition adjustment shall be amortized from the date of issuance of the order approving the transfer of assets as follows: (i) 50 percent of the negative acquisition adjustment shall be amortized over a 7-year period; and (ii) 50 percent of the negative acquisition adjustment shall be amortized over the remaining life of the assets.

(5) Subsequent Modification. Any full or partial positive acquisition adjustment, once made by the Commission pursuant to subsection (2) or (3)(a) above, may be

subsequently modified if the extraordinary circumstances do not materialize or subsequently are eliminated or changed within 5 five years of the date of issuance of the order approving the transfer of assets.

Rulemaking Specific Authority 350.127(2), 367.121(1)(f) FS. Law Implemented 367.071(5), 367.081(2)(a), 367.121(1)(a), (b) FS. History–New 8-4-02, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jo Ann Chase, Office of Economic Regulation, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 14, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 36, No. 16, April 23, 2010

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-501.401 RULE TITLE: Admissible Reading Material

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify that staff shall remove any improper packing material from admissible reading material before providing the contents to the receiving inmate.

SUMMARY: The proposed rule clarifies that staff shall remove any inadmissible packing material from admissible reading material before providing the contents to the receiving inmate.

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

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

RULEMAKING AUTHORITY: 944.09, 944.11 FS.

LAW IMPLEMENTED: 944.11 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-501.401 Admissible Reading Material.

(1) through (25) No change.

(26) No packaging other than standard envelopes shall be given to inmates. The following types of packaging shall be removed by staff before providing the contents to the inmate:

boxes, padded envelopes, envelopes that include metal parts, multilayer packaging, bubble wrap, packing peanuts, or other forms of extra packaging.

Rulemaking Authority 944.09, 944.11 FS. Law Implemented 944.11 FS. History–New 10-8-76, Amended 3-3-81, 9-24-81, Formerly 33-3.12, Amended 6-9-87, 3-11-91, 12-17-91, 3-30-94, 11-2-94, 5-10-98, 10-20-98, Formerly 33-3.012, Amended 3-21-00, 8-10-00, 10-13-02, 7-2-03, 12-30-04, 9-5-05, 8-1-06, 6-16-09, _____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 23, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 3, 2010

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.830 RULE TITLE: Death Row

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to set forth the conditions, privileges, monitoring, and review of death row.

SUMMARY: The proposed rule establishes the conditions, privileges, monitoring, and review periods for death row.

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

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

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.830 Death Row.

(1) Definitions.

(a) Death Row – the single-cell special housing status of an inmate who, upon conviction or adjudication of guilt of a capital felony, has been sentenced to death. Death row housing cells shall be separate from general population housing.

(b) Institutional Classification Team (ICT) – the team consisting of the warden, assistant warden, classification supervisor, and chief of security that is responsible for making inmate status decisions and for making other recommendations to the state classification office, regional director, and warden.

(c) Death Warrant Phases – the three stages of death row housing status that occur after an inmate’s death warrant has been signed by the Governor. The three stages are as follows:

1. Phase I begins when an execution date is set.

2. Phase II begins at 8:00 a.m. seven calendar days prior to an inmate’s set execution date.

3. Phase III refers to the status of an inmate whose death warrant has been signed by the Governor but who does not have an execution date due to a stay. Phase III inmates will have the same privileges as all other death row inmates except as otherwise provided in this rule.

(d) State Classification Office (SCO) – a staff member at the central office level who is responsible for the review of inmate classification decisions. Duties include approving, modifying, or rejecting ICT recommendations.

(2) An inmate who is not under sentence of death may be housed on death row when:

(a) The inmate’s death sentence has been overturned and the inmate is awaiting resentencing;

(b) The inmate is assigned to work in death row housing;
or

(c) The warden has declared an emergency requiring use of death row housing for inmates not under sentence of death. In this instance, the warden shall notify the Deputy Secretary of Institutions or designee of the housing arrangement.

(3) Reviews.

(a) Annual Reviews – At least annually, a death row inmate shall be reviewed by his classification officer to determine overall institutional adjustment based on the inmate’s disciplinary history, participation in programming, and cooperation with staff. This review shall be entered into the Department’s electronic inmate database.

(b) ICT Reviews – The ICT shall conduct a review of a death row inmate when the inmate:

1. Is found guilty of a disciplinary report; or

2. Has had restrictions placed on his outdoor exercise pursuant to subparagraph (7)(i)3. This review shall be conducted every six months after imposition of the restriction.

(4) Monitoring Death Row Inmates – Staff shall monitor death row inmates as follows:

(a) At least every 30 minutes by a correctional officer;

(b) Daily by the shift supervisor;

(c) Weekly by the chief of security;

(d) Weekly by the warden and assistant wardens having responsibility over the death row unit;

(e) Daily by a clinical health care person;

(f) Weekly by the chaplain; and

(g) Weekly by a classification officer, or more frequently as disciplinary incidents may require.

(5) Restraints and Escort Requirements.

(a) Prior to opening a death row cell for any reason, staff members shall restrain the inmate.

(b) A minimum of two officers shall be physically present whenever a death row cell door is opened.

(c) Prior to escorting an inmate from a death row cell for any activity within the housing unit, the inmate shall be thoroughly searched. If the inmate is escorted outside the immediate housing unit, the inmate will be strip searched and restraint devices (handcuffs, waist chain, black box, and leg irons) shall be used.

(d) Once an inmate is properly restrained and searched and his cell is secured, only one officer is required to accompany the inmate.

(e) Except for visitation purposes, if more than one inmate is out of his cell within the death row unit at a time, there shall be one officer accompanying each inmate, and the inmates shall be kept at a distance from each other to preclude any unauthorized physical contact.

(6) Conditions and Privileges – the following conditions and privileges apply to all death row inmates except Phase I and Phase II inmates.

(a) Clothing and Bedding – Unless there is a clear indication of a security concern, death row inmates will be issued clothing and bedding similar to that issued to the general population, except that death row inmates will be distinguished by designated different clothing that must be worn whenever they are out of the death row unit for the purpose of escort or transport. Shower slides or personal canvas shoes will be provided as regulation foot wear. No death row inmate will be issued a belt. Bedding and linen exchange shall be the same as is provided to the general inmate population, and any restrictions shall be based on potential harm to individuals or threat to the security of the institution. The senior correctional officer on duty must initially approve the decision to make an exception to the general bedding and linen exchange and shall document the action on Form DC6-229, Daily Record of Special Housing. Form DC6-229 is incorporated by reference in Rule 33-601.800, F.A.C. The duty warden shall make the final decision regarding the appropriateness of the action no later than the next working day.

(b) Comfort Items – Unless there is a clear indication of a security concern, inmates on death row shall be permitted personal hygiene items and other medically needed or prescribed items, such as eye glasses and hearing aids. At a minimum, death row inmates will be provided a toothbrush, toothpaste, a bar of soap, a towel or paper towels, toilet tissue, and feminine hygiene products for women.

(c) Personal Property – Inmates on death row shall be allowed to possess personal property such as watches, rings, stamps, envelopes, writing paper, and approved televisions,

fans, and walkman-type radios with headphones unless there is a clear indication of a security concern. Each inmate may possess no more than one approved television, fan, and radio with headphones.

(d) Canteen – Death row inmates shall be permitted to make authorized canteen orders once per week.

(e) Writing Utensils – Inmates on death row shall possess only security pens, with a possession limit of four. If no security pens are available, an inmate will be allowed to sign out a regular pen from the assigned officer, which must be returned upon completion of preparation of the document. Care will be taken to ensure that an inmate who requests a pen in order to prepare legal documents or legal mail or to file a grievance with the Department has access to a pen for a time period sufficient to prepare the legal mail, documents, or grievances.

(f) Reading Material – Inmates shall be provided access to admissible reading material as provided in Rule 33-501.401, F.A.C., unless there is an indication of a threat to the safety, security, or sanitation of the institution. If it is determined that there is such a threat, the material will be removed. Removal of reading material shall be documented and reviewed in accordance with paragraph (5)(h).

(g) Televisions – An inmate on death row may possess a television in his cell. Approved televisions may be purchased from the institutional canteen; otherwise, televisions will be provided by the Department, if available, as follows:

1. As inmates are placed on death row, their names will be placed in a television logbook. As televisions become available, the televisions will be assigned to inmates in the order that their names appear in the logbook.

2. Inmates shall be allowed to operate televisions between the hours of 8:00 a.m. and 11:30 p.m. unless otherwise authorized or restricted by the warden or designee. Televisions will be turned off during count procedures.

3. Televisions shall only be operated with headphones or earplugs.

4. Inmates in disciplinary confinement will have their televisions removed. The television will then be assigned to the next eligible inmate as indicated by the television logbook. Inmates who are guilty of a disciplinary infraction and who do not have televisions will have their names removed from the eligible list until their disciplinary confinement time is completed. Their names will then be added to the bottom of the list.

5. Inmates transferring from the institution for twenty-four hours or longer will have their televisions reassigned to the next eligible inmate, as indicated by the logbook.

6. Altering the television, earphones, or any parts thereof, including the electrical cord, will result in disciplinary action and possible loss of television privileges.

(h) Removal or Denial of Items – Any item may be denied an inmate or removed from a death row cell to prevent the inmate from inflicting injury to himself or others, to prevent the destruction of property or equipment, or to prevent the inmate from impeding security staff from accomplishing functions essential to the unit and institutional security. The senior correctional officer on duty must initially approve the decision to deny or remove clothing, bedding, or any other items from the cell and document the action on Form DC6-229, Daily Record of Special Housing. Removal of any personal property item will also be documented by security staff on Form DC6-220, Inmate Impounded Personal Property List, and signed by the inmate designating what personal items were removed. Form DC6-220 is incorporated by reference in Rule 33-602.220, F.A.C. The original Form DC6-220 will be placed in the inmate's property file, and a copy of the form will be given to the inmate for his records. The duty warden shall make a final decision regarding the appropriateness of any removal no later than the next working day. If an inmate's clothing is removed, a modesty garment shall be provided to the inmate immediately; if the inmate chooses not to wear the garment, it shall be left in the cell, and this action shall be documented on Form DC6-229. Under no circumstances will the inmate be left without a means to cover himself. If items are removed from a death row cell pursuant to this paragraph, staff shall re-assess the need for continued restriction every 72 hours thereafter and document the assessment on Form DC6-229. The warden, based on this assessment, will make a final determination on the continued denial or return of the items and document the decision on Form DC6-229. The items will be returned to the inmate when no further behavior or threat of behavior of the type leading to the restriction is present.

(i) Exercise – an exercise schedule shall be implemented to ensure a minimum of six hours per week of exercise out-of-doors. Such exercise periods shall be documented on Form DC6-229, Daily Record of Special Housing.

1. Medical restrictions can place limitations on an inmate's exercise periods. A disabled inmate who is unable to participate in the normal exercise program will have an exercise program developed for him that will accomplish the need for exercise and take into account the particular inmate's limitations. Recreational equipment may be available for such exercise periods provided the equipment does not compromise the safety or security of the institution. The reasons for any medically-based exercise restrictions shall be documented on Form DC6-229.

2. The ICT is authorized to deny exercise for an individual inmate when the inmate is found guilty of a major rule violation as defined in Rule 33-601.800, F.A.C. Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be for no more than 15 days per incident and for no longer than 30 days

in cumulative length. If the inmate requests a physical fitness program handout, the wellness specialist or the confinement officer shall provide the inmate with an in-cell exercise guide; this shall be documented on Form DC6-229.

3. The ICT is authorized to restrict the place and manner of outdoor exercise, such as an inmate's ability to interact with other inmates or use exercise equipment, if the inmate has been convicted of:

a. Assault or battery, murder, or attempted murder of a correctional officer, volunteer, visitor, or other inmate within an institution; or

b. Escape or attempted escape.

4. Phase III inmates shall be restricted from exercise pursuant to subparagraph (13)(b)8.

(j) Telephone Privileges – When alternative means of access are not feasible, telephone privileges shall be allowed for emergency situations, such as notifications of family deaths, and when necessary to ensure the inmate's access to attorneys or the courts. The necessity of the telephone call may be verified before the inmate is allowed to make the call. Calls to attorneys will not be monitored.

(k) Visitation – Death row visits shall be contact visits unless security concerns indicate that a non-contact visit is necessary, in which case the non-contact visit shall be approved by the warden in advance. Visitation shall be on Saturday or Sunday (only one day of visitation per week per inmate) between the hours of 9:00 a.m. and 3:00 p.m. The visitation provisions of Chapter 33-601, F.A.C., otherwise apply. News media visits shall be in accordance with Rule 33-104.203, F.A.C.

(l) Library Services – Inmates shall be allowed to check out library books once weekly, with a possession limit of four books.

(m) Self-Improvement Programs – Inmates shall be permitted to participate in self-improvement programs unless participation poses a security threat to inmates or staff. Such programs shall take place in the inmate's housing area in a manner that conforms to the need for security.

(7) Personal Hygiene – Inmates on death row shall meet the same personal hygiene standards required of the general population.

(8) Correspondence – Correspondence shall be in accordance with Chapter 33-210, F.A.C.

(9) Attorney Visits – Attorney visits shall be in accordance with Rule 33-601.711, F.A.C.

(10) Legal Access – Legal access for all death row inmates except those on Phase I and II of an active death warrant shall be as follows:

(a) Inmates shall be permitted to have access to their personal legal files and law books, to correspond with the law library, to have the law library deliver legal materials to the inmate's cell, and to correspond with inmate law clerks. Efforts shall be made to accommodate the research needs of inmates

on death row who demonstrate that they need to meet a deadline imposed by law, rule, or order of court, including the provision of opportunities to visit a secure, single-person room within the law library at least once per week for up to two hours if security concerns permit. Death row inmates using the law library will be required to stay in a secure, single-person room in order to conduct research and draft legal documents; materials will be obtained via non-contact interaction with library staff or inmate law clerks under the supervision of security staff. Inmates may be required to conduct legal business through correspondence rather than a personal visit to the law library if security requirements prevent a personal visit.

(b) Written inmate requests for legal assistance shall be directed to the librarian or designee and shall be responded to within two working days of receipt, not including the day of receipt. Specific requests for cases, statutes, or other reference materials or requests for legal supplies or forms shall be responded to by means of correspondence. However, written inmate requests for legal assistance that are broad in scope, contain incorrect references to research materials, or contain styling or content errors that indicate the inmate lacks an understanding of the law or legal research or that he may be impaired shall be responded to by personal interview with an inmate law clerk or the librarian or designee.

(c) Inmates shall be limited to the receipt of no more than 15 research items from the law library at any one time. Research items are defined as photocopies of cases, statutes, and other reference materials provided by the law library and do not include the inmate's personal legal papers, pleadings, or transcripts. Institutions shall require that inmates return all research materials supplied previously by the law library or explain why some or all research materials issued previously must be retained in order to receive additional materials. Institutions shall also limit the accumulation of research materials when their possession in an inmate's cell creates a safety, sanitation, or security hazard.

(d) Illiterate and impaired inmates shall be permitted to request a visit with an inmate law clerk by making an oral request to the correctional staff working in the unit. Upon receipt of the oral request, the correctional staff shall contact the law library to schedule a visit between the inmate and inmate law clerk. The inmate shall be required to remain in a secure, single-person room in the law library and have non-contact interaction with the inmate law clerk.

(e) Indigent inmates shall be provided paper, security pens, and envelopes in order to prepare and send legal papers.

(11) Diet and meals shall be provided in accordance with Chapter 33-204, F.A.C.

(12) Form DC6-228, Inspection of Special Housing Record, shall be maintained in each death row unit. Form DC6-228 is incorporated by reference in Rule 33-601.800, F.A.C. Each staff person shall sign the form when entering and leaving the death row unit. Prior to departure, each staff

member shall indicate any specific problems, including any inmate who requires special attention. Upon completion, Form DC6-228 will be maintained in the housing area and forwarded to the correctional officer chief on a weekly basis, where it will be maintained on file pursuant to the current retention schedule.

(13) Form DC6-229, Daily Record of Special Housing, shall be maintained for each inmate in the death row unit. Form DC6-229 shall be maintained in the housing area for one week, after which the form will be forwarded to the warden for review. Once reviewed, these forms will be forwarded to classification to be filed in each inmate's respective file. Form DC6-229 shall be utilized to document any and all activities, including cell searches, items removed, showers, recreation, haircuts, and shaves. Form DC6-229B, Daily Record of Special Housing – Supplemental, may be used if further writing space is needed. Form DC6-229B is incorporated by reference in Rule 33-601.800, F.A.C. Additionally, staff shall fully and completely document when:

(a) There is an unusual occurrence in the inmate's behavior;

(b) It becomes necessary to notify the medical department;

(c) The inmate refuses food;

(d) The inmate changes cells;

(e) Medical staff performs any function, such as dispensing medication;

(f) The inmate's diet is ordered to be changed;

(g) Complaints are received and medical treatment is therefore given;

(h) The classification officer conducts a review;

(i) The inmate engages in disruptive behavior requiring that official action be taken; or

(j) Disciplinary violations occur.

(14) Death Warrants – Upon receipt of a death warrant signed by the Governor authorizing execution, the warden or designee will determine the housing location of the inmate. Inmates housed at Union Correctional Institution will be immediately transferred to Florida State Prison. Upon arrival, the warden will inform the inmate of the death warrant, and the inmate shall be allowed to contact his attorney and a family member at state expense. If the inmate is housed at Lowell Correctional Institution, the inmate shall not be transferred to Florida State Prison until Phase II. The warden at Lowell will inform the inmate of the death warrant and allow the inmate to contact her attorney and a family member at state expense.

(a) At the initiation of Phase I, the warden of Florida State Prison shall notify the Assistant Secretary of Institutions and the regional director. Wardens of surrounding institutions shall be informed should circumstances warrant the activation of a rapid response team. Local law enforcement agencies shall also be notified.

(b) Conditions and privileges for Phase I and Phase II inmates.

1. Phase I and Phase II inmates may possess the following state issued property:

a. A standard issue of clothing,

b. One bed,

c. One mattress,

d. One pillow,

e. A standard issue of bedding,

f. One toothbrush,

g. One tube of toothpaste,

h. One bar of soap,

i. One towel,

j. One pair of underwear,

k. Toilet tissue as needed,

l. Six sheets of stationery,

m. Three envelopes,

n. A maximum of 10 religious texts distributed by the institutional chaplain,

o. Writing paper distributed by the library as needed,

p. Notary services upon request,

q. One security pen,

r. One television, and

s. Form DC1-303, Request for Administrative Remedy or Appeal, and Form DC6-236, Inmate Request, as needed. Forms DC1-303 and DC6-236 are incorporated by reference in Rule 33-103.019, F.A.C.

2. The inmate's visiting list shall be frozen once an execution date is set. No additional visitors will be added to a Phase I or Phase II inmate's approved visiting list. All visits shall be non-contact, except that the inmate may receive a one-hour contact visit on the day of execution.

3. News media visits and interviews will be in accordance with Chapter 33-104, F.A.C.

4. Inmate bank access shall be the same as for any other inmate, except that Phase II inmates may not request more than two special withdrawals during the week.

5. Canteen privileges will be allowed in accordance with paragraph (5)(d) above but may be restricted or denied if they pose a security threat. Canteen orders shall be reviewed by the administrative lieutenant prior to delivery.

6. Inmates may request in writing to the librarian and receive legal materials from the law library. All such requests are to be routed through the death watch supervisor. Copying services or notary services will be handled by staff without the involvement of any inmate.

7. The inmate shall be allowed to receive periodical subscriptions but may not order new subscriptions.

8. Exercise for all inmates with signed death warrants, including Phase III inmates, shall be suspended. However, an inmate shall be permitted to resume exercise and recreation in accordance with subparagraphs (5)(i)1.-3. if he remains in Phase III status longer than 90 days.

(15) All death row inmates remain subject to disciplinary action for violation of rules and regulations.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp, Deputy Secretary of Institutions
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter McNeil, Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 23, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 3, 2010

WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

RULE NO.: 40B-1.706 RULE TITLE: Fees

PURPOSE AND EFFECT: The purpose of the proposed rule is to amend the citations within this section with regard to water use permitting. The effect of the proposed amendments is to maintain consistency with amendments to Chapter 40B-2, F.A.C., which became effective January 4, 2010.

SUMMARY: This proposed rule will amend citations within this section with regard to water use permitting.

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, 373.109, 373.113, 373.118, 373.171 FS.

LAW IMPLEMENTED: 218.075, 373.109 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-1.706 Fees.
- (1) through (4) No change.

TABLE I.A. SCHEDULE OF PERMIT FEES	
WATER USE PERMITS	
General Water Use Permits Less than 10,000 GPD-ADR per paragraph 40B-2.041(4)(1)(a), F.A.C.	\$100
Modification or Renewal	\$50

General Water Use Permits as per paragraph 40B-2.041(4)(1)(b), F.A.C.	\$230
Modification or Renewal	\$115
Individual or Conceptual Approval Water Use Permits per subsection 40B-1.703(3) and paragraph 40B-2.041(5)(1)(b), F.A.C.	\$530
Modification or Renewal	\$265
TABLE I.B. No change.	

Rulemaking Specific Authority 373.044, 373.109, 373.113, 373.118, 373.171 FS. Law Implemented 218.075, 373.109 FS. History—New 6-16-88, Amended 11-25-90, 12-22-92, 10-16-94, 11-8-94, 10-3-95, 1-3-96, 6-22-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jon Dinges, Director, Water Supply and Resource Management, 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: September 14, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 24, 2010

WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

RULE NO.: 40B-2.041 RULE TITLE: Permits Required

PURPOSE AND EFFECT: The purpose of the proposed rule is to update this section of Chapter 40B-2, Florida Administrative Code, based on the 2010 Legislature's approval of Senate Bill 550 that deletes mandatory delegation of water use permit approvals to the Executive Director and authorizes the Governing Board to establish the scope and terms of any delegation. The effect of the rule will be to set forth procedures and terms for approval and denial of water use permit applications.

SUMMARY: This proposed rule will set forth procedures and terms for approval and denial of water use permit applications.

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, 373.118, 373.171 FS.

LAW IMPLEMENTED: 373.103, 373.118, 373.219, 373.226, 373.244 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-2.041 Permits Required.

(1) through (3) No change.

(4) General Water Use Permit.

Except as provided in subsection (3) above or (5) below, a general water use permit is required under the general permit procedures in paragraph 40B-1.703(1)(c), F.A.C., for all withdrawals or diversions which are less than ten million gallons per day maximum daily rate of withdrawal and less than two million gallons per day average daily rate of withdrawal. Either the Executive Director, the Assistant Executive Director, or the Department Deputy Executive Director shall approve general permit applications under this paragraph for all withdrawals or diversions less than 1.0 million gallons per day without a hearing, except that any application recommended for denial shall be presented to the Governing Board for final agency action. The Governing Board shall take final agency action on general permit applications under this paragraph for all withdrawals or diversions equal to or greater than 1.0 million gallons per day average daily rate of withdrawal.

(5) through (6) No change.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.103, 373.118, 373.219, 373.226, 373.244 FS. History—New 10-1-82, Amended 5-1-83, 6-16-88, 4-14-08, 1-6-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jon Dinges, Director, Water Supply and Resource Management, 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: September 14, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 24, 2010

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE NO.:

RULE TITLE:

40C-2.101

Publications Incorporated by Reference

PURPOSE AND EFFECT: The purpose and effect of this proposed rule is to amend the permit application procedures for consumptive use permits in the Applicant’s Handbook, Consumptive Uses of Water to: (1) indicate that the regulatory delegations to District staff are located in the Statement of Agency Organization and Operation which is found on the District’s website; (2) remove or revise certain references to the Governing Board for clarity and accuracy and because permit delegations are no longer subject to rulemaking due to the 2010 enactment of amendments to Section 373.083(5), F.S.; (3) clarify and reorganize the rules describing: procedures for evaluation of individual permit applications; procedures for objections to such permits; notices provided in the permitting process; requests for administrative hearing; and procedures at regulatory meetings.

SUMMARY: The proposed rule addresses amendments to procedural rules associated with consumptive use permit applications.

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: 373.083, 373.116, 373.216, 373.219, 373.229 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: Following the regularly scheduled Governing Board Meeting on November 9, 2010, which begins at 1:00 p.m.

PLACE: St. Johns River Water Management District Headquarters, Executive Building, 4049 Reid Street, Palatka, Florida 32177

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Wendy Gaylord, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)326-3026, email wgaylord@sjrwmd.com

THE FULL TEXT OF THE PROPOSED RULE IS:

40C-2.101 Publications Incorporated by Reference.

(1) The Governing Board hereby adopts by reference Parts I, II and III, the “Water Conservation Public Supply” requirements in Appendix I, and “Legal Description of the Central Florida Coordination Area of the St. Johns River Water Management District” in Appendix L of the document entitled “Applicant’s Handbook, Consumptive Uses of Water”, _____ 3-8-09. The purpose of the document is to provide information regarding the policy, procedure, criteria, and conditions that pertain to the District’s administration of the consumptive use permitting program.

(2) No change.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.073, 373.079, 373.083, 373.103, 373.109, 373.196, 373.219, 373.223, 373.229, 373.233, 373.236, 373.239, 373.250, 373.62 FS. History—New 1-1-83, Amended 5-31-84, Formerly 40C-2.101, 40C-2.0101, Amended 10-1-87, 1-1-89, 8-1-89, 10-4-89, 7-21-91, 7-23-91, 11-12-91, 9-16-92, 1-20-93, 12-6-93, 2-15-95, 7-10-95, 4-25-96, 10-2-96, 1-7-99, 2-9-99, 4-10-02, 2-15-06, 2-13-08, 8-12-08, 3-8-09, _____.

APPLICANT’S HANDBOOK SECTIONS:

5.0 Procedures for Processing

5.4 Individual Permits

5.4.1 Staff Evaluation

5.4.1.3 All reviews will be completed and the application will be approved or denied ~~presented to the Board for action~~ within 90 days after the application is determined to be complete.

5.4.1.4 The applicant should be given a minimum 14 days notice when the staff’s review is complete and the application has been scheduled for District action on the application a Board meeting. This notice includes the place, date and time of the meeting, and a copy of the staff report which recommends approval or denial. The staff report recommending approval or denial of the application shall be the District’s Notice of Intended Action. The applicant is advised to read the report carefully. If any part of the report is in error, or if the applicant does not agree with the staff’s recommendation, the applicant should immediately contact the District staff ~~prior to the date set for action by the Governing Board~~.

If after contacting District staff regarding its report, the applicant is still dissatisfied with the staff’s position, by waiving the ninety day time frame, the applicant has the option of requesting that the District staff take additional time to meet with the applicant to further discuss the application, the applicant’s position, and staff’s position ~~application be removed from the agenda and rescheduled at a later time~~.

5.4.1.5 Notification to Public for Input

When the District receives an application, it will provide notice that an application has been filed. Such notice will be given by regular mail to property owners listed on the application form, or by publication of a newspaper advertisement when requested by the applicant pursuant to section 4.4.2 in those instances when the number of adjacent

landowners exceeds 100. Additionally, notice of the application will be given by regular mail to those persons who have previously filed a written request for notification of pending applications within the affected area.

The District will also publish a notice of the pending application in a newspaper having general circulation in the affected area (however, the District will not publish a newspaper notice when it has published an advertisement pursuant to section 4.4.2). Such notice will be published upon receipt of the application for a permit. ~~In order for the District staff to properly evaluate any information which interested persons may submit, these persons should contact the District within 14 days of the date of publication of notice of receipt of application if they have objections, comments or information regarding the proposed withdrawal. Notice of intended agency action will be provided to the Applicant and to persons who have requested notice as required by Section 120.60, F.S., and Section 373.116, F.S.~~

5.4.1.6 Objections

In order for the District staff to properly evaluate any information which interested persons may submit regarding an application, these persons should contact the District within 14 days of the date of publication of notice of receipt of application and provide their objections, comments or information regarding the proposed withdrawal in writing.

Notice of intended agency action will be provided to the Applicant and to persons who have requested notice as required by Section 120.60, F.S. An applicant or a person whose substantial interests may be determined by the intended agency action may request an administrative hearing in accordance with Chapter 120, F.S., Chapter 28-106, F.A.C., and Rule 40C-1.1007, F.A.C. Making a written objection or appearing at a Board meeting does not make a person a “party” for Chapter 120, F.S., purposes.

~~Written objections should be received by the District at least 7 days prior to the date of the regulatory meeting at which the permit application is scheduled for Governing Board consideration in order to be included in the official record of the application and made available to the Board in their deliberations.~~

~~Unless an objection to a permit application is received or a request for an administrative hearing in accordance with Chapter 28-106 and Rule 40C-1.1007, F.A.C., is received, the application may be presented to the Governing Board on a consent agenda and therefore may not receive individual consideration.~~

~~If the applicant is notified that the District staff will recommend denial to the Board, or the Governing Board does in fact deny the permit, then the applicant may request an administrative hearing in accordance with Chapter 28-106 and Rule 40C-1.1007, F.A.C.~~

5.4.2 Regulatory Meeting

5.4.2.1 The Governing Board of the SJRWMD normally meets on the second Tuesday of each month to act on permit applications that have not been delegated to District staff to approve. (See the District’s Statement of Agency Organization and Operation at floridaswater.com for a listing of these regulatory delegations.) At each regulatory meeting the Board has copies of the staff reports, along with the staff’s recommendations, which were provided to them several days before the meeting to allow time for consideration. When applications are ~~formally~~ presented to the Board for action, the Board invites comments from the applicants, District staff, persons who may be impacted by the use, and members of the general public. However, if no requests to speak concerning an application are made at the meeting, the application may be presented to the Governing Board on a consent agenda and therefore may not receive individual consideration. *Revised 8-12-08, _____.*

5.4.2.2 Upon presentation of an application, the Board will either approve the application, deny the application, or continue the application for consideration at a later day within applicable time frames established by the provisions of Chapter 120, F.S.

~~5.4.2.3 If the applicant, an objector, or any other person whose substantial interest may be determined is dissatisfied with staff recommendation or an action taken by the Board, they may file a petition for an administrative hearing in accordance with Chapter 28-106 and Rule 40C-1.1007, F.A.C.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:
Kathryn Mennella, Director, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)329-4215

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 2010

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE NOS.:	RULE TITLES:
40C-4.091	Publications Incorporated by Reference
40C-4.321	Duration of Permit
40C-4.381	Limiting Conditions

PURPOSE AND EFFECT: The purpose and effect of this proposed rule is to amend the environmental resource permit (ERP) rules in Chapter 40C-4, F.A.C., and the Applicant’s Handbook: Management and Storage of Surface Waters to: (1) indicate that the regulatory delegations to District staff regarding ERPs are located in the Statement of Agency

Organization and Operation which is found on the District’s website; (2) remove certain references to the Governing Board in favor of the term “District” for clarity and accuracy and, in some cases, also because permit delegations are no longer subject to rulemaking due to the 2010 enactment of amendments to Section 373.083(5), F.S.; and (3) clarify and reorganize the rules describing: procedures for processing individual and standard ERPs; procedures for objections to such permits; notices provided in the permitting process; requests for administrative hearing; and procedures at regulatory meetings.

SUMMARY: The proposed rule addresses amendments to procedural rules associated with ERP applications.

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, 373.118 FS.

LAW IMPLEMENTED: 373.079, 373.083, 373.116, 373.118, 373.129, 373.413, 373.416, 373.426, 373.613 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: Following the regularly scheduled Governing Board Meeting on November 9, 2010, which begins at 1:00 p.m.

PLACE: St. Johns River Water Management District Headquarters, Executive Building, 4049 Reid Street, Palatka, Florida 32177

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Wendy Gaylord, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)326-3026, email wgaylord@sjrwmd.com

THE FULL TEXT OF THE PROPOSED RULES IS:

- 40C-4.091 Publications Incorporated by Reference.
- (1) The Governing Board hereby adopts by reference:
 - (a) Part I “Policy and Procedures,” Part II “Criteria for Evaluation,” subsections 18.0, 18.1, 18.2, and 18.3 of Part III and Appendix K “Legal Description Upper St. Johns River Hydrologic Basin,” “Legal Description Ocklawaha River Hydrologic Basin,” “Legal Description of the Wekiva River Hydrologic Basin,” “Legal Description of the Wekiva Recharge Protection Basin,” “Legal Description of the Econlockhatchee River Hydrologic Basin,” “Legal Description of the Sensitive Karst Areas Basin, Alachua County,” “Legal

Description Tomoka River Hydrologic Basin,” “Legal Description Spruce Creek Hydrologic Basin,” “Legal Description of the Sensitive Karst Areas Basin, Marion County,” and “Legal Description of the Lake Apopka Hydrologic Basin,” and Appendix M “Regional Watersheds for Mitigation Banking,” of the document entitled “Applicant’s Handbook: Management and Storage of Surface Waters,” effective _____ February 16, 2010.

(b) through (d) No change.

(2) No change.

Rulemaking Authority 369.318, 373.044, 373.046(4), 373.113, 373.4136, 373.414, 373.415, 373.416, 373.418, 373.421, 375.461 FS. Law Implemented 120.60, 369.316, 369.318, 373.016(2), 373.042, 373.0421, 373.046, 373.085, 373.086, 373.103, 373.109, 373.129, 373.146(1), 373.406, 373.413, 373.4135, 373.4136, 373.414, 373.4141, 373.415, 373.416, 373.417, 373.418, 373.421(2)-(6), 373.423, 373.426, 373.461(3), 373.613, 380.06(9), 403.813(2) FS. History–New 12-7-83, Amended 10-14-84, Formerly 40C-4.091, Amended 5-17-87, Formerly 40C-4.0091, Amended 8-20-87, 10-1-87, 10-11-87, 11-26-87, 8-30-88, 1-1-89, 8-1-89, 10-19-89, 4-3-91, 9-25-91, 11-12-91, 3-1-92, 7-14-92, 9-8-92, 9-16-92, 11-12-92, 11-30-92, 1-6-93, 1-23-94, 2-27-94, 11-22-94, 10-3-95, 8-20-96, 11-25-98, 12-3-98, 1-7-99, 1-11-99, 8-21-00, 7-8-01, 10-11-01, 4-10-02, 9-26-02, 3-7-03, 11-11-03, 2-1-05, 12-3-06, 7-1-07, 5-13-08, 11-5-08, 10-29-09, 2-16-10,_____.

40C-4.321 Duration of Permit.

(1) No change.

(2) Permits expire on the date indicated on the permit unless application for extension is made pursuant to Chapter 40C-1 in writing to the District on or before the date of expiration. If application for extension is made, the permit shall remain in full force and effect until the District Board takes action on the application for extension.

Rulemaking Specific Authority 373.113 FS. Law Implemented 373.413, 373.416, 373.426 FS. History–New 12-7-83, Formerly 40C-4.321, 40C-4.0321. Amended 8-1-89, 9-8-92,_____.

40C-4.381 Limiting Conditions.

(1) No change.

(2) In addition to those general conditions set forth in subsection (1), the District Governing Board shall impose on any permit granted under this chapter and Chapter 40C-40, F.A.C., such reasonable project-specific conditions as are necessary to assure that the permitted system will not be inconsistent with the overall objectives of the District or be harmful to the water resources of the District as set forth in District rules. Upon receipt of the notice of intended District action, any person whose substantial interests are affected shall have the right to request a hearing in accordance with Chapter 120, F.S., Chapter 28-106, F.A.C., and Rule 40C-1.1007, F.A.C.

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.409, 373.413, 373.416, 373.419, 373.422, 373.423, 373.426 FS. History–New 12-7-83, Formerly 40C-4.381, 40C-4.0381, Amended 8-1-89, 10-19-89, 3-14-90, 2-27-94, 10-3-95, 1-4-96, 1-11-99, 11-11-03,_____.

APPLICANT’S HANDBOOK SECTIONS:

3.0 Activities Requiring a Permit

3.2 Permits Required

No change.

3.2.3 The District Board will not issue separate permits for parts of a system, except for a system which is to be constructed in phases.

5.0 Procedures for Processing Individual Environmental Resource Permits

5.4 Staff Evaluation

5.4.1 When the application is complete, the staff will commence the technical review of the application. Criteria used in the evaluation are defined and discussed in Part II of this Handbook.

5.4.2 All review will be completed and the application will be approved or denied ~~presented to the Board for action~~ within 90 days after the complete application is received.

5.4.3 The goal of the permit evaluation procedure is to assure that the proposed design is consistent with the standards and criteria for evaluation. If the reviewer determines that the design as submitted in the application is inconsistent with the standards and criteria, the District staff will endeavor to assist the applicant in submission of changes in design that will correct the deficiencies in the original application where possible. The responsibility for changing the permit application and designing corrections remains that of the applicant.

5.4.4 The applicant will be given a minimum of 14 days notice when the staff’s review is complete and the application has been scheduled for District action on the application ~~a Board meeting~~. This notice includes the place, date and time of the meeting, and a copy of the staff report which recommends approval or denial. The applicant is advised to read the report carefully. If any part of the report is in error, or if the applicant does not agree with the staff’s recommendation, the applicant should contact the District staff as soon as possible. The 14 day period is provided to allow the staff and applicant an opportunity to resolve any concern which may have been identified. ~~In all instances, the applicant will have an opportunity to make a statement before the Board at the scheduled regulatory meeting.~~

If the 14 day period is not sufficient or the applicant is still dissatisfied with the staff’s position, the applicant by waiving the ninety day time frame, has the option of requesting that the District staff take additional time to meet with the applicant to further discuss the application, the applicant’s position, and the staff’s position ~~may have the application removed from the agenda and rescheduled at a later time, or the applicant can~~

~~request an administrative hearing under the provisions of Chapter 120, F.S., Chapter 28-106 and Rule 40C-1.1007, F.A.C.~~

5.4.5 Notification to Public for Input

Once the District receives an application, notice of such application will be provided to those persons who have previously filed a written request for notification of pending applications affecting a designated area. Such notice will be sent by regular mail.

The District will also publish a notice of the pending application in a newspaper having general circulation in the affected area. Such notice will be published upon receipt of the application for a permit.

~~For the District staff to properly evaluate any information which interested persons may submit, these persons are advised to contact the District within 14 days of notification if they have questions, objections, comments or information regarding the proposed system. Those who file a written request for further information regarding the permit application will be furnished the information requested prior to the Governing Board meeting at which the application will be considered.~~

5.4.6 Objections

(a) In order for the District staff to properly evaluate any information which interested persons may submit regarding an application, these persons should contact the District within 14 days of the date of publication of notice of receipt of application and provide their objections, comments or information regarding the proposed system in writing. Interested persons may attend the Governing Board regulatory meeting(s) at which the specific application is being considered and present information relevant to the application.

(b) Notice of intended agency action will be provided to the applicant and to persons who have requested notice as required by Section 120.60, F.S. Written objections must be received by the District at least seven (7) days prior to the date of the regulatory meeting at which the permit application is scheduled for consideration in order to be included in the official record of the application and made available to the Board in its deliberations.

(c) An applicant or a person whose substantial interests may be determined by the intended agency action may request an administrative hearing in accordance with Chapter 120, F.S., Chapter 28-106, F.A.C., and Rule 40C-1.1007, F.A.C. Making a written objection or appearing at a Board meeting does not make a person a "party" for Chapter 120, F.S., purposes.

5.5 Regulatory Meeting

5.5.1 The Governing Board of the St. Johns River Water Management District meets once a month to act on permit applications that have not been delegated to District staff to approve. (See the District's Statement of Agency Organization and Operation at floridaswater.com for a listing of these

regulatory delegations.) At each regulatory meeting, the Board has copies of the staff reports, which contain a staff recommendation for approval or denial, and which were provided to them several days before the meeting to allow time for review. When applications are ~~formally~~ presented to the Board for action, the Board invites comments from the applicants, District staff, interested persons, or local governments who may be affected by the application, and members of the general public. However, if no requests to speak concerning an application are made at the meeting, the application may be presented to the Governing Board on a consent agenda and therefore may not receive individual consideration.

5.5.2 Upon presentation of an application, the Board will either approve the application, approve the application with modifications, deny the application, or continue the application for consideration at a later date within applicable time frames established by the provisions of Chapter 120, F.S.

6.0 Procedures for Processing Standard and Noticed General Environmental Resource Permits

6.2 Standard Permits

6.2.3 If, upon District staff review, one of the following factors is present, an individual permit will be required:

(a) and (b) No change.

(c) a substantial objection has been filed with the District in accordance with the provisions of subsection 6.5.6, unless the objection is later withdrawn in writing ~~or on the record at a Governing Board meeting.~~

6.5.6 Objections Regarding Standard Permits

A substantial objection as defined in section 6.2.4 will automatically cause the application for a standard permit to be considered an application for an individual permit, unless the objection is later withdrawn in writing ~~or on the record at a Governing Board meeting.~~ Substantial objections must be filed with the District within 14 days of notification of the application. Notification of the application shall be deemed to be either the fifth day after the date on which the written notice is deposited in the United States mail if actual notice is mailed to the interested person, or the date that notice is published if actual notice is not mailed to the interested person. The applicant will be notified that an objection has been received and that the procedures for application for an individual permit must be followed. No additional fee will be required for standard permit applications which are upgraded to individual status as a result of objections as described above.

7.0 Permits

7.5 Duration

7.5.4 If an application for re-issuance is made prior to expiration, the permit remains in effect until the ~~District Governing Board~~ takes action on the application.

7.6 Enforcement and Inspection

7.6.1 Chapter 373, F.S., provides for the enforcement of District rules by administrative and civil complaint. In addition to the authority of the ~~District Governing Board~~ to enforce, the District has the authority to obtain the assistance of county and city officials in the enforcement of the rules (see Sections 373.603 and 373.609, F.S.). Any person who violates any provision of Chapter 373, F.S., Chapters 40C-4, 40C-40, 40C-41, 40C-42, 40C-43, and 40C-44, F.A.C., or orders of the ~~District Governing Board~~, is guilty of a misdemeanor of the second degree and may be subject to prosecution.

8.0 Criteria for Evaluation

8.2 Source of Criteria

Chapter 373, F.S. (Water Resources Act of 1972); Chapter 403, F.S., (Environmental Control); Chapter 62-40, F.A.C. (State Water Policy); and Governing Board policy as stated in Chapter 40C-4, F.A.C., (Environmental Resource Permits: Surface Water Management Systems), Chapter 40C-40, F.A.C., (Standard Environmental Resource Permits), Chapter 40C-41, F.A.C., (Environmental Resource Permits: Surface Water Management Basin Criteria), Chapter 40C-42, F.A.C., (Environmental Resource Permits: Regulation of Stormwater Management Systems), Chapter 40C-44, F.A.C., (Environmental Resource Permits: Regulation of Agricultural Surface Water Management Systems), this Handbook, and through permitting decisions of the ~~District Governing Board~~. Copies of Chapter 373, F.S., (abridged), Chapters 40C-4, 40C-40, 40C-41, and 40C-400, F.A.C., are contained in the appendices in Part IV of this Handbook.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathryn Mennella, Director, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)329-4215

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 2010

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE NO.: 40C-20.011 RULE TITLE: Policy and Purpose

PURPOSE AND EFFECT: The purpose and effect of this proposed rule is to delete from Chapter 40C-40, F.A.C., the delegations to District staff to issue standard general consumptive use permits because amendments to Sections 373.083(5) and 373.118(5), F.S., enacted in 2010, provide that delegations are not subject to rulemaking. Regulatory delegations regarding consumptive use permits will be

described solely in the Statement of Agency Organization and Operation, available on the District’s website at floridaswater.com.

SUMMARY: The proposed rule removes from Rule 40C-20.011, F.A.C., the delegation of authority to District staff to issue standard general consumptive use permits.

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, 373.118, 373.171 FS.

LAW IMPLEMENTED: 373.083, 373.118 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: Following the regularly scheduled Governing Board Meeting on November 9, 2010, which begins at 1:00 p.m.

PLACE: St. Johns River Water Management District Headquarters, Executive Building, 4049 Reid Street, Palatka, Florida 32177

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Wendy Gaylord, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)326-3026, email wgaylord@sjrwmd.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

40C-20.011 Policy and Purpose.

(1) The rules in this chapter establish a general consumptive use permitting program for certain water uses whose adverse impact, either singly or cumulatively, on the water resources of the District is determined to be minimal. Consumptive uses of water which are non-exempt, which do not exceed 500,000 gallons per day calculated as an annual average, and which do not qualify for a general permit by rule under Rule 40C-2.042, F.A.C., or a noticed general permit under Chapter 40C-22, F.A.C., require a standard general permit under this chapter. The purpose of this chapter is to set forth the requirements for obtaining a standard general consumptive use permit and the conditions under which the use may be exercised.

~~(2) For standard general permit applications which are received and reviewed by a permitting office, the Governing Board appoints the Directors and Assistant Directors of the permitting offices as its agents for the purpose of reviewing~~

~~and issuing these applications. Any individual listed in subsection 40C-20.011(3), F.A.C., may act on behalf of the Directors and Assistant Directors of the permitting offices.~~

~~(3) For standard general permit applications which are received and reviewed by the headquarters office, the Governing Board appoints the Executive Director, Assistant Executive Director, Deputy Assistant Executive Director, Director of the Department of Resource Management, Assistant Directors of the Department of Resource Management, and the Director of the Division of Consumptive Use Permitting, Department of Resource Management, as its agents for the purpose of reviewing and issuing these applications.~~

Rulemaking Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.083, 373.118, 373.219, 373.223 FS. History—New 7-23-91, Amended 4-25-96, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathryn Mennella, Director, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)329-4215

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 2010

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE NO.: 40C-22.001 RULE TITLES: Policy and Purpose

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to delete from Chapter 40C-22, F.A.C., the delegations to District staff that authorize staff to inform applicants submitting notices of intent to use a noticed general permit if the proposed consumptive use does not qualify for a noticed general permit. Amendments to Sections 373.083(5) and 373.118(5), F.S., enacted in 2010, provide that delegations are not subject to rulemaking. Regulatory delegations regarding consumptive use permits will be described solely in the Statement of Agency Organization and Operation, available on the District’s website at floridaswater.com.

SUMMARY: The proposed rule removes from Rule 40C-22.001, F.A.C., the delegation of authority to District staff to notify an applicant that a proposed consumptive use does not qualify for a noticed general permit.

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, 373.118, 373.171 FS.

LAW IMPLEMENTED: 373.083, 373.118 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: Following the regularly scheduled Governing Board Meeting on November 9, 2010, which begins at 1:00 p.m.

PLACE: St. Johns River Water Management District Headquarters, Executive Building, 4049 Reid Street, Palatka, Florida 32177

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Wendy Gaylord, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)326-3026, email wgaylord@sjrwmd.com

THE FULL TEXT OF THE PROPOSED RULE IS:

40C-22.001 Policy and Purpose.

(4) The District has determined that certain minor consumptive uses, either singly or cumulatively, have a minimal adverse impact on the water resources of the District. This chapter’s purpose is to provide noticed general consumptive use permits for those certain minor consumptive uses. Persons using a noticed general permit under this chapter shall be subject to the notice provisions of Rule 40C-1.1012, F.A.C., before the first consumptive use is conducted as authorized herein. Compliance with the limiting conditions of the noticed general permit is required to qualify for a noticed general permit under this chapter.

~~(2) For notices of intent to use a noticed general permit under this chapter which are received and reviewed by a permitting office, the Governing Board appoints the Directors and Assistant Directors of the permitting offices as its agents for the purposes of reviewing these notices and informing the applicant, pursuant to Rule 40C-1.1012, F.A.C., if the proposed consumptive use does not qualify for a noticed general permit. Any individual listed in subsection 40C-22.001(3), F.A.C., may act on behalf of the Directors and Assistant Directors of the permitting offices.~~

~~(3) For notices of intent to use a noticed general permit under this chapter which are received and reviewed by the headquarters office, the Governing Board appoints the Executive Director, Assistant Executive Director, Deputy Assistant Executive Director, Director of the Department of Resource Management, Assistant Directors of the Department~~

~~of Resource Management, Directors of the Service Centers, and the Director of the Division of Consumptive Use Permitting, as its agents for the purposes of reviewing these notices and informing the applicant, pursuant to Rule 40C-1.1012, F.A.C., if the proposed consumptive use does not qualify for a noticed general permit.~~

~~Rulemaking Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.083, 373.118, 373.219, 373.223 FS. History--New 4-25-96, Amended 10-2-96,_____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathryn Mennella, Director, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)329-4215

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 2010

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE NOS.:	RULE TITLES:
40C-40.011	Policy and Purpose
40C-40.302	Conditions for Issuance of Permits

PURPOSE AND EFFECT: The purpose and effect of this proposed rule is to delete from Chapter 40C-40, F.A.C., the delegations to District staff to issue standard environmental resource permits (ERP) because amendments to Sections 373.083(5) and 373.118(5), F.S., enacted in 2010, provide that delegations are not subject to rulemaking. Regulatory delegations regarding ERPs will be described solely in the Statement of Agency Organization and Operation available on the District's website at floridaswater.com. This proposed rule also proposes to delete reference to the Governing Board in the ERP rule addressing standard permits for incidental site activities because the District staff, not the Board, approves ERP applications as a result of the 2009 and 2010 amendments to Section 373.079(4), F.S.

SUMMARY: The proposed rule removes from Rule 40C-40.011, F.A.C., the delegation of authority to District staff to issue standard ERPs and deletes reference to the Governing Board in paragraph 40C-40.302(6)(b), F.A.C.

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

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

RULEMAKING AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.079, 373.083, 373.413, 373.416, 373.426 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: Following the regularly scheduled Governing Board Meeting on November 9, 2010, which begins at 1:00 p.m.

PLACE: St. Johns River Water Management District Headquarters, Executive Building, 4049 Reid Street, Palatka, Florida 32177

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Wendy Gaylord, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)326-3026, email wgaylord@sjrwm.com

THE FULL TEXT OF THE PROPOSED RULES IS:

40C-40.011 Policy and Purpose.

(1) This chapter grants standard environmental resource permits for certain specified surface water management systems which have been determined to be not harmful to the water resources of the District and to be not inconsistent with the objectives of the District. This chapter sets forth the requirements for qualifying for a standard permit and the conditions under which it may be exercised. Surface water management systems which are non-exempt, which do not qualify for a noticed general environmental resource permit pursuant to Chapter 40C-400, F.A.C., and which do not qualify for a standard permit under this chapter, are required to obtain individual permits under the provisions of Chapter 40C-4, F.A.C. The District may require an individual permit application for any surface water management system for which an application has been filed under this chapter which may not conform to the provisions of this chapter, or Chapter 373, F.S., or for which a substantial objection has been received.

~~(2) For applications for standard permits which are received and reviewed by a permitting office, the Governing Board appoints the Directors and Assistant Directors of the permitting offices as its agents for the purposes of reviewing and issuing these permits. Any individual listed in subsection 40C-40.011(3), F.A.C., can act on behalf of the Director or Assistant Director of a permitting office.~~

~~(3) For applications for standard permits which are received and reviewed by the Headquarters office, the Governing Board appoints the Executive Director, Assistant Executive Director, Deputy Assistant Executive Director, Director of the Department of Water Resources, and the Assistant Directors of the Department of Water Resource as its agents for the purposes of reviewing and issuing these permits.~~

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.083, 373.413, 373.416, 373.426 FS. History—New 12-7-83, Amended 2-27-94, 10-3-95, 1-4-96, 10-11-01, _____.

40C-40.302 Conditions for Issuance of Permits.

To qualify for a standard permit under this chapter, the permittee must give reasonable assurances that the surface water management system meets subsection (1) and all of the threshold conditions of subsection (2).

(1) through (5) No change.

(6) Notwithstanding the threshold conditions of subsection (2), a standard permit shall be authorized for incidental site activities which are in connection with the work set forth in an individual environmental resource permit application, provided:

(a) The applicant has submitted a complete individual environmental resource permit application for the project area that is the subject of the proposed incidental site activities, and there are no existing unpermitted or unauthorized impacts to wetlands or other surface waters, within the project area of the individual environmental resource permit application, which require a District permit.

1. through 2. No change.

(b) The District staff has reviewed the individual environmental resource permit application and is recommending approval of the individual permit. For the purpose of this section, District staff have recommended approval of the individual permit when the Department Director or Assistant Department Director of the Department of Water Resources has signed the technical staff report recommending approval of the application or the Department Director, Assistant Department Director or Service Center Director of the Department of Water Resources have issued a letter to the applicant stating that the application is complete and the staff will be recommending approval of the application ~~to the Governing Board~~;

(c) through (g) No change.

Rulemaking Specific Authority 373.044, 373.113, 373.406, 373.414, 373.418 FS. Law Implemented 373.083, 373.413, 373.414, 373.416, 373.418, 373.426 FS. History—New 12-7-83, Amended 9-25-91, 1-6-93, 2-27-94, 10-3-95, 1-11-99, 10-11-01, 2-1-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathryn Mennella, Director, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)329-4215

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 2010

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE NO.: 40C-42.091

RULE TITLE:

Publications Incorporated by Reference

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to amend the environmental resource permit (ERP) rules in Chapter 40C-42, F.A.C., and the Applicant’s Handbook: Regulation of Stormwater Management Systems to: (1) indicate that the regulatory delegations to District staff regarding ERPs are located in the Statement of Agency Organization and Operation which is found on the District’s website; (2) remove certain references to the Governing Board in favor of the term “District” for clarity and accuracy and, in some cases, also because permit delegations are no longer subject to rulemaking due to the 2010 enactment of amendments to Section 373.083(5) and 373.118(5), F.S., and because District staff, not the Board, approve ERP applications as a result of the 2009 and 2010 amendments to Section 373.079(4), F.S.; (3) clarify and reorganize the rules describing: procedures for processing standard general and individual ERPs; notices provided in the permitting process; requests for administrative hearing; and procedures at regulatory meetings; and (4) change the location of posting of notices of receipt of application to the District’s website.

SUMMARY: The proposed rule addresses amendments to procedural rules associated with ERPs for stormwater management systems.

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, 373.118, 373.418 FS.

LAW IMPLEMENTED: 373.079, 373.083, 373.118, 373.413, 373.416, 373.418, 373.426 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: Following the regularly scheduled Governing Board Meeting on November 9, 2010, which begins at 1:00 p.m.

PLACE: St. Johns River Water Management District Headquarters, Executive Building, 4049 Reid Street, Palatka, Florida 32177

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Wendy Gaylord, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)326-3026, email wgaylord@sjrwmd.com

THE FULL TEXT OF THE PROPOSED RULE IS:

40C-42.091 Publications Incorporated by Reference.

(1) The Governing Board adopts by reference Part I “Policy and Procedures”, Part II, “Criteria for Evaluation”, and Part III “Operation and Maintenance”, of the document entitled “Applicant’s Handbook: Regulation of Stormwater Management Systems, Chapter 40C-42, F.A.C.”, effective ~~12-3-06~~.

(2) through (3) No change.

~~Rulemaking Specific Authority 120.54(8); 369.318, 373.044, 373.113, 373.118, 373.406, 373.414, 373.418 FS. Law Implemented 369.318, 373.079, 373.083, 373.109, 373.117, 373.118, 373.406, 373.413, 373.414, 373.415, 373.416, 373.418, 373.419, 373.423, 373.426, 373.461, 403.0877, 403.813 FS. History—New 4-11-94, Amended 7-20-95, 10-3-95, 1-11-99, 10-11-01, 4-10-02, 2-1-05, 12-3-06,~~

APPLICANT’S HANDBOOK SECTIONS:

3.0 Activities Requiring a Permit

3.2 Permits Required

Any person proposing to construct, alter, operate, maintain, remove, or abandon a stormwater management system, which requires a permit pursuant to section 3.3, except those exempted pursuant to section 3.4, or noted in section 1.6, shall apply to the District for a standard general or individual environmental resource stormwater permit, prior to the commencement of construction, alteration, removal, operation, maintenance, or abandonment of the stormwater management system. The permit required “thresholds” are listed in section 3.3 of this handbook. Activities below these thresholds are considered to have a minor impact on water resources and are not regulated. Please be aware that no construction, alteration, removal, operation, maintenance, or abandonment of a stormwater management system shall be undertaken without a valid standard general or individual environmental resource stormwater permit unless it is below the thresholds listed or exempt.

Although certain activities may exceed a threshold, the District may elect to “exempt” them in the rule from a requirement to obtain a permit, usually because the activity is regulated by another agency or permit process (see section 3.4).

A “standard general environmental resource stormwater permit” is available for stormwater management systems which follow specific requirements as outlined in section 5. If the system meets these requirements an authorization is issued within 30 days after receipt of a complete application. ~~A~~

~~standard general environmental resource stormwater permit is approved at the staff level and does not require action by the District’s Governing Board.~~

An “individual environmental resource stormwater permit” is required for stormwater management systems that requires action by the District’s Governing Board. Stormwater management systems which are required to obtain a permit and do not qualify for a standard general environmental resource stormwater permit are required to obtain an individual environmental resource stormwater permit. The District will take action on an individual permit application within 90 days after the complete application is received. Please refer to section 6 for a discussion of individual permit processing procedures.

The ~~District Board~~ will not issue separate permits for parts of a system, except for a system which is to be constructed in phases.

5.0 Procedures for Processing Standard General Permits

5.1 Standard General Permit Criteria

District standard general environmental resource stormwater permits differ from individual permits in that they are granted by rule ~~rather than upon Board approval~~, to all systems which meet standard general permit design and performance criteria.

To receive a standard general permit, the system must:

(a) Meet certain threshold requirements described in section 3.3 of this handbook

(b) Be designed, constructed and operated in accordance with District criteria described in Parts II and III of this handbook

The person who seeks a standard general permit must submit a complete standard general environmental resource stormwater permit application to the District at least 30 days prior to undertaking the activity and must receive District authorization prior to proceeding.

5.3 Upgrade to Individual Permit

If, upon District staff review of a standard general environmental resource stormwater permit application, one of the following factors is present, the application will be processed as an application for an individual permit:

(a) District staff has a reasonable doubt that District standard general permit criteria for evaluation are met.

(b) A substantial objection to the project has been filed with the District. Substantial objection means a written statement directed to the District regarding a permit which identifies the objector, concerns hydrologic or environmental impacts of the proposed activity, and relates to applicable rule criteria.

Upon determination that one of the factors listed above is present, District staff will notify the applicant that the application has been upgraded to an individual environmental

resource stormwater permit and that the provisions of section 6 will be followed, unless the objection is later withdrawn in writing ~~or on the record at a Governing Board meeting.~~

5.7.6 Notification to Public for Input

Once the District receives an application, notice of such application will be provided to those persons who have previously filed a written request for notification of pending applications affecting a designated area. Such notice will be sent by regular mail. Also, a notice of receipt of an application (provided as part of the application form) will be posted on the District's website at floridaswaters.com ~~in the District headquarters and in each permitting office.~~

For the District staff to properly evaluate any information which interested persons may submit, these persons are advised to contact the District within 14 days of notification if they have questions, objections, comments or information regarding the proposed system.

5.7.7 Objections

A substantial objection as defined in subsection 5.3(e) will automatically cause the application to be considered an application for an individual permit, unless the objection is later withdrawn in writing ~~or on the record at a Governing Board meeting.~~ Substantial objections must be filed with the District within 14 days of notification of the application. Notification of the application shall be deemed to be either the fifth day after the date on which the written notice is deposited in the United States mail if actual notice is mailed to the interested person, or the date that notice is posted at the District's website at floridaswater.com ~~www.sjrwmd.com~~ if actual notice is not mailed to the interested person. The applicant will be notified that an objection has been received and that the procedures for application for an individual permit as described in section 6 must be followed unless all such objections are withdrawn in writing ~~or on the record at a Governing Board meeting.~~ No additional permit fee will be required if this occurs.

6.0 Procedure for Processing Individual Permits

6.5 Staff Evaluation

6.5.2 All review will be completed and the application will be approved or denied ~~presented to the Board for action~~ within 90 days after the complete application is received.

6.5.4 The applicant will be given a minimum of 14 days notice when the staff's review is complete and the application has been scheduled for District action on the application ~~a Board meeting.~~ This notice includes ~~the place, date and time of the meeting, and~~ a copy of the staff report which recommends approval or denial and if it is recommended for approval, conditions. The applicant is advised to read the report carefully. If any part of the report is in error, or if the applicant does not agree with the staff's recommendation, the applicant should contact the District staff as soon as possible. The 14 day period is provided to allow the staff and applicant an opportunity to resolve any concern which may have been

identified. ~~In all instances, the applicant will have an opportunity to make a statement before the Board at the scheduled regulatory meeting.~~

If the 14 day period is not sufficient or the applicant is still dissatisfied with the staff's position, the applicant by waiving may waive the 90 day timeframe, has the option of requesting that the District staff take additional time to meet with the applicant to further discuss the application, the applicant's position, and the staff's position, and may have the application removed from the agenda. It may either be rescheduled at a later time, or the applicant can request an administrative hearing under the provisions of chapter 120, F.S., chapter 28-106 and Rule 40C-1.1007, F.A.C.

6.5.5 Notification to Public for Input

Once the District receives an application, notice of such application will be provided to those people who have previously filed a written request for notification of pending applications affecting a designated area. Such notice will be sent by regular mail. Also, a notice of receipt of an application (provided as part of the application form) will be posted in the District headquarters and in each permitting office.

~~For the District staff to properly evaluate any information which interested persons may submit, these persons are advised to contact the District within 14 days of notification if they have questions, objections, comments or information regarding the proposed system.~~

6.5.6 Objections

(a) In order for the District staff to properly evaluate any information which interested persons may submit regarding an application, these persons should contact the District within 14 days of notification of the application and provide their objections, comments, or information regarding the specific application in writing. Interested persons may attend the Governing Board regulatory meeting(s) at which the specific application is being considered and present information relevant to the application.

(b) Notice of intended agency action will be provided to the applicant and to persons who have requested notice as required by Section 120.60, F.S. Written objections must be received by the District at least seven (7) days prior to the date of the regulatory meeting at which the permit application is scheduled for consideration in order to be included in the official record of the application and made available to the Board in its deliberations.

(c) An applicant or a person whose substantial interest may be affected by the intended agency ~~Board's~~ action may request an administrative hearing in accordance with Chapter 120, F.S., Chapter 28-106, F.A.C., and with Rule 40C-1.1007, F.A.C. Making a written objection or appearing at a Board meeting does not make a person a "party" ~~initiate a formal proceeding~~ for Chapter 120, F.S., purposes.

6.6 Regulatory Meeting

The Governing Board of the District meets once a month to act on permit applications that have not been delegated to District staff to approve. (See the District's Statement of Agency Organization and Operation at floridaswater.com for a listing of these regulatory delegations.) At each regulatory meeting, the Board has copies of the staff reports, which contain a staff recommendation for approval or denial, that were provided to them several days before the meeting to allow time for review. When applications are ~~formally~~ presented to the Board for action, the Board invites comments from the applicants, District staff, interested persons, members of the general public, or local governments who may be affected by the application. However, if no requests to speak concerning an application are made at the meeting, the application may be presented to the Governing Board on a consent agenda and therefore may not receive individual consideration.

Upon presentation of an application, the Board will either approve the application, approve the application with modifications, deny the application, or continue the application for consideration at a later date within applicable timeframes established by provisions of Chapter 120, F.S.

7.0 Permits

7.4 Enforcement and Inspection

One condition of each permit is that District authorized staff, upon proper identification, will have permission to enter, inspect and observe the system to insure compliance with the permitted plans and all conditions included in the permit issued by the District (see section 7.6.3).

Chapter 373, F.S. provides for the enforcement of District rules by both administrative and civil complaint. In addition to the authority of the ~~District Governing Board~~ to enforce, the District has the authority to obtain the assistance of county and city officials in the enforcement of the rules (see Sections 373.603 and 373.609, F.S.). A violation of any provision of Chapter 373, F.S., Chapters 40C-4, 40C-40, 40C-41, 40C-42, F.A.C., or orders of the ~~District Governing Board~~, is a second degree misdemeanor and the violator may be subject to prosecution.

7.5.2 Permit Conditions

The ~~District Governing Board~~ may impose upon any permit granted pursuant to Chapter 40C-42, F.A.C., such reasonable conditions as are necessary to assure that the permitted system will not be inconsistent with the overall objectives of the District and will not be harmful to the water resources of the District.

7.5.3 Standard Limiting Permit Conditions

In addition to project-specific special conditions, 19 general limiting conditions are included on all permits issued pursuant to Chapter 40C-42, F.A.C., unless waived by the ~~District Governing Board~~ upon its determination that the conditions are inapplicable for the work authorized by a given permit.

These conditions include a statement of permit duration, requirements for other District permits or permit modifications, construction sequence and timely completion of the stormwater management system, requirements for as-built certification, requirements for adequate erosion and sedimentation control during and after construction, submittal of appropriate operation and maintenance documents, site inspections, and permit transfers. The conditions are listed below:

1. through 19. No change.

7.7 Permit Modifications

The ~~District Governing Board~~ may modify a permit in accordance with the provisions of Section 373.429, F.S.

A request for modification of a permitted system may be made by a permittee as follows:

(a) through (c) No change.

(d) A request for modification by letter above, must be accompanied by the appropriate fee required by Rule 40C-1.603, F.A.C. A modification by letter may be approved only by those District staff specified in the District's Statement of Agency Organization and Operation which may be found on the District's website at floridaswater.com ~~the Director, Department of Water Resources, Assistant Director, Department of Water Resources, or a Service Center Director.~~ ~~Any such approval~~ will be provided in writing to the applicant.

(c) No change.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathryn Mennella, Director, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)329-4215

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 2010

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE NOS.:	RULE TITLES:
40C-44.091	Publications Incorporated by Reference
40C-44.341	Revocation or Modification of Permits

PURPOSE AND EFFECT: The purpose and effect of the rule development is to amend the environmental resource permit (ERP) rules in Chapter 40C-44, F.A.C., and the Applicant's Handbook: Regulation of Stormwater Management Systems to: (1) indicate that the regulatory delegations to District staff regarding ERPs are located in the Statement of Agency Organization and Operation which is found on the District's

website; (2) remove certain references to the Governing Board in favor of the term “District” for clarity and accuracy and, in some cases, also because permit delegations are no longer subject to rulemaking due to the 2010 enactment of amendments to Section 373.083(5) and 373.118(5), F.S. and because District staff, not the Board, approve ERP applications as a result of the 2009 and 2010 amendments to Section 373.079(4), F.S.; (3) clarify and reorganize the rules describing: procedures for processing standard general and individual ERPs; notices provided in the permitting process; requests for administrative hearing; and procedures at regulatory meetings; and (4) change the location of posting of notices of receipt of application to the District’s website.

SUMMARY: The rule development addresses amendments to procedural rule associated with ERPs for stormwater management systems.

RULEMAKING AUTHORITY: 373.044, 373.113, 373.118 FS.

LAW IMPLEMENTED: 373.079, 373.083, 373.118, 373.129, 373.413, 373.416, 373.426, 373.609, 373.613 FS.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Wendy Gaylord, Rules Coordinator, St. Johns River Water Management District, Office of General Counsel, 4049 Reid Street, Palatka, Florida 32177, (386)326-3026, or wgaylord@sjrwm.com

THE FULL TEXT OF THE PROPOSED RULES IS:

40C-44.091 Publications Incorporated by Reference.

(1) The Governing Board hereby adopts by reference Part I “Policy and Procedures” and Part II “Criteria for Evaluation,” of the document entitled “Applicant’s Handbook: Agricultural Surface Water Management Systems,” effective ~~12-3-06~~.

- (a) through (b) No change.
- (2) through (3) No change.

~~Rulemaking Specific~~ Authority 369.318, 373.044, 373.113, 373.118, 373.171, 373.406, 373.416, 373.418 FS. Law Implemented 369.318, 373.118, 373.406, 373.413, 373.416, 373.418, 373.426, 373.461, 373.603, 373.609, 373.613 FS. History–New 10-20-92, Amended 7-4-93, 10-3-95, 1-11-99, 4-10-02, 3-7-03, 12-3-06, _____.

40C-44.341 Revocation or Modification of Permits.

(1) The ~~District Governing Board~~ may revoke or modify a permit in accordance with the provisions of Section 373.429, F.S., and Chapter 40C-1, F.A.C.

- (2) No change.

~~Rulemaking Specific~~ Authority 373.044, 373.113, 373.171, 373.406, 373.416, 373.418 FS. Law Implemented 373.429 FS. History–New 8-11-91. Amended 10-20-92, 7-4-93, _____.

APPLICANT’S HANDBOOK SECTIONS:

1.0 Introduction

1.6 Explanation of Thresholds, Exemptions, Standard General or Individual Permits

Permits are required for activities which exceed certain “thresholds” (see section 3.2). Activities below these thresholds are considered to have a minor impact on water resources and are not regulated.

Although certain activities may exceed a threshold, the District may elect to “exempt” them in the rule from a requirement to obtain a permit, usually because the activity is regulated by another agency or permit process (see section 3.4.2). Other exemptions are established by the Florida Legislature in the statute which created the water management districts (see section 3.4.1).

A “standard general permit” is available for smaller or typically low-polluting agricultural activities which follow specific requirements. ~~A standard general permit is approved at the staff level and does not require action by the District’s Governing Board.~~

An “individual permit” is applicable to agricultural operations which have a higher potential to cause pollution. An individual permit is more complicated and flexible, ~~and requires action by the District’s Governing Board.~~ Agricultural surface water management systems which are required to obtain a permit, and do not qualify for a standard general permit, are required to obtain an individual permit.

3.0 Activities Requiring a Permit

3.2 Permits Required

3.2.2 The ~~District Board~~ will not issue separate permits for parts of a system, except for a system which is to be constructed in phases.

3.5 Conceptual Approval Permit

3.5.3 The ~~District’s Governing Board’s~~ determination that the conceptual plans are consistent with Chapter 373, F.S., and Chapters 40C-4, 40C-40, and 40C-41, F.A.C., will provide the applicant with an assurance that the concepts upon which his designs are based can provide for systems which will not be harmful to the water resources of the District and will not be inconsistent with the overall objectives of the District.

4.0 Application Preparation

4.2 Forms and Instructions

~~4.2.4 An applicant who thinks that the information required to be included on the application form or requested at the pre-application conference is unnecessary for review of the application, may request that the Governing Board determine whether such information is required to review the particular system with regard to statutory and rule criteria. To obtain such a determination, the applicant should request an opportunity to present evidence to the District Governing Board regarding the lack of need for the disputed information. The Governing Board will hear such disputes at regularly scheduled meetings;~~

~~requests for opportunity to present such evidence should be received at least 21 days prior to the regulatory meeting at which the request is to be heard.~~

5.0 Procedures for Processing Individual Environmental Resource Agricultural System Permits

5.3 Request for Additional Information

5.3.4 If, within the given time frame, the applicant does not submit the requested information (which was requested within 30 days after receipt of the application) the application may be prepared for administrative denial in accordance with Rule 40C-1.1008, F.A.C. In such instances, the applicant will be mailed or delivered a notice of the intent to take such action at a minimum of 14 days prior to the meeting at which the Board will consider denial. The applicant may request an administrative Section 120.569, F.S., hearing pursuant to Chapter 120, F.S., Chapter 28-106, F.A.C., and Rule Section 40C-1.1007, F.A.C., to dispute the necessity of the information required. The applicant may present evidence to the Board stating why the permit application should not be denied. Administrative dDenial pursuant to this procedure is not a determination of the merit of an application and does not preclude reapplying at a later time.

5.4 Staff Evaluation

5.4.2 All review will be completed and the application will be approved or denied presented to the Board for action within 90 days after the complete application is received.

5.4.4 The applicant will be given a minimum of 14 days notice when the staff's review is complete and the application has been scheduled for District action on the application a Board meeting. This notice includes the place, date and time of the meeting, and a copy of the staff report which recommends approval or denial. The applicant is advised to read the report carefully. If any part of the report is in error, or if the applicant does not agree with the staff's recommendation, the applicant should contact the District staff as soon as possible. The 14 day period is provided to allow the staff and applicant an opportunity to resolve any concern which may have been identified. In all instances, the applicant will have an opportunity to make a statement before the Board at the scheduled regulatory meeting.

If the 14 day period is not sufficient or the applicant is still dissatisfied with the staff's position, the applicant by waiving the ninety day time frame, has the option of requesting that the District staff take additional time to meet with the applicant to further discuss the application, the applicant's position, and the staff's position may have the application removed from the agenda and rescheduled at a later time, or the applicant can request an administrative hearing under the provisions of Chapter 120, F.S., and Rule 40C-1.511, F.A.C.

5.4.5 Notification to Public for Input

Once the District receives an application, notice of such application will be provided to those persons who have previously filed a written request for notification of pending applications affecting a designated area. Such notice will be sent by regular mail.

~~For the District staff to properly evaluate any information which interested persons may submit, these persons are advised to contact the District within 14 days of notification if they have questions, objections, comments or information regarding the proposed system. Those who file a written request for further information regarding the permit application will be furnished the information requested prior to the Governing Board meeting at which the application will be considered.~~

5.4.6 Objections

(a) In order for the District staff to properly evaluate any information which interested persons may submit regarding an application, these persons should contact the District within 14 days of the date of receipt of the notice of receipt of application and provide their objections, comments or information regarding the specific application in writing. Interested persons may attend the Governing Board regulatory meeting(s) at which the specific application is being considered and present information relevant to the application.

(b) Notice of intended agency action will be provided to the applicant and to persons who have requested notice as required by Section 120.60, F.S. Written objections must be received by the District at least seven (7) days prior to the date of the regulatory meeting at which the permit application is scheduled for consideration in order to be included in the official record of the application and made available to the Board in its deliberations.

(c) An applicant or a person whose substantial interests may be determined by the intended agency action may request an administrative hearing in accordance with Chapter 120, F.S., Chapter 28-106, F.A.C., and Rule 40C-1.1007, Section 40C-1.511, F.A.C. Making a written objection or appearing at a Board meeting does not make a person a "party" for Chapter 120, F.S., purposes.

5.5 Regulatory Meeting

5.5.1 The Governing Board of the St. Johns River Water Management District meets once a month to act on permit applications that have not been delegated to District staff to approve. (See the District's Statement of Agency Organization and Operation at floridaswater.com for a listing of these regulatory delegations.) At each regulatory meeting, the Board has copies of the staff reports, which contain a staff recommendation for approval or denial, and which were provided to them several days before the meeting to allow time for review. When applications are formally presented to the Board for action, the Board invites comments from the applicants, District staff, interested persons, or local governments who may be affected by the application, and

members of the general public. However, if no requests to speak concerning an application are made at the meeting, the application may be presented to the Governing Board on a consent agenda and therefore may not receive individual consideration.

6.0 Procedures for Processing Standard General Environmental Resource Agricultural System Permits

6.2 Standard General Permits

6.2.4 Upon determination that one of the factions listed in subsection 6.2.3 is present, District staff will notify the applicant that an individual permit is required, and the provisions of subsection 5.0 will be followed. Substantial objection means a written statement directed to the District Governing Board regarding a permit which identifies the objector, concerns hydrologic or environmental impacts of the proposed activity, and relates to applicable rule criteria.

6.5 Staff Evaluation

6.5.6 Notification to Public for Input

At the time the District has received a standard general permit application for construction, it will provide public notice that the application has been filed. Such public notice will be sent by regular mail to those people who have previously filed a written request for notification of pending applications within the affected area.

Notice of receipt of an application which includes construction will be posted on the District website at floridaswater.com ~~in the District headquarters and in each permitting office.~~ For operation and maintenance of existing agricultural operations, pursuant to subsection 40C-44.055(2), F.A.C., no notice of receipt of an application is required.

For the District staff to properly evaluate any information which interested persons may submit, these persons should contact the District within 14 days of receipt of notice of the application if they have questions, objections, comments, or information regarding the proposed system.

7.0 Permits

7.4 Duration

7.4.3 Permits expire at 11:59 p.m. on the date indicated on the permit conditions unless an application is made pursuant to Chapter 40C-1, F.A.C., for an extension on or before the date of expiration. Application for an extension should be made by writing to:

Department of Water Resources Management
St. Johns River Water Management District
4049 Reid Street
Palatka, FL 32177-2529

7.4.5 If an application for re-issuance is made prior to expiration, the permit remains in effect until the District Governing Board takes action on the application.

7.4.6 The District Governing Board may revoke or modify a permit in accordance with the provisions of Section 373.429, F.S., and Chapter 40C-1, F.A.C. The following constitutes grounds for modification or revocation:

(a) Consistent noncompliance with permit conditions.

(b) Consistent noncompliance with state water quality standards.

(c) Noncompliance with approved wasteload allocations, developed pursuant to a Surface Water Improvement and Management Plan or other state or District program, when adopted by District rule, such that the operation has become inconsistent with the objectives of the District, as set forth in section 9.0 of the Applicant's Handbook: Agricultural Surface Water Management Systems, or

(d) Noncompliance with a pollutant load reduction goal when adopted by District rule, such that the operation has become inconsistent with the objectives of the District, as set forth in section 9.0 of the Applicant's Handbook: Agricultural Surface Water Management Systems.

For the purposes of this section of the rule only, the District staff will consider "consistent noncompliance with state water quality standards" to be violations of state water quality standards for 2 consecutive quarters of 3 or more parameters or violations of state water quality standards for 4 consecutive quarters of 1 or more parameters.

7.5 Enforcement and Inspection

7.5.1 Chapter 373, F.S., provides for the enforcement of District rules by administrative and civil complaint. In addition to the authority of the District Governing Board to enforce, the District has the authority to obtain the assistance of county and city officials in the enforcement of the rules (see Sections 373.603 and 373.609, F.S.) A person who violates District rules or refuses to comply with a District order may be subject to criminal prosecution as set forth in Section 373.403, F.S.

8.0 Criteria for Evaluation

8.2 Source of Criteria

The criteria for evaluation have been developed from guidelines established in Chapter 373, F.S. (Water Resources Act of 1972); Chapter 403, F.S., (Environmental Control); Chapter 62-40, F.A.C. (State Water Policy); Chapter 40C-4, F.A.C., (Environmental Resource Permits: Surface Water Management Systems), Chapter 40C-40 (Standard General Environmental Resource Permits), Chapters 62-3 and 62-302, F.A.C. (Water Quality Standards), this handbook, and through permitting decisions of the District Governing Board. Copies of Chapter 373, F.S., (abridged), Chapter 62-40, F.A.C., Chapters 40C-4 and 40C-40, F.A.C., are contained in the appendices in Part IV of this handbook.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathryn Mennella, Director, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)329-4215
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governing Board of the St. Johns River Water Management District
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 10, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 2010

DATE AND TIME: Following the regularly scheduled Governing Board Meeting on November 9, 2010, which begins at 1:00 p.m.
 PLACE: St. Johns River Water Management District Headquarters, Executive Building, 4049 Reid Street, Palatka, Florida 32177
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Wendy Gaylord, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)326-3026, email wgaylord@sjrwm.com.

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE NOS.:	RULE TITLES:
40C-400.201	Policy and Purpose
40C-400.211	Processing Procedures for Noticed General Permits

PURPOSE AND EFFECT: The purpose and effect of this proposed rule is to delete from Chapter 40C-400, F.A.C., the delegations to District staff that authorize staff to inform applicants submitting notices of intent to use a noticed general permit if the proposed system does not qualify for a noticed general permit. Amendments to Sections 373.083(5) and 373.118(5), F.S., enacted in 2010, provide that delegations are not subject to rulemaking. Regulatory delegations regarding environmental resource permits will be described solely in the Statement of Agency Organization and Operation, available on the District’s website at floridaswater.com. This rule also would change the location of the posting of notices of intent to use a noticed general permit to the District’s website.

SUMMARY: The proposed rule removes from Rule 40C-400.201, F.A.C., the delegations of authority to District staff to notify an applicant when the proposed system does not qualify for a noticed general permit. The rule also states that the District will post notices of intent to use noticed general permits on its website.

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, 373.118 FS.

LAW IMPLEMENTED: 373.083, 373.118, 373.413, 373.416, 373.426 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):

THE FULL TEXT OF THE PROPOSED RULES IS:

40C-400.201 Policy and Purpose.

(1) The purpose of Part II of this chapter is to provide noticed general environmental resource permits for those activities which have been determined to have minimal impacts to the water resources of the district, both individually and cumulatively. Mitigation is neither necessary nor required for activities that qualify for noticed general permits. Persons wishing to use one or more of the general permits in this chapter shall be subject to the notice provisions of Rule 40C-1.1013, F.A.C., before any activity is conducted as authorized herein. The general conditions provided pursuant to Rule 40C-400.215, F.A.C., shall apply to all of the general permits in this chapter. Strict compliance with all of the terms, conditions, requirements, limitations and restrictions applicable to a desired noticed general permit under this Part is required to qualify for such a permit.

~~(2) For notices of intent to use a noticed general permit under Part II of this Chapter which are received and reviewed by a permitting office, the Governing Board appoints the Directors and Assistant Directors of the permitting offices as its agents for the purposes of reviewing these notices and informing the applicant, pursuant to Rule 40C 1.1013, F.A.C., if the system does not qualify for a noticed general permit. Any individual listed in subsection 40C 400.201(3), F.A.C., may act on behalf of the Directors and Assistant Directors of the permitting offices.~~

~~(3) For notices of intent to use a noticed general permit under Part II of this Chapter which are received and reviewed by the Headquarters office, the Governing Board appoints the Executive Director, Assistant Executive Director, Deputy Assistant Executive Director, Director of the Department of Resource Management, and the Assistant Directors of the Department of Resource Management as its agents for the purposes of reviewing these notices and informing the applicant, pursuant to Rule 40C 1.1013, F.A.C., if the system does not qualify for a noticed general permit.~~

Rulemaking Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.083, 373.118, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Amended 1-4-96,_____.

40C-400.211 Processing Procedures for Noticed General Permits.

(1) through (2) No change.

(3) At the time that the District has received the notice of intent, it will provide public notice that the notice of intent has been filed. Such public notice shall be sent by regular mail to those people who have previously filed a written request for notification of pending applications within the affected area. The notice of intent for a noticed general permit shall be posted on the District website at floridaswater.com ~~in the District headquarters and in the permitting office responsible for reviewing the notice of intent.~~

(4) through (10) No change.

Rulemaking Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History—New 10-3-95, Amended 1-4-96,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathryn Mennella, Director, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)329-4215

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 2010

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE NO.: 59A-3.2085
 RULE TITLE: Department and Services

PURPOSE AND EFFECT: This rule is being promulgated to establish the procedures and forms required for licensure of Burn Unit Services in hospitals, as required in Section 408.0361(2), Florida Statutes.

SUMMARY: This rule specifies and incorporates the guidelines regarding staffing, physician training and experience, operating procedures, equipment, physical plant and patient selection criteria to ensure patient quality and safety. The rule establishes application procedures and incorporates the application form to be used by hospitals.

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

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

RULEMAKING AUTHORITY: 408.0361(2) FS.

LAW IMPLEMENTED: 408.0361(2) FS.

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

DATE AND TIME: October 25, 2010, 1:30 p.m.

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

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: Kaylyn Boles, Health Facility Regulation at (850)412-4339, or at Kaylyn.Boles@ahca.myflorida.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bill McCort, Health Facility Regulation at (850)412-4341, or at William.McCort@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59A-3.2085 Department and Services.

(1) through (17) No change.

(18) Burn Units.

(a) All licensed hospitals that operate burn units under Section 408.0361(2), F.S., shall comply with the guidelines published by the American College of Surgeons, Committee on Trauma. Hospitals are considered to be in compliance with the American College of Surgeons guidelines when they adhere to guidelines regarding staffing, physician training and experience, operating procedures, equipment, physical plant, and patient selection criteria to ensure patient quality and safety. The applicable guidelines, herein incorporated by reference, are "Guidelines for the Operation of Burn Centers," in Resources for Optimal Care of the Injured Patient, Committee on Trauma, American College of Surgeons, (2006); Chapter 14, pages 79 through 86. These guidelines are available at: <http://www.ameriburn.org/Chapter14.pdf>. The determination of compliance with the guidelines is based on the burn unit providing evidence of verification from the American Burn Association.

(b) A hospital may apply for the initial licensure of a burn unit by submitting a hospital licensure application as specified in paragraph 59A-35.060(1)(h), Florida Administrative Code, indicating the addition of burn unit services, and attaching License Application Burn Unit Services, AHCA Form 3130-8012, August, 2010, incorporated herein by reference. Both of these forms are available at: <http://ahca.myflorida.com/MCHO/Health Facility Regulation /Hospital Outpatient/hospital.shtml>. The applicant should

complete this form indicating the date that burn unit services will begin and that the hospital is in partial compliance with "Guidelines for the Operation of Burn Centers" but has not received initial verification as a burn unit. A burn unit is considered to be in partial compliance with the guidelines until it demonstrates that it admits an annual average of 100 or more patients with acute burn injuries, averaged over a three-year period, and meets all other guidelines. During this initial licensure period, the hospital license will indicate that the burn unit is "provisional". Upon completion of the verification process with the American Burn Association, the provisional status will be lifted, the burn unit will be fully licensed with the service listed on the hospital license. The license application form must be signed by the hospital's Chief Executive Officer.

(c) Burn units that were in operation prior to June 30, 2004 shall be considered grandfathered and authorized to operate as a burn unit with service listed on their hospital license. The grandfathered licensure shall be effective for three years from the adoption of this rule but burn units that were in operation prior to June 30, 2004 shall be required to meet the promulgated licensure rules and receive verification from the American Burn Association within three years of the effective date of this rule.

(d) At the time of licensure renewal, burn unit operators shall submit current documentation from the American Burn Association that verifies the hospital's adherence to the guidelines adopted by reference and effective as of the effective date of this rule.

(e) Each provider of burn unit services shall maintain a policy and procedure manual, available for review by the Agency, which documents a plan to provide services to Medicaid and charity care patients.

(f) Enforcement of these rules shall follow procedures established in Rule 59A-3.253, F.A.C.

Rulemaking Authority 408.0361(2) FS. Law Implemented 408.0361(2) FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jeffrey Gregg

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Elizabeth Dudek

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

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Cosmetology

RULE NO.: 61G5-22.006 RULE TITLE: Hair Removal

PURPOSE AND EFFECT: The purpose for amendment to this rule is to separate the requirements for hair removal training and from that to facial training to make the requirements more easily distinguishable for prospective licensees and licensees.

SUMMARY: The proposed changes are intended to remove the portion related to the stand-alone facial specialty program compared to the facial and skin care requirements included within the cosmetology curriculum.

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: 477.016 FS.

LAW IMPLEMENTED: 477.0201, 477.023(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

~~61G5-22.006 Facials (Including Skin Care and Hair Removal).~~

(1) Objective: To gain information and knowledge to give a facial massage treatment using oils, creams, lotions, or other preparations to properly protect the client from significant damage and to describe chemicals, implements and techniques used in hair removal.

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

(3)(a) through (d) No change.

(e) To remove superfluous hair ~~on the head, face or neck~~ through epilation and/or depilation, excluding electrolysis.

(4) No change.

~~(5) Definition of Services: Services shall be a facial, a client consultation/skin analysis, exfoliation, either manual, mechanical or chemical, cleansing, toning, manipulations, and packs, masks, or other treatments as needed.~~

~~(6) At a minimum, the curriculum of schools and programs specified in Section 477.0201, F.S., shall include the following hours of instruction in the indicated theory items:~~

TOPIC	HOURS
(a) Florida Laws and Rules	5
(b) HIV and AIDS	4
(c) Sanitation	10
(d) Ethics	2
(e) Basics of Electricity	8
(f) Facial Techniques and Contraindications	66
(g) Product Chemistry	8
(h) Hair Removal	2.5
(i) Makeup	2
(j) Skin Theory, Disease and Disorders of the Skin	85

(7) The curriculum shall also include the performance of the following specified services as indicated as well as the estimated total number of hours needed to complete the required number of services:

TYPE OF SERVICE	NUMBER OF SERVICES	HOURS REQUIRED
(a) Facials, manual and mechanical, including masks, packs or treatments which must be performed on a variety of skin types including normal, oily, dry, combination, problem, and mature	40	40
(b) Set up, use and maintenance of electrical devices	5	1.25
(c) Hair removal, including tweezing, waxing, threading, and sugaring	20	5
(d) Makeup application for both day time and nighttime looks	10	5
(e) Lash and brow tinting	10	5
(f) Eyelash application, including strip lashes, individual lashes, and semi-permanent lashes	10	10
(g) Manual Extractions	5	1.25

Rulemaking Authority 477.016 FS. Law Implemented 477.0201, 477.023(2) FS. History—New 11-2-80, Amended 10-29-85, Formerly 21F-22.06, Amended 4-8-86, Formerly 21F-22.006, Amended 7-13-09 (8), 1-2-10 (6) and (7), _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Cosmetology Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Cosmetology Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 19, 2010

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Cosmetology

RULE NO.: 61G5-22.017
 RULE TITLE: Minimum Curriculum for Facial Specialty Training

PURPOSE AND EFFECT: The proposed rule amendment will clarify what is required for a stand-alone facial specialty program compared to the facial and skin care requirements within the cosmetology curriculum.

SUMMARY: The proposed changes are intended to make it clear in the minimum curriculum rule chapter as to what the requirements are for a stand-alone facial specialty program compared to the facial and skin care requirements included within the cosmetology curriculum.

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: 477.016 FS.

LAW IMPLEMENTED: 477.0201, 477.023(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G5-22.017 Minimum Curriculum for Facial Specialty Training.

(1) At a minimum, the curriculum of schools and programs specified in Section 477.0201, F.S., shall include the following hours of instruction in the indicated theory items:

TOPIC	HOURS
(a) Florida Laws and Rules	5
(b) HIV and AIDS	4
(c) Sanitation	10
(d) Ethics	2
(e) Basics of Electricity	8
(f) Facial Techniques and Contraindications	66
(g) Product Chemistry	8
(h) Hair Removal	2.5
(i) Makeup	2
(j) Skin Theory, Disease and Disorders of the Skin	85

(2) The curriculum shall also include the performance of the following specified services as indicated as well as the estimated total number of hours needed to complete the required number of services:

<u>TYPE OF SERVICE</u>	<u>NUMBER OF SERVICES</u>	<u>HOURS REQUIRED</u>
(a) <u>Facials, manual and mechanical, including masks, packs or treatments which must be performed on a variety of skin types including normal, oily, dry, combination, problem, and mature</u>	<u>40</u>	<u>40</u>
(b) <u>Set up, use and maintenance of electrical devices</u>	<u>5</u>	<u>1.25</u>
(c) <u>Hair removal, including tweezing, waxing, threading, and sugaring</u>	<u>20</u>	<u>5</u>
(d) <u>Makeup application for both day time and nighttime looks</u>	<u>10</u>	<u>5</u>
(e) <u>Lash and brow tinting</u>	<u>10</u>	<u>5</u>
(f) <u>Eyelash application, including strip lashes, individual lashes, and semi-permanent lashes</u>	<u>10</u>	<u>10</u>
(g) <u>Manual Extractions</u>	<u>5</u>	<u>1.25</u>

(3) Definition of Services: Services shall be a facial, a client consultation/skin analysis; exfoliation, either manual, mechanical or chemical; cleansing; toning; manipulations; and packs, masks, or other treatments as needed.

Rulemaking Authority 477.016 FS. Law Implemented 477.0201, 477.023(2) FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Cosmetology Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Cosmetology Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 19, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 11, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Cosmetology

RULE NO.: 61G5-31.004
 RULE TITLE: Hair Braiding, Hair Wrapping, and Body Wrapping Course Requirements

PURPOSE AND EFFECT: To clarify and to bring into current usage and practice provisions of the rule relating to the education of the individual on matters addressed by the rule. In addition, to amend the title of the rule to include the term “body wrapping.”

SUMMARY: The amended clarifies that body wrapping is included in the rule for course requirements.

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

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

RULEMAKING AUTHORITY: 477.016 FS.

LAW IMPLEMENTED: 477.013(10) 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: Robyn Barineau, Executive Director, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G5-31.004 Hair Braiding, ~~and~~ Hair Wrapping, and Body Wrapping Course Requirements.

(1) No change.

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

(c) One (1) hour of instruction regarding disorders and diseases of the scalp. At the conclusion of this instruction, a student shall be able to understand:

1. Disorders and diseases of the scalp and how to distinguish between them; and

2. When body hair wrapping services can be performed on a patron with disorders or diseases of the scalp.

(d) No change.

(3) All body wrapping courses taught for purposes of qualifying an individual for initial registration as a body wrapper shall be a two-day, 12-hour course; and, shall be approved by the Board prior to the course being taught for registration qualification purposes. To be considered for approval by the Board, the course shall consist of the following:

(a) No change.

(c) Four (4) hour of instruction regarding disorders and diseases of the skin. At the conclusion of this instruction, a student shall be able to understand:

1. Disorders and diseases of the skin and how to distinguish between them; and,

2. When skin wrapping services can be performed on a patron with disorders or diseases of the skin.

(d) No change.

(4) through (5) No change.

Rulemaking Specific Authority 477.0132, 477.016 FS., Chapter 99-251, Laws of Florida. Law Implemented 477.0132 FS., Chapter 99-251, Laws of Florida. History–New 2-1-95, Amended 4-8-96, 11-25-98, 12-20-99,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Cosmetology Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Cosmetology Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 27, 2010

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Electrical Contractors’ Licensing Board

RULE NO.: 61G6-7.001
RULE TITLE: Specialty Electrical Contractors

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify language concerning the scope of work for the limited energy systems specialty; to clarify that certified and registered licensees in Unlimited Electrical Contractor, Alarm System Contractor I, Alarm System Contractor II, and Residential Electrical Contractor may perform the scope of work of a limited energy systems specialty certification.

SUMMARY: Language concerning the scope of work for the limited energy systems specialty and certified and registered licensees in Unlimited Electrical Contractor, Alarm System Contractor I and II, and residential Electrical Contractor will be clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board voted that no Statement of Estimated Regulatory Cost was required. The Board commented that the rule would have a positive 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: 489.511(5) FS.

LAW IMPLEMENTED: 489.503(14), 489.505(19), 489.511(5) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juanita Chastain, Executive Director, Electrical Contractors’ Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G6-7.001 Specialty Electrical Contractors.

The following types of specialty electrical contractors may apply to be certified under the provisions of Part II, Chapter 489, F.S., and Chapter 61G6-5, F.A.C., above. In order to be admitted to a specialty contractor examination, the person must show 6 years of comprehensive training, technical education, or broad experience on the type of electrical or alarm system work for which certification is desired.

(1) through (3) No change.

(4) Limited Energy Systems Specialty. The scope of certification of a limited energy systems specialty contractor includes the installation, repair, fabrication, erection, alteration, addition to, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, conduit, and fiber optics (transmission of light over stranded glass) or any part thereof not to exceed 98 volts.; The scope of work of this license does not include installation, repair, fabrication, erection, alteration, addition to, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, conduit, that are part of an alarm system when those items are for the purpose of transmitting data, proprietary video (satellite systems which are not part of a community antenna television, cable television, or radio distribution system), radio frequency, central vacuum, or electric locks, data distribution networks, home theater systems, surround sound systems, public address systems or telephone systems. (a) The scope of certification is limited to electrical circuits and equipment governed by the applicable provisions of Articles 725 (Class 2 and 3 circuits only), 770, 800, 810, and 820 of the National Electrical Code, ~~2008~~ 1984 Edition, or 47 C.F.R. Part 68.

~~(a)~~(b) No change.

(b) The scope of work of this license may also be performed by the following certified and registered license categories: Unlimited Electrical Contractor, Alarm System I Contractor, Alarm System II Contractor, and Residential Electrical Contractor.

(5) No change.

Rulemaking Specific Authority 489.511(5) FS. Law Implemented 489.503(14), 489.505(19), 489.511(5) FS. History–New 1-2-80, Amended 7-29-84, 10-14-84, Formerly 21GG-7.01, Amended 2-23-86, 12-24-87, 6-21-89, 3-3-92, Formerly 21GG-7.001, Amended 1-28-96, 12-25-96, 6-11-97, 12-24-97, 7-19-98, 10-7-99, 2-17-00, 4-30-01, 4-30-03, 9-16-07, 12-2-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Electrical Contractors’ Licensing Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Electrical Contractors’ Licensing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 16, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 25, 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 JUVENILE JUSTICE

Residential Services

RULE NO.: 63E-7.002
RULE TITLE: Definitions
PURPOSE AND EFFECT: Amending the definition of "controlled observation" to clarify that its use is authorized only in limited circumstances.
SUMMARY: The amendment specifies that only separate and identified rooms may be used for controlled observation, and such rooms can only be used for that purpose.

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

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

RULEMAKING AUTHORITY: 985.64, 985.601(3)(a) FS.
LAW IMPLEMENTED: 985.601(3)(a) FS.

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

DATE AND TIME: Tuesday, October 26, 2010, 10:00 a.m.
PLACE: DJJ Headquarters, 2737 Centerview Drive, General Counsel's Conference Room 3223, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Milla, 2737 Centerview Dr., Ste. 3200, Tallahassee, FL 32399-3100, e-mail john.milla@djj.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

- 63E-7.002 Definitions.
- (1) through (18) No change.
- (19) Controlled Observation – An immediate, short-term crisis management strategy, not authorized for use as punishment or discipline, wherein a youth in a residential commitment program is placed in a separate, identified, safe and secure room used only for Controlled Observation. Placement in this room is in response to his or her sudden or unforeseen onset of behavior that substantially threatens the physical safety of others and compromises security. A program

is authorized to use this strategy only when non-physical interventions with the youth would not be effective and during emergency safety situations where there is imminent risk of the youth physically harming himself or herself, staff, or others, or when the youth is engaged in major property destruction that is likely to compromise the security of the program or jeopardize the youth's safety or the safety of others.

- (a) through (b) No change.
- (20) through (89) No change.

Rulemaking Authority 20.316, 985.64, 985.601(3)(a) FS. Law Implemented 985.601(3)(a), 985.03(44), 985.441(1)(b) FS. History–New 9-30-07, Amended 8-25-08, 7-8-09, 12-21-09, 5-4-10, 7-20-10,

DEPARTMENT OF HEALTH

Board of Dentistry

RULE NO.: 64B5-13.005
RULE TITLE: Disciplinary Guidelines
PURPOSE AND EFFECT: The Board proposes the rule amendment to modify the disciplinary guidelines.
SUMMARY: The rule amendment will modify the disciplinary guidelines.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

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

RULEMAKING AUTHORITY: 456.079(1) FS.
LAW IMPLEMENTED: 456.072(2), 456.079(1), 466.028 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

- 64B5-13.005 Disciplinary Guidelines.
- (1) When the Board finds an applicant, licensee, or certificate holder whom it regulates under Chapter 466, F.S., has committed any of the acts set forth in Section 456.072(1) or 466.028, F.S., it shall issue a final order imposing appropriate penalties as recommended in these disciplinary guidelines. For any violation found that is for fraud or making a false or fraudulent representation, the Board will impose a fine of \$10,000.00 per count or offense. The use of terms to describe the offenses herein within the individual guidelines is

intended to be only a generally descriptive use of the terms. For an accurate description of the actual offenses, the reader should refer to the statutory disciplinary provisions. The

maximum penalties set forth in any individual offense guideline include all of the less severe penalties that would fall in between the maximum and the minimum penalties stated:

VIOLATION	PENALTY RANGE	
	MINIMUM	MAXIMUM
(a) through (ccc) No change		
(ddd) Being convicted of, or entering a plea of nolo contendere to, any misdemeanor or felony, regardless of adjudication, under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 U.S.C. ss. 1320a-7b, relating to the Medicaid program. (Section 456.072(1)(ii), F.S.)		
First Offense	Misdemeanor – Reprimand, <u>\$10,000</u> fine, suspension	Misdemeanor – \$10,000 fine, revocation suspension
Second Offense	Felony – Revocation	Felony – revocation
(eee) Failing to remit the sum owed to the state for any overpayment from the Medicaid program pursuant to a final order, judgement, or stipulation or settlement. (Section 456.072(1)(jj), F.S.)		
First Offense	\$1,000 <u>500</u> fine, letter of concern	<u>\$10,000</u> 5,000 fine suspension
Second Offense	<u>\$7,500</u> 5,000 fine, reprimand	\$10,000 fine, revocation
(fff) Being terminated from the state Medicaid program pursuant to Section 409.913, F.S., any other state Medicaid program, or the federal Medicare program, unless eligibility to participate in the program from which the practitioner was terminated has been restored. (Section 456.072(1)(kk), F.S.)		
First Offense	\$1,000 fine, letter of concern	<u>\$10,000</u> 5,000 fine, suspension
Second Offense	<u>\$7,500</u> 5,000 fine, reprimand	\$10,000 fine, revocation
(ggg) No change		

(2) through (5) No change.

Rulemaking Authority 456.079(1) FS. Law Implemented 456.072(2), 456.079(1), 466.028 FS. History—New 12-31-86, Amended 2-21-88, 1-18-89, 12-24-91, Formerly 21G-13.005, 61F5-13.005, 59Q-13.005, Amended 4-2-02, 8-25-03, 2-27-06, 12-25-06, 6-11-07, 9-15-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Dentistry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 9, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 3, 2010

DEPARTMENT OF HEALTH

Division of Emergency Medical Operations

RULE NOS.:	RULE TITLES:
64J-3.001	Certification of 911 Public Safety Telecommunicators
64J-3.002	Public Safety Telecommunication Course Equivalency
64J-3.003	Renewal of 911 Public Safety Telecommunicator Certification

PURPOSE AND EFFECT: To comply with new legislation.
SUMMARY: This rule changes the titles from “911 emergency dispatcher” to “911 public safety telecommunicator”. This rule also impliments the fee requirements outlined in the new legislation.

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: Chapter 2010-188, Laws of Florida.

LAW IMPLEMENTED: Chapter 2010-188, Laws of Florida.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Rebecca Cash, 4052 Bald Cypress Way, Bin #C18, Tallahassee, Florida, (850)245-4440, ext *2725. 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: Rebecca Cash, 4052 Bald Cypress Way, Bin #C18, Tallahassee, Florida 32399-1738, (850)245-4440 ext *2725

THE FULL TEXT OF THE PROPOSED RULE IS:

64J-3.001 Certification of 911 Public Safety Telecommunicators ~~Emergency Dispatchers~~.
Application for 911 Public Safety Telecommunicator ~~Emergency Dispatcher~~ Certification is done through DH Form 5066, 07/10 ~~40/08~~, 911 Public Safety Telecommunicator ~~Emergency Dispatcher~~ Initial/Original Certificate Application, which is incorporated by reference and available from the department, as defined by subsection 64J-1.001(9), F.A.C., or is found on the internet forms page at <http://www.fl-ems.com>.

Rulemaking Authority 401.35, 401.465 FS. Law Implemented 401.465 FS. History—New 3-17-09, Amended _____.

64J-3.002 Public Safety Telecommunication Course Equivalency.

An agency seeking to determine equivalency of their training program shall submit to the Department of Health a copy of their training curriculum and DH Form 5067, 07/10 ~~06/09~~, 911 Public Safety Telecommunicator ~~Emergency Dispatcher~~ Training Course Equivalency Application, which is incorporated by reference and available from the department, as defined by subsection 64J-1.001(9), F.A.C., or is found on the internet forms page at: <http://www.fl-ems.com>. The training program shall consist of no less than 232 ~~208~~ hours. The department shall identify from DH Form 5067, 07/10 ~~06/09~~, 911 Public Safety Telecommunicator ~~Emergency Dispatcher~~ Training Course Equivalency Application, the instructional objectives within their training program that meet each of the student performance standards as outlined in the Department of Education’s Public Safety Telecommunication Curriculum Framework, Program Number 9101000/P090101, Occupational Completion Point – Data Code A, Dispatcher: Police Fire and Ambulance effective July 2010 ~~2009~~, which is incorporated by reference and available for reference on the Department of Education website at: http://www.fldoe.org/workforce/dwdframe/law_cluster_frame10.asp. Entities subject to the jurisdiction of the Department of Education are not eligible for this determination.

Rulemaking Authority 401.35, 401.465 FS. Law Implemented 401.465 FS. History—New 10-26-09, Amended _____.

64J-3.003 Renewal of 911 Public Safety Telecommunicator ~~Emergency Dispatcher~~ Certification.

(1) To be eligible for renewal certification as a 911 emergency dispatcher, the applicant shall submit DH Form 5068, 07/10 ~~06/09~~, Renewal/Change of Status 911 Emergency Dispatcher Certification Form, which is incorporated by reference and available from the department, as defined by

subsection 64J-1.001(9), F.A.C., or is found on the internet forms page at <http://www.fl-ems.com>, prior to February 1 of each odd year and complete the following:

(a) Complete 20 ~~24~~ hours of 911 public safety telecommunicator ~~emergency dispatcher~~ renewal training based on the Department of Education Public Safety Telecommunication Curriculum Framework, Program Number 9101000/P090101, Occupational Completion Point – Data Code A, Dispatcher: Police Fire and Ambulance effective July 2010 ~~2009~~, available for reference on the Department of Education website at: http://www.fldoe.org/workforce/dwdframe/law_cluster_frame10.asp. The department shall accept either the affirmation from a public safety agency as defined in Section 365.171(3)(d), F.S., or a certificate of completion of 20 ~~24~~ hours of renewal training from a department-approved Florida 911 public safety telecommunicator ~~emergency dispatcher~~ training program equivalent to the Department of Education Public Safety Telecommunication Curriculum Framework, Program Number 9101000/P090101, Occupational Completion Point – Data Code A, Dispatcher: Police Fire and Ambulance effective July 2010 ~~2009~~.

(b) Applicants applying for recertification must obtain 20 ~~24~~ hours of renewal training, as defined in paragraph 64J-3.003(1)(a), F.A.C., which may be earned through various delivery methods outlined in Table I.

911 <u>Public Safety Telecommunicator</u> Emergency Dispatcher Renewal Requirement	
Table I	
Delivery Method	Maximum Credit Hours Allowed
Journal Review	12 Hours
Workshop/Seminar/Classroom	16 Hours
Multi-media	12 Hours
QA/QI Review	12 Hours
Planning and Management Meetings	12 Hours
Teaching	12 Hours
Protocol Review	12 Hours

(2) An individual who has received an initial certification as a 911 public safety telecommunicator ~~emergency dispatcher~~ of no more than 180 days prior to February 1 of each odd year shall be exempt from the first renewal period. If an initial certification is obtained prior to August 1st of the preceding renewal year, that certificate holder must apply for renewal certification.

(3) In the event a certified 911 public safety telecommunicator ~~emergency dispatcher~~ changes the mailing address, name, or place of supervised full-time employment he or she has provided to the department, the applicant shall notify the department upon renewal.

Rulemaking Authority 401.35, 401.465 FS. Law Implemented 401.465 FS. History–New 10-26-09, Amended _____.

DH Forms 5066, 5067, 5068 can be found at www.fl-ems.com/dispatchers.html

NAME OF PERSON ORIGINATING PROPOSED RULE: Rebecca Cash, 4052 Bald Cypress Way, Bin #C18, Tallahassee, Florida 32399-1738, (850)245-4440, ext *2725

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: John Bixler, Chief, 4052 Bald Cypress Way, Tallahassee, Florida 32399-1738, (850)245-4053

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 23, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 2010

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation Program

RULE NOS.:	RULE TITLES:
65C-36.001	Definitions
65C-36.002	General Provisions
65C-36.003	Responsibilities of the Florida Abuse Hotline
65C-36.004	Responsibilities Related to the Child Protective Investigation
65C-36.005	Responsibilities of the Department of Children and Family Services Region Director
65C-36.006	Responsibilities of the Lead Agency
65C-36.007	State Child Fatality Prevention Specialist Responsibilities
65C-36.008	Region Child Fatality Prevention Specialist Responsibilities
65C-36.009	Dispute Resolution

PURPOSE AND EFFECT: This rule combines two previous rules dealing with child death to make the chronology of activities and roles and responsibilities of individuals involved in the investigation and review of a child death easier to understand; it clarifies responsibilities for notifying leadership in the event of a child death; and it formalizes the roles and responsibilities of the child fatality prevention specialists. Upon promulgation of this rule, Rules 65C-30.020 and 65C-30.021, F.A.C., will be repealed.

SUMMARY: This rule ensures leadership is notified in instances of child death; requires local law enforcement and Region/Sheriff’s to incorporate procedures for joint investigations into working agreements; requires child protective investigators to meet certification requirements and be certified prior to being the primary investigation in a report involving a child death; and clarifies the role of the Child Fatality Prevention Specialist (CFPS) during the investigation and review of a death.

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: 39.012, 39.0121 FS.

LAW IMPLEMENTED: 39.001, 39.01 39.201, 39.301, 39.303(2)(g), 39.012, 39.306, 383.402, 409.165 FS.

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

DATE AND TIME: Thursday, October 28, 2010, 10:00 a.m. – 12:00 Noon

PLACE: 1317 Winewood Boulevard, Building 4, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Julie Mayo, Office of Family Safety, 1317 Winewood Boulevard, Building 1, Tallahassee, Florida 32399. Phone: (850)922-0375 or Email: julie_mayo@dcf.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 RULES IS: Keith Perlman, Office of Family Safety, 1317 Winewood Boulevard, Building 1, Tallahassee, Florida 32399, phone: (850)922-2195 or Email: keith_perlman@dcf.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

65C-36.001 Definitions.

(1) “Department” means the Department of Children and Family Services.

(2) “Child Fatality Prevention Specialist” means Department staff responsible for coordinating and documenting the Department’s local and state death review activities.

(3) “Child Protection Services” means core child protection programs, such as protective investigations, protective supervision, post-placement supervision, foster care and other out-of-home care, or adoption services.

(4) “Child Protective Investigator (CPI)” means an authorized agent in a professional position within the Department or designated sheriff’s office with the authority and responsibility of investigating reports of child abuse, neglect, or abandonment received by the Florida Abuse Hotline as defined in Section 39.01(61), F.S.

(5) “Certified” refers to the designation earned by an individual who has met the criteria for Florida certification as a Child Protective Investigator by demonstrating the knowledge, skills, abilities and priorities necessary to competently discharge the duties of his or her position classification, as

evidenced by the successful completion of all applicable classroom instruction, field training, testing, and job performance requirements necessary for certification.

(6) “Comprehensive Review” means a detailed child death review and written report of the facts and circumstances surrounding the death of a child alleged to have died as a result of abuse, neglect or abandonment.

(7) “Contracted Service Provider” means a private agency that has entered into a contract with the Department or with a community-based care lead agency to provide supervision of and services to dependent children and children who are at risk of abuse, neglect, or abandonment.

(8) “Court Ordered Supervision” means the court has ordered the Department or contracted service provider to supervise the child and family over a period of time to ensure the family is stable; that they comply with the court ordered case plan and that interim status reports are submitted to the court every six months throughout the dependency process.

(9) “Family Preservation Services” means community-based services for children and families that result from a call to the Hotline that meets the criteria for a child protective investigation and a safety assessment indicates imminent risk of removal if services fail. Examples of these cases include families with significant addiction, mental illness or domestic/family violence problems. Family Preservation Services are further defined as services that if not delivered to the child would result in the child being removed from their home.

(10) “Florida Abuse Hotline” means the Department’s central abuse reporting center, which receives and processes reports of known or suspected child abuse, neglect or abandonment 24 hours a day, seven days a week.

(11) “Incident Reporting System” means the Department’s central electronic method for documenting and informing leadership and staff of critical events such as the death of a child receiving child protective services.

(12) “In-Home Non-Judicial Services” means community-based services for children and families that result from a call to the Hotline that meets the criteria for a child protective investigation, with the understanding that court action may be taken if the family fails to cooperate in fulfilling the requirements of the case plan.

(13) “Lead Agency” means an “eligible lead community-based provider” as defined in Section 409.1671(1)(e), F.S.

(14) “Limited Review” means a basic child death review and written report of the facts and circumstances surrounding the death of a child alleged to have died as a result of abuse, neglect or abandonment.

(15) “Local Child Abuse Death Review” refers to the review of a child abuse or neglect death completed by a local child abuse death review committee. The composition of local child abuse death review committee is described in Section 383.402, F.S.

(16) “Out-of-Home Care” is when a child lives in a licensed or non-licensed setting, arranged and supervised by the Department or contracted service provider, outside of the home of the parent.

(17) “Prevention Services” refers to social services and other supportive and rehabilitative services provided to the parent or legal custodian of the child to prevent or mitigate the possibility of a child being referred to the Hotline as an alleged victim of abuse, neglect or abandonment, or to reduce the incidents of abuse. Social services and other supportive and rehabilitative services shall promote the child’s physical, mental, and emotional health and a safe, stable, living environment, shall promote family autonomy, and shall strengthen family life, whenever possible.

(18) “State Child Abuse Death Review Committee” refers to the state level child abuse death review committee established and described in Section 383.402, F.S.

(19) “Statewide Automated Child Welfare Information System (SACWIS)” means the Department’s statewide automated system containing all reports, protective investigations, special conditions referrals, child-on-child sexual abuse reports and related child safety assessments and safety actions or plans and cases regarding child abuse, neglect or abandonment and pertinent information regarding all activities involved in investigative and some case management functions, including the Child’s Resource Record. The SACWIS is the state’s primary record for each protective investigation and case and all documentation requirements of the system shall be met.

Rulemaking Authority 39.012, 39.0121 FS. Law Implemented 39.001, 39.01, 39.012, 409.165 FS. History–New _____.

See Former Rules 65C-30.020, 65C-30.021.

65C-36.002 General Provisions.

(1) Department, lead agency, contracted service provider or sheriff’s office employees providing child protection services shall cooperate with any law enforcement requests related to an investigation of the child’s death.

(2) Child death reviews are necessary for the prevention of subsequent child abuse, neglect or abandonment. A Comprehensive or Limited child death review shall be conducted when:

(a) A report has been accepted by the Hotline in which it is alleged that abuse, neglect or abandonment was or may have been a factor in the child’s death, or

(b) A child died while in out-of-home care, living at home under court ordered supervision or receiving in-home non-judicial services.

(3) Department, lead agency, contracted service provider or sheriff’s office employees providing child protection services shall cooperate with the Department of Children and Family Services and Department of Health child abuse death review processes.

(4) Department, lead agency, contracted service provider, or sheriff’s office employees who provide child protection services, who has reasonable cause to suspect that the child died as a result of abuse, neglect or abandonment shall immediately report the death to the Florida Abuse Hotline. A report to the Hotline is required even when there are no surviving children living in the home.

(5) Department and Sheriffs’ Offices conducting child protective investigations shall develop local procedures for ensuring child protective investigators have the unique knowledge, skills and abilities to deal with the complex and sensitive nature of investigations involving a child’s death.

(6) Criminal investigations and child protective investigations involving allegations of death due to abuse, neglect or abandonment shall be commenced concurrently, whenever possible.

(7) Each Region Director and Sheriff’s Office conducting child protective investigations shall develop procedures with local law enforcement for carrying out joint investigations involving the death of a child due to alleged abuse, abandonment or neglect. These procedures shall be included in the working agreements between the Department and local law enforcement required in Section 39.306, F.S.

Rulemaking Authority 39.012, 39.0121 FS. Law Implemented 39.012, 39.201, 39.301, 39.306, 409.165 FS History–New _____.

See Former Rules 65C-30.020, 65C-30.021.

65C-36.003 Responsibilities of the Florida Abuse Hotline.

(1) The Florida Abuse Hotline shall accept a report of a child death for protective investigation pursuant to Section 39.201, F.S.

(2) When a report is received involving an alleged victim in an open protective investigation that has died as a result of the abuse, neglect or abandonment which resulted in the open protective investigation, the report shall be categorized as a “supplemental” report and the maltreatment of “death” shall be added to the existing protective investigation by the Florida Abuse Hotline.

(3) When a report is received involving an alleged victim in an open protective investigation that has died as a result of a new incident of abuse, neglect or abandonment, a new “initial” report shall be created.

Rulemaking Authority 39.012, 39.0121 FS. Law Implemented 39.012, 39.201, 409.165 FS. History–New _____.

See Former Rule 65C-30.020.

65C-36.004 Responsibilities Related to the Child Protective Investigation.

(1) The Child Protective Investigator shall call in a report to the Florida Abuse Hotline when a child dies during an open protective investigation if:

(a) The death is due to alleged abuse, neglect or abandonment which resulted in the current open protective investigation; or

(b) A new incident of abuse, neglect, abandonment or harm is alleged.

(2) The Department or Sheriff's Office responsible for Child Protective Investigations shall notify the Region Child Fatality Prevention Specialist of the death of a child who is an active participant in an open investigation when the child's death is not due to abuse, neglect or abandonment. Notification shall be in writing and within 24 hours of learning of the child's death.

(3) Child Protective Investigators must be certified to be the primary investigator of a report involving a child death due to alleged abuse, neglect or abandonment.

(4) In addition to the requirements mandated in Rule 65C-29.003, F.A.C., the Child Protective Investigator shall complete the following activities when investigating a report that alleges a child died as a result of abuse, neglect or abandonment; or when a child dies for reasons unrelated to abuse, neglect or abandonment during an open protective investigation:

(a) Assess the safety of any surviving children, including:

i. Completion of a current Safety Assessment; and

ii. Referral to the local child protection team pursuant to paragraph 39.303(2)(g), F.S.;

(b) Obtain a copy of information necessary to determine whether the death was due to abuse, neglect or abandonment, including:

1. Current and Prior Child Protection Team Reports;

2. Medical Records;

3. Emergency Medical Services Reports;

4. Court Documents;

5. The medical examiner's final report if an autopsy was conducted, and required pursuant to paragraph 39.301(17)(b), F.S.;

6. Any preliminary, supplemental and final law enforcement investigation reports pertaining to the child's death;

7. Criminal history records and abuse, neglect or abandonment reports pertaining to the alleged perpetrator(s), caregivers, and household members; and

8. Prior prevention or family preservation services records pertaining to the child and the alleged perpetrator(s);

(c) Document in the statewide automated child welfare information system, as the initial contact for the victim, the date and time of the first professional collateral contact with medical staff or law enforcement personnel regarding the child's death;

(d) Document the date, time and cause of death in the statewide automated child welfare information system;

(e) Document that the information entered into the statewide automated child welfare information system clearly reflects the cause and circumstances surrounding the child's death. The findings from the medical examiner and law enforcement (including the status of criminal prosecution, if applicable) shall be included to the extent that information is available and necessary prior to closing the protective investigation;

(f) Provide the Child Fatality Prevention Specialist with access to all documentation obtained as required in paragraph 65C-36.004(4)(b), F.A.C.;

(g) Participate in all death review staffings required by the Region Child Fatality Prevention Specialist;

(h) Notify the Region Child Fatality Prevention Specialist of all death review staffings held on the case;

(i) Document the names of participants and outcomes of all staffings in the statewide automated child welfare information system; and

(j) Review information entered into the statewide automated child welfare information system for accuracy and completeness prior to closure of the protective investigation.

(5) The child protective investigation shall not be closed until it has been reviewed and approved for closure by the local Child Fatality Prevention Specialist. Disagreement on the maltreatment finding, or other items of the investigation, shall be resolved in accordance with the dispute resolution process in Rule 65C-36.009, F.A.C.

(6) The child protective investigation shall be completed and closed within 60 days after receipt of the report from the Florida Abuse Hotline. The only exceptions to this requirement are defined in Sections 39.301(17)(a) and 39.301(17)(b), F.S.

(7) If a child protective investigation is kept open in accordance with subsection 39.301(17)(a), F.S., the Program Administrator shall review and document in the statewide child welfare information system the reason(s) why closure of the protective investigation may compromise law enforcement's successful criminal prosecution of the child abuse or neglect case.

(8) If a child protective investigation is kept open in accordance with Section 39.301(17)(b), F.S., the Program Administrator shall review and document in the statewide child welfare information system the reason(s) that the final report from the medical examiner is necessary in order to determine if the child's death was due to abuse, neglect or abandonment.

(9) The Child Protective Investigator Supervisor shall complete a supervisory review every 30 days until the protective investigation is closed, and document in the statewide automated child welfare information system:

- (a) Activities that have occurred since the last review;
- (b) Any new tasks assigned; and
- (c) The reasons the protective investigation remains open.

Rulemaking Authority 39.012, 39.0121, 39.301 FS. Law Implemented 39.012, 39.201, 39.301, 39.303(2)(g), 409.165 FS. History–New _____.

See Former Rule 65C-30.020.

65C-36.005 Responsibilities of the Department of Children and Family Services Region Director.

(1) The Region Director or designee shall use the Department’s Incident Reporting System to notify and update the following individuals of all children who have died due to alleged abuse, neglect or abandonment within 24 hours after receipt of the intake from the Florida Abuse Hotline:

- (a) Secretary of the Department;
- (b) Assistant Secretary for Operations;
- (c) Assistant Secretary for Programs;
- (d) Children’s Legal Services;
- (e) General Counsel;
- (f) Director for the Office of Communications;
- (g) Inspector General;
- (h) Director for the Office of Family Safety;
- (i) Local Child Fatality Prevention Specialist; and
- (j) State Child Fatality Prevention Specialist.

(2) The Region Director shall appoint a Child Fatality Prevention Specialist for the Region in accordance with Section 383.402, F.S.

(3) The Region Director or designee shall notify the following individuals of critical issues and recommendations identified in the Child Death Reviews:

- (a) Secretary of the Department;
- (b) Assistant Secretary for Operations;
- (c) Assistant Secretary for Programs;
- (d) Director for the Office of Family Safety; and
- (e) State Child Fatality Prevention Specialist

Rulemaking Authority 39.012, 39.0121 FS. Law Implemented 39.012, 383.402, 409.165 FS. History–New _____.

See Former Rules 65C-30.020, 65C-30.021.

65C-36.006 Responsibilities of the Lead Agency.

(1) Within 24 hours of being notified of the death of a child in out-of-home care, a child living at home under court ordered supervision or a child receiving in-home non judicial services, when the child’s death is not due to alleged abuse,

neglect or abandonment, the lead agency shall use the Department’s Incident Reporting System to notify the following individuals:

- (a) Region Director;
- (b) Region Child Fatality Prevention Specialist;
- (c) Region Communications Director;
- (d) Region Family Safety Program Manager; and
- (e) State Child Fatality Prevention Specialist

(2) If the death involved a child in out-of-home care, the lead agency shall:

(a) Follow Department or approved lead agency operating procedures to ensure the child’s parents are notified as soon as possible;

(b) Refer any press inquiries to the appropriate Region public information office;

(c) Follow Department or approved lead agency operating procedures to ensure that the needs of the child’s family and siblings, caregiver, and other children in the home are addressed; and

Rulemaking Authority 39.012, 39.0121, 409.1671(5)(a) FS. Law Implemented 39.012, 409.165 FS. History–New _____.

See Former Rule 65C-30.020.

65C-36.007 State Child Fatality Prevention Specialist Responsibilities.

The State Child Fatality Prevention Specialist shall be responsible for oversight of all activities related to Child Death Reviews at the state level. Responsibilities include:

(1) Provide technical assistance to Region Child Fatality Prevention Specialists and child protection services providers regarding the Department’s Child Death Review process;

(2) Conduct programmatic reviews of child deaths at the request of the Secretary for the Department or the Director for the Office of Family Safety;

(3) Serve as a liaison between the Office of Family Safety and the State Child Abuse Death Review Team, including participating in State Child Abuse Death Review Team meetings;

(4) Review data and information related to child deaths entered into the state automated child welfare information system and Child Death Review database for accuracy and completeness;

(5) Analyze data and information entered into the Child Death Review database to identify issues, trends and actions that could be taken to prevent child deaths due to abuse, neglect or abandonment; and

(6) Notify the Florida Department of Health’s State Child Abuse Death Review Committee Coordinator of each child whose death, as determined by a completed child protection investigation, was caused by abuse, neglect or abandonment by a caregiver.

Rulemaking Authority 39.012, 39.0121 FS. Law Implemented 39.012, 39.202, 383.402, 409.165 FS. History–New _____.

See Former Rule 65C-30.021.

65C-36.008 Region Child Fatality Prevention Specialist Responsibilities.

In addition to the requirements in Section 383.402(18), F.S., the Region Child Fatality Prevention Specialists shall:

(1) Complete a Comprehensive Review, within 30 days after the child protective investigation is closed, when the investigation is closed with a determination that the child’s death was caused by abuse, neglect or abandonment by a caregiver.

(2) Complete a Limited Review, within 30 days after the protective investigation is closed, when the investigation is closed with a determination that the child’s death was not caused by abuse, neglect or abandonment by a caregiver.

(3) Provide electronic copies of Limited and Comprehensive reviews to the following individuals within 5 working days of completion:

- (a) Region Director; and
- (b) State Child Fatality Prevention Specialist.

(4) Implement and oversee of the Department’s regional child death review process and activities related to the internal review of child abuse deaths. This includes coordinating child death review activities with Department staff, community based care providers and sheriff’s offices involved in the provision of child protection services;

(5) Establish professional working relationships with medical examiners, state attorneys and law enforcement agencies serving the counties included in the specialist’s service area;

(6) Utilize the Department’s statewide child death review database for tracking child deaths during the child abuse death review process;

(7) Work with the Family Safety Quality Assurance office to keep the statewide child death review database complete, accurate and current;

(8) Participate in local child abuse death review committee staffings as the Department’s representative to the local child death review committee, where these teams exist;

(9) Provide all appropriate documents to the State Child Abuse Death Review Committee when an investigation is closed with a determination that the child’s death was caused by abuse, neglect or abandonment by a caregiver.

(10) Review the protective investigation and inform the child protective investigation supervisor if the protective investigation has been approved for closure within 2 working days of being notified that the protective investigation is ready to be closed; and

(11) Bring critical issues and recommendations resulting from child death reviews to the attention of the:

- (a) Region Director;
- (b) Region Family Safety Program Administrator;
- (c) Region Quality Assurance Director; and
- (d) State Child Fatality Prevention Specialist;

Rulemaking Authority 39.012, 39.0121 FS. Law Implemented 39.012, 39.202, 383.402, 409.165 FS. History–New _____.

See Former Rule 65C-30.021.

65C-36.009 Dispute Resolution.

The Region Director, in consultation with the State Director for Family Safety, shall make the final determination regarding maltreatment findings or other items pertinent to the protective investigation when there is disagreement between the Region Child Fatality Prevention Specialist and the Child Protective Investigations Supervisor.

Rulemaking Authority 39.012, 39.0121 FS. Law Implemented 39.012, 39.201, 383.402, 409.165 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Alan Abramowitz, Office of Family Safety
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Don Winstead, Deputy Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 15, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010, Vol. 36, No. 33

**Section III
 Notices of Changes, Corrections and
 Withdrawals**

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Motor Vehicles

RULE NOS.:	RULE TITLES:
15C-17.001	Requirements
15C-17.002	Exemptions and Restrictions
15C-17.003	Record Retention

NOTICE OF PUBLIC HEARING

The Department of Highway Safety and Motor Vehicles announces a hearing regarding the above rule, as noticed in Vol. 36, No. 33, August 20, 2010 Florida Administrative Weekly.

DATE AND TIME: October 22, 2010, 2:00 p.m. – 4:00 p.m.

PLACE: Department of Highway Safety and Motor Vehicles, Neil Kirkman Building Auditorium, 2900 Apalachee Parkway, Tallahassee, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Any comments from the public on the proposed rule revisions to Rules 15C-17.001 through 15C-17.003, F.A.C., as published in the August 20, 2010 Florida Administrative Weekly.