

(mmm)(HH)	6217	Excavation and Drivers <u>NOC</u>
(nnn)(mmm)	6229	Irrigation or Draining System Construction & Drivers
(ooo)(mm)	6233	Oil or Gas Pipeline Construction & Drivers
(ppp)(ooo)	6235	Oil or Gas Well: Drilling or Redrilling & Drivers
(qqq)(ppp)	6236	Oil or Gas Well: Installation or Recovery of Casing & Drivers
(rrr)(qqq)	6237	Oil or Gas Well: Instrument Logging or Survey Work and Drivers
(sss)(rrr)	6251	Tunneling – Not Pneumatic -All Operations
(ttt)(sss)	6252	Shaft Sinking – All Operations
(uuu)(ttt)	6260	Tunneling – Pneumatic – All Operations
(vvv)(uuu)	6306	Sewer Construction – All Operations and Drivers
(www)(vvv)	6319	Gas Main or Connection Construction and Drivers
(xxx)(www)	6325	Conduit Construction – For Cable or Wires – & Drivers
(yyy)(xxx)	6400	Fence <u>Installation and Repair</u> Erection – Metal, Vinyl, Wood or Prefabricated Concrete Panel <u>Fence Installed By Hand</u>
(zzz)(yyy)	7538	Electric Light or Power Line Construction & Drivers
(zzz)	7601	Telephone, Telegraph or Fire Alarm Line Construction and Drivers
(aaaa)	7605	Burglar and Fire Alarm Installation or Repair <u>&</u> Drivers
(bbbb)	7611	Telephone or Cable TV Line Installation – Contractors, Underground and Drivers
(eeee)	7612	Telephone or Cable TV Line Installation – Contractors, Overhead and Drivers
(dddd)	7613	Telephone or Cable TV Line Installation – Contractors, Service Lines and Connections and Drivers
(bbbb)(eeee)	7855	Railroad Construction: Laying or Relaying of Tracks or Maintenance of Way by Contractor – No Work on Elevated Railroads – & Drivers
(cccc)(ffff)	8227	Construction or Erection Permanent Yard
(ddd)(egge)	9534	Mobile Crane and Hoisting Service Contractors – NOC – All Operations – Including Yard Employees and Drivers
(eeee)(hhh)	9554	Sign Installation, Maintenance, Repair, Removal, or Replacement NOC & Drivers

(3) The Division adopts the definitions published by NCCI, SCOPES® of Basic Manual Classifications (February October, 2011 2005), including updates through February 1, 2011, that correspond to the classification codes and descriptions adopted in subsection (1) above. The definitions identify the workplace operations that satisfy the criteria of the term “construction industry” as used in the workers’ compensation law. The definitions are hereby incorporated by reference and can be obtained by writing to the Division of Workers’ Compensation, Bureau of Compliance, 200 East Gaines Street, Tallahassee, Florida 32399-4228.

Rulemaking Specific Authority 440.02(8), 440.591 FS. Law Implemented 440.02(8) FS. History–New 10-21-02, Formerly 4L-6.021, Amended 7-4-04, 3-15-06, 2-8-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robin Delaney, Chief, Bureau of Compliance, Division of Workers’ Compensation, Department of Financial Services
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jeff Atwater, Chief of Financial Officer, Department of Financial Services
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 2, 2011
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 25, 2010

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Marketing and Development

RULE NOS.:	RULE TITLES:
5H-1.006	Definitions
5H-1.007	Content of Dealers Records
5H-1.008	Guidelines for Imposing Administrative Penalties
5H-1.009	Documents Incorporated by Reference

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. 37, No. 10, March 11, 2011 issue of the Florida Administrative Weekly.

5H-1.006 Definitions.

For the purpose of this chapter, the definitions in Section 604.15, Florida Statutes, and the following shall apply.
 Tropical Foliage means any ~~kind of~~ herbaceous plant plants originally from tropical climates, that is are grown and sold as potted plants, cut foliage, or interiorscapes, interiorscape primarily for their indoor the decorative value of their leaves. Excluded from this definition are woody temperate zone plants, such as trees, shrubs or woody vines.

Rulemaking Authority 604.27 FS. Law Implemented 604.15, 604.27 FS. History—New _____.

5H-1.007 Content of Dealers Records.

In accordance with Section 604.22, Florida Statutes, each licensed dealer shall preserve for at least twelve (12) months ~~eighteen (18) months~~ a record of each transaction involving agricultural products. The preserved record may take the form of an invoice, bill of sale, manifest, or other written document showing the date of sale, the name and address of the seller, and the kind or common name and quantity of each agricultural product included in the transaction.

Rulemaking Authority 604.27 FS. Law Implemented 604.22, 604.27 FS. History—New _____.

5H-1.008 Guidelines for Imposing Administrative Penalties.

(1) This rule sets forth the guidelines the Department will follow in imposing the penalties authorized under Section 604.30 Chapter 604, F.S. These guidelines list aggravating and mitigating factors that, if present, will reduce or increase penalties to be imposed. No aggravating factors will be applied to increase a fine imposed for a single violation above the statutory maximum of \$2,500 per violation. Multiple counts of the violated provision or a combination of the listed violations will be added together to determine an overall total penalty and will be grounds for enhancement of penalties.

(2) The Department will enforce compliance with Sections 604.15-604.34 Chapter 604, F.S., and this rule chapter by issuing an Administrative Complaint for violations.

(3) Aggravating and Mitigating Factors. The Department will consider aggravating and mitigating factors in determining the penalty to be imposed for violations of Sections 604.15-604.34 Chapter 604, F.S., and this rule chapter. The factors shall be applied against each single count of the listed violation.

(a) Aggravating Factors:

1. Whether a complaint(s) ~~has~~ ~~have~~ been filed against the Respondent by a producer (or their agent) of agricultural products in Florida.

2. The violation caused or has the potential to cause harm to a Florida agricultural producer and the degree or extent of such harm.

3. Previous violations for the same or a similar offense that resulted in enforcement action.

4. The length of time the business has been in operation and the violation history over the past three years.

5. The violation existed for a period of six (6) months or more an extended period of time.

6. The violation was repeated within three years ~~a short period of time.~~

7. The violator impeded, or otherwise failed to cooperate with, the Department's inspection and/or investigation.

8. Previous disciplinary action within the past three (3) years against the violator in this or any other jurisdiction and the deterrent effect of the penalty imposed.

9. Failure to initiate, complete, or take affirmative or corrective action within twenty-one (21) days of ~~Undue delay in initiating or completing, or failure to take, affirmative or corrective action after~~ receipt of the Administrative Complaint.

10. Whether the violation resulted from negligence or an intentional act.

11. The cost of enforcement action.

12. The number of other violations proven in the same proceeding.

13. The economic benefit to the violator.

(b) Mitigating Factors:

1. Any documented efforts by the violator at corrective action.

2. Whether intentional actions of another party prevented the violator from complying with the applicable laws or rules.

3. Financial hardship.

4. Acts of God or nature that impairs the ability of the violator to comply with Sections 604.15-604.34 Chapter 604, F.S., and this rule chapter.

5. The violation has a low risk of, or did not result in, harm to a Florida agricultural producer.

6. The violator expeditiously took affirmative or corrective action after it received written notification of the violation.

7. If there are no more than three (3) months of subject purchases in the violation period requiring the minimum surety bond or certificate of deposit. ~~The number and seriousness of the counts in the Administrative Complaint.~~

8. If a repeat violation, whether three years has passed since the prior violation.

(4) Penalties.

(a) Minor Violations. A violation of Sections 604.15-604.34 Chapter 604, F.S., or this rule chapter is a minor violation if it does not result in economic or physical harm to a Florida producer or create a significant threat of such harm. Minor violations shall result in the issuance of an Administrative Complaint and imposition of an administrative fine of \$500.00 per violation, for first time offenders. Aggravating factors, as defined in paragraph (3)(a) of this rule, shall warrant the adjustment of the fine upward, but no fine shall exceed the statutory maximum as outlined in Section 604.30(3)(a), F.S. Mitigating factors, as defined in paragraph (3)(b) of this rule, shall warrant the adjustment of the fine downward. For the purposes of this rule, the following violations shall be considered minor violations:

1. Failure to have a license pursuant to Section 604.17, F.S., where the surety bond or certificate of deposit required under Section 604.20(1), F.S., is less than \$15,000.

2. Failure to provide delivery tickets after delivery of grain, Section 604.32, F.S.

3. Failure to submit monthly grain dealer reports by the 15th of each month, Section 604.33, F.S.

(b) Major Violations. A violation of ~~a Sections 604.15-604.34 Chapter 604~~, F.S., or this rule chapter is a major violation if it results in economic or physical harm to a Florida producer or creates a significant threat of such harm. Major violations shall result in the issuance of an Administrative Complaint and imposition of an administrative fine of \$1,000.00 per violation, for first time offenders, and \$2,500 per violation, for second-time or repeat offenders. Aggravating factors, as defined in paragraph (3)(a) of this rule, shall warrant the adjustment of the fine upward, but no fine shall be greater than \$2,500.00 per violation as provided by ~~exceed the statutory maxima as outlined in~~ Section 604.30(3)(a), F.S. Mitigating factors, as defined in paragraph (3)(b) of this rule, shall warrant the adjustment of the fine downward, but no fine shall be less than \$100.00. For the purposes of this rule, the following violations shall be considered major violations:

1. Failure to have a license pursuant to Section 604.17, F.S., where the surety bond or certificate of deposit required under Section 604.20(1), F.S., is equal to or greater than \$15,000.

2. Failure to have a license pursuant to Section 604.17, F.S., when a Florida producer has filed a claim against the Respondent under Section 604.21, F.S.

3. Failure to increase the amount of surety bond or certificate of deposit after receiving notice that such increase is required under Section 604.20(2), F.S.

4. Failure to produce records upon request pursuant to Sections 604.22 and 604.23, F.S.

5. Failure to maintain security requirements pursuant to Section 604.33, F.S.

6. Any violation of ~~Sections 604.15-604.34 Chapter 604~~, F.S., or this rule chapter occurring within three years of the issuance of an Administrative Complaint or Final Order, or the date of entry of a settlement agreement or Satisfaction of Final Order.

(c) Willful Violations.

1. Any willful and intentional violation of ~~Sections 604.15-604.34 Chapter 604~~, F.S., this rule chapter, a Final Order, or the conditions stipulated in a settlement agreement shall result in the imposition of an administrative fine of \$2,500 per violation.

(5) A violator who fails to pay an administrative fine imposed by a Final Order for violations of ~~Sections 604.15-604.34 Chapter 604~~, F.S., or this rule chapter within 15 days of the order's entry by the Department shall be subject to suspension or revocation of the dealer's license and an additional fine of not to exceed \$100.00 per day while in violation of such order.

(6) In addition to the penalties established in this rule, the Department reserves the right to seek to recover any other costs, penalties, attorney's fees, court costs, service fees, collection costs, and damages allowed by law. Additionally, the Department reserves the right to seek to recover any costs, penalties, attorney's fees, court costs, service fees, collection costs, and costs resulting from a payment that is returned for insufficient funds to the Department.

(7) Resolution of Violations, Settlement, and Additional Enforcement Remedies.

(a) Nothing in this rule shall limit the ability of the Department to informally dispose of administrative actions by settlement agreement, consent order, or other lawful means.

(b) The Department and person charged with a violation may agree to resolve violations prior to an administrative hearing, or enter into settlement pursuant to Section 120.57(4), F.S. The penalties addressed in this rule shall not be construed to limit the authority of the Department to resolve violations prior to or after initiation of any administrative action or to settle with any party. The Department shall utilize all available remedies to ensure compliance including administrative action, civil actions, settlements, and referrals for criminal prosecution. The Department shall enforce a failure to comply with an agreement to resolve violations or a settlement agreement with the penalties and remedies provided in the agreement and as authorized by Section 120.69, F.S., or ~~Sections 604.15-604.34 Chapter 604~~, F.S.

(c) Failure to respond to an Administrative Complaint shall result in the entry of a Final Order against the violator or entity responsible for the violation imposing an administrative finer of \$2,500.00, not to exceed the statutory maximum allowable under Section 604.30(3)(a), F.S.

(d) A failure to comply with a Final Order of the Department shall result in any applicable license revocation and an administrative fine equal to the maximum amount as allowable under Section 604.30(3), F.S.

(e) The provisions of this rule shall not be construed so as to prohibit or limit any other civil action for enforcement of additional penalties or criminal prosecution that may be brought.

Rulemaking Authority 604.27 FS. Law Implemented 604.27, 604.30 FS History—New_____.

5H-1.009 Documents Incorporated By Reference.

The following documents are hereby incorporated by reference. Copies of these documents may be obtained from the Division of Marketing, Bureau of Agricultural Dealer's Licenses at 407 South Calhoun, M-38, Tallahassee, Florida 32399 or online as indicated.

(1) Assignment of Certificate of Deposit, DACS-06300 (Rev. 03/11 10/10), <http://www.flrules.org/Gateway/reference>.

(2) Statement Affidavit of Exemption, DACS-06301 (Rev. 04/11 10/10), <http://www.flrules.org/Gateway/reference>.

(3) Application for Agricultural Products Dealer License, DACS-06302 (Rev. ~~04/11~~ ~~10/10~~), <http://www.flrules.org/Gateway/reference>.

(4) Agricultural Products Dealer Bond, DACS-06303 (Rev. ~~03/11~~ ~~10/10~~), <http://www.flrules.org/Gateway/reference>.

~~(5) Public Sale of Thoroughbred Horses Bond, DACS-06304 (Rev. 10/10), <http://www.flrules.org/Gateway/reference>.~~

~~(6) Application for Livestock Market License, DACS-06305 (Rev. 10/10), <http://www.flrules.org/Gateway/reference>.~~

(5)(7) Grain Dealers Monthly Report, DACS-06306 (Rev. 10/10), <http://www.flrules.org/Gateway/reference>.

~~(6)(8) Answer of Respondent, DACS-06314 (Rev. 06/11 10/10), <http://www.flrules.org/Gateway/reference>.~~

~~(7)(9) Request For Accounting, DACS-06325 (Rev. 04/11 10/10), <http://www.flrules.org/Gateway/reference>.~~

~~(10) Public Sale of Thoroughbred Horses Application, DACS-06326 (Rev. 10/10), <http://www.flrules.org/Gateway/reference>.~~

~~(8)(11) Agricultural Products Dealer Claim Packet, DACS-06329 (Rev. 04/11 10/10), <http://www.flrules.org/Gateway/reference>.~~

Rulemaking Authority 534.48, 535.02, 604.27 FS. Law Implemented 534.48, 535.01, 604.16, 604.18, 604.20, 604.21, 604.23, 604.33 FS. History—New_____.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Water Policy

RULE NO.: RULE TITLE:
5M-3.002 Definitions

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. 37, No. 15, April 15, 2011 issue of the Florida Administrative Weekly.

5M-3.002 Definitions.

(1) through (3) No change.

(4) “Nutrient management plan” is the documentation of ~~an agricultural operation’s planned actions, developed in accordance with Section IV, Code 590 of United States Department of Agriculture Natural Resources Conservation Service (NRCS) Field Office Technical Guide, FL 2007, hereby incorporated by reference. Nutrient Management Plans that specify~~ies the amount, placement, form, and timing of the application of nutrients, including manure, animal by-products, biosolids, and soil amendments. The nutrient management plan must be approved by the Natural Resources Conservation Service (NRCS) or a technical service provider. ~~Code 590, Nutrient Management, may be viewed at [~~\[flrules.org/Gateway/reference.asp?No=Ref-00271\]\(http://www.flrules.org/Gateway/reference.asp?No=Ref-00271\) or obtained from NRCS, P. O. Box 141510, 2614 N.W. 43rd St., Gainesville, FL 32614-1510.~~](http://www.</p>
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(5) No change.

**LAND AND WATER ADJUDICATORY COMMISSION
Rivers Edge Community Development District**

RULE NO.: RULE TITLE:
42FFF-1.002 Boundary of Surviving District
NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 23, June 10, 2011 issue of the Florida Administrative Weekly.

The following portion of the metes and bounds description of the external boundaries of the CDD contained an error on page 1557 of the above issue of the FAW and is being reprinted to correct that error. The following portion of the description was not intended to be changed in the notice of proposed rulemaking.

42FFF-1.002 Boundary of Surviving District.

The boundaries of the Surviving District are as follows:

Course No. 1: South 88°11'16" East, a distance of 288.50 feet, to a point;

Course No. 2: North 54°15'52" East, a distance of 4,016.06 feet, to a point on the Northerly line of the HALLOWES TRACT (also being the Southerly line of the ST. ELMO TRACT, and the Southerly line of aforesaid BARTRAM PLANTATION PHASE TWO); run thence, South 89°20'59" East, along last said line, a distance of 883.58 feet, to a point; thence, departing from said Northerly line of the HALLOWES TRACT (also being the Southerly line of ST. ELMO TRACT) run the following thirteen Courses and Distances, along the Easterly boundary of the aforesaid plat of BARTRAM PLANTATION PHASE TWO:

Course No. 1: North 05°30'37" East, a distance of 227.90 feet, to a point;

Course No. 2: North 29°44'02" East, a distance of 230.63 feet, to a point;

Course No. 3: North 21°25'38" East, a distance of 43.96 feet, to a point;

Course No. 4: North 84°42'38" West, a distance of 65.01 feet, to a point;

Course No. 5: North 32°32'11" West, a distance of 98.40 feet, to a point;

Course No. 6: North 20°05'21" East, a distance of 79.61 feet, to a point;

Course No. 7: North 64°40'30" East, a distance of 36.01 feet, to a point;

Course No. 8: North 11°04'19" West, a distance of 167.86 feet, to a point;

Course No. 9: North 66°29'43" West, a distance of 51.93 feet, to a point;

Course No. 10: North 47°26'30" East, a distance of 103.39 feet, to a point;
 Course No. 11: North 39°33'12" West, a distance of 99.33 feet, to a point;
 Course No. 12: North 23°21'33" West, a distance of 92.86 feet, to a point;
 Course No. 13: North 17°55'40" East, a distance of 203.96 feet, to a point, on the aforesaid Southerly Right of Way line of GREENBRIAR ROAD, and the POINT OF BEGINNING.

The rest of the proposed rule text remains as published.

Rulemaking Specific Authority 190.004, 190.005 FS. Law Implemented 190.004, 190.005, 190.046 FS. History–New 11-1-06, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Jerry McDaniel, Secretary, Administration Commission
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Administration Commission
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 3, 2011
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 13, 2011

DEPARTMENT OF HEALTH

Board of Dentistry

RULE NO.: 64B5-16.006
 RULE TITLE: Remediable Tasks Delegable to a Dental Hygienist

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 30, July 30, 2010 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF HEALTH

Board of Dentistry

RULE NO.: 64B5-16.0075
 RULE TITLE: Dental Charting by Dental Hygienists

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 19, May 14, 2010 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE NO.: 64B18-14.002
 RULE TITLE: Disciplinary Guidelines

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 42, October 22, 2010 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation Program

RULE NOS.:	RULE TITLES:
65C-22.001	General Information
65C-22.005	Food and Nutrition
65C-22.008	School Age Child Care
65C-22.010	Enforcement

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. 44, November 5, 2010 issue of the Florida Administrative Weekly.

65C-22.001 General Information.
 (1) through (11) No change.

Rulemaking Authority 402.305, 402.308, 402.309 FS. Law Implemented 402.305, 402.309, 402.3055, 402.308, 402.310 FS. History–New 6-1-97, Amended 3-17-99, 7-26-00, 1-4-01, 7-13-03, 9-12-04, 4-12-07, 5-1-08, 1-13-10, _____.

65C-22.005 Food and Nutrition.
 (1) through (2) No change.

(a) Application acknowledging food service. All child care facilities that store, prepare, and/or serve food to the children in care must identify annually the type of food services provided on CF-FSP Form 5017, October 2010, Application For A License to Operate a Child Care Facility, which is incorporated by reference. A copy of the application may be obtained from the Department’s website at www.myflorida.com/childcare.

(b) Facilities must comply, within a period of 90 days after the effective date of this chapter, with the following rules from chapter 64E-11, F.A.C., which are incorporated by reference. A copy of this chapter may be obtained from the Department’s website at www.myflorida.com/childcare:

1. 64E-11.001, Food Hygiene – General 8-28-96;
2. 64E-11.002, Definitions 4-1-09;
3. 64E-11.003, Food Supplies 7-14-03;
4. 64E-11.004, Food Protection 7-14-03;
5. 64E-11.005, Personnel 7-14-03;
6. 64E-11.006, Food Equipment and Utensils 7-14-03;
7. 64E-11.007, Sanitary Facilities and Controls 7-14-03;
8. 64E-11.008, Other Facilities and Operations 3-15-98;
9. 64E-11.009, Temporary Food Service Events 3-15-98;
10. 64E-11.010, Vending Machines 3-15-98;
11. 64E-11.011, Procedure When Infection is Suspected 2-21-91;
12. 64E-11.014, Mobile Food Units 7-14-03.

(c) Manager Certification and Training.

1. No change.
2. The designated food service manager shall have passed a written certification test from a provider that has been approved by the Department of Health in accordance with

subsections 64E-11.012(2)-(4), F.A.C. A list of test providers may be obtained from the Department of Health website at www.doh.state.fl.us. ~~one of the following providers: National Registry of Food Safety Professional (800)446-0257, National Restaurant Association (800)765-2122, or Thomson Prometric (800)624-2736.~~ The certified manager shall also maintain a copy of their active manager certification on site for review by the Department. The manager certification is active for five years from the date of issuance and must be renewed timely.

3. All additional food service employees or any employee who works in the kitchen and/or serves food shall complete the "Serving Safe Food in Child Care" course offered by the National Food Service Management Institute at The University of Mississippi. The course is a four-hour online course that can be accessed via the National Food Service Management Institute website at www.nfsmi.org. A copy of the certificate indicating course completion must be available for review by the Department. This is a one-time training requirement that must be completed prior to preparing and/or serving food to the children in care. This training may be counted toward completion of the employee in-service training requirement only one time for each employee.

4. No change.

(d) Inspections, violations, and administrative action.

1. Facilities will be subject to inspections. ~~that must be documented on Department of Health form DH 4023, Jan. 2005, which is incorporated herein by reference.~~

2. through 3. No change.

4. A "stop sale action" means that a violation of food service standards has been observed that poses an immediate threat to the safety of food requiring the food item(s) in question be destroyed or otherwise rendered unusable at the time of inspection. ~~Violations resulting in a "stop sale action" must be documented on Department of Health DH form 4045, Feb. 1999, which is incorporated herein by reference. A copy of this form may be obtained from the Department's website at www.myflorida.com/childcare.~~ Re-occurring "stop sale actions" subject the facility to progressive sanctions in accordance with the schedule for Class II violations provided in Rule 65C-22.010, F.A.C.

5. No change.

6. In the event that the Department determines that a child care facility's regular food service operation fails to comply with the food hygiene standards established in this rule such that continued operation of regular food service presents an imminent danger to the health and safety of the children being served, the Department will require that the facility immediately cease regular food service. Closure of the regular food service operation will not otherwise affect the operation of the facility, provided that the facility makes alternative arrangements to provide food for the children as needed. The facility must notify parents that the regular food service has been closed and must inform them of the alternate

arrangements that have been made. ~~The Department will document the closure on Department of Health form DH 4023, Jan 2005 used for inspection purposes.~~ The facility must post the food service inspection report in a conspicuous place accessible to parents for the duration of the closure. Any food service operation closed under this rule shall remain closed until the standards violation that produced the closure has been remedied.

(e) Any organized food preparation activity in which children in care may participate as part of a planned curriculum must be under the direct supervision of a staff person who is knowledgeable in food hygiene safety and who has completed at minimum the "Serving Safe Food in Child Care" course required in paragraph (c) of this subsection.

(3) No change.

Rulemaking Authority 402.305, 402.308 FS. Law Implemented 402.305, 402.308 FS. History--New 6-1-97, Amended 3-17-99, 7-26-00, 1-4-01, 7-13-03, 9-12-04, 4-12-07, Re-promulgated 5-1-08, 1-13-10,_____.

65C-22.008 School Age Child Care.

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

(3) No change.

(a) through (d) No change.

(e) General Requirements.

1. All school-age child care program facilities must be clean, in good repair, and free from health and safety hazards and from vermin infestation. During the hours that the program is in operation, no portion of the building shall be used for any activity which endangers the health and safety of the children. It is the responsibility of the director/owner that all areas of the facility are free from fire hazards, such as burning candles (including birthday candles) and incense, lint and dust build up in heating and air vents, filters, exhaust fans, ceiling fans, and dryer vents.

2. through 8. No change.

(f) through (j) No change.

(k) Health and Sanitation.

1. No change.

2. Employees, volunteers, and children shall wash their hands with soap and running water, dry thoroughly and follow personal hygiene procedures for themselves, or while assisting others, prior to eating, serving food, and immediately after outdoor play.

3. through 4. No change.

(l) through (p) No change.

(q) No change.

1. All licensed school-age child care facilities that store, prepare, and/or serve food to the children in care must identify annually the type of food services provided on CF-FSP Form 5017, October 2010, Application For A License to Operate a

Child Care Facility, which is incorporated by reference. A copy of the application may be obtained from the Department's website at www.myflorida.com/childcare.

2. All school-age child care facilities that store, prepare, and/or serve food to the children in care must comply, within a period of 90 days after the effective date of this chapter, with the following rules from Chapter 64E-11, F.A.C., which are incorporated by reference. A copy of this chapter may be obtained from the Department's website at www.myflorida.com/childcare:

~~a. Application acknowledging food service. All child care facilities that store, prepare, and/or serve food to the children in care must identify annually the type of food services provided on CF-FSP Form 5017, Application For A License to Operate a Child Care Facility, which is incorporated by reference. A copy of the application may be obtained from the Department's website at www.myflorida.com/childcare.~~

~~b. Facilities must comply with the following rules from chapter 64E-11, F.A.C., which are incorporated by reference:~~

~~a.I. 64E-11.001, Food Hygiene – General, 8-28-96;~~

~~b.II. 64E-11.002, Definitions, 4-1-09;~~

~~c.III. 64E-11.003, Food Supplies, 7-14-03;~~

~~d.IV. 64E-11.004, Food Protection, 7-14-03;~~

~~e.V. 64E-11.005, Personnel, 7-14-03;~~

~~f.VI. 64E-11.006, Food Equipment and Utensils, 7-14-03;~~

~~g.VII. 64E-11.007, Sanitary Facilities and Controls, 7-14-03;~~

~~h.VIII. 64E-11.008, Other Facilities and Operations, 3-15-98;~~

~~i.IX. 64E-11.009, Temporary Food Service Events, 3-15-98;~~

~~j.X. 64E-11.010, Vending Machines, 3-15-98;~~

~~k.XI. 64E-11.011, Procedure When Infection is Suspected, 2-21-91;~~

~~l.XII. 64E-11.014, Mobile Food Units, 7-14-03.~~

~~3.e. Manager Certification and Training.~~

~~a.I. All child care facilities that store, prepare, and/or serve food to the children in care shall designate in writing a food service manager.~~

~~b.II. The designated food service manager shall have passed a written certification test from a provider that has been approved by the Department of Health in accordance with subsections 64E-11.012(2)-(4), F.A.C. A list of test providers may be obtained from the Department of Health website at www.doh.state.fl.us, one of the following providers: National Registry of Food Safety Professional (800)446-0257, National Restaurant Association (800)765-2122, or Thomson Prometric (800)624-2736. The certified manager shall also maintain a copy of their active manager certification on site for review by the Department. The manager certification is active for five years from the date of issuance and must be renewed timely.~~

~~c.III. All additional food service employees or any employee who works in the kitchen and/or serves food shall complete the "Serving Safe Food in Child Care" course offered by the National Food Service Management Institute at The University of Mississippi. The course is a four-hour online course that can be accessed via the National Food Service Management Institute website at www.nfsmi.org. A copy of the certificate indicating course completion must be available for review by the Department. This is a one-time training requirement that must be completed prior to preparing and/or serving food to the children in care. This training may be counted toward completion of the employee in-service training requirement only one time for each employee.~~

~~d.IV. The facility must, within 90 days of the date that the certified food service manager separates from employment at the facility or is relieved of food service management responsibilities, designate in writing a food service manager that who has passed a written certification test from one of the providers listed in sub-subparagraph 3.b. of this subsection paragraph (2)(c)2. of this rule.~~

~~4.d. Inspections, violations, and administrative action.~~

~~a.I. Facilities will be subject to inspections that must be documented on Department of Health form DH 4023, Jan. 2005, which is incorporated herein by reference.~~

~~b.II. The food service operations of the facility must close down immediately if there is a loss of power services, and/or water services, and/or sewage issues that affect the kitchen area. The operator must notify the Department within four hours as to their operational status in order for the Department to ensure health standards are being met for continued operation.~~

~~c.III. In the event that a child or children at the facility are sickened as a result of a violation of the food hygiene standards established by this rule, the facility will be subject to progressive sanctions in accordance with the schedule for Class I violations provided in Rule 65C-22.010, F.A.C.~~

~~d.IV. A "stop sale action" means that a violation of food service standards has been observed that poses an immediate threat to the safety of food requiring the food item(s) in question be destroyed or otherwise rendered unusable at the time of inspection. Violations resulting in a "stop sale action" must be documented on Department of Health DH form 4045, Feb. 1999, which is incorporated herein by reference. Re-occurring "stop sale actions" subject the facility to progressive sanctions in accordance with the schedule for Class II violations provided in Rule 65C-22.010, F.A.C.~~

~~e.V. Other violations of food service standards that do not result in a "stop sale action" will subject the facility to progressive sanctions in accordance with the schedule for Class III violations provided in Rule 65C-22.010, F.A.C.~~

~~f.VI. In the event that the Department determines that a child care facility's regular food service operation fails to comply with the food hygiene standards established in this rule~~

such that continued operation of regular food service presents an imminent danger to the health and safety of the children being served, the Department will require that the facility immediately cease regular food service. Closure of the regular food service operation will not otherwise affect the operation of the facility, provided that the facility makes alternative arrangements to provide food for the children as needed. The facility must notify parents that the regular food service has been closed and must inform them of the alternate arrangements that have been made. ~~The Department will document the closure on Department of Health form DH 4023, Jan 2005 used for inspection purposes.~~ The facility must post the food service inspection report in a conspicuous place accessible to parents for the duration of the closure. Any food service operation closed under this rule shall remain closed until the standards violation that produced the closure has been remedied.

~~5.e.~~ Any organized food preparation activity in which children in care may participate as part of a planned curriculum must be under the direct supervision of a staff person who is knowledgeable in food hygiene safety and who has completed at minimum the "Serving Safe Food in Child Care" course required in sub-subparagraph 3. of this subsection paragraph (c) of this section.

- (r) No change.
- (s) Fire and Emergency Safety.
 - 1. through 4. No change.

~~5.~~ During the facility's licensure year, the facility must conduct either an emergency preparedness or fire drill each month of operation during the facility's licensure year. Emergency preparedness drills include a minimum of one (1) lockdown and one (1) inclement weather drill conducted within each licensure year. A fire drills shall be conducted each remaining month of operation during the facility's licensure year using the following formula:

$$\text{Total \# of months the program operates} - 2 = \text{Total \# of fire drills that must be conducted.}$$

The drills must be conducted a minimum of 10 times annually and be conducted at various dates and times when children are in care. A current attendance record must accompany staff out of the building during a drill or actual evacuation, and be used to account for all children. The fire drills conducted must include, at a minimum:

- a. through b. No change.
- 6. through 7. No change.
- 8. The operator shall develop a written emergency preparedness plan to include, at a minimum, procedures to be taken by the child care facility during a fire, lockdown, and inclement weather (tornadoes). The plan shall describe how the facility will meet the needs of all the children, including children with special needs, during and after an emergency event, including facilitating parent/guardian reunification.
- 9. through 12. No change.

- (t) No change.
- (u) Record Keeping.
 - 1. through 4. No change.
 - a. through e. No change.
 - (I) through (III) No change.
 - f. No change.
 - (I) through (III) No change.
 - (IV) No change.
 - g. through j. No change.
 - 5. No change.
 - (4) School-Age Child Care Personnel Training Requirements.
 - (a) Definitions.
 - 1. through 4. No change.
 - 5. "Director" means "operator" as defined in Section 402.302(12)(4), F.S., is the on-site administrator or individual who has the primary responsibility for the day-to-day operation, supervision and administration of a child care facility.
 - 6. No change.
 - 7. "Foster Grandparents" are directly supervised volunteers who participate in the federal program pursuant to 45 Code of Federal Regulations part 2552. Foster grandparents work with one or more children with special or exceptional needs in child care programs. Foster grandparents are not counted in the staff-to-child ratio. Foster grandparents shall be required to have 100% attendance in the following department's training courses: Child Care Facility Rules and Regulations; Health, Safety, and Nutrition; Identifying and Reporting Child Abuse and Neglect; and Special Needs Appropriate Practices. Foster grandparents must begin training within 30 days of employment in the child care industry in any licensed Florida child care home or facility. Training must be completed within six (6) months from the date of employment in the child care industry in any licensed Florida child care home or facility. Foster grandparents are not classified as child care personnel, and they may not be assigned the roles of teacher's aides, group leaders or other similar positions.
 - 8. through 13. No change.
 - (b) through (c) No change.
 - 1. Child Care Facility Rules and Regulation (6 hours);
 - 2. Health, Safety, and Nutrition (8 hours);
 - 3. Identifying and Reporting Child Abuse and Neglect (4 hours); and
 - 4. Understanding Developmentally Appropriate Practice (5 hours);
 - 5.4. School Age-Appropriate Practices; and
 - 6.5. The remaining 12 hours must be met by completing any combination of training identified in either sub-subparagraphs a. or ~~and~~ b. below.

a. Successful completion of competency examinations offered by the department or its designated representative with a weighted score of 70 or better for ~~any of~~ the following courses:

(I) Standards for Quality Afterschool Programs (8 hours online),

(II) Quality Self-Assessment and Improvement for Afterschool Programs (4 hours online),

~~(I) Child Growth and Development (6 or 10 hours),~~

~~(II) Behavioral Observation and Screening (6 or 10 hours),~~

~~(III) Infant and Toddler Appropriate Practices (10 hours),~~

~~(IV) Preschool Appropriate Practices (10 hours),~~

~~(V) Special Needs Appropriate Practices (10 hours),~~

~~(VI) Basic Guidance and Discipline (5 hours online),~~

~~(VII) Early Literacy for Children Ages Birth Through Three (5 hours online),~~

~~(VIII) Early Childhood Computer Learning Centers (5 hours online),~~

~~(IX) Emergent Literacy for Voluntary Pre-Kindergarten (VPK) Instructors (5 hours online), or~~

b. Completion of specialized school-age training, provided by ~~the department~~, a national organization or affiliates of a national organization, that requires demonstration of competencies through passage of examination(s), or completion and assessment of a Professional Resource File (portfolio of materials that demonstrate competency).

c. School-age child care personnel who completed the department's 40 hour introductory training prior to January 2012 will remain in compliance with regards to the introductory training requirement.

6. No change.

7. In the event that cChild care personnel leaves who left the child care industry in compliance with the training requirements described in this section, upon and returning to the industry either at the same or a different child care facility, he or she shall be granted 90 days to comply with any new mandated training requirements that have been enacted in law during the gap in employment in the child care industry. Completion of such training may be counted toward the annual in-service training requirement.

8. In the event that cChild care personnel leaves who left the child care industry not in compliance with the training requirements described in this section, and returns to the industry either at the same or a different child care facility, he or she must comply with the training requirements described in this section, in addition to any new mandated training requirements that have been enacted in law during the gap in employment in the child care industry complete required training prior to re-employment.

9. Child care personnel employed at the same child care facility prior to October 1, 1992, with no break in employment with the same employer, are exempt from completing Part II of the child care training.

(d) through (g) No change.

(h) Annual In-Service Training.

1. Upon completion of Part I and Part II introductory training requirements child care personnel All child care facility personnel must complete a minimum of 10-clock-hours or one CEU of in-service training annually during the state's fiscal year beginning July 1 and ending June 30.

2. No change.

a. through v. No change.

w. Any of the online courses offered through the department's child care website.

3. No change.

~~4. Mandated 40 clock-hour introductory child care training, Parts I and II, may be used to meet the annual in-service training requirement during the first fiscal year of employment.~~

~~4.5. All child care personnel employed in the industry beyond 15 months, who change employment from one child care program to another during the fiscal year continuously employed or hired between July 1 and June 1 of the state's fiscal year must complete the annual in-service training requirement. This includes any changes in employment from one program to another.~~

~~5.6. Child care personnel not in compliance with the annual in-service training requirement described in this section continuously employed or hired between July 1 and June 1 of the state's fiscal year who do not complete the required annual in-service training during any given year must complete the remaining in-service training requirement hours within 30 days of the noncompliance finding by the licensing authority. These hours cannot be used to meet the current year's in-service training requirements.~~

(i) No change.

Rulemaking Authority 402.305 FS. Law implemented 402.305 FS. History—New 9-12-04, Amended 4-12-07, 5-1-08, 1-13-10, Amended 7-29-10, _____.

65C-22.010 Enforcement.

(1) Definitions.

(a) through (d) No change.

1. "Class I Violation" is an incident of noncompliance with a Class I standard as described on CF-FSP Form 5316, March 2011 ~~March 2009~~. Child Care Facility Standards Classification Summary, which is incorporated by reference. A copy of the CF-FSP Form 5316 may be obtained from the department's website at www.myflorida.com/childcare. Class I violations are the most serious in nature, pose an imminent

threat to a child including abuse or neglect and which could or does result in death or serious harm to the health, safety or well-being of a child.

2. through 4. No change.

(2) No change.

Rulemaking Authority 402.305,402.310 FS. Law Implemented 402.305, 402.310 FS. History--New 5-1-08, Amended 1-13-10,_____.

Section IV Emergency Rules

NONE

Section V Petitions and Dispositions Regarding Rule Variance or Waiver

DEPARTMENT OF LAW ENFORCEMENT

The Criminal Justice Standards and Training Commission hereby gives notice that on June 10, 2011, the Criminal Justice Standards and Training Commission has issued an order.

On June 3, 2011, the Criminal Justice Standards and Training Commission, received a petition for an emergency permanent waiver of paragraph 11B-27.00213(4)(b), F.A.C., by the Florida Department of Corrections on behalf of 190 officers. paragraph 11B-27.00213(4)(b), F.A.C., requires officers on a Temporary Employment Authorization to have a four year break in service if they separate from employment while in good standing. Notice of receipt of the petition was published in the Sun Sentinel on June 9, 2011, and on the FDLE website.

On June 10, 2011, at an emergency meeting held telephonically, the Commission found that the Petitioner's situation is unique. The Petitioner demonstrated that the strict application of the Commission's rules in this case would violate the principles of fairness. The Petitioner's TEA officers had, in fact, complied with all aspects of paragraph 11B-27.00213(4)(b), F.A.C. and Section 943.131(1), F.S. The TEA officers were involuntarily separated from employment with the Petitioner while in good standing because of the Petitioner's budgetary issues. The Commission found that the purposes of the underlying statute, Section 943.131(1), F.S., to ensure that TEA officers do not voluntarily separate from TEA employment while in good standing merely to pursue a more attractive TEA elsewhere, will be met by granting this waiver request. The Commission granted the Petitioner's waiver permanently for the June 3, 2011, separation. The TEA officers may obtain another TEA without waiting four years from June 3, 2011.

A copy of the Order or additional information may be obtained by contacting: Grace A. Jaye, Assistant General Counsel, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, FL 32327 or by telephoning (850)410-7676.

WATER MANAGEMENT DISTRICTS

The South Florida Water Management District (District) Governing Board hereby gives notice on June 9, 2011, SFWMD Order No. 2011-081-DAO-ROW was issued to Comcast (Application No. 11-0131-1). The petition for waiver was received by the District on April 13, 2011. Notice of receipt of the petition requesting the waiver was published in the Florida Administrative Weekly, Vol. 37, No. 17, on April 29, 2011. No public comment was received. This Order provides a waiver of the District's criteria to allow an existing, self-supporting concrete pole encroaching 7.5 feet to remain within the south right of way of the North New River Canal located immediately upstream of District Water Control Struction G-53 to remain; Section 14, Township 50 South, Range 41 East, Broward County. Specifically, the Order grants a waiver from subsections 40E-6.011(4) and (6), Fla. Admin. Code, and the Basis of Review for Use or Occupancy of the Works or Lands of the District, incorporated by reference in subsection 40E-6.091(1), Fla. Admin. Code, which governs the placement of above-ground permanent and/or semi-permanent encroachments within works or lands of the District. Generally, the Order sets forth the basis of the Governing Board decision to grant the waiver, as follows: 1) the existing pole will not significantly interfere with the District's current ability to perform necessary construction, alteration, operation, and routine maintenance activities; and 2) the Order granting a waiver from the subject rule is based upon a substantial hardship.

A copy of the Order or additional information may be obtained by contacting: Juli Russell at the South Florida Water Management District, 3301 Gun Club Road, MSC 1410, West Palm Beach, FL 33406-4680, telephone: (561)682-6268 or by email at: jurussel@sfwmd.gov.

The South Florida Water Management District (District) hereby gives notice:

The District's Governing Board, on June 9, 2011, issued SFWMD Order No. 2011-082-DAO-ROW to Miami-Dade County Park and Recreation Dept. (Application No. 10-0106-1M). The petition for waiver was received by the District on July 1, 2010. Notice of receipt of the petition requesting the waiver was published in the Florida Administrative Weekly, Vol. 36, No. 28, on July 17, 2011. An Amended Petition was received on April 26, 2011. Notice of receipt of an amended petition was published in the Florida Administrative Weekly, Vol. 37, No. 20, on May 20, 2011. No public comment was received. This Order provides a waiver of the District's criteria to allow for the installation signage and