

Robson, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-0554

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

Section II Proposed Rules

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-1.094221	RULE TITLE: Alternative Standardized Reading Assessment and Use of Student Portfolio for Good Cause Promotion
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PURPOSE AND EFFECT: The purpose and effect of this proposed amendment is to provide guidance relating to the statewide public school student progression law eliminating social promotion by reducing the number of examples per benchmark required for the third grade portfolio, aligning the criteria for the portfolio to the new FCAT Item Specifications, and eliminating the reference to SAT-9 as it is no longer provided by the publishing company. Most recently, the Florida Comprehensive Assessment Test (FCAT) was revised to align with the current Sunshine State Standards. Due to this revision, Rule 6A-1.094221, F.A.C., will need revisions to align to the new FCAT 2.0. The grade 3 FCAT Item Specifications document was used to revise the existing State Board Rule to properly align to FCAT 2.0. The revisions include the following: An increase in the average passage length from 350 to 500 words and a change in the score for demonstrating proficiency for each benchmark from a grade of C or better to a grade of 70% or better. Due to the number of benchmarks that are now assessed on FCAT 2.0, the rule as it exists would require 5 examples per benchmark for completion of the portfolio, equaling 70 samples of student work from one student to demonstrate proficiency of third grade benchmarks. This is a drastic increase, from 40 to 70 samples, and an unrealistic expectation for students. This will cause loss of instructional time for the most struggling students. Therefore, a reduction of the number of examples required for the third grade student portfolio is proposed.

SUMMARY: The proposed amendment reduces the number of examples per benchmark required for the third grade portfolio, aligns the criteria for the portfolio to the new FCAT Item Specifications, and eliminates the reference to the Stanford Achievement Test, 9th Edition.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an impact on small business. An 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: 1008.25(9) FS.

LAW IMPLEMENTED: 1008.25(6)(b) FS.

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

DATE AND TIME: March 15, 2011, 8:30 a.m.

PLACE: Tallahassee, Florida. For exact location please go to our website at <http://www.fldoe.org/board/meetings/>, 7 days prior to the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Stuart Greenberg, Executive Director, Just Read, Florida! and the Office of Early Learning, Department of Education, Suite 514, 325 West Gaines Street, Tallahassee, Florida 32399, (850)245-0445

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.094221 Alternative Standardized Reading Assessment and Use of Student Portfolio for Good Cause Promotion.

(1) Pursuant to Section 1008.25(6), F.S., relating to the statewide public school student progression law eliminating social promotion, students who score at Level 1 on the Grade 3 Florida Comprehensive Assessment Test (FCAT) Reading may be promoted to grade four if the student:

(a) Scores at ~~or above the 51st percentile on the Reading SAT-9~~ or at or above the 45th percentile on the Reading SAT-10;

(b) Demonstrates an acceptable level of performance on an alternative standardized reading assessment approved pursuant to subsection (2) of this rule;

(c) Demonstrates reading on grade level as evidenced through mastery of the Sunshine State Standards in reading equal to at least Level 2 performance on the Grade 3 FCAT Reading.

(2) No change.

(3) To promote a student using a student portfolio as a good cause exemption there must be evidence that demonstrates the student's mastery of the Sunshine State Standards in reading equal to at least a Level 2 performance on the Grade 3 FCAT Reading. Such evidence shall be an organized collection of the student's mastery of the Sunshine State Standard Benchmarks for Language Arts that are assessed by the Grade 3 FCAT Reading. The student portfolio must meet the following criteria:

(a) Be selected by the student's teacher,

(b) Be an accurate picture of the student's ability and only include student work that has been independently produced in the classroom,

(c) Include evidence that the benchmarks assessed by the Grade 3 FCAT Reading have been met. Evidence is to include multiple choice items and passages that are approximately sixty (60) percent literary text and forty (40) percent information text, and that are between 100-700 words with an average of 500 ~~350~~ words. Such evidence could include chapter or unit tests from the district's/school's adopted core reading curriculum that are aligned with the Sunshine State Standards or teacher-prepared assessments.

(d) Be an organized collection of evidence of the student's mastery of the Sunshine State Standard Benchmarks for Language Arts that are assessed by the Grade 3 FCAT Reading. For each benchmark, there must be at least three (3) ~~five (5)~~ examples of mastery as demonstrated by a grade of seventy (70) percent "C" or above, and

(e) Be signed by the teacher and the principal as an accurate assessment of the required reading skills.

Rulemaking Specific Authority 1008.25(9)(8)(b) FS. Law Implemented 1008.25(6)(b)3. FS. History—New 5-19-03, Amended 7-20-04, 3-24-08, 2-1-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, K-12 Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 8, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 4, 2011

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-1.094222 RULE TITLE: Standards for Mid-Year Promotion of Retained Third Graders

PURPOSE AND EFFECT: The purpose and effect of this proposed amendment is to align the criteria for the mid-year portfolio to the new FCAT Item Specifications. Most recently, the Florida Comprehensive Assessment Test (FCAT) was revised to align with the current Sunshine State Standards. Due to this revision, Rule 6A-1.094222, F.A.C., will need revisions to align to the new FCAT 2.0. The grade 4 FCAT Item Specifications document was used to revise the existing State Board Rule to properly align to FCAT 2.0. The revisions include the following: Reference to short and extended responses was stricken from rule; an increase in the average passage length from 375 to 500 words; and a change in the score for demonstrating proficiency for each benchmark from a grade of C or better to a grade of 70% or better.

SUMMARY: The proposed amendment aligns the rule with the new FCAT 2.0.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an impact on small business. An 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: 1008.25 FS.

LAW IMPLEMENTED: 1008.25(7)(b) FS.

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Stuart Greenberg, Executive Director, Just Read, Florida! and the Office of Early Learning, Department of Education, Suite 514, 325 West Gaines Street, Tallahassee, Florida 32399, (850)245-0445

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.094222 Standards for Mid-Year Promotion of Retained Third Graders.

Effective with the 2004-2005 school year, district school boards are required to adopt and implement a policy for the mid-year promotion of any student retained in third grade due to a reading deficiency as required by Section 1008.25(5)(b), Florida Statutes. Such mid-year promotions of retained third grade students should occur during the first semester of the academic year.

(1) through (2) No change.

(3) To promote a student mid-year using a student portfolio, as provided for in paragraph (2)(a) of this rule, there must be evidence of the student's mastery of third grade Sunshine State Standard Benchmarks for Language Arts and beginning mastery of the Benchmarks for fourth grade as specified in subsection (2) of this rule. The student portfolio must meet the following requirements:

(a) Be selected by the student's teacher;

(b) Be an accurate picture of the student's ability and only include student work that has been independently produced in the classroom;

(c) Include evidence of mastery of the benchmarks assessed by the grade 3 Reading FCAT, as required by Rule 6A-1.094221, F.A.C.; and

(d) Include evidence of beginning mastery of fourth grade benchmarks that are assessed by the grade 4 Reading FCAT. This includes multiple choice, ~~short response, and extended response~~ items and passages that are approximately fifty (50) percent literary text and fifty (50) percent information text, and

that are between 100-900 words with an average of 500 ~~375~~ words. Such evidence could include chapter or unit tests from the district's/school's adopted core reading curriculum or teacher-prepared assessments that are aligned with the Sunshine State Standards. For each benchmark, there must be two (2) examples of mastery as demonstrated by a grade of seventy (70) percent "C" or better; and

(e) Be signed by the teacher and the principal as an accurate assessment of the required reading skills.

(4) To promote a student mid-year using a locally selected standardized assessment, as provided for in paragraph (2)(b) of this rule, there must be evidence that the student scored at or above grade level in reading comprehension, as demonstrated by standard scores or percentiles, consistent with the month of promotion to fourth grade.

(5) The Academic Improvement Plan (AIP) for any retained third grade student who has been promoted mid-year to fourth grade must continue to be implemented for the entire academic year.

Rulemaking Specific Authority 1008.25(9)(7)(b)4. FS. Law Implemented 1008.25(7)(b)4. FS. History—New 12-19-04, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, K-12 Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 8, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 4, 2011

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-5.090	Content Area Reading Professional Development and Next Generation Content Area Professional Development

PURPOSE AND EFFECT: The purpose of this proposed amendment is to delineate the professional development package designed to provide information that content area teachers need to become proficient in applying scientifically based reading strategies through their content areas, pursuant to Section 1003.413(4)(b), F.S. The effect of the rule will be the provision of Next Generation Content Area Professional Development (NGCAR-PD) that will, upon its completion, allow content area teachers to effectively deliver reading intervention to students who score at Level 2 in reading on the Florida Comprehensive Assessment Test (FCAT) and do not need instruction in decoding and text reading efficiency.

SUMMARY: The proposed amendment adds Next Generation Content-Area Professional Development.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an impact on small business. An 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: 1001.02(2), 1001.215, 1003.4156, 1003.428 FS.

LAW IMPLEMENTED: 1003.413(4)(b), 1001.215, 1003.4156, 1003.428 FS.

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THE FULL TEXT OF THE PROPOSED RULE IS:

6A-5.090 Content Area Reading Professional Development and Next Generation Content Area Professional Development.

(1) Pursuant to Section 1003.413(4)(b), F.S., the Department of Education must provide a professional development package designed to provide information that content area teachers in grades 6-12 need to become proficient in applying scientifically based reading strategies through their content areas. Content Area Reading Professional Development (CAR-PD) and Next Generation Content Area Reading Professional Development (NGCAR-PD) are is designed to prepare content area teachers to effectively deliver reading intervention to students who ~~are fluent readers in English and who~~ score at Level 2 in reading on the Florida Comprehensive Assessment Test (FCAT) and do not need instruction in decoding and text reading efficiency. Districts may elect whether to offer CAR-PD or NGCAR-PD as options ~~an option~~ within a school or school district. If a district elects to offer CAR-PD or NGCAR-PD the district must transition solely to NGCAR-PD by August 2012.

(2) Personnel for whom CAR-PD or NGCAR-PD is appropriate.

(a) In accordance with Rule 6A-6.054, F.A.C., teachers who are not certified in Reading (Grades K-12) or endorsed in reading, or who do not meet the definition of "highly

qualified” in reading under the federal No Child Left Behind Act, and who provide reading intervention to ~~fluent~~ Level 2 students who do not need instruction in decoding and text reading efficiency in their content area class must complete the CAR-PD package or NGCAR-PD.

(b) Career and technical educators, both those who have a state-issued teaching certificate and those who do not, are candidates for the CAR-PD package or NGCAR-PD. In addition, those teachers may enroll in and complete the district add-on reading endorsement program if they wish to acquire advanced knowledge in teaching reading.

(3) The CAR-PD one hundred fifty (150) hour package consists of ~~Florida On-Line Reading Professional Development (FOR-PD) or Florida Reading Initiative (FRI) or~~ any state approved Competency 2 of in the Reading Endorsement Competencies, as incorporated by reference in Rule 6A-4.013, F.A.C., for sixty (60) inservice points, the CAR-PD Face to Face Academy for sixty (60) inservice points and a thirty (30) hour practicum developed by the Department Florida Literacy and Reading Excellence (FLaRE) and/or developed by the district and approved by the Department. Districts must provide adequate content and materials for the practicum to address the needs of content area teachers serving students scoring Level 2 who do not have decoding and text reading deficiencies to receive approval. Each district practicum must address Competency 6 indicators to include the following indicators from the Reading Endorsement Competencies: 6.1, 6.5, 6.6, 6.7, 6.9, 6.10 and 6.12 as incorporated by reference in Rule 6A-4.0163, F.A.C.

(4) Content area teachers must take ~~FOR-PD or FRI or~~ any state approved Competency 2 of the Reading Endorsement Competencies, as incorporated by reference in Rule 6A-4.0163, F.A.C., in the reading endorsement in its entirety before beginning the sixty (60) hour Face to Face CAR-PD ~~Academy~~. Once Competency 2 is those two (2) courses are completed, content area teachers may begin to provide reading intervention through their content area classes to ~~fluent~~ students who score Level 2 on FCAT and do not need instruction in decoding and text reading efficiency. These teachers may take the sixty (60) hour Face to Face CAR-PD, and the thirty (30) hour practicum simultaneously with providing reading intervention.

(5) NGCAR-PD consists of a sixty (60) hour Face to Face ~~Academy~~ and a thirty (30) hour practicum developed by the Department or developed by the district and approved by the Department. Once teachers enroll and start the NGCAR-PD content area package, content area teachers may begin to provide reading intervention through their content area classes to students who score Level 2 on FCAT and do not need instruction in decoding and text reading efficiency.

~~(6)(5)~~ The district shall decide who will facilitate the district practicum. Additionally, the district shall decide the time configuration of the sixty (60) hour Face to Face Academy.

~~(7)(6)~~ NGCAR-PD ~~CAR-PD~~ is a train the trainer model; ~~facilitated by the Department’s staff and FLARE coordinators~~ are the designated professional developers for the ~~school or~~ district-based NGCAR-PD ~~CAR-PD~~ teacher trainers. Once trained by ~~the Department FLARE~~, these district-based teacher trainers ~~facilitators~~ may return to their ~~school or~~ districts and deliver the sixty (60) hour Face to Face NGCAR-PD ~~CAR-PD~~ ~~Academy~~ to content area teachers.

~~(8)(7)~~ Educators who have Reading Endorsement or Reading Certification K-12 are qualified to train content area teachers required to complete the sixty (60) hour Face to Face CAR-PD or sixty (60) hour Face to Face NGCAR-PD Academy in order to be qualified to train content area teachers. Other educators with reading expertise, and at the discretion of and selection by the district, may also qualify to teach the sixty (60) hour Face to Face CAR-PD or the sixty (60) hour Face to Face NGCAR-PD. Educators providing CAR-PD Academy to content area teachers must if they complete the entire one hundred fifty (150) hour CAR-PD package prior to teaching the sixty (60) hour Face to Face CAR-PD ~~Academy~~. Educators providing NGCAR-PD to content area teachers must complete the entire ninety (90) hour NGCAR-PD package prior to teaching the sixty (60) hour Face to Face NGCAR-PD. Other educators must complete the one hundred fifty (150) hour CAR-PD package in order to be qualified to be a trainer of content area teachers.

~~(9)(8)~~ CAR-PD and NGCAR-PD ~~do~~ does not fulfill the requirements for ~~the a~~ Reading Endorsement.

~~(10)(9)~~ Inservice hours earned through CAR-PD or NGCAR-PD may be used for renewal of certificates in all subject areas.

Rulemaking Specific Authority 1001.02(2), 1001.215, ~~1003.413(3)(g), (4)(b), 1003.4156, 1003.428 FS. Law Implemented 1001.215, 1003.413(3)(g), (4)(b), 1003.4156, 1003.428 FS. History—New 5-19-08, Amended~~.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, K-12 Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 8, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 4, 2011

DEPARTMENT OF EDUCATION**State Board of Education**

RULE NO.:

RULE TITLE:

6A-6.053

K-12 Comprehensive

Research-Based Reading Plan

PURPOSE AND EFFECT: The purpose of this proposed amendment is to update language, provide clarity regarding fidelity of program implementation, include the new Next Generation Content Area Professional Development (NGCAR-PD) package to align to the proposed changes to Rule 6A-5.090, F.A.C., Content Area Reading Professional Development, and revise fluent and disfluent language to align to the proposed changes to Rule 6A-6.054, F.A.C., Student Reading Intervention. It is proposed that the language fluent and disfluent be stricken from the reading intervention and K-12 Plan rules as new research suggests that fluency is not a strong predictor of a student's ability to comprehend text in middle grades and high school; this language is replaced with students in need of decoding and text reading efficiency instruction.

SUMMARY: The proposed amendment aligns with Rules 6A-5.090, Content Area Reading Professional Development and 6A-6.054, F.A.C., Student Reading Intervention.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an impact on small business. An 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: 1001.02(2), 1001.215, 1011.62 FS.

LAW IMPLEMENTED: 1001.215, 1011.62 FS.

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

DATE AND TIME: March 15, 2011, 8:30 a.m.

PLACE: Tallahassee, Florida. For exact location please go to our website at <http://www.fldoe.org/board/meetings/>, 7 days prior to the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Stuart Greenberg, Executive Director, Just Read, Florida! and the Office of Early Learning, Department of Education, Suite 514, 325 West Gaines Street, Tallahassee, Florida 32399, (850)245-0445

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.053 K-12 Comprehensive Research-Based Reading Plan.

(1) through (6) No change.

(7) District level monitoring of the District K-12 Reading Plan Implementation. The plan must demonstrate adequate provisions for:

(a) Monitoring the level of implementation of the K-12 Comprehensive Research-Based Reading Plan at the school and classroom level, including an explanation of the data that will be collected, how it will be collected, and the frequency of review. Districts must also explain how concerns are communicated if it is determined that the K-12 Comprehensive Research-Based Reading Plan is not being implemented in a systematic and explicit manner, based on data to meet the needs of students with fidelity.

(b) Ensuring that all instruction in reading is systematic and explicit, based on data, and uses a research based sequence of reading instruction and strategies to meet the needs of students ~~fidelity of implementation of all reading programs and strategies used~~ at the school level and determining appropriate instructional adjustments.

(c) Incorporating reading and literacy instruction by all content area teachers into subject areas to extend and build discussions of text in order to deepen understanding. This must include a description of the utilization of leveled classroom libraries and independent reading practice.

(d) Reporting of data elements as required by the K-12 Comprehensive Reading Plan (as indicated in Section 1001.215, F.S.) within the Automated Student and Staff Data Base System for survey periods 2, 3, and 5. These data elements include:

1. Progress Monitoring assessment scores not reported to PMRN,
2. Student Enrollment in Reading Intervention,
3. Reading Endorsement competency status for teachers,
4. Reading Certification progress status for teachers,
5. CAR-PD or NGCAR-PD status for teachers, in accordance with Rule 6A-5.090, F.A.C.

(8) School-level monitoring of District K-12 Reading Plan Implementation.

(a) Districts must describe the process used by principals to monitor implementation of, and ensure compliance with, the reading plan, including weekly reading walk throughs conducted by administrators.

(b) Districts must describe how principals monitor collection and utilization of assessment data, including progress monitoring data, to determine intervention and support needs of students.

(9) Assessment, Curriculum, and Instruction.

(a) Elementary schools must teach ~~offer~~ reading ~~instruction~~ in a dedicated, uninterrupted block of time of at least ninety (90) minutes duration daily to all students. The reading block will include whole group instruction utilizing a research based sequence of reading instruction (comprehensive

~~core reading program) the comprehensive core reading program~~ and small group differentiated instruction in order to meet individual student needs.

(b) A Comprehensive Core Reading Program (CCRP) must be ~~taught implemented~~ as the major instructional tool for reading instruction. Districts are provided a performance-based flexibility option which may exempt schools from the use of the CCRP. Districts implementing this flexibility must describe their plan for reading instruction, including the intervention for students reading below grade level in grades K-5 or K-6 as applicable. It is a district decision whether to implement the following performance-based flexibility option. Elementary schools meeting all of the following criteria are not required to implement a Comprehensive Core Reading Program:

1. A current school grade of an A or B;
2. Adequate Yearly Progress (AYP) in reading met for all subgroups;
3. Ninety (90) percent of students meeting high standards in reading (an FCAT score of Level 3 or above).

(c) The second performance-based flexibility option may exempt elementary schools from the use of the CCRP as well as the ninety (90) minute reading block. Districts implementing this flexibility must report the reading instruction that will be provided, including the time allotted for reading instruction. It is a district decision whether to implement the following performance-based flexibility option: For students in grades four and five scoring Level 4 or 5 on FCAT reading, districts shall offer enrichment programs steeped in content that continue to develop the child's reading skills. These students are not required to receive instruction from a Comprehensive Core Reading Program, nor are they required to receive ninety (90) minutes of reading instruction.

(d) K-12 reading instruction will align with Florida's Formula for Success, 6+4+ii+iii, which includes six (6) components of reading: oral language, phonological awareness, phonics, fluency, vocabulary, and comprehension; four types of classroom assessments: screening, progress monitoring, diagnosis, and outcome measures; initial instruction; (ii) including considerations for background knowledge, motivation, and the provision for print rich, explicit, systematic, scaffolded, and differentiated instruction, and the reading/writing connection; immediate, intensive intervention; (iii) including extended time, flexible grouping, accommodations, and more frequent progress monitoring.

(e) Instructional Materials Charts:

1. Districts are required to submit Instructional Materials Charts that address all research-based instructional materials used to provide reading instruction with a description of how they will be integrated into the overall instructional design:

- a. Comprehensive Core Reading Programs (CCRP) – elementary school level only,

b. Middle School Grades Developmental Reading Programs ~~—(DRP)—middle school level only,~~

c. Supplemental Intervention Reading Programs (SIRP),

d. Intensive Comprehensive Intervention Reading Programs ~~(IIRP) (CIRP),~~

e. Educational technology.

2. The instructional materials charts must also address the following:

a. Reading instructional minutes per day – elementary school level only

b. Assessments listed by grade. Elementary – screening, progress monitoring, diagnostic, and outcome measure. Middle and High School – screening (including ~~fluency with~~ criteria for placement in extended time reading intervention), progress monitoring ~~assessment for fluent and disfluent students,~~ diagnostic, and outcome measure.

c. Reading Intervention. Elementary – minutes per day, days per week, group size cap for intervention. Middle and High School – minutes per day, days per week ~~for both fluent and disfluent students,~~ class size cap for reading intervention courses, and whether content area intervention is offered.

d. All charter schools and juvenile justice facilities must be listed within these charts. Districts must note which charter schools have opted out of the plan.

(f) The plan must demonstrate compliance with Rule 6A-6.054, F.A.C., K-12 Student Reading Intervention Requirements.

(g) Districts are required to develop Assessment/Curriculum Decision Trees to demonstrate how assessment data from progress monitoring and other forms of assessment will be used to determine specific reading instructional needs and interventions for students in grades K-12. The chart must include:

1. Name of assessment(s),
2. Targeted audience,
3. Performance benchmark used for decision-making,
4. Assessment/curriculum connection,
5. An explanation of how instruction will be modified for students who have not responded to a specific reading intervention ~~delivered with fidelity~~ with the initial intensity (time and group size) provided.

Rulemaking Specific Authority 1001.02(2), 1001.215(5), (6), 1011.62(9) FS. Law Implemented 1001.02, 1001.215, 1011.62 FS. History–New 6-19-08, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, K-12 Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: February 8, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: February 4, 2011

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: RULE TITLE:
6A-6.054 K-12 Student Reading Intervention
 Requirements

PURPOSE AND EFFECT: The purpose of this proposed amendment is to update and align the criteria for reading intervention placement with current research, include a professional development offering that will be available to content area reading intervention teachers in 2011, and provide greater flexibility to districts in meeting student reading needs. A change is proposed in the criteria established for determining placement of students in reading intervention at the secondary level as new research suggests that fluency is not a strong predictor of a student's ability to comprehend text in middle grades and high school. Fluency has been stricken throughout the rule and replaced with students in need of decoding and text reading efficiency instruction. Also, in 2011, new professional development will be provided for content area reading intervention teachers, called Next Generation Content Area Professional Development (NGCAR-PD), and therefore reference to this new content area professional development in rule is needed. Additional flexibility is requested for districts in scheduling additional time for reading intervention for students in need of instruction in decoding and text reading efficiency, including a focus on ensuring the teacher providing the intervention has evidence of success working with students with reading difficulties. Finally, language was revised to allow flexibility to districts regarding progress monitoring requirements of Level 1 and 2 students to protect instructional time. This rule revision allows flexibility for administering a progress monitoring tool at the end of the school year.

SUMMARY: This rule revision will update and align the criteria for reading intervention placement with current research, include a professional development offering that will be available to content area reading intervention teachers in 2011, and provide greater flexibility to districts in meeting student reading needs through intervention.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an impact on small business. An 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: 1001.02(2), 1001.215, 1003.4156, 1003.428 FS.

LAW IMPLEMENTED: 1001.215, 1003.4156, 1003.428, 1008.25 FS.

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THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.054 K-12 Student Reading Intervention Requirements.

(1) Elementary Assessment, Curriculum, and Instruction.

(a) Pursuant to Section 1008.25, F.S., any elementary student who exhibits a substantial deficiency in reading based upon locally determined assessments, statewide assessments, or through teacher observations must be given intensive reading instruction immediately following the identification of the reading deficiency. For elementary students not participating in the statewide reading assessment, substantial deficiency in reading must be defined by the district school board. For students required to participate in the statewide assessment, a substantial deficiency in reading is defined by scoring Level 1 or Level 2 on the Florida Comprehensive Assessment Test (FCAT) in Reading. Students who exhibit a substantial deficiency in reading must be provided with additional diagnostic assessments to determine the nature of the student's difficulty, the areas of academic need, and strategies for appropriate intervention and instruction.

(b) Immediate intensive intervention must be provided daily for all students who have been identified with a reading deficiency. This intervention must be in addition to or as an extension of the ninety (90) minute reading block in a smaller group size setting or one on one. The student must continue to be provided with intensive reading instruction until the reading deficiency is remedied.

(2) Middle School Assessment, Curriculum, and Instruction.

(a) Pursuant to Section 1003.4156, F.S., middle school students who score at Level 1 on FCAT Reading are required to complete an intensive reading course. Those students who score at Level 2 must be placed in an intensive reading course or a content area reading intervention course.

(b) Middle school students who score at Level 1 or Level 2 on FCAT Reading and have intervention needs in the areas of decoding and/or text reading efficiency fluency must have ~~an~~ extended time for block of reading intervention. This extended time may include, but is not limited to, students reading on a regular basis before and afterschool with teacher support, or for students two or more years below grade level a double block of reading to accelerate foundational reading skills. This may occur through a double block of intensive reading or by blocking together a class of "Intensive Reading" with another subject area class. This block of time must be taught by the same teacher. The This teacher must have the Reading Endorsement or Certification in Reading (Grades K-12). Teachers of sixth grade students may be certified in Elementary Education. In addition, these students must be served by teachers with evidence of success, as determined by the district. Classroom infrastructure (class size, materials, etc.) must be adequate to implement the intervention course. This intervention course should include on a daily basis:

1. Whole group explicit instruction;
2. Small group differentiated instruction;
3. Independent reading practice, utilizing classroom library materials, monitored by the teacher;
4. Integration Infusion of Next Generation Sunshine State Standard (NGSSS) ~~(SSS)~~ benchmarks specific to the subject area if blocked with the intensive reading course (biology, world history, etc.); ~~and~~
5. A focus on informational text at a ratio matching FCAT; ~~and~~
6. Opportunities for accelerated achievement in order to facilitate efficient reading and deeper understanding of grade level texts.

(c) Districts must establish criteria beyond FCAT for placing students into different levels of intensity for reading intervention classes to meet individual instructional needs of students. Districts must determine if students have an instructional need in decoding and text reading efficiency through the use of fluency assessments and must identify benchmark criteria for placement of students requiring additional instructional time in reading intervention. Examples include data from screenings, progress monitoring and diagnostic assessments already in use in the district, as well as teacher recommendation. Schools must diagnose specific reading deficiencies of students scoring at Level 1 and Level 2 on FCAT Reading.

(d) Districts may serve ~~fluent~~ Level 2 students who do not need instruction in decoding and text reading efficiency in content area classes through a content area reading intervention. Teachers of these classes must complete the one hundred fifty (150) hour Content Area Reading Professional Development (CAR-PD) package, ~~or~~ have the Reading Endorsement or Certification in Reading (Grades K-12), or complete the Next Generation Content Area Reading

Professional Development (NGCAR-PD.) In addition, these students must be served by teachers with evidence of success, as determined by the district. Classroom infrastructure (class size, materials, etc.) must be adequate to implement the content area reading intervention course. This intervention course should include on a daily basis:

1. Whole group explicit instruction;
2. Small group differentiated instruction;
3. Independent reading practice, utilizing classroom library materials, monitored by the teacher;
4. Integration Infusion of NGSSS SSS benchmarks specific to the subject area (biology, world history, etc.); ~~and~~
5. A focus on informational text at a ratio matching FCAT; ~~and~~
6. Opportunities for accelerated achievement in order to facilitate deep understanding of reading of grade level texts.

(e) Schools must progress monitor students scoring at Level 1 and 2 on FCAT Reading a minimum of three (3) times per year. This includes ~~should include~~ a baseline, midyear, and an end of the year assessment.

(f) ~~Based on the following schedules, reading intervention requirements are listed below if not provided through a content area course for fluent Level 2 students:~~

1. ~~FCAT Reading Level 1 and Level 2 Fluent:~~
 - a. ~~Traditional schedule: daily 36 weeks, 1 period.~~
 - b. ~~4x4 schedule: daily 18 weeks.~~
 - c. ~~Alternate day block: every other day 36 weeks.~~
2. ~~FCAT Reading Level 1 and Level 2 Disfluent:~~
 - a. ~~Traditional schedule: daily 36 weeks, 2 periods.~~
 - b. ~~4x4 schedule: daily 36 weeks.~~
 - c. ~~Alternative day block: daily 36 weeks, 2 periods — blocked.~~
3. ~~Other schedule types should provide comparable instructional time for students.~~

~~(f)(g)~~ End-of-year assessments should be used to determine specific areas of student reading difficulty and reading intervention placement.

~~(g)(h)~~ One of the following courses as listed in the 2008-2009 Course Code Directory incorporated in Rule 6A-1.09441, F.A.C., must be used to provide reading intervention to all middle school Level 1 students and those Level 2 students not being served through a content area reading intervention course (all courses require Reading Endorsement or Certification in Reading (Grades K-12):

1. 1000000 M/J INTENSIVE LANGUAGE ARTS.
2. 1000010 M/J INTENSIVE READING.
3. 1000020 M/J INTENSIVE READING & CAREER PLANNING.
4. 1002181 ~~1002180~~ M/J DEVELOPMENTAL LANGUAGE ARTS THROUGH ESOL (Reading) (~~MC~~).
5. 7810020 READING: 6-8.

(3) High School Assessment, Curriculum, and Instruction.

(a) Pursuant to Section 1003.428, F.S., high school students who score at Level 1 on FCAT Reading are required to complete an intensive reading course. Those students who score at Level 2 must be placed in an intensive reading course or a content area reading intervention course.

(b) High school students who score at Level 1 or Level 2 on FCAT Reading and who have intervention needs in the areas of decoding and/or text reading efficiency fluency must have ~~an~~ extended time for block of reading intervention. This extended time may include, but is not limited to, students reading on a regular basis before and afterschool with teacher support, or for students two or more years below grade level a double block of reading to accelerate foundational reading skills. This may occur through a double block of intensive reading or by blocking together a class of "Intensive Reading" with another subject area class. This block of time must be taught by the same teacher. The This teacher must have the Reading Endorsement or Certification in Reading (Grades K-12). In addition, these students must be served by teachers with evidence of success, as determined by the district. Classroom infrastructure (class size, materials, etc.) must be adequate to implement the intervention course. This reading intervention course should include on a daily basis:

1. Whole group explicit instruction;
2. Small group differentiated instruction;
3. Independent reading practice, utilizing classroom library materials, monitored by the teacher;
4. Integration Infusion of NGSSS SSS benchmarks specific to the subject area if blocked with the intensive reading course (biology, world history, etc.); ~~and~~
5. A focus on informational text at a ratio matching FCAT; ~~and-~~
6. Opportunities for accelerated achievement in order to facilitate efficient reading and deeper understanding of grade level texts.

(c) Districts must establish criteria beyond FCAT for placing students into different levels of intensity for reading intervention classes to meet individual instructional needs of students. Districts must determine if students have an instructional need in decoding and text reading efficiency through the use of fluency assessments and identify benchmark criteria for placement of students requiring additional instructional time in reading intervention. Examples include data from screenings, progress monitoring and diagnostic assessments already in use in the district, as well as teacher recommendation. Schools must diagnose specific reading deficiencies of students scoring at Level 1 and Level 2 on FCAT Reading.

(d) Districts may serve ~~fluent~~ Level 2 students who do not need instruction in decoding and text reading efficiency in content area classes through a content area reading intervention. Teachers of these classes must complete the 150 hour Content Area Reading Professional Development

(CAR-PD) package, ~~or~~ have the Reading Endorsement or Certification in Reading (Grades K-12), or complete the Next Generation Content Area Reading Professional Development (NGCAR-PD). In addition, these students must be served by teachers with evidence of success, as determined by the district. Classroom infrastructure (class size, materials, etc.) should be adequate to implement the content area reading intervention course. This intervention course should include on a daily basis:

1. Whole group explicit instruction;
2. Small group differentiated instruction;
3. Independent reading practice, utilizing classroom library materials, monitored by the teacher;
4. Integration Infusion of NGSSS SSS benchmarks specific to the subject area (biology, world history, etc.); ~~and~~
5. A focus on informational text at a ratio matching FCAT; ~~and-~~
6. Opportunities for accelerated achievement in order to facilitate deep understanding of reading of grade level texts.

(e) Passing scores on FCAT and concordant scores on other assessments may not be used to exempt students from required intervention. In lieu of the provisions listed above, students in grades 11 and 12 who have met the graduation requirement with a Level 2 score on FCAT Reading may be served through reading courses, content area courses without a specific professional development requirement, or before or after school.

(f) Schools must progress monitor students scoring at Level 1 and 2 on FCAT Reading a minimum of three (3) times per year. This includes ~~should include~~ a baseline, midyear, and an end of the year assessment.

~~(g) Based on the following schedules, reading intervention requirements are listed below if not provided through a content area course for fluent Level 2 students:~~

~~1. 9th and 10th grade FCAT Reading Level 1 and Level 2 Fluent:~~

~~a. Traditional schedule: 36 weeks, 1 period.~~

~~b. 4x4 schedule: daily 18 weeks.~~

~~c. Alternate day block: every other day 36 weeks.~~

~~2. 9th and 10th grade Level 1 and Level 2 Disfluent:~~

~~a. Traditional schedule: daily 36 weeks, 2 periods.~~

~~b. 4x4 schedule: daily 36 weeks.~~

~~c. Alternate day block: daily 36 weeks, 2 periods — blocked.~~

~~3. 11th and 12th grade FCAT Reading Level 1 and Level 2 Fluent, graduation requirement not met:~~

~~a. Traditional schedule: daily until graduation requirement is met, 1 period.~~

~~b. 4x4 schedule: daily until graduation requirement is met.~~

~~c. Alternate day block: every other day until graduation requirement is met.~~

4. ~~11th and 12th grade FCAT Reading Level 1 and Level 2 Disfluent, graduation requirement not met:~~

a. ~~Traditional schedule: daily until graduation requirement is met, 2 periods.~~

b. ~~4x4 schedule: daily until graduation requirement is met.~~

c. ~~Alternate day block: daily until graduation requirement is met.~~

5. ~~11th and 12th grade FCAT Reading Level 1, graduation requirement met through concordant score:~~

a. ~~Traditional schedule: daily, 36 weeks, 1 period.~~

b. ~~4x4 schedule: daily, 18 weeks.~~

c. ~~Alternate day block: every other day, 36 weeks.~~

6. ~~Other schedule types should provide comparable instructional time for students.~~

(g)(h) End-of-year assessments should be used to determine specific areas of student reading difficulty and reading intervention placement.

(h)(i) One of the following courses as listed in the 2008-2009 Course Code Directory incorporated in Rule 6A-1.09441, F.A.C., must be used to provide reading intervention to all high school Level 1 students and those Level 2 students not being served through a content area reading intervention course (all courses require Reading Endorsement or Certification in Reading (Grades K-12):

1. 1000400 INTENSIVE LANGUAGE ARTS.

2. 1000410 INTENSIVE READING.

3. 7910100 READING: 9-12.

4. 1002381 ~~1002380~~ DEVELOPMENTAL LANGUAGE ARTS THROUGH ESOL (Reading).

5. 7910400 LIFE SKILLS READING: 9-12.

Rulemaking Specific Authority 1001.02(2), 1001.215(5), ~~(6)~~, 1003.4156(4)(b), 1003.428(2)(b)2.e., 1008.25(2)(b), (4), (5) FS. Law Implemented 1001.215, 1008.25, 1003.4156, 1003.428 FS. History—New 5-19-08, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, K-12 Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 8, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 4, 2011

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.:

RULE TITLE:

62-621.300

Permits

PURPOSE AND EFFECT: To develop a generic permit for pollutant discharges to surface waters of the state from the application of pesticides that is consistent with EPA's draft General Permit, recognizes existing Florida pesticide programs, and does not adversely impact private sector business, small or large. On January 7, 2009, the U.S. Court of Appeals for the 6th Circuit Court, in National Cotton Council v. EPA, vacated an EPA rule that exempted pesticide applications to surface waters from the need to obtain National Pollutant Discharge Elimination System (NPDES) permits under the Clean Water Act. On June 8, 2009, the Sixth Circuit Court granted EPA a two-year stay of their mandate and established April 9, 2011 as the effective date. On June 4, 2010, the EPA published a draft NPDES General Permit (called Generic Permits or GPs in Florida) for pollutant discharges from the application of pesticides that will be applicable in unauthorized states and tribal lands. Authorized states are required to have an NPDES pesticides program in place and issue permits by the April 9, 2011 court deadline. The Department of Environmental Protection (DEP) has developed and proposes to adopt a Florida GP that follows the EPA NPDES GP and addresses Florida's specific needs.

SUMMARY: The Generic Permit for Pollutant Discharges to Surface Waters of the State from the Application of Pesticides would provide coverage for point source discharges of pollutants resulting from the application of pesticides (biological pesticides and chemical pesticides which leave a residue) to surface waters of the state from four specific pesticide use patterns: Mosquito and Other Flying Insect Pest Control, Aquatic Weed and Algae Control, Aquatic Nuisance Animal Control and Forest Canopy or Other Area Wide Pest Control. Approximately 18,000 applicators are expected to be covered under the pesticide GP, based on information from FDACS and FWC. The overwhelming majority, however, are small activities which will be covered automatically, will not need to apply for coverage and will not be subject to any fees. Only approximately 67 entities, specifically identified in the permit and rule, will need to submit an application for coverage, called a Notice of Intent (NOI). These permittees are all federal and state government agencies and local mosquito control programs that conduct or oversee large-scale pesticide application to surface waters of the state. Private sector businesses whether small or large will not be required to submit an NOI.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an impact on small business. An 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: 403.061, 403.087, 403.0877, 403.088, 403.0885 FS.

LAW IMPLEMENTED: 403.061, 403.087, 403.0877, 403.088, 403.0885 FS.

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

DATE AND TIME: March 11, 2011, 1:00 p.m. – 3:00 p.m.

PLACE: Florida Department of Environmental Protection, Bob Martinez Center, 6th Floor, Room 609, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Mary K. Smith, Department of Environmental Protection, MS 3545, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, (850)245-8591, email mary.k.smith@dep.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mary K. Smith, Department of Environmental Protection, MS 3545, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, (850)245-8591, email mary.k.smith@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

62-621.300 Permits.

(1) through (7) No change.

(8) Generic Permit for Pollutant Discharges to Surface Waters of the State from the Application of Pesticides.

(a) Coverage under this Generic Permit is available for discharges of pollutants resulting from the application of pesticides (biological pesticides and chemical pesticides which leave a residue) to surface waters of the state from the following use patterns:

1. Mosquito and Other Flying Insect Pest Control – to control public health/nuisance and other flying insect pests that develop or are present during a portion of their life cycle in or above standing or flowing water. Public health/nuisance and other flying insect pests in this use category include mosquitoes, midges and biting flies;

2. Aquatic Weed and Algae Control – to control invasive or other nuisance weeds and algae in or on water and at water's edge, including irrigation ditches and/or irrigation canals;

3. Aquatic Nuisance Animal Control – to control invasive or other nuisance animals in or on water and at water's edge. Aquatic nuisance animals in this use category include invasive vertebrates and invertebrates; and

4. Forest Canopy or Other Area Wide Pest Control – aerial or ground application of a pesticide over or into a forest canopy or other vegetation to control the population of a pest species (e.g., insect or pathogen) where to target the pests effectively a portion of the pesticide unavoidably will be applied over and deposited to water.

(b) The table below describes the operators that are required to submit a Notice of Intent (NOI) to the Department for coverage under this permit for a specific use pattern.

<u>Use Patterns</u>	<u>Operators Required to Submit NOIs</u>
<u>Mosquito and Other Flying Insect Pest Control</u>	<u>Mosquito Control Programs or Districts organized under the authority of Chapter 388, F.S., and Florida Department of Agriculture and Consumer Services</u>
<u>Aquatic Weed and Algae Control</u>	<u>Florida Fish and Wildlife Conservation Commission, South Florida Water Management District, Southwest Florida Water Management District, and St. Johns River Water Management District as created in Section 373.069, F.S., U.S. Army Corp of Engineers, U.S. Forest Service, U.S. National Park Service, and U.S. Fish and Wildlife Service</u>
<u>Aquatic Nuisance Animal Control</u>	<u>Florida Fish and Wildlife Conservation Commission, South Florida Water Management District, Southwest Florida Water Management District, and St. Johns River Water Management District as created in Section 373.069, F.S., U.S. Army Corp of Engineers, U.S. Forest Service, U.S. National Park Service, and U.S. Fish and Wildlife Service</u>

Forest Canopy or Other Area Wide Pest Control	Florida Department of Agriculture and Consumer Services, U.S. Army Corp of Engineers, U.S. Department of Agriculture, U.S. Forest Service, U.S. National Park Service, and U.S. Fish and Wildlife Service
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(c) This permit also authorizes operators other than those listed in the table above to discharge pollutants resulting from the application of pesticides to surface waters of the state without the need to submit an NOI pursuant to 40 CFR 122.28 (b) (2) (v), July 1, 2010, which is hereby adopted and incorporated by reference and made part of this rule. This document may be obtained by contacting the Florida Department of Environmental Protection, Bob Martinez Center, Industrial Wastewater Section, Mail Station 3545, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or from the Department's website, www.dep.state.fl.us, or from <http://www.flrules.org/Gateway/reference.asp?No=Ref-00127>.

(d) The permit application and surveillance fee for operators required to submit an NOI for coverage under the Generic Permit for Pollutant Discharges to Surface Waters of the State From the Application of Pesticides is \$500. The application fee must be submitted to the Department along with the NOI.

(e) The document "Generic Permit for Pollutant Discharges to Surface Waters of the State From the Application of Pesticides," document number 62-621.300(8)(e), issued by the Department and effective (April 9, 2011, or effective date of the rule, whichever is later), is hereby adopted and incorporated by reference and made part of this rule. This document may be obtained by contacting the Florida Department of Environmental Protection, Bob Martinez Center, Industrial Wastewater Section, Mail Station 3545, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or from the Department's website, www.dep.state.fl.us, or from <http://www.flrules.org/Gateway/reference.asp?No=Ref-00130>.

(f) Form 62-621.300(8)(f), Notice of Intent (NOI) to Use the Generic Permit for Pollutant Discharges to Surface Waters of the State From the Application of Pesticides, effective (April 9, 2011, or effective date of the rule, whichever is later), is hereby adopted and incorporated by reference and made part of this rule. This form may be obtained by contacting the Florida Department of Environmental Protection, Bob Martinez Center, Industrial Wastewater Section, Mail Station 3545, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or from the Department's website, www.dep.state.fl.us, or from <http://www.flrules.org/Gateway/reference.asp?No=Ref-00135>.

(g) Form 62-621.300 (8)(g), Notice of Termination (NOT) of Coverage Under the Generic Permit for Pollutant Discharges to Surface Waters of the State From the Application of Pesticides, effective (April 9, 2011, or effective date of the rule, whichever is later), is hereby adopted and incorporated by reference and made part of this rule. This form may be obtained by contacting the Florida Department of Environmental Protection, Bob Martinez Center, Industrial Wastewater Section, Mail Station 3545, 2600 Blair Stone

Road, Tallahassee, Florida 32399-2400 or from the Department's website, www.dep.state.fl.us, or from <http://www.flrules.org/Gateway/reference.asp?No=Ref-00129>.

PROPOSED EFFECTIVE DATE: April 9, 2011

Rulemaking Specific Authority 373.043, 373.1131, 373.413, 373.414, 373.416, 403.061, 403.087, 403.0877, 403.088, 403.0885 FS. Law Implemented 373.043, 373.1131, 373.413, 373.414, 373.416, 403.061, 403.087, 403.0877, 403.088, 403.0885, 403.08851 FS. History—New 12-24-96, Amended 5-1-97, 2-14-00, 10-22-00, 5-1-03, 12-23-04, 4-20-05, 5-10-05, 2-17-09, 4-9-11.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Allen Hubbard

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Herschel T. Vinyard, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 2, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 1, 2010

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.:
64B8-9.0131

RULE TITLE:
Standards of Practice for Physicians
Practicing in Pain Management
Clinics

PURPOSE AND EFFECT: The proposed rule amendments are intended to set forth the criteria with regard to the training requirements for physicians who practice in pain management clinics.

SUMMARY: The proposed rule amendments set forth the training requirements for physicians who practice in pain management clinics.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost (SERC) was prepared by the Center of Economic Forecasting and Analysis at Florida State University. Essentially, the SERC finds that the proposed rule will not have an adverse impact on small business, nor will the proposed rule likely increase regulatory costs, including transactional costs, in excess of \$1 million in the aggregate within 5 years after implementation of the rule.

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: 458.3265 (4)(d) FS.

LAW IMPLEMENTED: 458.3265 (4)(d) 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: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-9.0131 Standards of Practice for Physicians Practicing in Pain Management Clinics.

THIS RULE IS APPLICABLE TO PHYSICIANS PRACTICING IN PRIVATELY OWNED PAIN MANAGEMENT CLINICS THAT ARE REQUIRED TO BE REGISTERED PURSUANT TO SECTION 458.3265, F.S., WHO PRIMARILY ENGAGE IN THE TREATMENT OF PAIN BY PRESCRIBING OR DISPENSING CONTROLLED SUBSTANCE MEDICATIONS.

(1) No change.

(2) Standards of Practice in Pain Management Clinics.

(a) through (m) No change.

(n) Training Requirements. Effective July 1, 2012, physicians who have not met the qualifications set forth in subsections 1. through 6., below, shall have successfully completed a pain medicine fellowship that is accredited by the Accreditation Council for Graduate Medical Education (ACGME) or a pain medicine residency that is accredited by ACGME. Prior to July 1, 2012, physicians prescribing or dispensing controlled substance medications in pain-management clinics registered pursuant to Section 458.3265, Florida Statutes, must meet one of the following qualifications:

1. Board certification by a specialty board recognized by the American Board of Medical Specialties (ABMS) and holds a sub-specialty certification in pain medicine;

2. Board certification in pain medicine by the American Board of Pain Medicine (ABPM);

3. Successful completion of a pain medicine fellowship that is accredited by the Accreditation Council for Graduate Medical Education (ACGME) or a pain medicine residency that is accredited by the ACGME;

4.a. Successful completion of a residency program in physical medicine and rehabilitation, anesthesiology, neurology, neurosurgery, family practice, internal medicine, orthopedics or psychiatry approved by the ACGME;

b. sub-specialty certification in hospice and palliative medicine or geriatric medicine recognized by ABMS.

5. Current staff privileges at a Florida-licensed hospital to practice pain medicine or perform pain medicine procedures;

6. Three (3) years of documented full-time practice, which is defined as an average of 20 hours per week each year, in pain-management and within six months of the effective date

of this rule, attendance and successful completion of 40 hours of in-person, live-participatory AMA Category I CME courses in pain management that address all the following subject areas:

a. The goals of treating both short term and ongoing pain treatment;

b. Controlled substance prescribing rules, including controlled substances agreements;

c. Drug screening or testing, including usefulness and limitations;

d. The use of controlled substances in treating short-term and ongoing pain syndromes, including usefulness and limitations;

e. Evidenced-based non-controlled pharmacological pain treatments;

f. Evidenced-based non-pharmacological pain treatments;

g. A complete pain medicine history and a physical examination;

h. Appropriate progress note keeping;

i. Comorbidities with pain disorders, including psychiatric and addictive disorders;

j. Drug abuse and diversion, and prevention of same;

k. Risk management; and

l. Medical ethics.

In addition to the CME set forth in paragraph 6. above, physicians must be able to document hospital privileges at a Florida-licensed hospital; practice under the direct supervision of a physician who is qualified in subsection 1. through 4. above; or have the practice reviewed by a Florida-licensed risk manager and document compliance with all recommendations of the risk management review.

7. Upon completion of the 40 hours of CME set forth above, physicians qualifying under 6. above, must also document the completion of 15 hours of live lecture format, Category I CME in pain management for every year the physician is practicing pain management.

Rulemaking Authority: 458.3265 (4)(d) FS. Law Implemented: 458.3265 (4)(d) FS. History--New (upon ratification by the Legislature), Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Medicine and Board of Osteopathic Medicine Pain Management Clinic Standards of Practice Joint Committee
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 21, 2011

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

DEPARTMENT OF HEALTH**Board of Medicine**

RULE NO.: 64B8-9.0134
RULE TITLE: Maximum Number of Prescriptions in Registered Pain Management Clinics

PURPOSE AND EFFECT: The proposed rule is intended to set forth the maximum number of prescriptions for Schedule II or Schedule III controlled substances, or the controlled substance Alprazolam, which may be written by a physician at any one registered pain management clinic during a 24-hour period.

SUMMARY: The proposed rule sets forth 150 as the maximum number of prescriptions which may be written by a physician for Schedule II or III controlled substances, or the controlled substance Alprazolam, at a pain management clinic during any 24-hour period. The rule additionally sets forth a formula for calculating the maximum number of prescriptions for those physicians who practice less than 8 hours a day in the pain management clinic.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost (SERC) was prepared by the Center of Economic Forecasting and Analysis at Florida State University. Essentially, the SERC finds that the proposed rule is likely to increase regulatory costs, including transactional costs, in excess of \$1 million in the aggregate within 5 years after implementation of the rule. The SERC was based upon the 932 pain management clinics registered in Florida at the time the SERC was prepared. A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including government entities, required to comply with the rule is \$1,000 per pain management clinic per year, for a statewide total of \$932,000 per year.

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: 458.3265(4)(c) FS.

LAW IMPLEMENTED: 458.3265(4)(c) 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: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-9.0134 Maximum Number of Prescriptions in Registered Pain Management Clinics.

THE LIMIT ON THE MAXIMUM NUMBER OF PRESCRIPTIONS SET FORTH IN THIS RULE DOES NOT SUPERCEDE THE STANDARD OF CARE FOR THE USE OF CONTROLLED SUBSTANCES FOR THE TREATMENT OF PAIN. The maximum number of prescriptions for Schedule II or Schedule III controlled substances or the controlled substance Alprazolam, which may be written at any one registered pain management clinic during any 24-hour period shall be no more than an average of three prescriptions per patient per physician working at the pain management clinic up to a maximum of 150 prescriptions per physician. In the event that the physician is working less than 8 hours per day in the pain management clinic, the maximum number of prescriptions per physician shall be based upon the following formula: the number of hours worked divided by 8, then multiplied by 150 [(# of hours/8) X 150 = maximum # of prescriptions]. A "do not fill before dated" prescription will not be counted toward the daily limit until the first date the prescription is eligible to be filled.

Rulemaking Authority 458.3265(4)(c) FS. Law Implemented 458.3265(4)(c) FS. History-New

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Medicine and Board of Osteopathic Medicine Pain Management Clinic Standards of Practice Joint Committee
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 21, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 29, 2010

DEPARTMENT OF HEALTH**Board of Osteopathic Medicine**

RULE NO.: 64B15-14.0054
RULE TITLE: Maximum Number of Prescriptions in Registered Pain Management Clinics

PURPOSE AND EFFECT: The proposed rule is intended to set forth the maximum number of prescriptions for Schedule II or Schedule III controlled substances, or the controlled substance Alprazolam, which may be written by a physician at any one registered pain management clinic during a 24-hour period.

SUMMARY: The proposed rule sets forth 150 as the maximum number of prescriptions which may be written by a physician for Schedule II or III controlled substances, or the controlled substance Alprazolam, at a pain management clinic during any 24-hour period. The rule additionally sets forth a formula for calculating the maximum number of prescriptions for those physicians who practice less than 8 hours a day in the pain management clinic.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost (SERC) was prepared by the Center of Economic Forecasting and Analysis at Florida State University. Essentially, the SERC finds that the proposed rule is likely to increase regulatory costs, including transactional costs, in excess of \$1 million in the aggregate within 5 years after implementation of the rule. The SERC was based upon the 932 pain management clinics registered in Florida at the time the SERC was prepared. A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including government entities, required to comply with the rule is \$1,000 per pain management clinic per year, for a statewide total of \$932,000 per year.

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: 459.0137(4)(c) FS.

LAW IMPLEMENTED: 459.0137(4)(c) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Jusevitch, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-14.0054 Maximum Number of Prescriptions in Registered Pain Management Clinics.

THE LIMIT ON THE MAXIMUM NUMBER OF PRESCRIPTIONS SET FORTH IN THIS RULE DOES NOT SUPERCEDE THE STANDARD OF CARE FOR THE USE OF CONTROLLED SUBSTANCES FOR THE TREATMENT OF PAIN. The maximum number of prescriptions for Schedule II or Schedule III controlled substances or the controlled substance Alprazolam, which may be written at any one registered pain management clinic during any 24-hour period shall be no more than an average of three prescriptions per patient per physician working at the pain management clinic up to a maximum of 150 prescriptions per physician. In the event that the physician is working less than 8 hours per day in the pain management clinic, the maximum number of prescriptions per physician shall be based upon the following formula: the number of hours worked divided by 8, then multiplied by 150 [(# of hours/8) X 150 = maximum # of prescriptions]. A "do not fill before dated" prescription will not be counted toward the daily limit until the first date the prescription is eligible to be filled.

Rulemaking Authority 459.0137(4)(c) FS. Law Implemented 459.0137(4)(c) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Medicine and Board of Osteopathic Medicine Pain Management Clinic Standards of Practice Joint Committee
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Osteopathic Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 15, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 29, 2010

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Animal Industry

RULE NO.: RULE TITLE:
5C-13.004 Schedule of Fees

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 47, November 24, 2010 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NOS.: RULE TITLES:
6A-6.03312 Discipline Procedures for Students
with Disabilities
6A-6.0333 Surrogate Parents
6A-6.0361 Contractual Arrangements With
Nonpublic Schools

NOTICE OF CONTINUATION

Notice is hereby given that the above rule, as noticed in Vol. 37, No. 2, January 14, 2011, Florida Administrative Weekly has been continued from February 15, 2011 to March 15, 2011.

DEPARTMENT OF REVENUE

RULE NO.: RULE TITLE:
12-22.008 Warrants and Liens List

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 40, October 8, 2010 issue of the Florida Administrative Weekly.

The Department announced a change to subparagraph 1. of paragraph (a) of subsection (2) of proposed Rule 12-22.008, F.A.C., at the rule hearing conducted February 8, 2011. When adopted, that subparagraph will read:

(a) The Warrants and Liens List will include: