

**Section I**

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

**DEPARTMENT OF TRANSPORTATION**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
14-26.0041	Definitions and Terms
14-26.00411	Procedure for Issuance of Permits
14-26.00425	Criteria for Issuance of Permits
14-26.008	Schedule of Fees
14-26.009	Exemptions from Fee Requirement
14-26.0091	Tire Requirements
14-26.012	Movement Conditions and Restrictions
14-26.01311	Permits to Move Sealed Containerized Loads
14-26.015	Penalties

**PURPOSE AND EFFECT:** Rule Chapter 14-26, F.A.C., is being amended to increase the maximum loads for containerized cargo, reduce the number or types of escorts required, and clarify the requirements for permit applications.

**SUBJECT AREA TO BE ADDRESSED:** The requirements and conditions for permits are being revised.

**RULEMAKING AUTHORITY:** 316.550, 334.044(2) FS.

**LAW IMPLEMENTED:** 316.515, 316.535, 316.550 FS.

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

**DATE AND TIME:** Friday, May 18, 2012, 8:30 a.m.

**PLACE:** Florida Department of Transportation, Haydon Burns Building, 605 Suwannee Street, Auditorium, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Deanna R. Hurt, Assistant General Counsel and Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458, deanna.hurt@dot.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:** Deanna R. Hurt, Assistant General Counsel and Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458, deanna.hurt@dot.state.fl.us

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

**FINANCIAL SERVICES COMMISSION**

**OIR – Insurance Regulation**

<b>RULE NO.:</b>	<b>RULE TITLE:</b>
690-149.022	Forms Adopted

**PURPOSE AND EFFECT:** To update and edit the contents of the forms and instructions used by Life and Health insurers to make electronic form filings via the Office’s I-File system.

**SUBJECT AREA TO BE ADDRESSED:** Electronic form filings submitted by Life and Health Insurers via I-File system.

**RULEMAKING AUTHORITY:** 624.308 FS.

**LAW IMPLEMENTED:** 624.424(1)(c), 627.410, 636.216 FS.

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

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

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

**Section II  
Proposed Rules**

**DEPARTMENT OF STATE**

**Division of Cultural Affairs**

<b>RULE NO.:</b>	<b>RULE TITLE:</b>
IT-1.040	Fast Track Grants

**PURPOSE AND EFFECT:** The purpose of this rule amendment is to establish in rule the guidelines, application form and grant administration requirements for a new grant program, Fast Track Project Grants. The program will provide expedited access to funds supporting small organizations through arts and cultural projects including but not limited to artist residencies, performances or exhibitions. A small organization for this program is defined as one with a last completed fiscal year’s operating budget of \$250,000 or less.

**SUMMARY:** The Fast Track Project Grants program will provide expedited access to funds supporting small organizations through arts and cultural projects including but not limited to artist residencies, performances or exhibitions.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Agency has determined that this rule will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency. The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Based upon the following, the Agency has determined that the proposed rule will not require legislative ratification pursuant to Section 120.541(3), F.S., or other applicable statutes: 1) no requirement for SERC was triggered under Section 120.541(1), F.S., and 2) based on past experiences with cultural-related activities and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would be expected to exceed any one of the economic analysis criteria set forth in Section 120.541(2)(a), F.S.

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: 265.284(3)(j), 265.286(1), (11) FS.

LAW IMPLEMENTED: 265.284, 265.286, 286.011, 286.012 FS.

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

DATE AND TIME: May 21, 2012, 9:30 a.m.

PLACE: Division of Cultural Affairs, R. A. Gray Building, 3rd Floor, Room 302A, 500 South Bronough Street, Tallahassee, Florida 32399-0250

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 72 hours before the workshop/meeting by contacting: Sarah Stage, (850)245-6459. 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: Sarah Stage, (850)245-6459

THE FULL TEXT OF THE PROPOSED RULE IS:

IT-1.040 Fast Track Grants.

(1) This rule provides the requirements for the Fast Track Grants Program administered by the Division of Cultural Affairs (Division). The guidelines contain eligibility requirements, application review procedures, evaluation criteria, grant administration procedures, and application forms. All grant awards are subject to the approval of the Secretary of State.

(2) All grant applicants must meet the requirements set forth in the 2012-2013 guidelines for the Fast Track Grants Program, which are available from the Division at [www.Florida-arts.org](http://www.Florida-arts.org) and are hereby incorporated by reference:

(3) The following application form is available from the Division at [www.Florida-arts.org](http://www.Florida-arts.org) and is hereby incorporated by reference: Fast Track Grants Program Application (Form CA2E157), effective 6/2012;

(4) The following forms are used in the administration of the Fast Track Grant Program in this rule and are hereby incorporated by reference and available at [www.Florida-arts.org](http://www.Florida-arts.org):

(a) Grant Report Form and State Funds Expenditure Log (Form CA2E004), effective 6/2012;

(b) Grant Amendment Request (Form CA2E002), effective 6/2012;

(c) Grant Award Agreement (Form CA2E142), effective 6/2012;

Rulemaking Authority 265.286(11) FS. Law Implemented 265.286 FS. History–New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sarah Stage

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Sandy Shaughnessy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 27, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 9, 2012, Vol. 38, No. 10

**DEPARTMENT OF TRANSPORTATION**

RULE NOS.:	RULE TITLES:
14-65.0025	Scope, Definitions, and Exceptions
14-65.0035	Temporary Closing of State Roads For Special Events
14-65.006	Temporary Closing and Special Use of Interstate and Other Limited Access Facilities
14-65.0065	Filming on State Roads
14-65.0075	Special Events and Filming on Limited Access Facilities

PURPOSE AND EFFECT: The amendments to this rule are being made to re-organize the chapter and clarify the process for permitting the temporary closure of state roads.

SUMMARY: These amendments address the procedures local governments must follow in order to temporarily close state roads for special events. Filming on state roads is also addressed. A new rule is being promulgated to set forth criteria for filming and special events on limited access facilities.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Based upon the Department's economic impact analysis, the agency has determined that this rule will not have an adverse impact on small business and will not increase regulatory costs by \$200,000 in the aggregate within one year. A SERC has not been prepared by the agency. In addition, the agency has determined that the rule(s) will not require legislative ratification pursuant to Section 120.541(3), Florida Statutes.

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

RULEMAKING AUTHORITY: 334.044(10)(a), 334.048(3), 336.045(1) FS.

LAW IMPLEMENTED: 334.044(10)(a), 336.045 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Deanna R. Hurt, Assistant General Counsel and Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458, deanna.hurt@dot.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

14-65.0025 Scope, Exceptions, and Definitions, and Exceptions.

This ~~r~~Rule ~~c~~Chapter ~~14-65, F.A.C.~~, specifies procedures for obtaining a prior written approval from the Department permit for temporary closure of a state road from the Department when necessary to for the conduct of a special event, and the

requirements for filming on a state road. The rule chapter outlines the requirements for special temporary use of limited access facilities, state roads other than limited access facilities; and for notice to the appropriate local law enforcement agencies of repair, reconstruction, or alteration which necessitates the closing of lanes for vehicular traffic.

~~(1) Exceptions. For purposes of this rule chapter, the following examples are uses of state roads for special events which do not require a prior written permit:~~

~~(a) A motoreade when no traffic lanes are closed and law enforcement personnel control traffic at each intersection;~~

~~(b) A run, walk-a-thon or bicycle event with a police escort and no detour of traffic; and~~

~~(c) A parade on a street which only intersects a state road where law enforcement personnel control the traffic at such intersections.~~

~~(1)(2) Definitions. The following words and phrases when used in this rule chapter, shall have the meaning ascribed in this rule:~~

~~(a) "Department" means the Florida Department of Transportation.~~

~~(a) "Charitable Purpose" has the meaning specified in Section 496.404(2), Florida Statutes.~~

~~(b) "Commercial Activities" means displaying merchandise include sale or display for sale or distribution, of merchandise; servicing, or repairing or storing of any vehicle; for profit, or displaying; except rendering of emergency service; storage of vehicles being serviced or repaired on abutting property or elsewhere; solicitation for sale of goods, property, or services or for charitable purposes; and the display of advertising of any sort.~~

~~(c) "Emergency" is defined in Section 252.34, F.S., as any occurrence, or threat thereof, whether accidental, natural, or caused by man, in war or peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.~~

~~(c)(d) "Limited Access Facility" means as is defined in Section 334.03(13) 316.003(19), F.S.~~

~~(d)(e) "Local Governmental Entity Authority" means as defined in Section 334.03(14), F.S. a municipality, county, or expressway or transportation authority serving one or more jurisdictions.~~

~~(e)(f) "Special Event" means an art festival, parade, annual charity drive, fair, fund drive, race, run, motorcade, or similar activities of local interest.~~

~~(f)(g) "Filming Special Use" means the activities involved in the creation of visual media, including film, broadcast, or video production any activities other than those defined as special events and as detailed in Rule 14-65.0065, F.A.C.~~

~~(h) "State Highway System" is as defined in Section 334.03(25), F.S.~~

~~(g)(f)~~ “State Road” means is as defined in Section 334.03(27), F.S.

~~(h)(f)~~ “Temporary Closing” means the stopping ~~closing~~, detouring, or otherwise restricting traffic flow of one or more vehicle traffic lanes of a state road ~~street or highway~~ for a cumulative period of fifteen minutes or more.

~~(k)~~ “Written Permit” is Form 850-040-65, Request for Temporary Closing/Special Use of State Road, 02/92, requesting stated specific permission to close a stated specific section or part of a state road for a stated specific time period, signed by the District Secretary or designee and the applicant or applicant’s authorized representative.

(2) Exceptions:

For purposes of this rule chapter, special events and filming that do not require prior written approval include the following:

(a) A motorcade when no traffic lanes are closed and law enforcement personnel control traffic at each intersection;

(b) A run, walk-a-thon, or bicycle event accompanied by a police escort and when there is no detour of traffic;

(c) A parade route which only intersects a state road and when law enforcement personnel control the traffic at those intersections;

(d) Broadcast news, or other filming, that does not require a temporary closure, obeys traffic regulations, and does not impair vehicular or pedestrian traffic.

Rulemaking Specific Authority 334.044(2), 337.406(4) FS. Law Implemented 252.34, 316.003, 316.006(1), 316.008, 334.03, 337.406, 496.425 FS. History—New 1-19-89, Amended 4-15-92, 12-31-96.

14-65.0035 Temporary Closing of State Roads For Special Events Other Than Limited Access Facilities.

~~(1) General Criteria Procedures for Temporary Closing of State Roads Other Than Limited Access Facilities. The temporary use and closing of state roads for the purpose of special events, not related to construction, reconstruction, maintenance or emergency purposes, may be accomplished as follows:~~

~~(a) A special event must ~~may~~ be approved in writing permitted by the appropriate local governmental entity before the temporary closure of a state road authority.~~

~~(b) Prior to the temporary closure of a state road for a special event, the local governmental entity responsible for approving ~~authority~~ which permits the closure special event must determine whether a temporary closing of the road is necessary for the event and obtain prior written approval from the Department, unless exempt ~~excepted~~ as defined in accordance with subsection 14-65.0025(2)(4), F.A.C.~~

~~(c) A Request for Temporary Closing/Special Use of State Road Permit, Form 850-040-65, Rev. 12/11 02/92, hereby incorporated by reference, available from any local area operations center/maintenance office, district maintenance~~

~~office, or Department website: www.dot.state.fl.us/procedural documents, shall be completed and submitted by the responsible official of the local governmental entity authority to the Department’s district or local maintenance office District Secretary, or designee, naming the sponsoring officials; stating that local law enforcement officials will manage all the details involved in administration of the event; and stating that as between the Department and the local governmental authority, to the extent permitted by Florida law, the local governmental authority will assume full responsibility for any liability claims arising from, or based on, the activities of the event.~~

~~(d) The local governmental entity authority shall include the following with the ~~this~~ request:~~

~~1. A certified copy of an excerpt from the minutes of a duly scheduled meeting, or duly executed resolution, of the local governmental entity authority authorizing the special event. The local governmental entity authority may, by resolution, designate an official a position within that body (Mayor, City Manager, etc.) authorization to authorize and sign for the body;~~

~~2. A marked map, indicating the temporary detours to be utilized by the public; and showing the placement of appropriate signs; stationing of any officers or flagmen; and locations of barricades and cones necessary to detour the traffic in a safe and efficient manner;~~

~~3. A description of the provisions made for the temporary rerouting of traffic; and~~

~~3.4. Written a Approval from the United States Coast Guard if the proposed route of the special event involves District Commander authorizing the opening or closing of any movable bridge within the geographical limits of the event during the time period of the road closure.~~

~~(e) Prior to authorizing the temporary road closing, the Department shall review the proposed detour route to ensure that traffic volume will be handled and routed safely and efficiently.~~

~~(e)(f) Such Closing of the state road shall not be for the purpose of conducting commercial activities use, except when conducted in conjunction with a special event and approved in writing by the local governmental entity except that any portion of a state maintained roadway may be used for special events and special use as defined in paragraphs 14-65.0025(2)(f) and (2)(g), F.A.C., of this rule chapter, together with such commereial activities necessarily related to such events. Nothing in this rule chapter shall be construed to authorize such special events on the interstate highway system, toll roads, or other limited access facilities.~~

~~(f) The Department’s district or local maintenance engineer, or designee, will sign Form 850-040-65, Temporary Closing of State Road Permit, indicating approval or denial, and will return the form to the local governmental entity. Upon receipt, the local governmental entity shall notify the applicant whether the request has been approved.~~

~~(2) Procedures Subsequent to Approval of Request for Temporary Closing of State Roads Other Than Limited Access Facilities. The Department will return a copy of Form 850-040-65 indicating approval or disapproval to the submitting applicant.~~

~~(3) Form to Request Temporary Closing or Special Use of State Road. Copies of Form Number 850-040-65, Request for Temporary Closing/Special Use of State Road, 02/92, is hereby incorporated by reference and made a part of this rule chapter. Copies of this form may be obtained by contacting any Department District Maintenance Office.~~

~~Rulemaking Specific Authority 334.044(2), 337.406(1) FS. Law Implemented 316.003, 316.006(1), 316.008, 337.406 FS. History--New 1-19-89, Amended 4-15-92, 7-1-92, 12-31-96, \_\_\_\_\_.~~

~~14-65.006 Temporary Closing and Special Use of Interstate and Other Limited Access Facilities.~~

~~Temporary closures for special uses will not be allowed on interstate highways, toll roads, and other limited access facilities on the state highway system with the exception of the following situations:~~

~~(1) Emergency Conditions. When emergency or extremely dangerous conditions are judged to exist, the Department will assume responsibility for determining whether closure of state roads is warranted.~~

~~(2) Request for special use of interstate and other limited access facilities will be made to the Department. Special use is approved by the Department, in accordance with the provisions of Rule 14-65.0065, F.A.C.~~

~~(3) Use of facilities on interstate highways, toll roads, or other limited access facilities for solicitation is otherwise prohibited except under the provisions of Rule Chapter 14-28, Florida Administrative Code.~~

~~Rulemaking Specific Authority 334.044(10)(a), 334.048(3), 336.045(1) FS. Law Implemented 334.044(10)(a), 336.045 FS. History--New 1-19-89, Amended 4-15-92, Repealed \_\_\_\_\_.~~

~~14-65.0065 Filming on Procedures for Special Use of State Roads Including Limited Access Facilities.~~

~~The temporary use of state roads for special use activities, not related to construction, reconstruction, maintenance, emergency purposes, or special events, may be accomplished in accordance with this rule chapter. The following information must be supplied to the Department when requesting a permit for filming:~~

~~(1) General Criteria:~~

~~(a) Individuals wishing to conduct filming activities on state roads shall complete and submit a Permit For Filming On A State Road, Form 850-040-67, Rev. 12/11, hereby incorporated by reference, to the Department's district or local maintenance office for review. This form is available from any~~

local area operations center/maintenance office, district maintenance office or Department website: [www.dot.state.fl.us/proceduraldocuments](http://www.dot.state.fl.us/proceduraldocuments).

(b) The following information must be included with the permit application.

1.(1) A copy of pertinent portions of the script with a concise but detailed written description of the action to occur on the state right of way.

2.(2) A detailed map showing the proposed filming location, clearly defining the area that will be occupied during filming and an estimate of the number of event personnel.

3.(3) The total number of film crew personnel and the amount of equipment with equipment description. No stunts, staged accidents, explosives, or pyrotechnics that may cause damage to state property shall be allowed without prior approval of the Department. Use of pyrotechnics requires approval from the District Secretary, or where applicable, the Executive Director of the Florida Turnpike Enterprise and a separate approval from the local fire department having jurisdiction over the filming site. Both must be attached to the special use permit. Additionally, a licensed "Pyrotechnic Operator - Special Effects" shall be on location and in charge of all use, storage, and handling of special effects items.

4.(4) The permittee shall provide the Department with Proof of liability insurance in the amount of \$1,000,000 for routine filming. If the filming request involves specialized stunts, pyrotechnics, special effects, the use of some form of air transportation over the state road highway right of way, or stunts of any kind under or adjacent to a structure (bridge) then a minimum of \$5,000,000 of liability insurance is required. The insurance shall name the Department as an additional insured.

5.(5) A maintenance of traffic (MOT) plan if the filming will impact traffic or cause lane closures. The MOT All maintenance of traffic on Department rights of way shall conform to the Federal Manual on Uniform Traffic Control Devices (MUTCD), incorporated by reference in Rule 14-15.010, F.A.C.; and the Department's 2010 current Roadway and Traffic Design Standards; index series 600, incorporated by reference in Rule 14-46.001, F.A.C and the current Standard Specifications for Road and Bridge Construction. The Department shall regulate, limit, or restrict hours of filming to minimize disruption of traffic on the state highway system. When filming causes undue disruption of traffic, or creates safety hazards on a state highway, the Department shall require immediate corrective action within a specified time frame, or cause filming to cease if deemed necessary. The Department shall require the submittal of a maintenance of traffic plan with the request for permit to ensure compliance with this provision. The Department may require the presence of an off-duty law enforcement officer in areas of congestion, critical traffic flow, or situations that may cause hazardous conditions.

6. Written approval from the local fire department if pyrotechnics are involved.

7. Written approval from the U.S. Coast Guard if any movable bridges are affected.

8. Written approval from the Federal Aviation Administration if low flying aircraft are involved.

(2) Stunts, staged accidents, explosives, or pyrotechnics that may cause damage to state property shall not be approved. If pyrotechnics are involved, an experienced pyrotechnic operator shall be on location and in charge of all use, storage, and handling of any pyrotechnic devices. The permittee will be responsible for securing any pyrotechnic permit required by the local governmental entity and providing a copy to the Department.

(3)(6) Filming of activities on a state road right rights of way from low flying aircraft must comply be in compliance with Federal Aviation Administration regulations, and shall will not be approved permitted if the public safety or welfare is jeopardized. Any activities involving aircraft shall require written notification of overhead utility companies.

(4) Filming activities that may negatively affect any utility shall not be approved without prior written permission from the utility.

Rulemaking Specific Authority 334.044(2), 335.10(2)(1), 337.406(1) FS. Law Implemented 316.003, 316.006(1), 316.008, 334.044(28) 337.406(1), 496.425 FS. History–New 4-15-92, Amended \_\_\_\_\_.

14-65.0075 Special Events and Filming on Limited Access Facilities.

(1) General Criteria:

The use of limited access facilities for special events and filming will be considered based upon the following criteria:

(a) The use shall not interfere with the safe and efficient movement of traffic.

(b) The use shall not endanger the safety of the public.

(c) Written approval is obtained from the local governmental entity.

(d) Proof of liability insurance in the amount of \$1,000,000 is submitted to the Department. The Department shall be named as an additional insured.

(2) The use shall be for a limited duration. Approval for the length of the duration shall be obtained from the Department.

(3) Special events shall also comply with the criteria of Rule 14-65.0035, F.A.C.

(4) Filming shall also comply with the criteria of Rule 14-65.0065, F.A.C.

(5) Special events and filming shall be subject to the safety conditions set forth in the permit.

Rulemaking Authority 334.044(2), 334.044(10)(a), 335.10(2) FS. Law Implemented 337.406(1) FS. History–New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Dale Cook, Traffic Services and Permitting Manager

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ananth Prasad, P.E., Secretary, Florida Department of Transportation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 2, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 9, 2012

**DEPARTMENT OF CORRECTIONS**

RULE NOS.:

RULE TITLES:

33-103.007

Appeals and Direct Grievances to the Office of the Secretary

33-103.014

Reasons for Return of Grievance or Appeal Without Processing

33-103.016

Follow Through on Approved Grievances

PURPOSE AND EFFECT: The purpose and effect of the proposed rulemaking is to update titles, bureau names and address issues in the grievance process that will enhance efficiency.

SUMMARY: The proposed rule is amended to update titles and bureau names, amend the types of grievances and timeframes, and specify grievance procedures.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Analysis from Policy Management and Inmate Appeals indicates that the rule changes only affect internal operations, are largely stylistic and organizational in nature and will not have a negative economic impact or affect small business.

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

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Laura Gallagher, 501 South Calhoun Street, Tallahassee, Florida 32399-2500

## THE FULL TEXT OF THE PROPOSED RULE IS:

33-103.007 Appeals and Direct Grievances to the Office of the Secretary.

(1) In the event that an inmate feels that the grievance has not been satisfactorily resolved during the formal grievance procedure, an appeal may be submitted according to the time limits set forth in Rule 33-103.011, F.A.C., using Form DC1-303, ~~the Request for Administrative Remedy or Appeal; Form DC1-303~~, to the Office of the Secretary without interference from staff. Form DC1-303 is incorporated by reference in Rule 33-103.006, F.A.C.

(2) Procedural Requirements.

(a) The inmate shall fill out the identifying data at the top of the form by printing his committed name, Department of Corrections number, and institution or facility name and shall check the appropriate box;

(b) The inmate shall state his grievance in Part A. If additional space is needed, the inmate may use no more than 2 attachment pages rather than multiple copies of Form DC1-303. If the inmate writes his complaint anywhere other than within the boundaries of ~~the~~ Part A Box or on attachments, the ~~his~~ grievance shall be returned for non-compliance;

(c) through (f) No change.

(3) The Office of the Secretary has designated the Bureau of Policy Management and Inmate Grievance Appeals to receive, review, investigate, evaluate and respond to appeals and direct grievances filed with the Office of the Secretary. Appeals and direct grievances to the Office of the Secretary shall be turned over that same date to the Bureau of Policy Management and Inmate Grievance Appeals which shall ensure that the grievance is date-stamped in on the date of receipt. Upon receipt of the appeal or direct grievance by the Bureau of Policy Management and Inmate Grievance Appeals, the following shall occur:

The decision of whether or not the grievance has been timely filed by the inmate shall be made based upon the following comparisons:

(a) through (b) No change.

(4) Upon receipt of the grievance appeal or direct grievance, the Chief of Policy Management and Inmate Grievance Appeals shall cause the following to occur:

(a) through (d) No change.

(e) Following appropriate investigation and evaluation by staff of the Bureau of Policy Management and Inmate Grievance Appeals, a response shall be provided to the inmate. The degree of investigation is determined by the complexity of the issue and the content of the grievance.

(f) The response shall state whether the appeal or direct grievance is approved, denied, or being returned and shall also state the reasons for the approval, denial, or return. The criteria considered in approving, denying, or returning an appeal or direct grievance will vary with the facts of the grievance.

(5) Grievance appeals – If the grievance appeal is not a direct grievance to the Office of the Secretary, the inmate shall:

(a) Attach a copy of his formal grievance and response;

(b) Attach a copy of his informal grievance and response, except when appealing grievances on inmate bank issues, sentence structure, disciplinary action (excluding corrective consultations), medical issues, admissible reading material, placement in close management and subsequent reviews, violation of the Americans with Disabilities Act, grievances regarding the return of incoming mail governed by subsection 33-210.101(14), F.A.C., or grievances involving gain time governed by Rule 33-601.101, F.A.C., Incentive Gain Time;

(c) Attach any other documentation that the inmate has that is pertinent to the review and that the inmate wants reviewed. Attachments as required by the rule that do not meet the requirements of this rule may result in the grievance being returned to the inmate;

(d) No change.

(e) If the inmate is filing an amendment to a previously filed grievance or appeal, the inmate shall clearly state this at the beginning of PART A of Form DC1-303, ~~the Request for Administrative Remedy or Appeal; Form DC1-303~~.

(6) Direct Grievances.

(a) Emergency grievances and; grievances of reprisals, ~~or grievances of a sensitive nature~~ may be filed directly with the Office of the Secretary using the Request for Administrative Remedy or Appeal, Form DC1-303. Grievances alleging a violation of the Health Insurance Portability and Accountability Act (HIPAA) must be filed directly with the Office of the Secretary using Form DC1-303, ~~the Request for Administrative Remedy or Appeal; Form DC1-303~~. The following shall apply:

1. The inmate shall state at the beginning of Part A of Form DC1-303 that the grievance concerns either an emergency; or is a grievance of a reprisal, ~~or a grievance of a sensitive nature~~. When alleging HIPAA violations, the inmate shall state that the grievance concerns HIPAA at the beginning of Part A of Form DC1-303.

2. The inmate must clearly state the reason for not initially bringing the complaint to the attention of institutional staff and by-passing the informal and formal grievance steps of the institution or facility, except in the case of a HIPAA violation grievance, which must be filed directly with the Office of the Secretary.

3. The inmate may forward grievances of these four types to the Office of the Secretary in a sealed envelope by following the procedure set out in paragraph 33-103.006(8)(d), F.A.C. When a direct grievance alleging violation of HIPAA is received at the Office of the Secretary, the Bureau of Policy Management and Inmate Grievance Appeals shall forward the grievance to the Office of the Assistant Secretary for Health Services for investigation and response. The disclosure of medical information in a grievance authorizes staff to review the information and to use and disclose the medical

information necessary to investigate in order to respond. Following preparation of a response and signature of the responding employee, the grievance shall be returned to the Bureau of Policy Management and Inmate Grievance Appeals to ensure appropriate filing and routing.

(b) Emergency Grievances. An emergency grievance may be filed directly with the Secretary. Upon receipt, staff of the Bureau of Policy Management and Inmate Grievance Appeals shall take the following actions as soon as possible, but no later than two calendar days following receipt:

1. through 2. No change.

3. Provide a formal response to the inmate within 15 calendar days; and

4. If an emergency is not found to exist, the grievance will be stamped “not an emergency,” signed and dated by the responding employee, and returned to the inmate within three working days of receipt as his reasons for by-passing the previous level of review will not be valid.

(c) Grievances filed directly with the Office of the Secretary that are grievances of reprisal, ~~grievances of a sensitive nature~~, or a grievance alleging a violation of HIPAA shall be responded to according to established time frames.

(d) Upon receipt of the direct grievance and following review of the same, if it is determined that the grievance is not an emergency grievance, a grievance of reprisal, ~~or a grievance of a sensitive nature~~, or a grievance alleging a violation of HIPAA, the grievance shall be returned to the inmate with the reasons for return specified advising the inmate to resubmit his or her grievance at the appropriate level. The other applicable procedures in Rule 33-103.007, F.A.C., governing the processing of appeals to the Office of the Secretary shall apply to these four types of grievances.

(7) No change.

(8) Copies.

(a) The original copy of the grievance shall be returned to the inmate. The response shall be stamped “MAILED/FILED WITH AGENCY CLERK” along with the date mailed; the response shall be mailed on the same date that it is stamped. The response is deemed filed with the agency clerk on the date that it is stamped and mailed. The time period for appeal begins to run on the date that the response is stamped and mailed. If the inmate is transferred, it is his or her responsibility to notify the Bureau of Policy Management and Inmate Grievance Appeals.

(b) One copy of the grievance shall be sent to the warden of the institution or facility the inmate is assigned to for review and forwarding for inclusion in the inmate file.

(c) The second copy shall be forwarded to the Bureau of Classification and Central Records for inclusion in the inmate’s central office file.

(d) Attachments are considered a part of the grievance and shall not be returned to the inmate, except in those cases where the inmate submits sufficient copies of attachments at the time the grievance appeal is filed.

Rulemaking Specific Authority 944.09 FS. Law Implemented 944.09 FS., 45 C.F.R. Part 160, 164. History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 8-10-97, 12-7-97, 10-7-98, 2-17-99, Formerly 33-29.007, Amended 8-1-00, 6-29-03, 2-9-05, 8-21-06, 3-25-08, \_\_\_\_\_.

33-103.014 Reasons for Return of Grievance or Appeal Without Processing.

(1) The informal grievance, formal grievance, direct grievance ~~filed direct~~, or grievance appeal, hereafter referred to as “grievance,” ~~in this section of the rule~~ may be returned to the inmate without further processing if, following a review of the grievance, one or more of the following conditions are found to exist. The reasons listed below are the only reasons for returning a grievance without a response on the merits.

(a) The grievance addresses more than one issue or complaint;

(b) The grievance is so broad, general or vague in nature that it cannot be clearly investigated, evaluated, and responded to;

(c) The grievance is not written legibly and cannot be clearly understood;

(d) The formal grievance was not received within 15 calendar days of the date of the response to the informal grievance;

(e) The formal grievance was not received within 15 calendar days of the date on which the incident or action being complained about occurred, if an informal grievance was not filed pursuant to subsection 33-103.006(3), F.A.C.;

(f) through (l) No change.

(m) The inmate has used multiple copies of grievance forms rather than attachments as continuation sheets.

(n) through (o) No change.

(p) The inmate is raising allegations and charges in a grievance appeal that have not been raised below at the previous level. (Since this is an appellate review process and not a fact-finding process, it is not appropriate to raise new allegations, charges, and facts that the previous decision maker has not had an opportunity to investigate and respond to.)

(q) No change.

(r) The inmate has filed a supplement to a grievance or appeal ~~that which~~ has already been accepted. An exception will be made when the supplement contains relevant and determinative information ~~that which~~ was not accessible to or known by the inmate at the time the original grievance or appeal was filed.

(s) Complaints are raised by an inmate regarding incidents, ~~procedures, policies or rules~~ that do not affect the inmate personally.



(t) The inmate ~~had~~ filed a grievance at the institutional level that should have been filed directly with the Office of the Secretary.

(u) The inmate used more than two (2) additional narrative pages.

(v) The inmate filed an informal grievance in excess of 20 days from the time the event being grieved occurred.

(2) An inmate who has a grievance returned to him for reasons stated in subsection (1) above [excluding paragraph (1)(d), (e), (h), (i), (n), (o), (q), (r) or (s)] may refile utilizing the proper procedure or correct the stated deficiency and refile if upon receipt of this notification the filing is within time frames allowable. When a grievance is returned to an inmate for being improperly filed, the inmate shall be told why the grievance was returned and told that in order ~~for him~~ to receive administrative review of his complaint he must correct the defects and re-submit the grievance within the time frames set forth in Rule 33-103.011, F.A.C., unless instructed otherwise in the grievance response. Instructions to resubmit are not necessary if a grievance is returned for reasons stated in paragraph (1)(d), (e), (h), (i), (n), (o), (q), (r) or (s).

Rulemaking Specific Authority 944.09 FS. Law Implemented 944.09 FS., 45 C.F.R. Part 160, 164. History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 12-7-97, 5-10-98, Formerly 33-29.014, Amended 6-29-03, 2-9-05, \_\_\_\_\_.

### 33-103.016 Follow Through on Approved Grievances.

(1) Formal Grievance – Institution or Facility Level. All formal grievances ~~that which~~ are approved at the institution or facility level shall be handled as follows:

(a) The employee approving the grievance shall complete Section I of ~~Form form~~ DC1-306, Grievance Approval Action Form. Form DC1-306 is hereby incorporated by reference ~~in~~ Rule 33-103.019, F.A.C. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of the form is 08-01-00.

(b) The approving employee shall then send ~~Form form~~ DC1-306 and a copy of the approved formal grievance to the grievance coordinator in the event they are not one and the same.

(c) The grievance coordinator shall complete Sections II, III, and IV of ~~Form form~~ DC1-306. The grievance coordinator shall then provide the form ~~DC1-306~~ and a copy of the approved grievance to the staff member(s) assigned responsibility for implementing the approved action. The grievance coordinator shall monitor this process.

(d) The assigned staff member(s) shall complete Section V of ~~Form form~~ DC1-306, stating what steps were taken to implement the approved action. This shall not be done until after the steps have been taken. The assigned staff member(s) shall have 30 calendar days from the date the grievance was approved within which to implement the approved action. In the event that actual implementation cannot be completed

within the 30 day period due to circumstances beyond the control of department staff, the assigned staff member(s) shall indicate this and the reasons therefor in Section V within the 30 day period. The form shall be held by the assigned staff member until the corrective action has been taken.

(e) No change.

(f) The grievance coordinator shall complete Section VII of ~~Form form~~ DC1-306, place a copy of the form in the grievance record log, and attach a copy of the form ~~DC1-306~~ to the copy of the approved grievance in the inmate's file. A copy of the form shall not be sent to central office.

(2) Appeals and direct grievances to the Office of the Secretary. All grievances ~~that which~~ are approved by the ~~Office of the Secretary/Bureau of~~ Policy Management and Inmate Grievance Appeals shall be handled as follows:

(a) The employee approving the grievance shall complete Section I of ~~Form form~~ DC1-306.

(b) The approving employee shall then mail ~~Form form~~ DC1-306; along with a copy of the approved grievance or appeal; to the appropriate warden's office.

(c) The warden shall forward ~~Form the~~ DC1-306 to the institutional grievance coordinator who shall complete Sections II, III, and IV of the form DC1-306. The grievance coordinator shall then provide the form ~~DC1-306~~ and a copy of the approved grievance to the staff member(s) assigned responsibility for implementing the approved action. The grievance coordinator shall monitor this process.

(d) The assigned staff member(s) shall complete Section V of ~~Form form~~ DC1-306 stating what action was taken to carry out the approval. This shall not be done until after the action has actually been taken. The assigned staff member(s) shall have 35 calendar days from the date the grievance or appeal was approved within which to implement the approved action. In the event that actual implementation cannot be completed within the 35 day period due to circumstances beyond the control of department staff, the assigned staff member(s) shall indicate this and the reasons therefor in Section V. The form shall be held by the assigned staff member until the corrective action has been taken.

(e) No change.

(f) The grievance coordinator shall place a copy of the completed form in the inmate's institutional file, retain a copy for his record, and forward the original ~~and canary copy of~~ form ~~DC1-306~~ to the Chief of Policy Management and Inmate Grievance Appeals within 45 calendar days from the grievance approval date. The Chief shall ensure that the inmate grievance log in the Bureau of Policy Management and Inmate Grievance Appeals is updated and that a copy of ~~Form form~~ DC1-306 is sent to the central office inmate file.

Rulemaking Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—New 4-10-95, Amended 12-7-97, Formerly 33-29.0155, Amended 8-1-00, 1-1-01, 8-21-06, 3-25-08, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Michelle Pyle, Deputy Assistant Secretary  
NAME OF AGENCY HEAD WHO APPROVED THE  
PROPOSED RULE: Kenneth S. Tucker, Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: March 20, 2012  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: September 30, 2011

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-203.601  
RULE TITLE: Employee Benefit Trust Fund

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the composition and authority of the regional employee benefit trust fund (EBTF) teams over EBTF functions and operations; to specify the manner in which institutions will request funds; and to consolidate Forms DC2-354 and DC2-356 into one form.

SUMMARY: The rule changes the composition of the central office EBTF team to include five members appointed by the Secretary and at least one field representative. Disbursements from the EBTF will be authorized by the regional rather than central office team. Requests for funds by institutions and review by the appropriate authority will utilize Form DC2-356.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: information provided by the Bureau of Finance and Accounting indicates that the changes are internal and organizational. Therefore the changes will have no effect on small business, would not require any additional training or would not have any other regulatory cost.

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: 945.215, 945.21501 FS.

LAW IMPLEMENTED: 945.215, 945.21501 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: Laura Gallagher, 501 South Calhoun Street, Tallahassee, Florida 32399-2500

**THE FULL TEXT OF THE PROPOSED RULE IS:**

33-203.601 Employee Benefit Trust Fund.

(1) No change.

(2) The employee benefit trust fund shall be established in the Bureau of Finance and Accounting. Oversight and administration of the fund shall be the responsibility of the employee benefit trust fund team. The primary function of the central office team will be to standardize the operation of the employee benefit trust fund. The team shall be comprised of five members appointed by the Secretary to include at least one field representative ~~Made up of the following staff members:~~

- ~~(a) Secretary or designee;~~
- ~~(b) Assistant Secretary of Institutions or designee;~~
- ~~(c) Chief of Staff or designee;~~
- ~~(d) Deputy Assistant Secretary of Institutions or designee;~~
- ~~(e) Director of Administration or designee; and~~
- ~~(f) Chief, Bureau of Finance and Accounting or designee.~~

(3) through (6) No change.

(7) Disbursements from the fund will be authorized ~~Local bank accounts shall be established at each institution for the purchase of items for resale or operating supplies as approved by the regional central office employee benefit trust fund team and expenditures that are in accordance with authorized uses of the fund. Local bank accounts shall be established at each institution for the purchase of items for resale or operating supplies approved by the regional employee benefit trust fund team.~~

(8) No change.

(9) Institutions requesting to withdraw money from the fund for purchases not assigned to their level of approval shall submit a request to the central office team describing the need for the funds and cost estimate for the project. The request will be submitted utilizing Form DC2-356, EBTF Expenditure Check Request. ~~Form DC2-354, Employee Benefit Trust Fund Expenditure Check Request.~~ Form DC2-356 ~~DC2-354~~ is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, ~~Bureau of Policy Development~~, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of this form is April 13, 2008.

(10) The appropriate authority ~~central office team~~ shall review each request to ensure that the purpose of the expenditure is in accordance with authorized uses of the fund and to ensure that the institution has sufficient funds earmarked for the amount of the withdrawal. If the request ~~DC2-354~~ is approved, vendor payments may be requested by e-mail using the bottom portion of Form DC2-356 ~~EBTF Expenditure Check Request. Form DC2-356 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Bureau of Policy Development, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of this form is April 13, 2008.~~

(11) A service charge equal to 7% of canteen revenues will be used to offset administrative costs of the employee benefit trust fund.

Rulemaking Specific Authority 945.215, 945.21501 FS. Law Implemented 945.215, 945.21501 FS. History--New 4-13-08,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Deariso, Bureau of Finance and Accounting  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kenneth S. Tucker, Secretary  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 10, 2012  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 2, 2011

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE NOS.:	RULE TITLES:
40E-7.521	Definitions
40E-7.527	Hunting
40E-7.538	Special Provisions for Management Areas of the District Open to the Public
40E-7.5381	Special Provisions for Right of Way of the District
40E-7.5382	Special Provisions for Vacant Undesignated District Lands Open to the Public

PURPOSE AND EFFECT: To amend Rules 40E-7.521, 40E-7.527, 40E-7.538, 40E-7.5381, 40E-7.5382, F.A.C., to comply with a recent amendment to Section 790.33, F.S., (HB 45, 2011), which provides exclusive authority to the Legislature to regulate firearms and ammunition, thereby making the District rules regarding firearms and ammunition null and void as of October 1, 2011.

SUMMARY: Prohibition of the possession of ammunition or the discharge of firearms on District Public Lands.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: House Bill 45 (2011), effective October 1, 2011, provides the Florida Legislature with the sole authority to regulate firearms and ammunition. The law makes any existing

District rules concerning firearms and ammunition null and void as of October 1st. Consequently, the District is amending its rules in Chapter 40E-7, Part V, Florida Administrative Code (F.A.C.) to remove any provisions concerning firearms and ammunition.

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

RULEMAKING AUTHORITY: 373.019, 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.016, 373.056, 373.069, 373.0693, 373.073, 373.079, 373.083, 373.103, 373.1391, 373.59, 373.1401, 790, 810.09 FS.

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

DATE AND TIME: July 12, 2012, 9:00 a.m.

PLACE: 3301 Gun Club Road, South Florida Water Management District, Auditorium B-1 Headquarters, West Palm Beach, FL 33406

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: South Florida Water Management District Clerk at 1(800)432-2045, x2087 or (561)682-2087. If you are hearing impaired, please contact the agency using the Florida Relay Service 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Steve Coughlin, Section Administrator, Land Stewardship Department, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, ext. 2603 or (561)682-2603 or by email to scoughlin@sfwmd.gov. For procedural questions, please contact Charron Follins, Senior Paralegal, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, ext 6293 or (561)682-6293 or by email cfollins@sfwmd.gov

**THE FULL TEXT OF THE PROPOSED RULES IS:**

40E-7.521 Definitions.

When used in this part:

(1) through (9) No change.

(10) ~~“Firearm” means a shotgun, rifle, pistol, revolver or muzzleloader designed to expel a projectile by the action of an explosive and any air gun, gas gun, blow gun, crossbow, spear, or any other device mechanically propelling an arrow, spear, or other projectile or any starter gun or blank firing device.~~

(11) through (31) renumbered (10) through (30) No change.

~~Rulemaking Specific Authority 373.019, 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.056, 373.069, 373.0693, 373.073, 373.079, 373.083, 373.103, 373.1391, 373.59 FS. History–New 5-24-94, Amended 11-13-97, 1-1-99, 1-5-03, 7-12-06,\_\_\_\_\_.~~

~~40E-7.527 Hunting; Possession and Use of Firearms or Hunting Devices.~~

~~(1) Consistent with applicable provisions of local, state and federal law, concerning hunting or the possession and use of firearms or other types of hunting devices, such as the rules of the Florida Fish and Wildlife Conservation Commission and the United States Department of Interior, Fish and Wildlife Service, hunting, unlawful possession, discharge, and use of firearms or other types of hunting devices or, trapping devices and the releasing of free-running hunting dogs are prohibited on District lands unless the land is opened as a public hunting area and these uses are authorized in the specific public hunting area regulations. Nothing contained in Chapter 40E-7, Part V, F.A.C., shall be construed to prohibit the lawful possession of concealed weapons by persons properly licensed by the State of Florida to carry concealed weapons. The prohibition on the possession and discharge of firearms or other types of hunting devices shall not apply on land approved by the District for use as a small arms shooting range.~~

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

~~(4) No person shall hunt or possess a firearm or other type of hunting device except during regulated hunting seasons established and managed by the Florida Fish and Wildlife Conservation Commission.~~

~~(5) through (9) No change.~~

~~Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.1391, 373.1401, 373.59, 790, 810.09 FS. History–New 5-24-94, Amended 1-1-01, 1-5-03, 7-12-06,\_\_\_\_\_.~~

~~40E-7.538 Special Provisions for Management Areas of the District Open to the Public.~~

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

~~(3) Gardner-Cobb Marsh Management Unit in Osceola County.~~

~~(a) through (c) No change.~~

~~(d) Possession of a firearm or other types of hunting devices in Ike Hammock is prohibited.~~

~~(4) Lower Kissimmee River Management Area located in Polk, Osceola, Highlands, Glades, and Okeechobee Counties.~~

~~(a) through (c) No change.~~

~~(d) Safety Zones within the Public Use Area in Okeechobee, Highlands, Osecola, and Polk Counties:~~

~~1. All firearms and other types of hunting devices and firearms shall be unloaded.~~

~~2. A person in possession of a Special Use License to camp within the Safety Zone at the Oak Creek Campsite during a hunting season shall have firearms and other types of hunting~~

~~devices unloaded and secured in a locked firearm or other type of hunting device case while in camp and while in direct travel to and from the campsite.~~

~~(5) through (9) No change.~~

~~Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.1391, 373.59 FS. History–New 1-1-01, Amended 1-5-03, 7-12-06,\_\_\_\_\_.~~

~~40E-7.5381 Special Provisions for Right of Way of the District.~~

~~The following shall be prohibited on all Right of Way of the District; which include rights-of-way, canals, levees, maintenance berms, and spoil mounds:~~

~~(1) Hunting.~~

~~(2) Discharge of firearms or other types of hunting devices.~~

~~(3) through (12) renumbered (2) through (12) No change.~~

~~Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.1391, 373.59 FS. History–New 7-12-06, Amended\_\_\_\_\_.~~

~~40E-7.5382 Special Provisions for Vacant Undesignated District Lands Open to the Public.~~

~~The following shall be prohibited on vacant undesignated lands, as that term is defined in subsection 40E-7.521(30), F.A.C.~~

~~(1) Possession of a firearm or other types of hunting devices.~~

~~(2) through (6) renumbered (1) through (5) No change.~~

~~Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.1391, 373.59 FS. History–New 7-12-06, Amended\_\_\_\_\_.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Steve Coughlin, Section Administrator, Land Stewardship Department

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 14, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 23, 2011

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Vessel Registration and Boating Safety**

RULE NO.:

RULE TITLE:

68D-24.144

Monroe County Boating Restricted Areas

PURPOSE AND EFFECT: The purpose of this rule amendment is to provide for public safety at Jewfish Creek, adjacent to the Florida Intracoastal Waterway within Monroe County.

SUMMARY: This rule amendment creates a Slow Speed Minimum Wake Zone, extending 300 feet north of Jewfish Creek (U.S. Highway 1) Bridge to 800 feet south of Jewfish Creek (U.S. Highway 1) Bridge to provide for public safety.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

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: 327.04, 327.46 FS.

LAW IMPLEMENTED: 327.46 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: Captain Richard Moore, Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, Boating and Waterways Section, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68D-24.144 Monroe County Boating Restricted Areas.

(1) For the purpose of regulating the anchoring of vessels in and adjacent to the Newfound Harbor Channel (also known as Pine Channel) within Monroe County, the following boating restricted area is established:

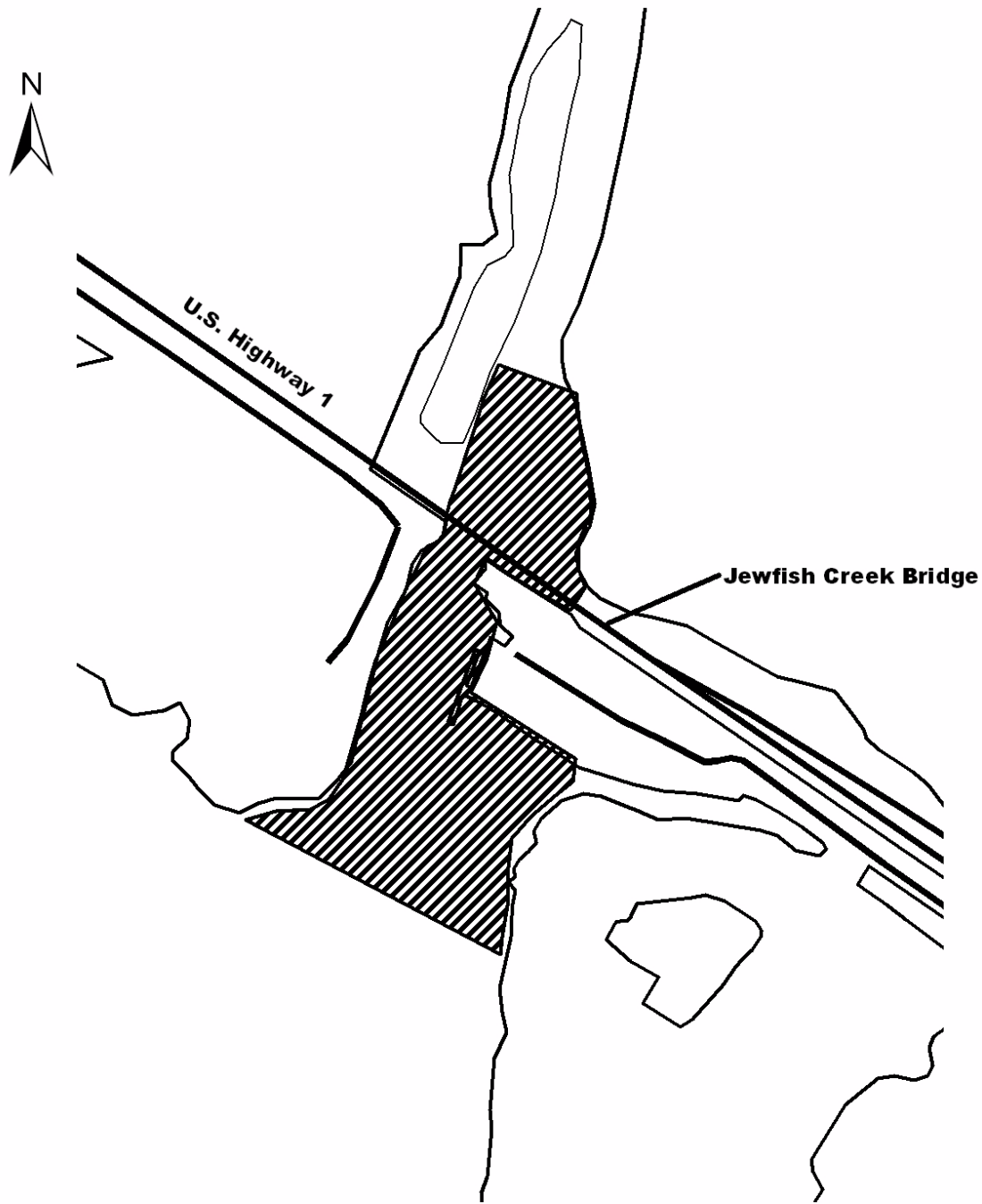
Newfound Harbor Channel (Pine Channel) – Anchoring of all sailboats and other vessels with masts is prohibited in Newfound Harbor Channel (Pine Channel), shoreline to shoreline, between Big Pine Key and Little Torch Key, from the centerline of U.S. Highway 1 south to a line drawn from the southernmost point on Little Torch Key to the southernmost point on Big Pine Key (a distance approximately 6,000 feet south of the centerline of U.S. Highway 1), as depicted in Drawing A. If the overhead power lines are removed, the zone established in this paragraph shall no longer be in force or effect.

(2) For the purpose of regulating the speed and operation of vessel traffic on the Florida Intracoastal Waterway (ICW) in Monroe County, the following boating restricted area is established:

Jewfish Creek: A Slow Speed Minimum Wake boating restricted area in and adjacent to the ICW, bounded on the north by a line drawn perpendicular to the centerline of the ICW 300 feet north of the north end of the Jewfish Creek (U.S. Highway 1) Bridge fender system to a line drawn perpendicular to the centerline of the ICW 800 feet south of the south end of the Jewfish Creek (U.S. Highway 1) Bridge fender system, as depicted in Drawing B.

~~(3)(2)~~ The boating restricted areas are depicted on the following maps in drawing A:





 Slow Speed  
Minimum Wake

**Jewfish Creek**  
Drawing B

Rulemaking Specific Authority 327.04, 327.46 FS. Law Implemented 327.46 FS. History--New 1-10-07, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Captain Richard Moore, Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 8, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 23, 2011

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Vessel Registration and Boating Safety**

RULE NO.: 68D-24.164                      RULE TITLE: Volusia County Boating Restricted Areas

PURPOSE AND EFFECT: The purpose of this rule amendment is to provide for public safety at Highbridge Road Bridge and Boat Ramp, adjacent to the Florida Intracoastal Waterway within Volusia County.

SUMMARY: This rule amendment creates a Slow Speed Minimum Wake Zone, extending 300 feet north of Highbridge Road Bridge to 300 feet south of Highbridge Road Boat Ramp to provide for public safety.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

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: 327.04, 327.46 FS.

LAW IMPLEMENTED: 327.46 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: Captain Richard Moore, Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, Boating and Waterways Section, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68D-24.164 Volusia County Boating Restricted Areas.

(1) For the purpose of regulating the speed and operation of vessel traffic on the Florida Intracoastal Waterway (ICW) bordering eastern Volusia County, including the Indian River and the Halifax River, the following Boating Restricted Areas are established:

(a)1. Ormond Beach: A Slow Speed Minimum Wake boating restricted area from shoreline to shoreline, bounded on the north by a line drawn perpendicular to the centerline of the ICW 300 feet north of the north end of the Highbridge Road Bridge fender system to a line drawn perpendicular to the centerline of the ICW 300 feet south of the centerline of the Highbridge Road Boat Ramp, as depicted in drawing A.

~~2. Daytona Beach: An Idle Speed No Wake boating restricted area from the western shoreline to the eastern limit of the right-of-way of the ICW from a line drawn perpendicular to the centerline of the ICW 200 feet north of the Main Street Bridge to a line which is 600 feet northerly of and parallel to the centerline of northern span of the Seabreeze Bridge (S. R. 430), as depicted in drawing BA.~~

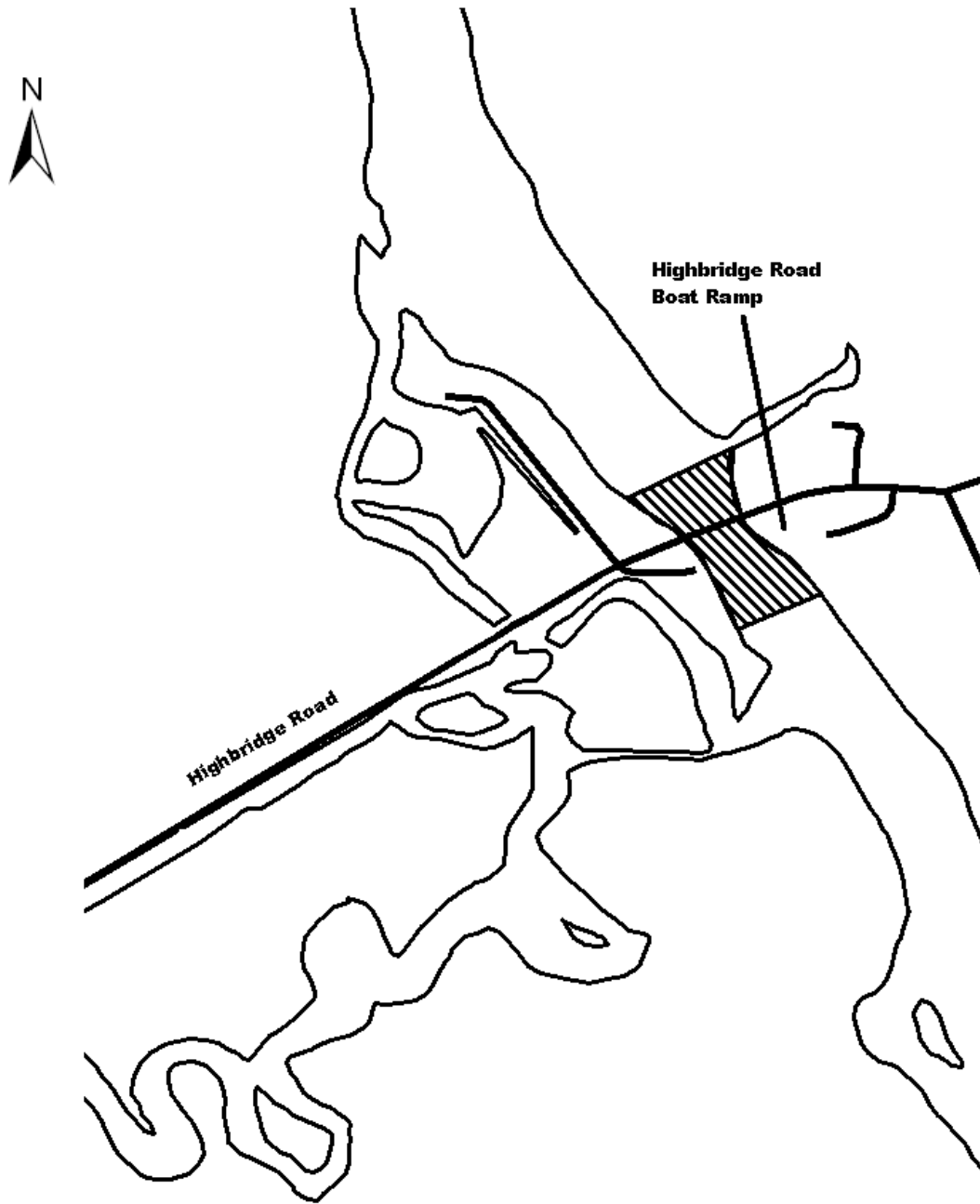
~~3. New Smyrna Beach: An Idle Speed No Wake boating restricted area in and adjacent to the ICW, bounded on the north and west by the western shoreline of the Indian River North, bounded on the south by the northern shoreline of Chicken Island and a line drawn due west from the western end of Chicken Island, and bounded on the east by a line drawn due north from the eastern end of Chicken Island, as depicted in drawing CB.~~


~~4. Edgewater: An Idle Speed No Wake boating restricted area from the western shoreline to the eastern limit of the right-of-way of the ICW from a line drawn perpendicular to the centerline of the ICW 300 feet north of the Kennedy Park boat ramp to a line drawn perpendicular to the centerline of the ICW 500 feet south of the Menard May Park boat ramp, as depicted in drawing DE.~~

(b) Volusia County is authorized to install and maintain Slow Speed Minimum Wake or Idle Speed No Wake markers, as identified herein, and Resume Normal Safe Operation markers at the beginning and end of each of these restricted areas.

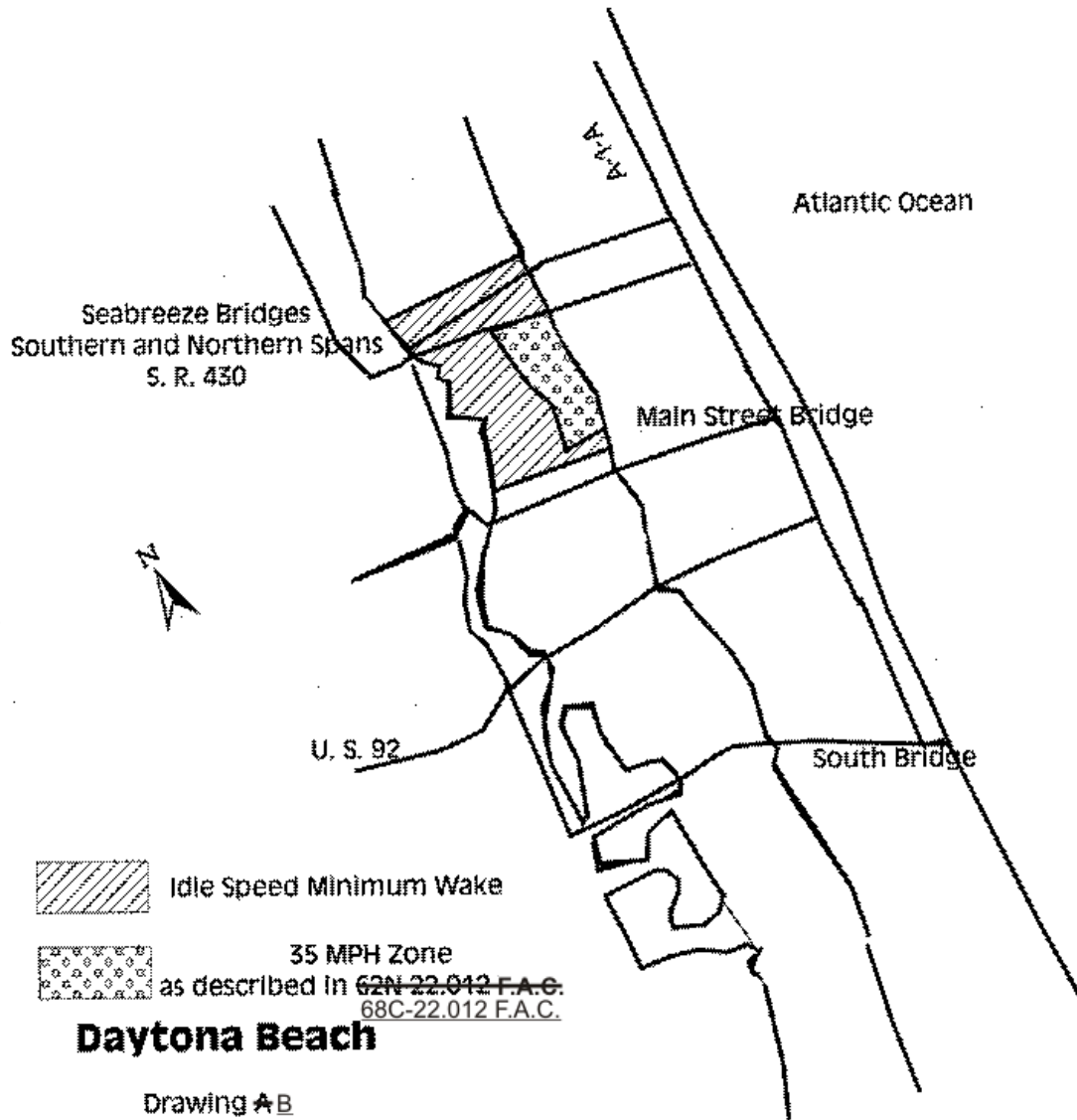
(2) The restricted areas are depicted on the following maps:

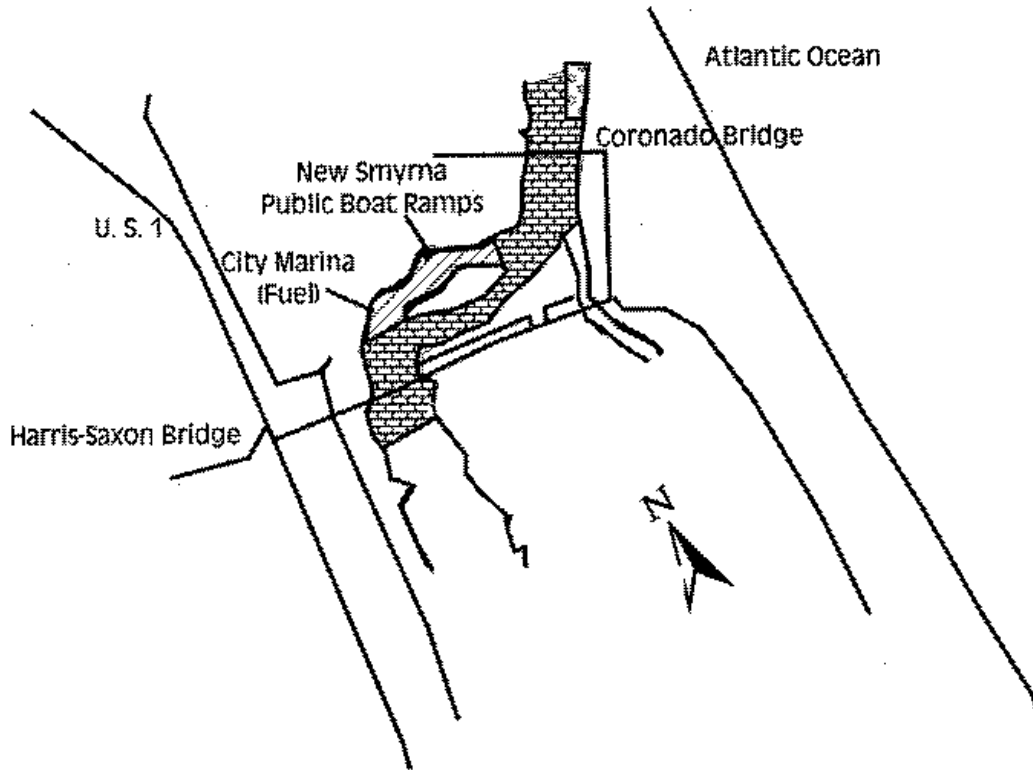



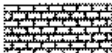
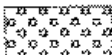


 Slow Speed  
Minimum Wake

**Ormond Beach**  
Drawing A

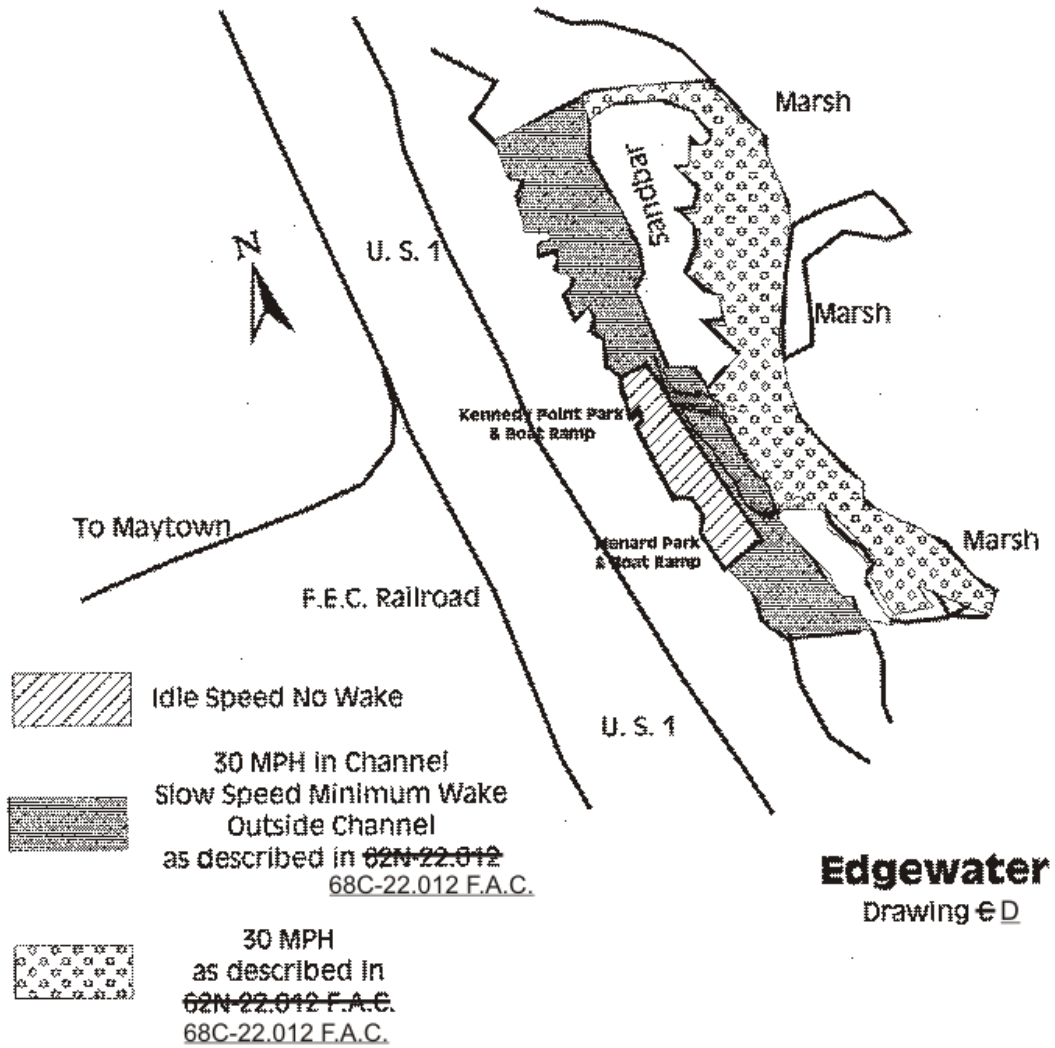




-  Idle Speed No Wake
-  Slow Speed Minimum Wake  
as described in 62N-22.012 F.A.C.  
68C-22.012 F.A.C.
-  30 MPH  
as described in 62N-22.012 F.A.C.  
68C-22.012 F.A.C.

### New Smyrna Beach

Drawing # C



Rulemaking Specific Authority 327.04, 327.46 FS. Law Implemented 327.46 FS. History--New 4-2-87, Formerly 16N-24.009, 62N-24.009, Amended 4-12-99, Formerly 62N-24.164, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Captain Richard Moore, Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 8, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 23, 2011

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of State Fire Marshal**

RULE NOS.:	RULE TITLES:
69A-37.039	Prescribed Forms for Training and Certification
69A-37.065	Programs of Study and Vocational Courses

PURPOSE AND EFFECT: The purpose of these amendments is to address statutory changes in Section 633.081(8), F.S. relative to the firesafety inspector certification process. Further, the Department adopts a certification renewal application.

SUMMARY: The application for the special firesafety inspector is not necessary as this particular certification class was repealed by Chapter 2011-79, Laws of Florida. Additionally, Rule Chapter 69A-39, F.A.C., will be amended to include the program of study requirements for firesafety inspector certification. As a result, the requirements are being removed from Rule Chapter 69A-37, F.A.C. Lastly, the Department adopts a certification renewal application.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department lacks the rulemaking authority to retain the rule provisions governing the certification and training of special firesafety inspectors pursuant to Chapter 2011-79, Laws of Florida. Those individuals seeking to conduct firesafety inspections must obtain a certification as a firesafety inspector. All of the necessary requirements for those

certifications will be in Rule Chapter 69A-39, F.A.C. once amended. The Division of State of Fire Marshal conducted an analysis of the proposed rule’s potential economic impact and determined that it did not exceed any of the criteria established in Section 120.541(1), F.S. and is therefore does not require legislative ratification pursuant to Section 120.541(3), F.S.

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: 633.01, 633.081(9), 633.45(2)(a) FS.

LAW IMPLEMENTED: 633.34, 633.35, 633.38, 633.45, 633.046, 633.101(1), 633.45(1)(d) FS.

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

DATE AND TIME: Thursday, June 21, 2012, 8:00 a.m.

PLACE: Radisson Resort Orlando Celebration, Room Flamingo, 2900 Parkway Boulevard, Kissimmee, Florida 34747

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: Barry Baker, (352)369-2833 or Barry.Baker@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Barry Baker, Chief, Bureau of Fire Standards and Training, Division of State Fire Marshal, (352)369-2833, Barry.Baker@myfloridacfo.com

**THE FULL TEXT OF THE PROPOSED RULES IS:**

69A-37.039 Prescribed Forms for Training and Certification.

(1) Information required by the Bureau in this chapter shall be furnished on-line at www.floridastatefirecollege.org. The information required at www.floridastatefirecollege.org is based on prescribed forms set forth below and incorporated herein. The forms can also be obtained:

(a) through (c) No change.

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

~~(u) DFS-K4-1459 rev. 03/09, “Application for Special Firesafety Inspector Examination”~~

~~(u)(v) DFS-K4-1023 rev. 03/12 03/09, “Application for Firesafety Inspector Examination.”~~

(v) DFS-K4-1463 rev. 04/12, “Certification Renewal Application.”

~~Rulemaking Specific Authority 633.01, 633.081(9), 633.45(2)(a), FS. Law Implemented 633.34, 633.35, 633.38, 633.45, 633.046, 633.101(1) FS. History–New 9-7-81, Formerly 4A-37.20, 4A-37.39, Amended 11-26-85, 1-3-90, 6-30-91, 3-20-95, 9-13-98, 12-10-01, Formerly 4A-37.039, Amended 3-19-09, \_\_\_\_\_.~~

69A-37.065 Programs of Study and Vocational Courses.

The following programs of study are developed and revised by the Florida State Fire College, pursuant to Sections 633.45 and 633.081, F.S.:

(1) through (4) No change.

~~(5) Special State Firesafety Inspector Program.~~

~~(a) Length of Program. This program consists of no fewer than three courses, vocational or academic, of at least 120 hours or the equivalent of interactive instruction, as approved by the Bureau of Fire Standards and Training.~~

~~(b) Content of Program. This program includes coursework in fire prevention practices, codes and standards, and a mutually agreeable elective as approved by the standards section of the Bureau of Fire Standards and Training. Such mutually agreeable elective shall be an elective which has been proposed by the student to the faculty, reviewed by the faculty to determine relevance of content and duration of delivery, and approved by the faculty to be taken by the student.~~

~~(c) Instructor Qualifications.~~

~~1. An Instructor I for certificate;~~

~~2. Instructor II or III may teach provided he or she has successfully completed the course.~~

~~(d) Requirements for certification:~~

~~1. Successful completion of all required course work.~~

~~2. Passing a state examination with a score of 70% or higher.~~

~~3. Submission of the required application (Form DIA 1459), which is incorporated by reference in subsection 69A 37.039(2), F.A.C., and can be obtained where indicated in subsection 69A 37.039(1), F.A.C., with all supporting documentation and fees, to the Bureau of Fire Standards and Training.~~

(6) through (7) renumbered (5) through (6) No change.

~~(7)(8) Requirements for certification or Competency Examination.~~

(a) In order for a person to be eligible to be tested, the required paperwork must be received by the Bureau of Fire Standards and Training not less than 10 business days prior to the requested examination date for review, verification and approval.

~~(b) All testing will be accomplished at a Regional Testing Site quarterly or at the Florida State Fire college monthly.~~

~~(c) Retake examinations will be permitted at subsequent quarterly Regional Testing Sites or monthly at the Florida State Fire College.~~

~~(b)(d) Application for retesting shall be received by the Bureau of Fire Standards and Training not less than 10 business days prior to the requested examination date.~~

~~(9) Triennial Renewal of Inspector and Special Inspector Certification.~~

~~(a) Inspector and Special Inspector Certification must be renewed every 3 years.~~

~~(b) Should the applicant fail to meet the prerequisite training requirements specified below for renewal, the applicant must qualify for and successfully pass the required state examination for the appropriate inspector certification requested.~~

~~(c) The Bureau of Fire Standards and Training shall notify the certified inspector that the applicant's certification is due for renewal approximately 30 days prior to the expiration of the Inspector Certification.~~

~~(d) The Certified Inspector shall submit the renewal application to the Bureau of Fire Standards and Training specifying whether the renewal is to be based on completion of a course or attendance at workshops or seminars.~~

~~1. Course—Have successfully completed an approved course of instruction in a curriculum related to the inspector certification.~~

~~a. This course shall be 40 class hours in duration or the equivalent in Continuing Education Units (CEU's).~~

~~b. Verification of successful completion of the course shall be included with the renewal application. Acceptable forms of verification include copies of certificates and college transcripts.~~

~~2. Workshops or Seminars—In the absence of completion of an approved course, the certification renewal shall be based upon attendance at a workshop or seminar related to the inspector certification which shall be a cumulative total of not less than 40 contact hours in duration.~~

~~(e) Any person whose certification is not renewed cannot function as an inspector or special inspector as defined herein.~~

~~(f) It is the responsibility of the certified inspector to notify the Bureau of Fire Standards and Training of any address changes in writing.~~

~~Rulemaking Specific Authority 633.45(2)(a) FS. Law Implemented 633.45(1)(d) FS. History–New 12-10-01, Formerly 4A-37.065, Amended \_\_\_\_\_.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Barry Baker, Chief, Bureau of Fire Standards and Training, Division of State Fire Marshal, 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: April 3, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: October 14, 2011

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of State Fire Marshal**

RULE NOS.:	RULE TITLES:
69A-39.003	Types of Certification Available
69A-39.005	Minimum Curriculum Requirements for Firesafety Inspector Certification
69A-39.007	Procedures for Certification Examination
69A-39.0071	Procedures for Fire Code Administrator Certification
69A-39.009	Triennial Renewal of Firesafety Inspector and Fire Code Administrator Certification
69A-39.010	Required Forms for Training and Certification of Firesafety Inspectors

**PURPOSE AND EFFECT:** The purpose of these amendments is to address statutory changes regarding the certification, training and curriculum requirements for firesafety inspectors.

**SUMMARY:** The rule prescribes the minimum curriculum requirements, certification procedures, and renewal procedures for fire safety inspectors. The rule also amends the forms associated with the examination and certification of firesafety inspectors. The rule, pursuant to Section 633.81(3), F.S., repeals procedures related to special state firesafety inspector because the statute required the Department to cease issuing certifications for this inspector category effective July 1, 2011. Lastly, pursuant to Section 633.81(8), F.S., the rule creates the requirements for the fire code administrator category.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Division of State of Fire Marshal conducted an analysis of the proposed rule’s potential economic impact and determined that it did not exceed any of the criteria established in Section 120.541(1), F.S. and is therefore does not require legislative ratification pursuant to Section 120.541(3), F.S.

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: 633.01, 633.081(9) FS.

LAW IMPLEMENTED: 633.081(2), (3), (4), (8) FS.

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

DATE AND TIME: Thursday, June 21, 2012, 8:30 a.m. or immediately following the 8:00 a.m. rule hearing scheduled for Rule 69A-37.039 & 69A-37.065, F.A.C.

PLACE: Radisson Resort Orlando Celebration, Room Flamingo, 2900 Parkway Boulevard, Kissimmee, Florida 34747

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: Barry Baker, (352)369-2833 or Barry.Baker@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Barry Baker, Chief, Bureau of Fire Standards and Training, Division of State Fire Marshal, (352)369-2833, Barry.Baker@myfloridacfo.com

**THE FULL TEXT OF THE PROPOSED RULES IS:**

69A-39.003 Types of Certification Available.

(1) through (2) No change.

(3)(a) Fire Code Administrator. This certificate is issued to individuals who:

1. Are currently certified as Firesafety Inspectors;

2. Meet the qualifications for Fire Marshals set forth in National Fire Protection Association (NFPA) 1037, “Standard for Professional Qualifications for Fire Marshal.” (2012 Edition), adopted and incorporated by reference; and

3. Have at least:

a. Six years of experience working as a certified Firesafety Inspector and who successfully complete the advanced training for fire prevention management and code enforcement ~~Special State Firesafety Inspector Training Course~~ outlined in subsection 69A-39.005(3), F.A.C.; or

b. Ten years of experience working as a certified Firesafety Inspector and at least five years of management experience that includes analytical approaches to fire protection, fire service administration, fire prevention management, community risk reduction, human resource management, and performance-based designs.

(b) A copy of the NFPA 1037 may be obtained from the NFPA, Inc., 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

~~(3) Special State Firesafety Inspector Certification. This certificate is issued to those who successfully complete the Special State Firesafety Inspector Training Course outlined in subsection 69A-39.005(3), F.A.C., and the certification examination prescribed by the Division.~~

~~Rulemaking Specific Authority 633.01, 633.081(9) FS. Law Implemented 633.081(2), (3), (4), (8) FS. History—New 11-21-83, Formerly 4A-39.03, Amended 8-2-88, 3-1-89, Formerly 4A-39.003, Amended \_\_\_\_\_.~~

69A-39.005 Minimum Curriculum Requirements for Firesafety Inspector Certification.

(1) through (2) No change.

(3) Fire Code Administrator.

(a) To qualify for certification a candidate must complete the prerequisite course titled “Evaluating Performance-Based Designs.” This program shall consist of not less than 240 hours of training. The course curriculum shall consist of the following Fire and Emergency Services Higher Education (FESHE) curriculum courses or equivalent courses which meet the learning objectives determined by the Bureau of Fire Standards and Training. Each course shall be no less than 40 hours in duration:

1. Community Risk Reduction.
2. Fire and Emergency Service Administration.
3. Fire Prevention Organization and Management.
4. Analytical Approaches to Public Fire Protection.
5. Personnel Management for the Fire Emergency Services.
6. Political and Legal Foundation for Fire Protection.

(b) An instructor providing training under paragraph (a) must be qualified by the Bureau of Fire Standards and Training within the Division.

~~(3) Special State Firesafety Inspector Training Course. The course curriculum shall consist of the following courses:~~

- ~~(a) FFP-1300 Codes and Standards (minimum 40 hours);~~
- ~~(b) FFP 1200 Fire Prevention Practices (minimum 40 hours); and~~

(c) A mutually agreeable 40-hour elective to be approved by the Bureau of Fire Standards and Training. Such mutually agreeable elective shall be an elective which has been proposed by the student to the faculty, reviewed by the faculty to determine relevance of content and duration of delivery, and approved by the faculty to be taken by the student. If no elective is submitted for approval by the agency employing Special Firesafety Inspectors, the Fire College course which teaches 20 hours of Fire Protection Systems and 20 hours of Building Construction shall be the only acceptable alternative.

~~(4) Persons are eligible to take the state certification examination as defined in Rule 69A-39.007, F.A.C., after completion of FFP-1200 and FFP-1300, the remaining 40-hour class must be completed for the first CEU requirement following original certification in the first three-year period.~~

~~Rulemaking Specific Authority 633.01, 633.081(9) FS. Law Implemented 633.081(2), (3), (4), (8) FS. History—New 11-21-83, Formerly 4A-39.05, Amended 8-2-88, 3-1-89, 10-23-90, 12-10-01, Formerly 4A-39.005, Amended \_\_\_\_\_.~~

69A-39.007 Procedures for Certification Examination.

~~(1) To In order for an individual to receive Firesafety Inspector Certification or Special State Firesafety Inspector Certification from the Division, a score of 70 percent must be achieved on a certification examination administered by the Division. To be eligible for the examination, the following procedures must be adhered to: (1) The applicant must submit Form DFS-K4-1023, the “Application Request for Firesafety Inspector Certification Examination,” which is incorporated by reference in subsection 69A-37.039(2), F.A.C., and can be obtained where indicated in subsection 69A-37.039(1), F.A.C., form to the Bureau of Fire Standards and Training within the Division (hereinafter referred to as the “Bureau”). The Division shall notify the applicant in writing of its determination regarding the application. If the application is:~~

~~(a) Approved (2) If approved, the applicant may contact the Bureau to schedule will be scheduled for the next available certification examination or may register for the examination online at <https://floridastatefirecollege.org/>. The examination must be completed by the applicant at a location designated by the Bureau within 180 days after the date on the written notice indicating application approval of Fire Standards and Training of the Division of State Fire Marshal. The applicant will receive written notification of the date, time, and location of the examination.~~

~~(b) Denied (3) If the request is denied, student will receive written notification of denial, which will include the notice shall state the reason(s) therefore reason for such denial, and shall be a agency action subject to review under the provisions of Section Chapter 120.57, F.S.~~

~~(2)(4) Upon completion of the certification examination, the applicant shall will be notified in writing of the result. A minimum score of seventy percent (70%) of the maximum total score is required for passing. (a) If the applicant:~~

~~(a) Passes passes the examination, the certificate will be issued and mailed directly to the applicant’s address on the application form.~~

~~(b) Fails If the applicant fails the examination, he or she may must contact the Bureau of Fire Standards and Training and request to schedule a retake of the certification be scheduled for the next available examination or may register for the retake examination online at <https://floridastatefirecollege.org/>. The retake examination must be completed by the applicant at a location designated by~~



the Bureau within 180 days after the date on the written notice indicating the applicant's examination score. If, after retaking the examination, the applicant has not achieved the minimum passing score, he or she will be required to retake the Firesafety Inspector Training Course outlined in subsection 69A-39.005(1), F.A.C., ~~entire training program~~ before another examination will be administered.

Rulemaking Specific Authority 633.01, 633.081(9) FS. Law Implemented 633.081 FS. History—New 11-21-83, Formerly 4A-39.07, Amended 8-2-88, 3-1-89, 12-10-01, Formerly 4A-39.007, Amended \_\_\_\_\_.

#### 69A-39.0071 Procedures for Fire Code Administrator Certification.

Applicants for certification as a Fire Code Administrator shall submit to the Bureau of Fire Standards and Training within the Division a professional portfolio that documents compliance with each requirement in paragraph 69A-39.003(3)(a), F.A.C. If the applicant documents compliance, the Division shall issue the certificate. If the applicant fails to document compliance, the Division shall issue a written notice of denial to the applicant, which specifies the reason(s) therefore and which shall be a agency action subject to review under Section 120.57, F.S.

Rulemaking Authority 633.01 FS. Law Implemented 633.081 FS. History—New \_\_\_\_\_.

#### 69A-39.009 Triennial Renewal of Firesafety Inspector and Fire Code Administrator Certification.

(1)(a) Firesafety Inspector Certificates and Fire Code Administrator Special State Firesafety Inspector Certificates, unless must be renewed, expire every three years after the issuance, reissuance, or last renewal date of the certificate, whichever date is later. Certification as a Fire Code Administrator or reissuance or renewal of that certification shall also renew the Firesafety Inspector Certificate required by subparagraph 69A-39.003(3)(a)1., F.A.C.

(b) To renew a Firesafety Inspector or Fire Code Administrator Certificate, an Should the applicant fail to meet the prerequisite training requirements specified below for renewal, the applicant must; then

1. Successfully successfully complete, during the three-year period before the certificate's expiration date, at least 40 hours of continuing education in courses, workshops, or seminars approved by the Division, which relate to fire prevention, code enforcement, fire protection, fire dynamics, building construction, plan review, public education, leadership, fire prevention management, community risk reduction, ethics, or other areas related to fire prevention. For a certificate renewed or reissued on or after January 1, 2014, at least eight of the 40 hours required by this subparagraph must consist of education or training related to the application of the Florida Fire Prevention Code adopted in Chapter 69A-60, F.A.C.

2. Submit, before the certificate's expiration date, Form DFS-K4-1463, "Certification Renewal Application," which is incorporated by reference in subsection 69A-37.039(2), F.A.C., and can be obtained where indicated in subsection 69A-37.039(1), F.A.C., required examination for Firesafety Inspector or Special State Firesafety Inspector.

(1) The Division may notify the certified Inspector that his/her certification is due for renewal approximately thirty (30) days prior to the expiration of the Inspector's Certification.

(2) The certified Inspector must submit the renewal application to the Bureau of Fire Standards and Training within of the Division (hereinafter referred to as the "Bureau"). The form must be fully completed and must verify successful completion of the requirements set forth in subparagraph 1 of State Fire Marshal specifying whether the renewal is to be based on examination, completion of a course or attendance at workshops and/or seminars. (a) Course — Have successfully completed an approved course of instruction in a firesafety inspection-related curriculum. This course must be 40 class hours in duration or the equivalent in Continuing Education Units (CEU's). Verification of successful completion of the course must be included with the renewal application. Acceptable forms of verification include copies of certificates or and college transcripts and records of course completion maintained in the Bureau's database for continuing education.

(c) If a certificate expires and:

1. Sixty or fewer days have accrued since the expiration date, the certificate may be reissued by the Division if the requirements of paragraph (b) are completed within the 60-day period authorized by this subparagraph.

2. Sixty-one days to six years have accrued since the expiration date, the certificate may be reissued by the Division if:

a. The renewal application required by subparagraph (b)2. documents successful completion of the 40-hour continuing education requirement in subparagraph (b)1. for the three-year certification period and, if applicable, for each subsequent three-year period that accrued since the certificate expiration date; and

b. A passing score is re-attained on the certification examination under Rule 69A-39.007, F.A.C. If a passing score is not re-attained, the provisions of paragraph 69A-39.007(2)(b), F.A.C., shall govern the retaking of the examination.

3. More than six years have accrued since the certificate expired:

a. A Firesafety Inspector Certificate may be reissued by the Division if the Firesafety Inspector Training Course outlined in subsection 69A-39.005(1), F.A.C., is successfully recompleted and a passing score is re-attained on the certification examination under Rule 69A-39.007, F.A.C. If a

passing score is not re-attained, the provisions of paragraph 69A-39.007(2)(b), F.A.C., shall govern the retaking of the examination.

b. A Fire Code Administrator Certificate may be reissued by the Division if compliance with each requirement in paragraph 69A-39.003(3)(a), F.A.C., is re-documented in the manner specified in Rule 69A-39.0071, F.A.C.

~~(b) Workshops and/or Seminars — In the absence of completion of an approved course, the certification renewal may be based upon attendance at a workshop and/or seminar approved by the Bureau of Fire Standards and Training of the Division of State Fire Marshal which shall be a cumulative total of not less than forty (40) class hours in duration.~~

~~(c) Examination — In the absence of successful completion of an approved course or attendance at a workshop and/or seminar approved by the Bureau of Fire Standards and Training of the Division of State Fire Marshal, the certification renewal will be based upon successful completion of a Bureau of Fire Standards and Training of the Division of State Fire Marshal administered examination as prescribed by Rule 69A-39.007, F.A.C. The examination must be taken when the next available examination is given. In the event that the applicant for renewal fails the examination he/she shall be required to repeat the Firesafety Inspector Training Program or Special State Firesafety Inspector Program.~~

~~(2)(3) Any person whose certification has expired shall not be renewed cannot function as a Firesafety Inspector or Fire Code Administrator Special State Firesafety Inspector as defined herein.~~

~~(3)(4) It is the responsibility of the certified Firesafety Inspector or Fire Code Administrator Special State Firesafety Inspector to notify the Bureau of Fire Standards and Training of the Division of State Fire Marshal of any address changes in writing or by updating his or her personal profile online at <https://floridastatefirecollege.org/>.~~

Rulemaking Specific Authority 633.01(4), 633.081(9) FS. Law Implemented 633.081 FS. History—New 11-21-83, Formerly 4A-39.09, Amended 8-2-88, 3-1-89, Formerly 4A-39.009, Amended \_\_\_\_\_.

69A-39.010 Required Forms for Training and Certification of Firesafety Inspectors.

~~The required forms for training and certification of firesafety inspectors are D14-1020, D14-1023, D14-1459, and D14-1463, the revisions as adopted in Rule 69A-37.039, F.A.C.~~

Rulemaking Specific Authority 633.01, 633.081(9) FS. Law Implemented 633.081 FS. History—New 11-21-83, Formerly 4A-39.10, Amended 8-2-88, 3-1-89, 12-10-01, Formerly 4A-39.010, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Barry Baker, Chief, Bureau of Fire Standards and Training, Division of State Fire Marshal, Department of Financial Services

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 3, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 14, 2011

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Insurance Agents and Agency Services**

RULE NOS.:	RULE TITLES:
69B-213.010	Purpose and Scope
69B-213.020	Definitions
69B-213.040	Who May Appoint a Customer Representative
69B-213.050	Limits on Lines and Products the Customer Representative May Handle
69B-213.060	Appointment of Customer Representative and Designation of Supervising Agent
69B-213.070	Termination of Appointment or Supervision
69B-213.080	Duties of Appointing Agent
69B-213.090	Duties of Appointing Agency

PURPOSE AND EFFECT: The proposed amendments will update the rules in Chapter 69B-213, F.A.C., to conform with current statutory provisions in the Florida Insurance Code.

SUMMARY: Rule 69B-213.020, F.A.C., is amended to include definitions for the terms “customer representative” and “limited customer representative.” Rule 69B-213.040, F.A.C., is amended to delete references to repealed statutory provisions. Rule 69B-213.060, F.A.C., is amended to require the agency to appoint the customer representative through the Department’s online appointment process. This new requirement will allow the public to verify that a customer representative is properly licensed and appointed by contacting the Department or visiting the Department’s website. Rule 69B-213.070, F.A.C., is amended to provide that the termination of a customer representative appointment may be done electronically or by a written notice to the Department and to require that the notice be maintained in the agency’s records. Rules 69B-213.080 and 69B-213.090, F.A.C., are amended to correct citations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The economic analysis conducted by the Department showed that: (1) no requirement for a SERC was triggered under Section 120.541(1), F.S., and (2) based on the Department’s past experience with rules of this nature, the adverse impact or regulatory cost, if any, will not exceed any of the criteria set forth in Section 120.541(2), F.S.

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

RULEMAKING AUTHORITY: 624.308, 626.7353(3) FS.

LAW IMPLEMENTED: 624.307(1), 626.015, 626.112, 626.161, 626.172, 626.451, 626.471, 626.561(2), 626.592, 626.734, 626.7351, 626.7352, 626.7353, 626.7354, 626.747, 626.748 FS.

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

DATE AND TIME: Monday, May 14, 2012, 10:00 a.m.

PLACE: Room 142, Larson Building, 200 E. Gaines Street, Tallahassee, FL

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Ray Wenger, (850)413-5605 or Ray.Wenger@MyFloridaCFO.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ray Wenger, Financial Administrator, Bureau of Investigations, Division of Insurance Agents and Agency Services, 200 E. Gaines Street, Tallahassee, FL 32399-0320, (850)413-5605 or Ray.Wenger@MyFloridaCFO.com

THE FULL TEXT OF THE PROPOSED RULES IS:

69B-213.010 Purpose and Scope.

(1) through (3) No change.

~~(4) Nothing in this rule chapter shall prevent or relieve any licensed insurance agent from their obligations under Sections 626.735 and 626.747, Florida Statutes, or any other provision of the Florida Insurance Code, or rules or orders of the Department.~~

Rulemaking Specific Authority 624.308 FS. Law Implemented 624.307(1), ~~626.072~~, 626.7351, 626.7352, 626.7353, 626.7354 FS. History–New 12-19-93, Formerly 4-213.010, Amended \_\_\_\_\_.

69B-213.020 Definitions.

For purposes of this rule chapter the following definitions shall apply.

~~(1) “Designated supervising agent” refers only to the agent designated by the agency to supervise the customer representative which the agency has appointed.~~

(1) “Customer Representative” means an individual appointed by a general lines agent or general lines agency to assist that agent or agency in transacting the business of insurance from the office of that agent or agency. Holders of a customer representative license may transact insurance on any property and casualty product, as well as health insurance if their supervising agent is appointed for health insurance.

(2) “Limited Customer Representative” means an individual appointed by a general lines agent or agency to assist in transacting only the business of private passenger motor vehicle insurance from the office of that agent or agency. A limited customer representative is subject to the Florida Insurance Code in the same manner as a customer representative, unless otherwise specified.

~~(3)(2) “Supervise” or “supervision” means to have charge and direction of, to direct course and to oversee details, to regulate with authority, to manage, to have or to exercise the charge and oversight of, to oversee with power of direction, to take care of with authority; and includes the duty to review and correct errors of persons over whom supervision is to be exercised.~~

~~(4)(3) “Supervising agent” includes: both~~

~~(a) the appointing agent in instances where a customer representative is appointed by an agent, or and~~

~~(b) an agent designated by an agency to supervise a customer representative in instances where an agency appoints a customer representative.~~

(5) “Designated supervising agent” means a general lines agent designated by an agency to supervise the customer representative or customer representatives the agency has appointed.

Rulemaking Specific Authority 624.308 FS. Law Implemented 624.307(1), ~~626.015~~, ~~626.072~~, 626.7351, 626.7352, 626.7353, 626.7354 FS. History–New 12-19-93, Formerly 4-213.020, Amended \_\_\_\_\_.

69B-213.040 Who May Appoint a Customer Representative.

(1) A customer representative may be appointed only by one of the following:

(a) A person holding a Florida resident general lines agent license, that is, an agent holding a type and class of licensure referred to as a 2-20;

(b) A general lines insurance agency, ~~or~~

~~(c) A surplus lines agent, if the surplus lines agent obtained surplus lines licensure based upon licensure as a general lines 2-20 agent. If the surplus lines agent obtained such licensure upon grounds of being a managing general agent, that surplus lines agent may not appoint a customer representative.~~

(2) The phrase "general lines insurance agency" is interpreted by the Department as any location where an agent is engaged in the business of general lines insurance and it includes to include only agencies licensed or registered as required by Section 626.112(7)(a), F.S., where the "supervising agent" where the "primary agent" (pursuant to Section 626.592, Florida Statutes) holds a Florida resident 2-20 general lines agent license. An "agency" is defined, as set forth in Section 626.592(3), Florida Statutes, as "any location where an agent is engaged in the business of insurance."

Rulemaking Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.112, 626.172, 626.072, 626.7351, 626.7352, 626.7353, 626.7354 FS. History—New 12-19-93, Formerly 4-213.040, Amended \_\_\_\_\_.

69B-213.050 Limits on Lines and Products the Customer Representative May Handle.

(1) No change.

~~(2) Where the customer representative's supervising agent is a surplus lines agent as set forth in paragraph 69B-213.040(1)(c), F.A.C., the customer representative may perform customer representative duties regarding any property, casualty, health, or surety coverages (but not life coverages or annuities) which the supervising agent could place with a surplus lines carrier.~~

~~(2)(3) A customer representative license does not grant the customer representative any authority to transact life insurance or annuities. A customer representative may only handle duties relating to life insurance and annuities if such duties may be performed by unlicensed persons, as provided in Rule Chapter 69B-222, F.A.C., and the Florida Insurance Code, or if the customer representative also holds a life agent license and appointment. This applies even though the supervising agent holds a life agent license in addition to a general lines license.~~

Rulemaking Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.072, 626.7351, 626.7352, 626.7353, 626.7354 FS. History—New 12-19-93, Formerly 4-213.050, Amended \_\_\_\_\_.

69B-213.060 Appointment of Customer Representative and Designation of Supervising Agent.

(1) through (2) No change.

(3) No appointment of a customer representative is effective until a properly executed electronic appointment ~~form~~, accompanied by payment of the appointment fee, is actually received by the Department.

~~(4) Customer Representatives are appointed using Form DFS-H2-501, as adopted in Rule Chapter 69B-211, F.A.C., which may be obtained from the Department's Bureau of Agent & Agency Licensing.~~

~~(4)(5) A designated supervising agent is designated by completing Form DFS-H2-1124, "Designation of Supervising Agent Form," rev. 10/02 8/93, which is hereby adopted and incorporated by reference, and is obtainable from the Bureau of Agent & Agency Licensing at <http://MyFloridaCFO.com/Agents/Licensure/Forms/index.htm>.~~

(a) If appointment is by an agency, the agent in charge primary agent, as specified in Section 626.747 626.592, Florida Statutes, shall ensure completion of Form DFS-H2-1124. Form DFS-H2-1124 shall be mailed to the Department at: Florida Department of Financial Services, Bureau of Licensing, 200 East Gaines Street, Tallahassee, FL 32399-0319, or faxed to (850)413-3291 maintained in the appointing agent or agency's records, and must be produced upon Department request.

(b) The designated supervising agent must always be a licensed and appointed general lines 2-20 agent. The designated supervising agent must also be located at the same physical location as the customer representative.

~~(5)(6) A customer representative's designated supervising agent need not be the agency's named agent in charge "primary agent" under Section 626.747 626.592, Florida Statutes.~~

Rulemaking Specific Authority 624.308, 626.7353(3) FS. Law Implemented 624.307(1), 626.161, 626.072, 626.7351, 626.7352, 626.7353, 626.7354, 626.747 FS. History—New 12-19-93, Formerly 4-213.060, Amended \_\_\_\_\_.

69B-213.070 Termination of Appointment or Supervision.

(1) through (3) No change.

(4) Method for Notifying Department of Termination of Customer Representative Appointment.

(a) Oral notice of appointment termination is never effective and shall not be accepted by the Department. The termination of appointments of customer representatives by agents and agencies shall be executed electronically by use of either Form DFS-H2-39, as adopted in Rule Chapter 69B-211, F.A.C., which may be obtained from the Bureau of Agent & Agency Licensing, or by a written notice directed to the Department's Bureau of Agent & Agency Licensing. Regardless of which method is used, a copy of the termination document shall be supplied to the customer representative at the same time it is supplied to the Department.

(b) When an appointment is terminated by the customer representative, the customer representative must provide written notice to the Department. ~~The~~ the notice shall:

1. Be signed and dated by the supervising agent, ~~by the~~ appointing agent where the appointment was by an agent, ~~or by the customer representative primary agent of the agency where the appointment was by an agency;~~

2. State the effective date of termination of appointment;

3. Give the full name, address, ~~and~~ phone number, and license or registration identification number of the appointing agent or agency;

~~4. State the appointing agent's license identification number; as to agency appointments, and the agency federal employer identification number;~~

~~4.5.~~ Contain a statement to the clear effect that as of the effective date of the notice that the appointment of the customer representative identified is terminated;

~~5.6.~~ State the full name, license identification number of the customer representative.

~~6.7.~~ State the reason for the termination of appointment.

~~7.8.~~ Be sent to the Department of Financial Services, Bureau of Agent & Agency Licensing, 200 East Gaines St., Tallahassee, FL 32399-~~0319~~~~0300~~.

(5) Procedure for Termination of Status as Designated Supervising Agent.

(a) The status of an agent as designated supervising agent for a customer representative may be terminated either by use of Form DFS-H2-39, obtainable from the Bureau of Agent & Agency Licensing, or by written notice, at least one of which shall be available for Department inspection at all times in the agent or agency records. The supervisory status shall be terminated by either the supervising agent or the agency, and may be unilateral. If the status is terminated by the supervising agent, the supervising agent shall supply the agency with a copy of the filing; and if filed by the agency, the agency shall supply a copy to the agent. Regardless of which method is used or who files, the party filing same shall supply a copy of the termination notice to the customer representative.

(b) When the supervising status is terminated by written notice rather than Form DFS-H2 ~~DF~~-39, the notice must comply with the following:

1. If filed by the designated supervising agent, the notice shall be signed and dated by the designated supervising agent; if filed by the agency, it shall be signed and dated by the agency's primary agent.

2. The notice shall state the effective date of termination of supervision;

3. The notice shall give the full name, address, and phone number of the agency;

4. The notice shall identify and state the full name of the designated supervising agent being relieved of that status, and shall supply his or her license identification number.

5. The notice shall contain a statement, to the clear effect that as of the effective date of the notice that [agent's name] is no longer the designated supervising agent for the customer representative identified in the notice.

6. The notice shall identify and state the full name, and license identification number of the customer representative.

7. The notice shall be maintained in the appointing agent or agency's records and must be produced upon Department request.

(6) No change.

Rulemaking Specific Authority 624.308 FS. Law Implemented 624.307(1), ~~626.072~~, 626.112, ~~626.161~~, 626.471, 626.561(2), 626.7351, 626.7352, 626.7353, 626.7354, 626.748 FS. History--New 12-19-93, Formerly 4-213.070, Amended \_\_\_\_\_.

69B-213.080 Duties of Appointing Agent.

An agent who appoints a customer representative incurs the following obligations, in addition to those otherwise set out in this rule chapter:

(1) In instances where the appointing agent and designated supervising agent are the same person, the appointing agent must supervise the customer representative as described in subsection 69B-213.020~~(3)(2)~~, F.A.C. The supervisory role may not be delegated to anyone unless delegation is to a licensed and appointed agent who has been designated as the supervising agent pursuant to subsection 69B-213.060~~(4)(5)~~, F.A.C. Supervisory duties, unless delegated to a designated supervising agent, remain with the appointing agent even when the customer representative is performing customer representative services for other agents or staff within the agency.

(2) No change.

Rulemaking Specific Authority 624.308 FS. Law Implemented 624.307(1), ~~626.072~~, 626.734, 626.7351, 626.7352, 626.7353, 626.7354 FS. History--New 12-19-93, Formerly 4-213.080, Amended \_\_\_\_\_.

69B-213.090 Duties of Appointing Agency.

(1) through (3) No change.

(4) The appointing agency shall immediately specify in agency records any change in the identity of the agent actually performing customer representative supervisory duties regarding any customer representative appointed by an agency. The appointing agency may change the designated supervising agent at any time provided notice of such is maintained in the agency's records. The appointing agency must designate a new designated supervising agent whenever the prior designated supervising agent ceases in fact to properly perform the supervisory duties; or the appointing agency shall terminate the appointment.

(a) A new designated supervising agent is established by using the provisions set forth in subsection 69B-213.060~~(4)(5)~~, F.A.C.

(b) Whenever the designated supervising agent of record is no longer in fact supervising the customer representative, that agency shall immediately require the customer representative to cease performing all customer representative duties, until a new designated supervising agent is properly designated. The appointing agent continues to be accountable and liable for the acts of that customer representative during such period until a new designated supervising agent is established.

(5) It is the responsibility of the ~~primary~~ agent in charge for the agency to see that the agency complies with all requirements imposed upon the agency by this rule chapter.

(6) No change.

Rulemaking Specific Authority 624.308 FS. Law Implemented 624.307(1), ~~626.161, 626.451, 626.471, 626.072, 626.592,~~ 626.7351, 626.7352, 626.7353, 626.7354, ~~626.747~~ FS. History—New 12-19-93, Formerly 4-213.090, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ray Wenger, Financial Administrator, Division of Insurance Agents and Agency Services

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 28, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 27, 2012

**Section III**  
**Notices of Changes, Corrections and Withdrawals**

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Forestry**

RULE NOS.:	RULE TITLES:
5I-5.001	Purpose
5I-5.002	Definitions
5I-5.003	Use of Plant A Tree Trust Fund Monies
5I-5.004	Grant Application Process
5I-5.005	Reviewing and Processing of Grants
5I-5.006	Maintenance of Grant Award Projects
5I-5.007	Prioritization of Grant Applications
5I-5.008	Award of Grants
5I-5.009	Execution of Agreements and Documents
5I-5.010	Review of Projects in Progress and Upon Completion

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 38, No. 4, January 27, 2012 issue of the Florida Administrative Weekly has been withdrawn.

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Consumer Services**

RULE NOS.:	RULE TITLES:
5J-7.005	Professional Fundraising Consultant Registration
5J-7.006	Professional Fundraising Solicitor Registration
5J-7.007	Notice of Commencement of Solicitations
5J-7.008	Financial Report of Campaign Form

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 36, No. 47, November 24, 2010 issue of the Florida Administrative Weekly.

Rule 5J-7.005 should have been 5J-7.009, Rule 5J-7.006 should have been 5J-7.010, Rule 5J-7.007 should have been 5J-7.011, and Rule 5J-7.008 should have been Rule 5J-7.012. Rules 5J-7.005, 5J-7.006, 5J-7.007 and 5J-7.008 were previously repealed.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.:	RULE TITLE:
6A-1.09961	Graduation Requirements for Certain Students with Disabilities

NOTICE OF CONTINUATION

Notice is hereby given that the above rule, as noticed in Vol. 38, No. 12, March 23, 2012 Florida Administrative Weekly has been continued from May 22, 2012 to July 17, 2012.

**DEPARTMENT OF TRANSPORTATION**

RULE NO.:	RULE TITLE:
14-15.002	Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 38, No. 10, March 9, 2012 issue of the Florida Administrative Weekly.

The agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or is no SERC is required, the information expressly relied upon and described herein: Section 120.80(17), F.S., exempts the indexing of toll rates from the SERC requirement and legislative ratification.