

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: 69K-17.001
RULE TITLE: Examination Fees for Embalmers and Funeral Directors; Manner of Application

PURPOSE AND EFFECT: This proposed rule specifies procedures and summarizes the requirements for application and licensure as a funeral director or as an embalmer. The provisions amending this rule were approved by the Board of Funeral, Cemetery, and Consumer Services on 12-2-2010.

SUBJECT AREA TO BE ADDRESSED: Licensure of funeral directors and embalmers.

RULEMAKING AUTHORITY: 497.103(2)(c), (5), 497.141(2), 497.144, 497.368, 497.373 FS.

LAW IMPLEMENTED: 497.140, 497.144, 497.368, 497.369, 497.373; 497.374 FS.

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

DATE AND TIME: June 27, 2012, 9:00 a.m.
PLACE: Room 332, Pepper Building, 111 W. Madison Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: LaTonya Bryant-Parker, at (850)413-4957 or LaTonya.Bryant-Parker@myfloridaCFO.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Douglas Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services, Division of Funeral, Cemetery, and Consumer Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, FL 32399-0361, (850)413-4984, shropshired@MyFloridaCFO.com. Direct any request for rule development workshop to Mr. Shropshire

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 LEGAL AFFAIRS

Division of Victim Services and Criminal Justice Programs

RULE NO.: 2A-8.005
RULE TITLE: Adjustments to Reflect Consumer Price Index

PURPOSE AND EFFECT: The proposed rule amendments are intended to reflect changes to benefits with regard to the recent changes in the Consumer Price Index.

SUMMARY: The proposed rule amendments reflect revised benefit payments in response to adjustments to the Consumer Price Index.

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.

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: 112.19 FS.

LAW IMPLEMENTED: 112.19 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: Rick Nuss, Chief, Bureau of Criminal Justice Programs, Department of Legal Affairs, PL-01, The Capitol, Tallahassee, Florida 32399-1050

THE FULL TEXT OF THE PROPOSED RULE IS:

2A-8.005 Adjustments to Reflect Consumer Price Index.

(1) Section 112.19(2)(j), F.S., requires the Bureau to adjust the statutory amount on July 1 of each year based on the Consumer Price Index for all urban consumers published by the United States Department of Labor, using the most recent figures available. The Bureau will utilize the previous March Consumer Price Index published by the United States Department of Labor and the benefits shall be adjusted from the benefit amount of the year before.

(2) The Consumer Price Index amount in March ~~2010~~ 2012 increased 2.7 percent. Therefore, the statutory amount for the period July 1, ~~2012~~ 2013 through June 30, ~~2012~~ 2013, is:

(a) For those benefits paid or to be paid under paragraph (a) of subsection (2); ~~\$62,465.39~~ \$63,843.86.

(b) For those benefits paid or to be paid under paragraph (b) of subsection (2); ~~\$62,465.39~~ \$63,843.86.

(c) For those benefits paid or to be paid under paragraph (c) of subsection (2); ~~\$187,396~~ \$192,455.70.

Rulemaking Authority 112.19 FS. Law Implemented 112.19 FS. History--New 12-10-03, Amended 8-17-04, 7-26-05, 7-26-06, 7-15-07, 7-20-08, 7-20-09, 7-4-10, 7-18-11, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Rick Nuss, Chief, Bureau of Criminal Justice Programs
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Attorney General Pam Bondi
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: May 22, 2012
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: May 11, 2012

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:
33-602.210 Use of Force

PURPOSE AND EFFECT: The purpose and effect of the rule is to establish guidelines governing the use of force and/or restraints to protect persons or property, prevent escape, restore order, maintain custody and control, and to enforce Department rules. The amendments provide new definitions; broaden the type of information that should be stated on camera after a use of force; clarify the circumstances under which electronic immobilization devices and specialty munitions may be used; clarify the circumstances under which chemical agents may be used; refine the documentation and procedures, including medical procedures, that should be followed after the use of chemical agents; and provide safety provisions concerning the storage and issuance of chemical agents. The amendments are made for the purpose of promoting operational efficiency, updating and responding to changes in law and policy.

SUMMARY: The changes are primarily organizational in nature, and certain technical terminology is updated. Correctional staff continues to be directed to use the least amount of force necessary to control a disturbance and to cease the escalation of use of force upon gaining offender compliance. Use of force must be supervised (whenever possible), fully documented, and only administered by properly trained staff. Additionally, officers at work camps are permitted to carry an MK-9 sized OC dispenser. A process is established whereby the Office of Inspector General can refer an investigation to the warden. The amount of time a warden has to forward use of force reports and relevant tapes to the Inspector General is lengthened from 5 to 11 days.

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 Office of Inspector

General and the Bureau of Security Operations within the Office of Institutions indicates that the changes largely are stylistic and organizational in nature. The proposed changes only affect internal security operations and will not exceed any one of the economic analysis criteria in a SERC as 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: 944.09 FS.

LAW IMPLEMENTED: 776.07, 944.09, 944.35 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 33-602.210 follows. See Florida Administrative Code for present text.)

33-602.210 Use of Force.

(1) Prior to any organized use of force, the shift supervisor shall review Form DC4-650B, Risk Assessment for the Use of Chemical Restraint Agents and Electronic Immobilization Devices, to determine whether the inmate has a medical condition that may be exacerbated by the intended force. Form DC4-650B is hereby incorporated by reference. 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 3-22-11. Medical staff shall be consulted about physical conditions of an inmate that may be aggravated by the application of force or chemical agents unless safety concerns prevent prior consultation.

(2) Definitions.

(a) Direct Firing – The practice of firing specialty munitions directly into a group of rioters from a distance of greater than 20 feet and with a target area of the waist or below.

(b) Emergency Action Center – the unit located in the Central Office charged with receiving reports regarding serious incidents, such as riots and escapes, from all Department of Corrections' (Department) facilities and reporting the information to the proper authorities. This unit also receives requests for criminal histories, warrant confirmations, and offender location requests from law enforcement agencies throughout the United States.

(c) Incident Commander – The employee responsible for the management of emergency incidents, such as riots and natural disasters.

(d) Nondeadly Force – Any force that is neither intended nor likely to cause death or serious bodily harm.

(e) Organized Use of Force – Any force that may be administered to control, escort, or geographically relocate any inmate when the immediate application is not immediately necessary to prevent a hazard to any person.

(f) Reactionary Use of Force – Any force that must be administered quickly or immediately to compel the cessation of an inmate's violence or resistance to orders.

(g) Reasonable Force – Any force that is not excessive for protecting oneself or another or for gaining an inmate's compliance with a lawful order.

(h) Rubber Ball Rounds – Multiple pellets fired from cartridges at the lower extremities of rioters and designed to inflict pain compliance.

(i) S-2 – The mental health classification denoting mild impairment in the ability to meet the ordinary demands of living within general inmate housing, including segregation, which impairment is associated with an Axis I disorder as defined in the Diagnostic and Statistical Manual of the American Psychiatric Association (DSM IV), excluding substance abuse disorders, or symptoms thereof, schizotypal personality disorder, borderline personality disorder, or mental retardation. The impairment in functioning is not so severe as to prevent satisfactory adjustment in general inmate housing with provision of mental health services.

(j) S-3 – The mental health classification denoting moderate impairment in the ability to meet the ordinary demands of living within general inmate housing due to the presence of an Axis I disorder as defined in the Diagnostic and Statistical Manual of the American Psychiatric Association (DSM IV), excluding substance abuse disorders, such as borderline personality disorder or schizotypal personality disorder. The impairment in functioning is not so severe as to prevent satisfactory adjustment in general inmate housing with provision of mental health services. Clinical management of the disorder may require at least periodic administration of psychotropic medication, which the inmate may exercise his or her right to refuse.

(k) Shift Supervisor – The highest ranking correctional officer of the on-duty shift.

(l) Skip Firing – The practice of firing specialty impact munitions 5-7 feet in front of rioters, thereby deflecting the munitions into the legs of the rioters.

(m) Serious Bodily Injury – A physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(n) Specialty Impact Munitions – Munitions designed to incapacitate, distract, and control a subject with a relatively low likelihood of life-threatening injury.

(o) Wooden Baton Rounds – Multiple wooden projectiles fired from a 37-mm weapon, designed to be skip fired into the lower extremities of rioters to inflict pain compliance.

(3) A video camera operator shall commence recording all reactionary use of force incidents upon arrival at the scene as soon as possible. All organized use of force incidents shall be recorded by videotape, unless exigent or emergency circumstances prevent such action. Videotape recordings shall continue uninterrupted from commencement until the situation is stable and under control and the inmate is placed in a secure cell or transport vehicle for transfer.

(a) The shift supervisor during any organized use of force shall include in each video recorded markers of the following:

1. Date and time of the recording;
2. Location of the recording;
3. Name and rank of supervisor(s) present;
4. Name and rank of person authorizing use of chemical agent (if applicable);
5. Name and DC number of the inmate involved in the use of force;
6. Name of the camera operator;
7. Brief description of efforts taken to stabilize or control the inmate prior to the application of force;
8. Final warning order administered by a supervisor or incident commander;
9. Clear, concise, and audible verbal warning to the inmate of pending application of force or entry into cell for extraction;
10. Application of chemical agents;
11. Verbal offer for a decontamination shower;
12. Decontamination of the inmate;
13. Any medical examination performed after the use of force;
14. Physical escort and placement in a decontaminated cell after incident;
15. Verbal refusals by inmates to participate in decontamination or medical examination (if applicable);
16. The name and rank of each Department staff member present.

(b) Whenever an inmate fails to comply with a lawful order and exhibits a threatening demeanor or disruptive or hazardous behavior, the on-scene supervisor of an organized use of force shall announce a clear, concise, and audible warning to the inmate that force will be administered if there is no immediate compliance and cessation of the behavior. After the initial warning is recorded, subsequent video recording of any organized use of force warnings is not required. Video recording shall resume prior to the application of any chemical agents should an inmate become non-compliant or disruptive after the final order has been given.

(c) Video recordings of post use of force medical exams shall be conducted through a window or at a distance in such a manner so as to provide the maximum amount of privacy needed for the exams and so as to limit the disclosure of inmate protected health information to the minimum amount

necessary. Inmates involved in an organized use of force shall be video recorded continually until they have been placed in a vehicle for transportation or in a secure cell.

(d) Anytime there is a change in the on-scene supervisor or other staff during an application of an organized use of force, a new video recording will be initiated and the requirements in paragraphs (3)(a) and (b) above shall be repeated.

(4) Department staff shall use force, organized or reactionary, only as a last resort when it reasonably appears that other alternatives are not feasible to obtain compliance with law or administrative rules or to defend themselves or others against any physical threat of injury or death.

(5) Any use of force shall cease being applied whenever an inmate complies with orders or ceases the behavior for which the use of force was necessary.

(6) Use of force shall not be applied for punishment. Physical restraints such as handcuffs, leg irons, flex cuffs, and other such devices shall only be used for restraint purposes and not for punishment.

(7) Inmates shall not be carried, dragged, or lifted by restraint devices.

(8) Use of Chemical Agents. All chemical agents shall be used with caution and in accordance with the manufacturer's instructions.

(a) The following chemical agents are authorized for use by the Department:

1. OC – Oleoresin Capsicum (pepper spray) – An inflammatory agent that causes tearing and involuntary closing of the eyes, nasal discharge, sneezing, disorientation, and the sensation of respiratory distress. OC is the primary chemical agent to be utilized for cell extractions and other in-cell uses unless circumstances exist as outlined below, and they shall only be used in the manner prescribed herein.

2. CS – Orthochlorobenzal Malononitrile or Orthochlorobenzylidene Malononitrile – An irritant agent that causes burning sensation and tearing of the eyes, nasal discharge, and skin and upper respiratory irritation.

a. CS may be used during cell extractions and other in-cell incidents if OC applications previously administered were ineffective in obtaining compliance or ceasing disruptive actions or physically threatening behavior.

b. The warden or designee may authorize the use of CS as an initial primary chemical agent whenever past applications of OC to an inmate were documented on Form DC6-230, Institutions Report of Force Used, as having been applied and ineffective. Form DC6-230 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-25600. The effective date of the form is _____.

c. The warden or designee may authorize the use of CS as an initial or primary chemical agent during in-cell applications whenever an inmate attempts to deploy a shield, barrier, or

obstruction in an obvious attempt to avoid contact with an application of chemical agents. Justification for the use of CS whenever an inmate barricades or presents physical obstructions to counter chemical agent applications shall be noted on Form DC6-230, Institutions Report of Force Used, by the reporting officer.

3. CN – Chloroacetophene – An agent that causes tearing of the eyes, nasal discharge, and skin and upper respiratory irritation. CN projectiles, grenades, and thermal foggers shall only be used within institutions, upon Department of Corrections property, in response to unauthorized mass gatherings, disturbances involving multiple inmates, or for crowd control. CN shall not be authorized for use after the expiration date noted on the canister.

(b) Chemical agents shall be used only after other reasonable efforts to control a disorderly inmate or group of inmates have been exhausted.

(c) Chemical agents shall only be used when the use of force is authorized and the level of force is necessary to prevent injuries to staff or inmates.

(d) Any accidental or incidental discharge of a chemical agent by a staff member within any institution shall be reported on Form DC6-230, Institutions Report of Force Used.

(e) Authorization for an organized use of force application of chemical agents within an institution may only be authorized by the warden or designee.

(f) Only staff members who have received training in the use of chemical agents may discharge, carry, possess, or use chemical agents within an institution, except during emergencies such as riots or disasters or at the direction of the warden or designee.

(g) A confinement or close management lieutenant or shift supervisor shall be responsible for the issuance of a final order to an inmate ordering compliance or cessation of disruptive behavior prior to the application of chemical agents. Additionally, a confinement or close management lieutenant, shift supervisor, or staff member of greater rank shall be present and observe the application of chemical agents to inmates in such housing settings.

(h) Any application of chemical agents within an institution shall be noted on Form DC6-230, Institutions Report of Force Used. Any officer who uses chemical agents shall record the following on Form DC6-230:

1. Type of agent discharged;

2. Amount of agent discharged;

3. Method of administration;

4. Name of the person who authorized issuance or possession of the chemical agent;

5. Name of person who administered the chemical agent;

6. Amount of the chemical agent used;

7. Method by which the chemical agent was administered;

8. Reason the chemical agent was used.

(i) Chemical agents shall be stored in the designated main arsenal in a secure manner. The warden shall authorize and designate secure locations where chemical agents shall be stored that are accessible only to officers.

(j) Chemical agents assigned to institutions may not be removed from the facility at anytime without authorization from the warden or designee.

(k) All chemical agent dispensers shall be numbered and recorded on Form DC6-216, Chemical Agent Accountability Log. Form DC6-216 is hereby incorporated by reference. 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 7-25-02. Form DC6-216 shall be maintained in any location where chemical agents are stored. Chemical agent dispensers shall be weighed prior to issuance and upon return to storage. The shift supervisor shall verify the weight of chemical agent dispensers upon return to storage. Additionally, the shift supervisor shall ensure all issued chemical agent dispensers are accounted for and recorded on Form DC6-216. The chief of security shall monitor the canister weights following each use of chemical agents to ensure the contents are consistent after a reported use of force and recorded on Form DC6-216.

(l) Issuance and use of chemical agents:

1. Only correctional officers and staff trained in the use of chemical agents, in possession of a current and valid certification, and assigned to institutions and work camps shall be issued an approved OC dispenser to carry while on duty. Officers who have been issued chemical agent dispensers are authorized to administer or dispense chemical agents during the performance of their duties under reactionary circumstances (including but not limited to self-defense, the defense of others, or in opposition to force or influence) without additional authorization for intervention for self-defense or the defense of others. The warden is authorized to exempt an officer from carrying, possessing, or using chemical agents. Officers assigned to armed perimeter posts may be exempted from the requirement to carry OC by the warden or designee.

2. An MK-9 sized canister or equivalent OC dispenser may be issued to correctional officers who have received appropriate training, are in possession of a valid certification, and who are assigned to internal security posts, recreation fields, shift supervisor posts, or designated as special response team members within an institution, including work camps. These officers are authorized to administer chemical agents during reactionary disturbance incidents that involve multiple inmates housed in locations where multiple inmates are generally present, such as open bay dorms, dining halls, recreation fields, canteens, and meal lines. This option shall only be exercised in response to mass disturbance critical incidents and as necessary to restore control, stability, or disciplinary order and shall normally not be used indoors.

3. For those security positions assigned to housing units with a secure officer's station, an MK-4 sized canister or equivalent OC dispenser will be passed on from shift to shift and accounted for on the DC6-209 Housing Unit Log at the beginning of each shift with an entry for each canister indicating by canister number and officer initials who is assigned that canister. Canisters that are not being worn by staff on shifts that have fewer assigned staff will remain in the officer station, stored in a secure, locked cabinet or drawer designated for this purpose. The number of chemical agent canisters assigned to a housing unit shall not exceed the maximum number of staff (officer and sergeant) assigned for the highest staffed shift per the institutional post chart. Any evidence of tampering, broken or missing seal, or signs that the canister is not functional will be immediately reported to the shift officer in charge, a Form DC6-210 Incident Report completed and a replacement made. The canisters will be inventoried and inspected once per week by the arsenal sergeant with appropriate entry placed on the Housing Unit Log.

4. For those staff assigned to internal security and designated A-Team members, exchange of approved canisters shall occur on the compound, with the canister number and confirmation of seal status and condition of canister called into the control room and notation made on the DC6-281 Control Room Security Equipment/Weapons Check Out/In Log. The canisters will be inventoried and inspected once per week by the arsenal sergeant with appropriate entry placed on the Control Room Log.

5. For those staff assigned to food service, wellness, gate areas, program areas, and other compound posts that are not manned on a 24-hour basis, the staff assigned to the daylight shift shall pick up their canisters at the control room immediately prior to proceeding to their assigned post. The exchange of canisters for their reliefs shall occur on the compound, with the canister number and confirmation of seal status and condition of canister called into the Control Room and notation made on the DC6-281 Control Room Security Equipment/Weapons Check Out/In Log. The canisters will be inventoried and inspected once per week by the arsenal sergeant with appropriate entry placed on the Control Room Log.

6. Chemical agent dispensers shall be securely encased and attached to the officer's belt. Each chemical agent dispenser shall be secured within a pouch or to a holstering device by a numbered, breakable seal. Officers shall examine the condition of the canister and the safety seal at the time of receiving or being issued any chemical dispenser to ensure that the canister is not damaged and that the seal is intact and report any alteration or broken seal to the shift supervisor. Shift supervisors shall examine the seal of any chemical dispenser reported to be altered, broken, or manipulated and upon confirmation of alteration, breakage, or manipulation shall

report the observation on Form DC6-210, Incident Report, prior to the end of the shift. Form DC6-210 is hereby incorporated by reference. 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 _____. The sergeant in charge of the arsenal shall maintain a master inventory of all individual chemical agent dispensers in storage. The master inventory shall indicate the weight of each dispenser at the time the original seal is attached and shall annotate the weight of the dispenser any time a dispenser is returned with a broken seal on Form DC6-216, Chemical Agent Accountability Log, and replace the seal or attach a new one. The arsenal sergeant shall report any discrepancies in the weight of the dispenser to the chief of security and complete Form DC6-210.

(m) Use of chemical agents on inmates outside of controlled conditions. Officers may utilize chemical agents whenever an inmate becomes disorderly or disruptive or does not comply with clear and audible orders that have been communicated to cease such behavior. During emergency situations with multiple inmates in an outside area, chemical agents may be applied to quell the disturbance. An inmate shall at no time be removed from his or her assigned cell or placed at an alternate location, have clothing removed, or be restrained for the purpose of chemical agent application. If an officer administers chemical agents while an inmate is handcuffed or wearing restraints, and removal of such restraints was not possible prior to the application, the officer shall record an explanation of the circumstances on Form DC6-230, Institutions Report of Force Used.

(n) Use of chemical agents on inmates under controlled conditions:

1. When an inmate in a secure housing unit occupied by other inmates becomes disorderly or disruptive or the officer's ability to provide unit security is adversely impacted by an inmate's behavior, and the inmate refuses to comply with clear and audible orders to cease his or her behavior, the confinement or close management lieutenant, shift supervisor, or person of higher rank shall be contacted and consulted for instructions prior to any application of chemical agents.

2. Whenever the confinement, close management lieutenant, or shift supervisor's efforts to control a disorderly inmate have failed, and the use of chemical agents is necessary to gain control of the inmate while minimizing the risk of injuries to others, the shift supervisor shall ensure the following:

a. Uninvolved inmates in the cell or immediate area are given the opportunity to exit or depart the potentially affected area, if such relocation does not create or cause a hazard to the safety of others.

b. The warden or designee is contacted and gives authorization to use chemical agents in the area.

c. A clear and audible order is given for the inmate to cease the disruptive or dangerous behavior.

d. If the inmate fails to comply with the order of the shift supervisor and continues to disobey lawful orders or continues disruptive behavior, the shift supervisor shall issue a clear and audible final order. During the final order, the shift supervisor shall put the inmate on notice that chemical agents are to be administered imminently if his or her disruptive behavior does not immediately cease.

e. A video recording is not required if, during the same shift, the inmate ceases the conduct creating the disturbance while the shift supervisor and camera operator are present with a camera but resumes such conduct after the shift supervisor and camera operator have departed the area prior to an application of chemical agents. The shift supervisor has the authority at anytime to recommence video tape recording of subsequent incidents, but in all cases where the administration of chemical agents is subsequently required video recording will resume following the final exposure to chemical agents, include a statement referring to the originating incident, and continue from this point until the decontaminating shower and medical examination are offered and the inmate is returned to secure, decontaminated housing.

f. The application of chemical agents in the amount of no greater than three (3) one-second bursts may be administered upon an inmate after at least three (3) minutes have elapsed from the time a clear and audible warning is communicated to the inmate to cease his or her disruptive or dangerous behavior and the inmate does not comply with the orders.

g. If the inmate's disruptive behavior continues after the initial application, a subsequent application of chemical agents in the amount of no greater than three (3) one-second bursts may be administered upon an inmate after at least five (5) minutes have elapsed since the initial chemical agent application.

h. If the inmate does not comply with orders after a minimum of five (5) minutes have elapsed from the conclusion of the second application of chemical agents, the warden or designee shall be consulted to evaluate what further response is necessary to regain compliance or control of the inmate.

(o) Additional applications of chemical agents and forced cell extractions:

1. The warden or designee shall be consulted to evaluate further responses after a third application of chemical agents has been administered, the inmate fails to cease his or her disruptive or dangerous behavior, and such inmate does not comply with orders. Additional copies of Form DC6-230, Institutions Report of Force Used, shall be used to document the incident. The shift supervisor shall ensure all use of force applications are properly documented on Form DC6-230.

2. The warden or designee may authorize subsequent applications of chemical agents as necessary to obtain safety or compliance; however, such applications shall not be

administered or discharged upon an inmate after the initial three applications until at least sixty (60) minutes have elapsed from the time of the last application.

(p) Medical requirements:

1. Inmates who have been administered any chemical agent shall be monitored by a staff member or officer for no less than one (1) hour after application. The affected inmate shall remain in a standing or sitting position. The monitoring staff members or officers shall immediately seek medical attention by the appropriate medical staff or competent medical authority any time signs of respiratory distress, labored breathing, excessive or persistent coughing, or chest or arm pain are evident or if unconsciousness occurs or other signs of medical distress are observed. The absence of medical staff on scene does not preclude taking action as an emergency responder.

2. Compliant and non-disruptive inmates shall be ordered to shower in cool water and change inner and outer garments within 20 minutes of the inmates' compliant time from the last application of chemical agents, whenever possible. The shift supervisor or confinement lieutenant shall record the decontamination activities on the following forms:

a. Form DC6-210, Incident Report; or

b. Form DC6-229, Daily Record of Special Housing. Form DC6-229 is incorporated by reference in Rule 33-601.800, F.A.C. The effective date of the form is 4-6-11.

3. The shift supervisor shall summon a medical staff member to the physical location of an inmate who has been exposed to a chemical application. The medical staff member shall conduct an examination of the inmate after the decontamination process is completed. The health services staff or ranking officer present shall ensure that any inmate who has a history of experiencing or who exhibits symptoms of physical distress as a result of chemical agent exposure is immediately provided all necessary medical attention. Medical staff members shall record any observations and medical actions taken on the following forms, including the presence or non-presence of injury:

a. Form DC4-701C, Emergency Room Record. Form DC4-701C is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South Chilean Street, Tallahassee, Florida 32399-2500. The effective date of the form is 3-22-11.

b. Form DC4-708, Diagram of Injury. Form DC4-708 is hereby incorporated by reference. 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 10-04-07.

4. In addition to completing a medical examination of any inmate who is exposed to chemical agents, the attending medical staff member shall make a mental health referral for any inmate classified as "S-2" or "S-3" on Form DC4-529, Staff Request/Referral, and forward it immediately for a

mental health evaluation to be conducted on the inmate. Form DC4-529 is hereby incorporated by reference. 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 _____. Mental health staff shall evaluate the inmate no later than the next business day. The mental health staff member who conducts the evaluation shall consult with the shift supervisor and recommend appropriate measures that may be necessary for the safety of the inmate, including placement in isolation management, a transitional care unit, or crisis stabilization as those placements are defined in Rule 33-404.103, F.A.C.

5. Any time an inmate refuses to take a shower after an application of chemical agents, medical staff shall conduct a cell-front examination and explain in a clear and audible tone the purpose of decontamination and potential physical implications of not completing decontamination. Medical staff members shall record notes of any decontamination consultation on Form DC4-701C, Emergency Room Record.

6. Upon completion of the decontamination consultation with the inmate by a medical services staff member, the shift supervisor shall order the inmate to submit to a decontamination shower. If the affected inmate refuses to participate in a decontamination shower, a second order shall be given by the shift supervisor with a member of the medical services staff or a supervisor physically present when possible. The shift supervisor shall annotate on Form DC6-210, Incident Report, that a second order was administered and the inmate refused compliance.

7. The shift supervisor shall consult with the attending medical services staff member and determine if an inmate requires medical attention or treatment any time decontamination is not completed. Whenever the medical services staff member has observed the inmate who has refused decontamination post application of chemical agents and determined that reasonable medical attention is not necessary, the shift supervisor shall ensure that the affected inmate is monitored for a minimum of two (2) hours and offered a shower at least every thirty (30) minutes during the two (2) hour observation period. All inmate welfare checks or required physical observations post refusal to submit to decontamination orders shall be recorded on Form DC6-229, Daily Record of Special Housing. Form DC6-229 is hereby incorporated by reference. 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 4-6-11. The officer assigned to conduct welfare checks or physical observations of an inmate shall without unnecessary delay summon medical attention if he or she at any time observes or suspects that an inmate may be experiencing medical distress.

8. The shift supervisor shall comply with provisions stated in subsection (13) if, upon consultation with medical services staff, he or she is advised a decontamination shower is necessary for the safety of the inmate or the failure to complete a decontamination shower is a hazard to the inmate. The inmate shall be relocated to a decontamination cell.

a. Upon introduction into a decontamination cell, the inmate who refused or obstructed efforts to participate in a decontamination shower shall be placed in a sitting or standing position for a minimum of forty-five (45) to sixty (60) minutes after the use of chemical agents, including any inmate who must be physically held or is incapacitated, to permit officers to place approved restraining devices on the inmate, e.g., handcuffs.

b. Officers shall use all reasonable and due care to avoid physically placing the inmate in any position that may contribute to positional asphyxia, restricted blood circulation, or interference with physical functions that permit life processes to occur or in any position that causes any physical injury. Restraints shall not be applied in any manner for the purpose of administration of punishment. The inmate shall not be directed, ordered, or required to stand or sit uninterrupted if such action is intended for reasons of punishment or likely to cause injury. Any portion of the inmate's body exposed to or that came into contact with chemical agents, including the eyes, shall be flushed with water as soon as possible after application for at least approximately five (5) to ten (10) minutes or until the affected inmate experiences relief. The inmate should be advised by the officer in charge to avoid rubbing any irritated area with a cloth or towel. No oils, creams, or topical medications shall be applied to the inmate without approval of a member of the medical services staff.

9. The warden or designee may authorize placing an inmate in four point or multipoint restraints after consultation with a member of health services staff. Approval from the warden or designee shall be obtained prior to any inmate being placed in four-point or multipoint restraints. Health services staff shall review the medical record of the inmate prior to advising the warden or designee of known medical conditions that would affect the health of the inmate should chemical agents be administered or the inmate be placed in four-point or multipoint restraints. A member of the health services staff shall monitor without interruption an inmate post application of chemical agents and when the inmate is subsequently placed in four or multipoint restraints. Medical attention shall be provided, upon detection of physical distress, without unnecessary delay. No inmate shall be restrained in a manner which restricts breathing.

10. Medical services staff members shall record all observations and recommendations on the following forms:

- a. Form DC4-701C, Emergency Room Exam.
- b. Form DC4-708, Diagram of Injury.

c. Form DC4-701, Chronological Record of Health Care. Form DC4-701 is hereby incorporated by reference. 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 4-8-10.

(9) Non-deadly Force. In accordance with s. 944.35, F.S., officers are authorized to apply lawful and reasonably necessary physical force to:

(a) Defend themselves or others from actions that are like to cause injury or death;

(b) Prevent the escape of a convicted felon from the custody of a correctional institution, any facility where an inmate is not permitted to depart without authorization, or as necessary to gain custody of an escaped inmate;

(c) Prevent the escape of an inmate during transport or while outside a correctional institution or facility;

(d) Prevent damage to property;

(e) Quell a disturbance;

(f) Overcome an inmate's physical resistance to a lawful command;

(g) Prevent an inmate from inflicting any self-injury or from attempts to commit suicide; or

(h) Reasonably restrain an inmate to permit the administration of necessary medical treatment.

(10) Only reasonable, lawful, and the minimal amount of force necessary shall be employed to control the situation. Force shall not be used solely as a response to verbal abuse. Utilization of the custodial touch, with the hand firmly grasped around the inmate's triceps or elbow, during internal transport of restrained inmates when resistance is not encountered shall not be considered a use of force when the transport hold is for the safety of the inmate or officer. The warden or designee shall be consulted and must authorize any organized use of force prior to application. The warden or designee shall be notified without unnecessary delay any time a reactionary use of force incident occurs and circumstances did not permit obtaining authorization prior to the use of force. The authority who approved an organized use of force shall prepare, date, and sign Form DC6-232, Authorization for Use of Force, prior to the end of the shift when force was used. Form DC6-232 is hereby incorporated by reference. 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 9-99. If the authorization for an organized use of force is granted after normal working hours, the authority granting the action shall complete and sign Form DC6-232 within one day following the incident, excluding weekends and holidays.

(11) Any time force is used, the officer initially using force shall complete Form DC6-230, Institutions Report of Force Used. The completed form shall include the events that led to the use of force, the actual events that occurred, and the post-event actions. If more than one officer was involved in the

initial use of force, the initial officer using force shall complete the report. Any participant who objects to information recorded by the reporting officer or who has additional observations to add to the narrative or description of the incident written by the reporting officer shall complete and attach Section I of Form DC6-230, Institutions Report of Force Used. No officer or employee shall receive discipline for providing updated information to a use of force report, provided the updated information is presented without unnecessary delay after discovery of the discrepancy. Updates or addendums recorded on any Form DC6-230, Institutions Report of Force Used, Section I, should be completed and forwarded to the warden not later than one (1) business day (excluding weekends and holidays) following the date that the original Form DC6-232, Authorization for Use of Force, is signed and dated.

(a) Form DC6-230, Institutions Report of Force Used, shall be completed by those staff involved in any application of force, reactionary or organized, that occurred during their shift. Form DC6-230 shall be completed no later than the end of the shift during which the use of force occurred. The warden or designee is authorized to permit a delay of completing required use of force reports for up to 72 hours when circumstances prohibit completion of the reports by the end of the shift. All reports must be typed. No use of force report may be altered, changed, or destroyed by any employee. Officers may submit amendments to a report at any time with authorization from the warden or designee. The warden or designee shall then appoint a staff member of equal or higher rank than those involved in the use of force incident to collect all pertinent information and required documentation. This information shall include the reports of all involved staff who do not agree with the account as reported in the DC6-230 or the statements of staff witnesses, inmate witnesses, or the inmate subject. All inmate statements (subject and witnesses) shall be made in writing using Form DC6-112C, Witness Statement. Form DC6-112C is incorporated by reference in Rule 33-601.313, F.A.C. The effective date of the form is 8-28-06. Any employee who witnesses but does not participate in a use of force and suspects inappropriate action shall complete Form DC6-210, Incident Report. The Office of Inspector General field offices within each region shall provide the institutions, via electronic mail, with a use of force number once one is assigned and entered into the Office of Inspector General electronic logging system.

(b) The warden or designee shall conduct a preliminary review of facts recorded in reports to determine if the application or demonstration of force was lawful and a procedurally appropriate application. The warden or designee shall review all use of force reports. Any time improperly applied or unlawful use of force is indicated in a report, the warden or designee shall review any available video recording of the incident.

(c) Any time a warden or designee assigned to review and evaluate use of force reports suspects the application was contrary to this rule or was unlawful, he or she shall notify the Office of Inspector General without unnecessary delay.

(d) The warden or designee shall review the information and note any inappropriate actions in memorandum and attach the information to Form DC6-230, Institutions Report of Force Used. All use of force reports shall be reviewed and forwarded to the Office of Inspector General within eleven (11) business days from the date of occurrence. All videotape recordings of force applications and the original and one copy of Form DC6-230 shall be forwarded to the Office of Inspector General within eleven (11) business days. Requests for extensions for DC6-230s to be forwarded after eleven (11) days shall require authorization from the Assistant Secretary of Institutions and the Inspector General or designee.

(e) The warden shall keep all original completed forms and a copy of Form DC6-230, Institutions Report of Force Used, until notified that the final review by the Office of Inspector General is complete. All original reports pertaining to a use of force shall be retained by the warden or designee.

(f) The Office of Inspector General shall report a disposition to the warden of any use of force within fourteen (14) business days of receipt. The warden shall be noticed of any extension to the review granted by the Inspector General or designee prior to the expiration of the fourteen (14) business days. The Inspector General shall notify the warden that a case has been reviewed and action was appropriate or a further review has commenced.

(g) Any time a witness of a reported use of force chooses to make a written statement, or is a use of force participating staff member and chooses to provide additional information not annotated in the reporting officer's initial Form DC6-230, Institutions Report of Force Used, submission, such person shall complete Form DC6-230. No employee may interfere with or obstruct such reporting or order any participant or witness involved in the use of force to alter, change, or not produce a written report of an incident in which the employee was involved or which he or she observed.

(h) Upon review of the submitted documents, the Office of Inspector General shall notify the warden in writing or by electronic mail of the findings. All video recordings submitted with use of force reports shall be retained and maintained by the Office of Inspector General in accordance with records retention statutes. The Office of Inspector General shall notify the regional director and warden any time a reasonable suspicion or probable cause is found that the force administered by a staff member was not in compliance with law, rule, or procedure. The Office of Inspector General or the warden, upon referral by the Office of Inspector General, shall conduct an investigation of the incident. Any staff member who is a subject of an investigation based on suspicion or allegation that force administered with their participation was

not in compliance with this rule shall be notified by written letter when the matter is being investigated by the Office of Inspector General. Staff members shall not disclose or discuss any information concerning a use of force administrative investigation until receiving notice that a determination has been issued by the Office of Inspector General or warden. Wardens shall complete Form DC6-296, Disapproved Use of Force/Warden Disposition Report, should their review of referred cases lead to a determination that force was not appropriately used. All disciplinary actions shall be forwarded to the Human Resources Section upon completion. Form DC6-296, Disapproved Use of Force/Warden Disposition Report is hereby incorporated by reference. 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 7-25-02.

(i) The Assistant Secretary of Institutions, regional director, or warden shall be responsible for issuing any corrective action pursuant to a finding of non-compliance with this rule. Copies of the employee's report, the warden's summary, and the Office of Inspector General review and determination shall be kept in the inmate's file pursuant to public records retention law. Form DC2-802, Use of Force Log, shall be placed in every employee's personnel file. Form DC2-802 is hereby incorporated by reference. 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 2-7-00. This form shall be maintained by the servicing personnel office and shall contain a record of every use of force report completed by the employee.

(j) The warden or designee shall be responsible for submitting accurate information to the personnel office in order to maintain Form DC2-802. Any use of force reports completed prior to April 15, 1998, shall remain in the file and retained for the applicable retention period.

(k) The Office of Inspector General shall notify the warden of any officer involved in eight or more use of force incidents in an eighteen month period.

(l) Any incident that necessitates the drafting of Form DC6-230, Institutions Report of Force Used, shall be reported to the Emergency Action Center (EAC).

(m) Any employee or officer who witnesses, has reasonable cause to suspect, or has knowledge that any inmate has been a victim or subject of an unlawful battery or has been abused in violation of law or the Department's administrative rules shall without unnecessary delay report the incident to the warden or designee and complete Form DC6-210, Incident Report, describing his or her observations, knowledge, or suspicion. No employee shall commit a battery on or engage in cruel or inhuman treatment of any inmate. The warden or

designee shall forward a copy of all reports involving allegations of inmate abuse, neglect, or battery to the Office of Inspector General without unnecessary delay.

(n) Officers may use reasonable physical force to restrain an inmate, upon supervision and direction of a physician or medical practitioner, for the purpose of providing necessary treatment or for the safety of an employee. The attending Qualified Health Care Provider who directs or observes medically necessary use of force shall prepare Form DC6-232, Authorization for Use of Force. Officers who use force pursuant to a physician or medical practitioner's request shall complete Form DC6-230, Institutions Report of Force Used, when actual force is used, or Form DC6-210, Incident Report, when restraints are applied with no physical resistance by the inmate, and the form shall be forwarded to the warden.

(o) The attending physician or medical practitioner shall complete Form DC4-701C, Emergency Room Record, and Form DC4-708, Diagram of Injury, with applicable data or the letters "N/A" used to indicate inapplicability. The attending physician or medical practitioner shall document the presence or absence of any injury in his or her records whenever force has been applied. Every physical examination of an inmate patient who has been the subject of an application of force shall be documented with specificity by the attending physician or medical practitioner to include extent of injury, type of injury, and a description of any injury. Any time a physician or attending medical practitioner reports reasonable suspicion of abuse of an inmate to the warden or the Office of Inspector General, it shall be reported on Form DC6-210, Incident Report.

(p) Any employee or officer who participates in the application of reactionary or organized use of force and receives or experiences any injury shall report such injury to the officer in charge. Injured staff shall be offered an opportunity to receive a medical examination. Should the employee or officer decline a post-use of force medical examination, he or she shall sign Form DC4-711A, Refusal of Health Care Services, indicating an examination was offered but declined. In those cases where an injury is claimed but not substantiated by medical examination, the statement by the medical provider shall indicate this, and the documentation shall be sufficient to support that no injury was found upon examination. Form DC4-711A is hereby incorporated by reference in Rule 33-401.105, 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 11-28-10.

(q) When the use of four-point or five-point psychiatric restraints is authorized, and the inmate does not offer resistance to the application of the restraints, the completion of Form DC6-210, Incident Report, shall be required. In these situations where there is no resistance to the application of psychiatric restraints, the application of the restraints will be videotaped.

The videotape, completed Incident Report, Form DC6-232, Authorization for Use of Force Report, Form DC4-701C, Emergency Room Record, and Form DC4-708, Diagram of Injury, shall also be completed in their entirety with applicable data or the letters "N/A" used to indicate inapplicability. In each case, the examination shall be completed and result in a statement by the medical provider with appropriate description and detail of observations indicating that there is or is not an injury. The record shall provide sufficient documentation to support a conclusion and shall be forwarded to the warden or acting warden for review within one working day. Each institution shall retain the reports for the applicable retention period. If at any time prior to or during the application of the psychiatric restraints, the inmate offers resistance to the application, the steps outlined in subsection (5) shall be followed.

(12) Use of Deadly Force. For the purposes of this rule, deadly force refers to force that is likely to cause death or great bodily harm. An officer is authorized to use deadly force only when the officer believes that such force is necessary to prevent imminent death or great bodily harm to him or herself or another.

(a) Use of Firearms. In order for all concerned to be aware of their responsibilities, the procedures set forth in this rule shall be readily available at all institutions and facilities for staff review.

(b) Firearms or weapons shall be issued to an officer only upon instructions of the warden, duty warden, chief of security, or shift supervisor by the arsenal officer or the officer designated to issue weapons. Officers shall not intentionally discharge a firearm at or in the direction of another person except under the following circumstances and after all reasonable non-lethal alternatives have been exhausted, and there is no reasonable danger to innocent bystanders:

1. To prevent an escape of an inmate who is actively attempting to flee custody;

2. To prevent any conveyance to gain unauthorized entry into or exit from a correctional institution;

3. To prevent serious or life threatening injury to themselves or another person; or

4. To quell a riot.

(c) Shot guns are approved for use by the rapid response teams during riots and mass disturbances. Only #6 shot is authorized to be discharged from shotguns during attempts to cease riots or mass disturbances unless otherwise specifically authorized by the warden or designee.

(d) Weapons to be used shall be designated by the person in charge.

(e) Firearms shall not be discharged:

1. In any case where there is a reasonable belief that the life of a bystander may be endangered by discharge of the firearm;

2. From any moving vehicle unless such action is reasonably believed necessary to protect oneself or another from imminent death or great bodily harm;

3. As a warning, except during escapes;

4. Until the employee is sure that an escape is occurring or has occurred and he or she reasonably believes that the person to be fired upon is an escapee that is serving a sentence for a violation of a felony;

5. Unless the officer has positively identified an escape is occurring and the target is a Department inmate;

6. Except after all reasonable non-lethal alternatives have been exhausted; or

7. On the mere suspicion that a crime, no matter how serious, has been committed.

(f) No officer shall discharge any firearm except as authorized by Florida law.

(g) Because helicopters or other aircraft may be used during an escape or assault, the following policy shall apply:

1. When it can be done safely, actions other than firing weapons, such as waving arms in a manner to indicate disapproval to enter an area, shall be made in an attempt to cause the aircraft to leave.

2. If these attempts fail, the aircraft shall be allowed to land.

3. All inmates shall be kept away from the aircraft.

4. The aircraft shall be secured using armed security staff and shall be prevented from being flown away by securing the flight equipment with locks and chains without causing damage to the aircraft.

5. If the landing occurs due to an in-flight emergency, e.g., engine failure, staff shall maintain security of the aircraft and all occupants until their removal from the site.

6. Once the aircraft lands, efforts shall be directed to stop any inmate from boarding the aircraft. Staff are authorized to shoot any inmate attempting to escape in accordance with this rule. When circumstances permit, a verbal warning to halt and a warning shot shall be fired prior to the inmate reaching the aircraft to board.

7. If weapons are fired from an aircraft, Department personnel are authorized to return fire and use deadly force to protect the themselves and others upon property of the institution.

8. Firearms shall not be used on departing aircraft after leaving contact with the ground. Immediate notification, without delay, shall be made to the law enforcement agency of local jurisdiction and the Office of Inspector General upon an aircraft landing on Department property. The Office of Inspector General shall notify the Florida Department of Law Enforcement, Federal Bureau of Investigation, and the Federal Aviation Administration.

9. All inmates shall receive orientation in regard to this subsection of the rule. This orientation shall contain instructions indicating that should any aircraft attempt to land on or near the property of any Department facility, inmates are required to move away from the aircraft. Movement toward the aircraft by an inmate shall be viewed as an escape attempt and shall subject the inmate to the use of deadly force to prevent him or her from escaping.

10. This subsection of the rule shall be made a part of the Department's orientation program at all reception centers.

(h) Use of a conveyance to gain unauthorized entry into or exit from a correctional institution or facility. The institution or facility shall take the following steps to prevent any conveyance or vehicle from being used to gain unauthorized forced entry into or forced exit from its perimeter area:

1. Time permitting, a verbal order to halt shall be issued followed by a warning shot if the vehicle fails to stop.

2. If the vehicle does not stop and continues to be driven or operated in a manner that indicates the driver intends to or is in the process of forcibly entering or exiting the perimeter, officers may use deadly force to prevent serious injury or death to any person or to prevent the escape of an inmate.

(i) Any officer who discharges a firearm shall report the incident on Form DC6-210, Incident Report. Any officer who has fired a weapon during the performance of his or her duty, time permitting, shall secure the scene and immediately notify his or her supervisor and the Office of Inspector General. The senior officer in charge at the scene of the incident shall ensure all evidence is undisturbed, including locations of empty cartridges, until processed by a law enforcement agency or the Office of Inspector General.

(j) Any officer who accidentally or negligently discharges a Department firearm or any firearm upon institutional property shall report the incident to the warden or designee without unnecessary delay and shall complete Form DC6-210, Incident Report.

(13) Use of Deadly Force to Prevent Escape or to Recapture Escapee. Officers are authorized to use force, including deadly force, as necessary to prevent the escape of an inmate from a correctional institution.

(a) Escape attempts from inside an institutional perimeter where armed perimeter staff are assigned:

1. A loud verbal warning shall be made, if possible, instructing the inmate to stop or halt prior to the inmate's contact with any inner fence in institutions that have a double fence. A warning shot may be safely fired prior to any inmate's attempt to cross or pass over, through, or under the inner fence. The firearm shall not be fired at the inmate until he or she has begun to cross or pass over, through, or under the inner fence.

2. A loud verbal warning shall be reasonably made where possible instructing the inmate to stop or halt and a warning shot safely fired prior to the inmate's contact with the fence. A

firearm shall not be fired at the inmate until he or she has begun to cross, or to pass over, through, or under the fence in institutions that have a single fence.

3. Warning shots are authorized only as provided herein. In all other instances where deadly force is authorized during inmate escape attempts, a loud verbal warning shall be issued if time and circumstances permit.

(b) Apprehension of escaped inmates once they are outside an institutional perimeter.

1. Officers are considered to be in active pursuit of an escaped inmate who has fled from an institution or supervised work detail so long as the escape commander determines that the escape recovery efforts are active. An officer is authorized to use deadly force, after giving a loud verbal warning for the inmate to stop or halt the escape attempt, when the inmate is demonstrating a refusal to cease active flight or escape from an institution or supervised work detail. A firearm shall not be fired if it creates a hazard to persons other than the inmate.

2. The officer in charge of the incident shall be the incident commander until relieved by a higher authority or the incident is turned over to a law enforcement agency or the Office of Inspector General. The incident commander of the escape attempt shall determine when active recapture efforts are terminated. Upon order of incident termination, the incident commander of the escape attempt may provide assistance to any law enforcement agency that is conducting an investigation of the incident. Officers who are utilized to assist outside law enforcement agencies are authorized to use deadly force pursuant to Florida law.

3. Officers may provide assistance to any law enforcement agency that is seeking to capture or take into custody any inmate who has failed to return from a furlough or non-supervised outside assignment or who has escaped from any work release center. Correctional officers who are utilized to assist outside law enforcement agencies are authorized to use deadly force pursuant to Florida law.

(c) Escape attempts by inmates who are being transported or escorted outside institutional perimeters, e.g., court appearances, hearings, and medical visits, or while being supervised while in a hospital for treatment, are included within the purview of this subsection.

(14) Other authorized uses of force. The use of electronic immobilization devices (EIDs), batons, chemical agents, specialty impact munitions, or other less lethal weapons within institutions shall be authorized only by the warden or designee. Such weapons shall be utilized by officers who have completed training on their use and shall be used in accordance with manufacturer specifications. Hands-on physical force shall not be used if injury is less likely to occur by using chemical agents, specialty impact munitions, or EIDs. Batons, chemical agents, EIDs, specialty impact munitions, and other authorized less lethal weapons shall not be used on inmates who are assigned to inpatient mental health care in an infirmary,

transitional care unit, crisis stabilization unit, corrections mental health institution, or other mental health treatment facility, as such facilities are defined in Rule 33-404.103, F.A.C., except when attempts by available mental health staff to physically control dangerous or violent behavior are unsuccessful.

(a) Use of EIDs and less lethal weapons. EIDs shall not be used on anyone other than an inmate during an authorized use of force or upon any person to prevent serious injury or death. EIDs authorized by the Department include:

1. Handheld EIDs, which shall be the intermediate level of force alternative, issued primarily for the purpose of transportation and supervision of inmates outside the institution;

2. Electronic shields, which may be used by force cell extraction teams; and

3. Electronic restraint belts, which are authorized to be placed on an inmate for appearance in court, during transportation, or when the inmate is determined to be high risk or to have a history of violent behavior.

4. If possible, the shift supervisor shall counsel with the inmate, issue the final order, and be present prior to the use of an EID at an institution or during work detail or transport.

5. Handheld EIDs shall be issued to unarmed officers on any inmate transport or any outside hospital visit where firearms are issued. The chief of security or, in his or her absence, the shift supervisor shall determine the number of officers who will be issued firearms and EIDs during the transportation or movement of inmates.

6. An inmate shall be provided a medical examination and treatment as necessary any time he or she has been subject to an application of an EID or less lethal weapon. Medical staff shall, upon completing the medical examination, make a mental health referral for each inmate who is classified with a mental health grade of S-2 or S-3. A referral shall be made upon Form DC4-529, Staff Request/Referral, and forwarded to mental health staff as soon as possible. Mental health staff shall evaluate an inmate no later than the next working day to determine whether a higher level of mental health care (for example, isolation management, transitional care, or crisis stabilization) is indicated.

7. The application of force by an EID or less lethal weapon shall be reported by completion of Form DC6-230, Institutions Report of Force Used, by the officer who deployed the device.

8. EIDs and other less lethal weapons shall be stored and maintained in either the main arsenal or the control room mini-arsenal. The warden may authorize, in writing, the storage of one handheld unit and one shield in the confinement unit or close management unit. All EIDs or less lethal weapons shall be secured in a locked cabinet when not in use. The arsenal sergeant shall be responsible for the proper documentation of the maintenance, storage, and issue of EIDs and less lethal weapons.

9. All EIDs and other less lethal weapons shall be accounted for in the same manner as firearms.

10. There shall be no attempt to alter, tamper with, or repair any EID or less lethal weapon. Devices shall be sent to an authorized repair station if a malfunction occurs or repair is necessary. Any EID or less lethal weapon that is dropped or is subject to possible damage shall be immediately tested to determine if it is safe and properly functioning. EIDs shall not be used after the application of any chemical agents.

(b) Specialty impact munitions. Specialty impact munitions shall be used primarily by the Department's designated armed response teams, rapid response teams and correctional emergency response teams during riots and disturbances. They are intended as a less lethal alternative to the use of deadly force. Specialty impact munitions shall not be used on anyone other than an inmate during an authorized use of force.

1. The following specialty impact munitions have been approved for use by the Department:

a. 37/40-mm rubber ball pellet rounds (minimum engagement distance is 15 feet);

b. 12 gauge rubber ball pellet rounds – high velocity (minimum engagement distance is 15 feet);

c. 12 gauge rubber ball pellet rounds – low velocity (minimum engagement distance is 3 feet);

d. 12 gauge drag stabilized (bean bag) rounds (minimum engagement distance is 15 feet);

e. 37/40-mm wooden baton rounds (minimum engagement distance is – skip fired 6 feet in front of target, no direct fire);

f. stinger rubber ball grenades (no minimum engagement distance – stun grenade);

g. 40-mm exact/direct impact – OC marking rounds/short range (minimum engagement distance is 5 feet); and

h. 40-mm exact/direct impact – OC marking rounds/long range (minimum engagement distance is 25 feet).

2. Selection and deployment of specialty impact munitions during a riot or disturbance or other instance where less lethal force options are needed shall be authorized by the Secretary, regional director, or warden or designee. The use of all specialty impact munitions shall be supervised by the tactical field operations leaders, designated armed response team, rapid response team or correctional emergency response team leader.

3. Specialty impact munitions shall only be used after all other reasonable alternatives to regain control have been exhausted and their use is necessary. They are intended to be used as an interim force response between the use of chemical agents and lethal force.

4. Specialty impact munitions shall not be deployed in the direction of any individual in a manner contrary to the manufacturer's directions or at a distance of less than that recommended by the manufacturer, unless the threat of bodily harm or death justifies the escalation to deadly force.

5. Storage of Specialty Impact Munitions.

a. Specialty impact munitions shall be stored and maintained in the main arsenal.

b. Specialty impact munitions shall not be mixed with lethal munitions. Weapons designated to deploy specialty impact munitions shall be marked in a manner to alert staff of their intended use.

c. All specialty impact munitions shall be accounted for in the same manner as firearms and ammunition.

6. After each use of specialty impact munitions, exposed inmates shall be examined by medical personnel.

7. In any case where specialty impact munitions are deployed, the incident shall be recorded on Form DC6-230, Institutions Report of Force Used.

(c) Pepperball Launching System (PLS). The PLS shall be used primarily by restricted labor squad supervisors and exercise officers for confinement, close management, maximum management, and death row populations. The PLS is intended for the dispersal of chemical agents in situations where the use of aerosol-type agents would not be effective due to weather conditions or when their use could subject the officer or uninvolved inmates to injury. The PLS shall only be employed by officers trained in their use and effects.

1. The Secretary shall designate those institutions authorized to use the PLS.

2. In controlled situations when time constraints are not an issue, the PLS can only be used if authorized by the warden or designee. The warden or designee shall only authorize trained and certified officers to use the PLS.

3. The PLS is authorized for use to quell mass disturbances, violent events, assaults, and fights among inmates assigned to restricted labor squads. Authorized activation of the PLS by staff assigned to restricted labor squads does not constitute deadly force.

4. PLS is authorized for use in confinement, close management, maximum management, and death row recreation areas to quell mass disturbances, violent events, assaults, and fights among inmates.

5. PLS is classified as less-than-lethal at all distances, but, unless the incident necessitates otherwise, it should be primarily utilized at a distance of five (5) feet or greater to prevent the inmate from attempting to take control of the launcher.

6. Written authorization from the warden or designee shall be received prior to utilization of the PLS for situations other than those described in subparagraphs 3. and 4. above. This written authorization shall detail the reasons it was necessary to utilize the PLS in addition to or in place of aerosol-type chemical agents.

7. All subsequent reports, medical requirements, and reviews required for the use of chemical agents as outlined in this rule shall be completed after the use of the PLS.

8. Each assigned PLS system shall be numbered, maintained, and inventoried by the shift supervisor or designee on Form DC6-216, Chemical Agent Accountability Log.

(15) Medical Attention Following Use of Force. Appropriate medical treatment shall be provided immediately or, in the case of a riot or other man-made or natural disaster, as soon as possible following resolution of the riot or disaster. Any treatment or follow-up action shall be documented on Form DC6-230, Institutions Report of Force Used. A health care provider shall examine any person physically involved in a use of force to determine the extent of injury, if any, and shall prepare a report that shall include a statement of whether further examination by a physician is necessary. Any noticeable physical injury shall be examined by a physician, and the physician shall prepare a report documenting the extent of the injury and the treatment prescribed. Such report shall be completed within one (1) business day of the incident and shall be submitted to the warden for initial review. The qualified health provider and physician shall use Form DC4-701C, Emergency Room Record, to document an examination following use of force. Form DC4-708, Diagram of Injury, shall be used along with Form DC4-701C to document observed or known physical injuries. A copy of the report, including referenced forms, shall be attached to Form DC6-230. The original reports shall be filed in the inmate's medical record.

(16) No weapon shall be issued for any purpose other than the authorized use of force or to a certified training officer for the purpose of approved training without prior written authorization from the warden or designee.

Rulemaking Authority 944.09 FS. Law Implemented 776.07, 944.09, 944.35 FS. History—New 4-8-81, Amended 10-10-83, 9-28-85, Formerly 33-3.066, Amended 3-26-86, 11-21-86, 4-21-93, 7-26-93, 11-2-94, 2-12-97, 11-8-98, Formerly 33-3.0066, Amended 10-6-99, 2-7-00, 7-25-02, 8-25-03, 2-25-04, 11-7-04, 4-17-05, 8-1-05, 3-2-06, 9-18-06, 10-4-07, 3-3-08, 8-4-08, 1-6-09, 5-26-09, 4-8-10, 9-13-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jeffery T. Beasley, Inspector General

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kenneth S. Tucker, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 30, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 2, 2011

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NO.: 40E-2.091
 RULE TITLE: Publications Incorporated by Reference

PURPOSE AND EFFECT: To amend Rule 40E-2.091, F.A.C., and Section 3.2.3.2.B.2 of the Basis of Review for Water Use Permit Applications within the South Florida Water Management District to require minor general water use permit applicants located within a mandatory reuse zone to perform an end user feasibility evaluation, and to delete that portion of Section 3.2.3 of the Basis of Review for Water Use Applications within the South Florida Water Management District which refers to Chapter 40E-23, F.A.C.

SUMMARY: To incorporate an updated version of the Basis of Review.

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.

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

RULEMAKING AUTHORITY: 373.044, 373.113, 373.118, 373.171 FS.

LAW IMPLEMENTED: 373.042, 373.0421, 373.109, 373.196, 373.219, 373.223, 373.224, 373.229, 373.232, 373.233, 373.236, 373.239, 373.250 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: South Florida Water Management District, B-1 Auditorium, 3301 Gun Club Road, 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, ext. 2087 or (561)682-2087. 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: Paulette Glebocki, Hydrogeologist – Lead, Water Use Bureau, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, ext. 6941 or

(561)682-6941 or by email to pglebock@sfwmd.gov. For procedural questions, please contact Kathie Ruff, Paralegal, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, ext. 6320 or (561)682-6320 or by email to kruff@sfwmd.gov.

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-2.091 Publications Incorporated by Reference.

The “Basis of Review for Water Use Permit Applications within the South Florida Water Management District – ~~March 18, 2010,~~” is hereby published by reference and incorporated into this chapter. A current version of this document is available upon request.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.042, 373.0421, 373.109, 373.196, 373.219, 373.223, 373.224, 373.229, 373.232, 373.233, 373.236, 373.239, 373.250 FS. History—New 9-3-81, Formerly 16K-2.035(1), Amended 2-24-85, 11-21-89, 1-4-93, 4-20-94, 11-26-95, 7-11-96, 4-9-97, 12-10-97, 9-10-01, 12-19-01, 8-1-02, 6-9-03, 8-31-03, 4-23-07, 9-13-07, 2-13-08, 10-14-08, 7-2-09, 3-15-10, 3-18-10, _____.

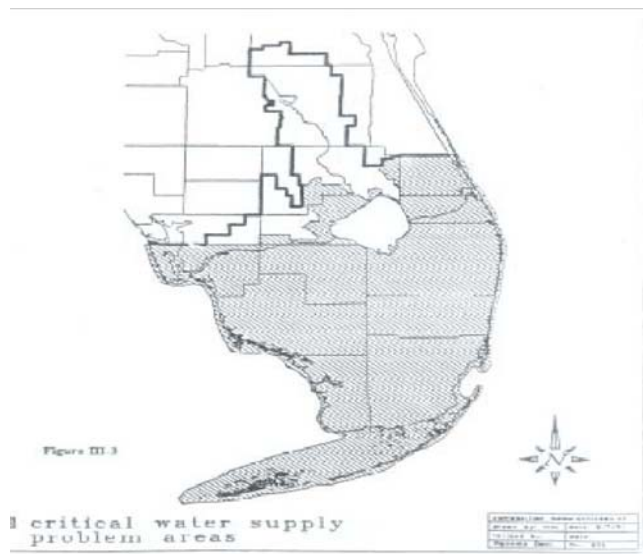
3.2.3 Reclaimed Water Reuse Criteria

~~The encouragement and promotion of water conservation and use of reclaimed water are state objectives and considered to be in the public interest. In Section 373.250, F.S., the Legislature finds that use of reclaimed water provided by domestic wastewater treatment plants permitted and operated under a reuse program approved by the Florida Department of Environmental Protection is environmentally acceptable and not a threat to public health and safety. Based upon the statutory guidance and the delineation of feasibility factors found in the State Water Policy, Chapter 17 40, F.A.C., the Governing Board determines that, in those areas of the District which are not designated a Critical Water Supply Problem Area pursuant to Chapter 40E 23, (see figure III 3), when reclaimed water is readily available it must be used in place of higher quality water sources, unless it is demonstrated by the Applicant that its use is either not environmentally, economically or technically feasible. In determining whether reclaimed water is readily available, the District will consider the following factors:~~

- ~~A. Whether a suitable source of reclaimed water exists;~~
- ~~B. Whether the source is offered to or controlled by the Applicant; and~~
- ~~C. Whether the Applicant is capable of accessing the source through distribution lines.~~

~~In those areas of the District which are designated as Critical Water Supply Problem Areas pursuant to Chapter 40E 23, reclaimed water is required to be used, unless it is demonstrated by the Applicant that its use is either not environmentally, economically or technically feasible.~~

~~Figure III-3~~



3.2.3.2 Reuse Requirements

The encouragement and promotion of water conservation and use of reclaimed water are state objectives and considered to be in the public interest. In Section 373.250, F.S., the Legislature finds that use of reclaimed water provided by domestic wastewater treatment plants, permitted and operated under a reuse program approved by the Department, is environmentally acceptable and not a threat to public health and safety. Permit applicants must evaluate the feasibility of using reclaimed water to meet all or a portion of their needs, as follows:

- A. No change.
- B. End User Feasibility Evaluation: ~~In all areas of the District, excluding those covered by Section 3.2.3.2.A., reclaimed water must be used, unless the applicant demonstrates that such use is not environmentally, technically or economically feasible. When reclaimed water is readily available it must be used in place of higher quality water sources, unless it is demonstrated by the Applicant that its use is either not environmentally, economically or technically feasible.~~ The following criteria are used to demonstrate feasibility:
 - 1. Environmental Feasibility: Reclaimed water reuse is considered environmentally feasible if the Department has permitted the reuse facility that will provide the reclaimed water supply and has permitted the use or discharge of the reclaimed water to the receiving water body, if applicable.
 - 2. Technical Feasibility: In performing the technical feasibility portion of the evaluation, the applicant shall contact the applicable reuse utility and request a letter

stating that reclaimed water is not available or provide the following information and consider the response provided by the reuse utility in its evaluation:

- (a) Whether a reclaimed water distribution line is at the applicant's project boundary.
- (b) If a reclaimed water distribution line is not at the project boundary, then:
 - (i) Estimate the distance in feet from applicant's project to the nearest potential connection point to a reuse line.
 - (ii) The date the reuse utility anticipates bringing the connection to the applicant's project boundary.
- (c) If reclaimed water is available at the project boundary, then:
 - (i) The minimum quantity in gallons per day of reclaimed water supply available from the nearest potential connection point under a 1-in-10 year drought condition.
 - (ii) The reliability of the potential reclaimed water supply (i.e., on-demand 24/7, or bulk-interruptible diurnal or seasonal, length of supply agreement, or other basis).
 - (iii) The typical operating pressures at which the reuse utility will provide reclaimed water at the nearest connection point to the applicant's project, including any typical seasonal or other fluctuations in the operating pressure.
 - (iv) The water quality parameters of the reclaimed water for the constituents that the applicant has identified as pertinent to the intended use.

Reclaimed water reuse is considered technically feasible if ~~an uncommitted, adequate supply of reclaimed water is available at the site of the proposed use to meet all or part of the applicant's water needs. An uncommitted supply of reclaimed water means the average amount of reclaimed water produced during the three lowest flow months minus the amount of reclaimed water that the reclaimed water provider is contractually obligated to provide to another customer or user. An adequate supply of reclaimed water means a reasonable volume for the use as defined herein.~~ In the event the ~~uncommitted~~ available supply of reclaimed water is not adequate to fully meet the project's 1-in-10 year drought demands, the applicant may request a partial allocation of water from a non-reclaimed water source. However, such partial allocation will not exceed that amount necessary to compensate for the shortfall in ~~uncommitted~~ reclaimed water supply, in light of total project demands calculated pursuant to the Basis of Review. Available at the project site means the utility has initially provided the distribution facilities at its cost to the project boundary. In the event distribution lines are not provided at the project boundary, the applicant must then provide an assessment of extending the lines to the project as a part of the economic feasibility analysis.

3. Economic Feasibility: If the applicant asserts that reuse is not economically feasible, then the applicant must provide the District with an assessment of the economic feasibility of use of reclaimed water use. In performing the assessment, the applicant shall contact the applicable reuse utility and request a letter stating that reclaimed water is not available or provide the following information and consider the response provided by the reuse utility in its analysis:
- (a) The reclaimed water rate(s) the reuse utility would charge the applicant (e.g., the cost per/1000 gallons) and any other periodic, fixed, or minimum charges for use of reclaimed water by the applicant.
 - (b) The reclaimed water availability charges the reuse utility would charge the applicant in lieu of connection to the reclaimed system.
 - (c) Other one-time charges for the connection to the reuse.
 - (d) Whether the reuse utility helps fund potential reclaimed customers' costs to connect to the reclaimed line or convert its operation to use reclaimed water.

The applicant's economic feasibility analysis must consider all of the following:

- (a) Costs associated with purchase of a reclaimed water supply source including: i. pump and distribution costs, ii. storage costs, iii. monthly rates charged for the reclaimed water supply, and iv. costs associated with risk of loss of reclaimed supply;
- (b) Costs associated with development of an otherwise permissible supply source including: i. well, pump, and distribution; and ii. operational costs including increased fertilizer costs, where applicable, power costs, pumping, and system operation and maintenance costs;
- (c) Alteration in the rates charged by the permit applicant's business to account for costs associated with using reclaimed water; and
- (d) Other factors affecting the economic feasibility of using reclaimed water as proposed by a permit applicant in light of their particular situation.

If the reuse utility fails to respond or does not provide the information within 30 days after receipt of the applicant's request, the applicant shall 1) provide the District a copy of the applicant's written request and a statement that the reuse utility failed to provide the requested information; and, 2) complete the end user feasibility evaluation with the best available information.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Steven Memberg, P.G., Water Use Policy Principal Scientist,
Water Use Bureau, Phone (561)682-2133

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 11, 2011
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 7, 2011

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NOS.:	RULE TITLES:
40E-20.091	Publications Incorporated by Reference
40E-20.301	Conditions for Issuance of General Water Use Permits

PURPOSE AND EFFECT: To amend Rules 40E-20.091, F.A.C., and paragraph 40E-20.301(1)(h), F.A.C., and Section 3.2.3.2.B.2 of the Basis of Review for Water Use Permit Application within the South Florida Water Management District to require water use permit applicants to obtain written documentation from their local reclaimed water provider addressing the availability of reclaimed water, to require minor general water use permit applicants located within a mandatory reuse zone to perform an end user feasibility evaluation, and to delete that portion of Section 3.2.3 of the Basis of Review for Water Use Applications within the South Florida Water Management District which refers to Chapter 40E-23, F.A.C.

SUMMARY: To incorporate an updated version of the Basis of Review and to address the need for end user feasibility evaluations.

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.

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

RULEMAKING AUTHORITY: 373.044, 373.113, 373.118, 373.171 FS.

LAW IMPLEMENTED: 373.223, 373.229, 373.250 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: South Florida Water Management District, B-1 Auditorium, 3301 Gun Club Road, 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, ext. 2087 or (561)682-2087. 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: Paulette Glebocki, Hydrogeologist – Lead, Water Use Bureau, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, ext. 6941 or (561)682-6941 or by email to pglebock@sfwmd.gov. For procedural questions, please contact Kathie Ruff, Paralegal, South Florida Water Management District, Post Office Box, 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, ext. 6320 or (561)682-6320 or by email to kruff@sfwmd.gov.

THE FULL TEXT OF THE PROPOSED RULES IS:

40E-20.091 Publications Incorporated by Reference.

The “Basis of Review for Water Use Permit Applications within the South Florida Water Management District – ~~March 18, 2010,~~” is hereby published by reference and incorporated into this chapter. A current version of this document is available upon request.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.042, 373.0421, 373.103(4), 373.118, 373.171, 373.223, 373.229 FS. History–New 8-14-02, Amended 8-31-03, 4-23-07, 9-13-07, 2-13-08, 10-14-08, 7-2-09, 3-15-10, 3-18-10,_____.

See Notice of Proposed Rule 40E-2.091, F.A.C. for amendments to “Basis of Review for Water Use Permit Applications within the South Florida Water Management District”

40E-20.301 Conditions for Issuance of General Water Use Permits.

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

(h) For uses with a recommended maximum allocation which exceeds 3 million gallons per month or uses within a mandatory reuse zone, makes use of a reclaimed water source in accordance with the criteria contained in the “Basis of Review for Water Use Permit Applications within the South Florida Water Management District”, incorporated by reference in Rule 40E-20.091, F.A.C.

(i) through (k) No change.

(2) No change.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.036, 373.042, 373.103(4), 373.1501, 373.1502, 373.223, 373.229, 373.2295, 373.470 FS. History–New 8-14-02, Amended 8-31-03, 4-23-07, 2-13-08, 7-2-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Steven Memberg, P. G., Water Use Policy Principal Scientist, Water Use Bureau, Phone (561)682-2133

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 11, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 7, 2011

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NOS.:	RULE TITLES:
40E-23.011	Policy and Purpose
40E-23.021	Definitions
40E-23.023	Boundaries
40E-23.031	Implementation
40E-23.043	Application
40E-23.053	Criteria for Designation

PURPOSE AND EFFECT: To repeal Chapter 40E-23, F.A.C., and that portion of Section 3.2.3 of the Basis of Review for Water Use Applications within the South Florida Water Management District which refers to Chapter 40E-23, F.A.C., because these rules are unnecessary given the requirement to perform an end user feasibility evaluation contained in Section 3.2.3.2 of the Basis of Review.

SUMMARY: To repeal unnecessary rule chapter.

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: 373.044, 373.113, 373.118, 373.171 FS.

LAW IMPLEMENTED: 373.223, 373.229, 373.250 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: South Florida Water Management District, B-1 Auditorium, 3301 Gun Club Road, 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, ext. 2087 or (561)682-2087. 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: Paulette Glebocki, Hydrogeologist – Lead, Water Use Bureau, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, ext. 6941 or (561)682-6941 or by email to pglebock@sfwmd.gov. For procedural questions, please contact Kathie Ruff, Paralegal, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, ext. 6320 or (561)682-6320 or by email to kruff@sfwmd.gov

THE FULL TEXT OF THE PROPOSED RULES IS:

40E-23.011 Policy and Purpose.

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.023, 373.103(1), 373.216-.249, 403.064(1) FS. History–New 11-17-91, Repealed.

40E-23.021 Definitions.

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.023, 373.216-.249, 403.064(1) FS. History–New 11-17-91, Repealed.

40E-23.023 Boundaries.

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.023, 373.216-.249, 403.064(1) FS. History–New 11-17-91, Repealed.

40E-23.031 Implementation.

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.023, 373.216-.249, 403.064(1) FS. History–New 11-17-91, Repealed.

40E-23.043 Application.

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.023, 373.216-.249, 403.064(1) FS. History–New 11-17-91, Amended 7-11-96, 4-9-97, 12-10-97, Repealed.

40E-23.053 Criteria for Designation.

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.023, 373.216-.249, 403.064(1) FS. History–New 11-17-91, Amended 7-11-96, 4-9-97, 12-10-97, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Steven Memberg, P. G., Water Use Policy Principal Scientist, Water Use Bureau; Phone (561)682-2133

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 11, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 7, 2011

DEPARTMENT OF HEALTH

Board of Dentistry

RULE NO.: 64B5-2.0135
 RULE TITLE: Dental Hygiene Examination

PURPOSE AND EFFECT: Comprehensive review and analysis to upgrade rule and to implement the 2012 legislative changes.

SUMMARY: Comprehensive review and analysis to upgrade rule and to implement the 2012 legislative changes

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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: 466.004(4) FS.

LAW IMPLEMENTED: 466.007 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: Susan Foster, Executive Director, Board of Dentistry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 64B5-2.0135 follows. See Florida Administrative Code for present text)

64B5-2.0135 Dental Hygiene Examination.

(1) Practical or Clinical Examination:

(a) Currently, the Florida practical or clinical examination is the Dental Hygiene Examination developed by the American Board of Dental Examiners, Inc. (ADEX) and administered by the North Eastern Regional Board, Inc. (NERB). Any ADEX Dental Hygiene Examination administered after June 1, 2010, will meet the clinical or practical examination requirement, regardless of the jurisdiction in which the exam was administered.

(b) Any dental hygiene applicant, who fails to pass the Practical or Clinical Examination in three (3) attempts, shall not be eligible for reexamination until the successful completion of one academic semester of clinical course work at the senior clinical practice level at a dental hygiene school approved by the American Dental Association Commission on Accreditation. A failure to comply with the remedial course work in this paragraph will result in a denial of licensure or a denial to sit for reexamination.

(c) The Board of Dentistry hereby approves the practical or clinical Dental Hygiene Examination developed by ADEX. All ADEX clinical or practical examination procedures, standards, and criteria are approved and shall remain approved contingent on the Board of Dentistry maintaining representation on the ADEX House of Representatives and the ADEX Dental Hygiene Examination Development Committee.

(2) Laws and Rules Examination:

(a) The written examination shall be an examination covering the laws and rules applicable to the practice of a health care profession, the practice of dentistry and the practice of dental hygiene in the State of Florida.

(b) The examination shall, at a minimum, cover the following subject areas:

1. The provisions of Chapter 466, Florida Statutes;
2. The provisions of Chapter 456, Florida Statutes; and
3. The provisions of Title 64B5, Florida Administrative Code.

(c) No more than three percent (3%) of the examination shall cover the topic of Chapter 456, Florida Statutes.

(3) Grading, Passing Results, and Time Requirements:

(a) The practical or clinical examination administered in the State of Florida shall be graded by Florida licensed dentists and hygienists.

(b) The practical or clinical examination must be completed with a score of seventy-five (75) points or greater on both portions of the examinations, whether administered in Florida or another jurisdiction.

(c) The written examination shall be completed with a seventy-five percent (75%) or greater.

(d) In order to be eligible for licensure, the written examination must be completed within eighteen (18) months of successfully completing the practical or clinical examination. If the applicant takes a board approved laws and rules course governing the practice of health care professions and dental and dental hygiene, the eighteen months is extended to twenty-four (24) months. The course must be attended in person and consist of no fewer than five (5) clock hours.

(4) Historical Note Florida Dental Hygiene Exam:

(a) On March 23, 2011, legislation became effective, SB 1040, which amended Section 466.007, Florida Statutes. Beginning July 1, 2012, the amendment made the Florida Dental Hygiene Exam the hygiene examination developed by ADEX.

(b) Prior to the legislative change, the Board voted and implemented the Dental Hygiene Exam developed by ADEX and set June 1, 2010, as the controlling date for acceptance of this exam. Preceding June 1, 2010, the hygiene examination was an independent administered state exam.

(c) In accordance with the applicable rules and statutes, June 1, 2010, is the earliest date the Board shall accept for a valid Dental Hygiene Exam developed by ADEX, as this is the earliest date the Board and Council found the ADEX exam met the requirements of Section 466.007, Florida Statutes.

Rulemaking Authority ~~456.017, 466.004(4), 466.007~~ FS. Law Implemented ~~456.017, 466.007, 466.009(3)~~ FS. History—New 3-16-82, Amended 5-2-84, 5-19-85, 10-8-85, 12-8-85, Formerly 21G-2.135, Amended 12-31-86, 10-19-87, 2-21-88, 5-29-88, Formerly 21G-2.0135, 61F5-2.0135, Amended 11-15-95, Formerly 59Q-2.0135, Amended 10-31-01, 7-6-05, 12-31-09, 10-10-10, 12-28-11, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Council on Dental Hygiene

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Dentistry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 18, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 11, 2012

DEPARTMENT OF HEALTH

Board of Dentistry

RULE NO.:
64B5-2.014

RULE TITLE:
Licensure Requirements for Applicants from Accredited Schools or Colleges

PURPOSE AND EFFECT: To make non-substantive revisions and to incorporate the changes made by Ch. 2012-14, Laws of Florida which impacts dental hygiene licensure requirements.

SUMMARY: The Board proposes this rule amendment to make non-substantive revisions and to incorporate the changes made by Ch. 2012-14, Laws of Florida which impacts dental hygiene licensure requirements.

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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: 466.004 FS.

LAW IMPLEMENTED: 456.033, 466.006, 466.007, 466.028 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: Susan Foster, Executive Director, Board of Dentistry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-2.014 Licensure Requirements for Applicants from Accredited Schools or Colleges.

Any person who has graduated, or expects to graduate prior to the examination, or is in their final year of a dental or dental hygiene program and has completed all the coursework necessary to prepare the student to perform the clinical and diagnostic procedures required to pass the examinations, from a school or college accredited by the Commission on Accreditation of the American Dental Association or its successor agency, or any other dental or dental hygiene program accredited by an accrediting entity recognized by the

United States Department of Education, or a school or college approved by the board may seek licensure as a dentist or dental hygienist in the following manner:

- (1) Dental Hygiene Candidates:
 - (a) No change;
 - (b) Successfully complete the National Board Dental Hygiene Written Examination ~~within 10 years~~ prior to application;
 - (c) No change
- (2) Dental Candidates:
 - (a) through (c) No change;
 - (3) No change.

Rulemaking Authority 466.004 FS. Law Implemented 456.033, 466.006, 466.007, 466.028 FS. History—New 10-8-79, Amended 4-1-80, 4-20-81, 3-16-82, 5-2-84, 9-4-84, Formerly 21G-2.14, Amended 12-31-86, 10-8-87, 11-16-89, 10-18-90, Formerly 21G-2.014, 61F5-2.014, Amended 9-24-96, Formerly 59Q-2.014, Amended 8-20-97, 3-16-06, 12-26-06, 4-26-10, 3-18-12,

NAME OF PERSON ORIGINATING PROPOSED RULE: Council on Dental Hygiene

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Dentistry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 18, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 11, 2012

DEPARTMENT OF HEALTH

Board of Dentistry

RULE NO.: 64B5-14.001 RULE TITLE: Definitions

PURPOSE AND EFFECT: The Board proposes this rule amendment to add the definition of Qualified Anesthetist and Certified Registered Dental Hygienist for purposes of implementing Section 466.002(3), F.S. and Ch. 2012-14, §3, Laws of Fla. (permitting the administration by properly credential hygienists.)

SUMMARY: The Board proposes this rule amendment to add the definition of Qualified Anesthetist and Certified Registered Dental Hygienist for purposes of implementing Section 466.002(3), F.S. and Ch. 2012-14, §3, Laws of Fla. (permitting the administration by properly credential hygienists.)

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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: 466.004(4), 466.017(3), 466.017(6) FS.

LAW IMPLEMENTED: 466.002(3), 466.017(3), 466.017(5) FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-14.001 Definitions.

(1) through (12) No change.

(13) Qualified Anesthetist: means an Advanced Registered Nurse Practitioner who is licensed in this state to practice professional nursing and who is certified in the advanced or specialized nursing practice as a certified registered nurse anesthetist pursuant to Chapter 464, Part I, Florida Statutes.

(14) Certified Registered Dental Hygienist: means any Florida licensed dental hygienist who is certified by the Board and has received a certificate from the Department of Health that allows the administration of local anesthesia while the CRDH is appropriately supervised by a Florida licensed dentist.

Rulemaking Authority 466.004(4), 466.017(3), 466.17(6) FS. Law Implemented 466.002(3), 466.017(3), 466.017(5) FS. History—New 1-31-80, Amended 4-7-86, Formerly 21G-14.01, Amended 12-31-86, 6-1-87, 9-1-87, 2-1-93, Formerly 21G-14.001, Amended 12-20-93, Formerly 61F5-14.001, Amended 8-8-96, Formerly 59Q-14.001, Amended 3-9-03, 11-4-03, 7-3-06, 6-11-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Council on Dental Hygiene

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Dentistry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 18, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 11, 2012

DEPARTMENT OF HEALTH

Board of Dentistry

RULE NO.: 64B5-14.002 RULE TITLE: Prohibitions

PURPOSE AND EFFECT: The Board proposes this rule amendment to update the rule to comply with recent legislation allowing the administration of local anesthesia by properly credentialed dental hygienists.

SUMMARY: The Board proposes this rule amendment to update the rule to comply with recent legislation allowing the administration of local anesthesia by properly credentialed dental hygienists.

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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: 466.004(4), 466.017(3), 466.017(6) FS.

LAW IMPLEMENTED: 466.017(5) FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-14.002 Prohibitions.

(1) through (2) No change.

(3) Pediatric Conscious Sedation: No dentist licensed in this State shall administer Pediatric Conscious Sedation in the practice of dentistry until such dentist has obtained a permit as required by the provisions of this rule chapter.

(4) No change.

(5) Local anesthesia. Dentists licensed in this State may use local anesthetics to produce local anesthesia in the course of their practice of dentistry. Certified Registered Dental Hygienists are the only hygienists allowed to administer local anesthesia.

(6) through (8) No change.

Rulemaking Authority 466.004(4), 466.017(3), 466.017(6) FS. Law Implemented 466.017(3), 466.017(5) FS. History—New 1-31-80, Amended 4-20-81, 2-13-86, Formerly 21G-14.02, 21G-14.002, Amended 12-20-93, Formerly 61F5-14.002, Amended 8-8-96, Formerly 59Q-14.002, Amended 3-9-03, 11-4-03, 6-15-06, 12-25-06, 12-11-11, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Council on Dental Hygiene (May 3, 2012); Anesthesia Committee. (May 7, 2012)

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Dentistry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 18, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 11, 2012

DEPARTMENT OF HEALTH

Board of Dentistry

RULE NO.: 64B5-14.006
 RULE TITLE: Reporting Adverse Occurrences

PURPOSE AND EFFECT: The Board proposes this rule amendment to add reporting requirements for dental hygienists that are properly credentialed to administer local anesthesia and to review other necessary changes for reporting requirements.

SUMMARY: The Board proposes this rule amendment to add reporting requirements for dental hygienists that are properly credentialed to administer local anesthesia and to review other necessary changes for reporting requirements.

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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: 466.004(4), 466.017(3), 466.017(6) FS.

LAW IMPLEMENTED: 466.017(3), 466.017(5) FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 64B5-14.006 follows. See Florida Administrative Code for present text)

64B5-14.006 Reporting Adverse Occurrences.

(1) Definitions:

(a) Adverse occurrence – means any mortality that occurs during or as the result of a dental procedure, or an incident that results in the temporary or permanent physical or mental injury that requires hospitalization or emergency room treatment of a dental patient that occurred during or as a direct result of the use of general anesthesia, deep sedation, conscious sedation, pediatric conscious sedation, oral sedation, minimal sedation (anxiolysis), nitrous oxide, or local anesthesia.

(b) Supervising Dentist – means the dentist that was directly responsible for supervising the Certified Registered Dental Hygienist (CRDH) who is authorized by proper credentials to administer local anesthesia.

(2) Dentists: Any dentist practicing in the State of Florida must notify the Board in writing by registered mail within forty-eight hours (48 hrs.) of any mortality or other adverse occurrence that occurs in the dentist’s outpatient facility. A complete written report shall be filed with the Board within thirty (30) days of the mortality or other adverse occurrence. The complete written report shall, at a minimum, include the following:

(a) The name, address, and telephone number of the patient;

(b) A detailed description of the dental procedure;

(c) A detailed description of the preoperative physical condition of the patient;

(d) A detailed list of the drugs administered and the dosage administered;

(e) A detailed description of the techniques utilized in administering the drugs;

(f) A detailed description of the adverse occurrence, to include 1) the onset and type of complications and the onset and type of symptoms experienced by the patient; 2) the onset and type of treatment rendered to the patient; and 3) the onset and type of response of the patient to the treatment rendered; and

(g) A list of all witnesses and their contact information to include their address.

(3) A failure by the dentist to timely and completely comply with all the reporting requirements mandated by this Rule is a basis for disciplinary action by the Board, pursuant to Section 468.028(1), Florida Statutes.

(4) Certified Registered Dental Hygienists: Any CRDH administering local anesthesia must notify the Board, in writing by registered mail within forty-eight hours (48 hrs.) of any adverse occurrence that was related to or the result of the administration of local anesthesia. A complete written report shall be filed with the Board within thirty (30) days of the mortality or other adverse occurrence. The complete written report shall, at a minimum, include the following:

(a) The name, address, and telephone number of the supervising dentist;

(b) The name, address, and telephone number of the patient;

(c) A detailed description of the dental procedure;

(d) A detailed description of the preoperative physical condition of the patient;

(e) A detailed list of the local anesthesia administered and the dosage of the local anesthesia administered;

(f) A detailed description of the techniques utilized in administering the drugs;

(g) A detailed description of any other drugs the patient had taken or was administered;

(h) A detailed description of the adverse occurrence, to include 1) the onset and type of complications and the onset and type of symptoms experienced by the patient; 2) the onset and type of treatment rendered to the patient; and 3) the onset and type of response of the patient to the treatment rendered; and

(i) A list of all witnesses and their contact information to include their address.

(5) A failure by the hygienist to timely and completely comply with all the reporting requirements mandated by this Rule is a basis for disciplinary action by the Board pursuant to Section 468.028(1), Florida Statutes.

(6) Supervising Dentist:

If a Certified Registered Dental Hygienist is required to file a report under the provisions of this rule, the supervising dentist shall also file a contemporaneous report in accordance with subsection (2).

(7) The initial and complete reports required by this rule shall be mailed to: The Florida Board of Dentistry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258.

Rulemaking Authority 466.004(4), 466.017(3), 466.017(6) FS. Law Implemented 466.017(3), 466.017(5) FS. History—New 2-12-86, Amended 3-27-90, Formerly 21G-14.006, Amended 12-20-93, Formerly 61F5-14.006, Amended 8-8-96, Formerly 59Q-14.006, Amended 11-4-03, 12-25-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Council on Dental Hygiene & Anesthesia Committee
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Dentistry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 18, 2012
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 11, 2012

DEPARTMENT OF HEALTH

Board of Dentistry

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

PURPOSE AND EFFECT: The Board proposes this rule amendment to implement the 2012 legislative changes.

SUMMARY: The Board proposes this rule amendment to implement the 2012 legislative changes by adding a delegable task to a dental hygienist.

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and

that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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: 466.004(4), 466.017(6), 466.023, 466.024 FS.

LAW IMPLEMENTED: 466.017(5), 466.023, 466.024 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: Susan Foster, Executive Director, Board of Dentistry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-16.006 Remediable Tasks Delegable to a Dental Hygienist.

(1) through (5) No change.

(6) Administration of Local Anesthesia:

(a) Notwithstanding Section 466.003(11), Florida Statutes, the administration of local anesthesia becomes a remediable and delegable task if a Florida licensed dental hygienist has been appropriately certified by the Board and has received a certificate from the Florida Department of Health authorizing the dental hygienist to administer local anesthesia in compliance with and pursuant to Section 466.017(5), Florida Statutes. Upon the issuance of the certificate, the hygienist will be referred to as a Certified Registered Dental Hygienist.

(b) Under direct supervision, a CRDH may administer local anesthesia in accordance with the following:

1. The patient must be eighteen years of age or older;

2. The patient must not be sedated; and

3. The CRDH may administer intraoral block and soft tissue infiltration anesthesia.

(c) A Registered Dental Hygienist may apply for certification as a Certified Registered Dental Hygienist after completion of the required education mandated by Section 466.017(5), Florida Statutes and in accordance with Rule 64B5-14.003, Florida Administrative Code.

Rulemaking Authority 466.004(4), 466.017(6), 466.023, 466.024 FS. Law Implemented 466.017(5), 466.023, 466.024 FS. History—New 1-18-89, Amended 11-16-89, 3-25-90, 9-5-91, 2-1-93, Formerly 21G-16.006, Amended 3-30-94, Formerly 61F5-16.006, Amended 1-9-95, 6-12-97, Formerly 59Q-16.006, Amended 1-25-98, 9-9-98, 3-25-99, 4-24-00, 9-27-01, 7-13-05, 2-14-06, 3-24-08, 7-20-09, 10-17-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Council on Dental Hygiene

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Dentistry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 18, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 11, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NO.: 68B-14.0038
 RULE TITLE: Recreational Snapper Seasons

PURPOSE, EFFECT AND SUMMARY: The purpose of this draft rule amendment is to achieve consistency between the Commission’s Reef Fish Rule on the recreational season for red snapper in the Gulf of Mexico and rules that NOAA Fisheries Service plans to implement on June 29, 2012. Reef fish (including red snapper) are managed in Gulf federal waters adjacent to Florida by the Gulf of Mexico Fisheries Management Council, of which Florida is a voting member. The effect of this rule amendment is to allow a 40-day open season for the recreational harvest of red snapper in Gulf state waters that would contribute to the federal rebuilding plan and reduce the likelihood of exceeding the federal recreational quota for red snapper. With this rule amendment, federal and state regulations will be consistently applied. This minimizes public confusion, aids enforceability, and contributes to the overall health and status of red snapper in the Gulf of Mexico. Rule 68B-14.0038 (Recreational Snapper Seasons) would be modified to allow the harvest of red snapper in state waters of the Gulf of Mexico from June 1 through July 10 each year.

SUMMARY: Rule 68B-14.0038, F.A.C., (Recreational Snapper Seasons) would be modified to allow a 40-day open season for the recreational harvest of red snapper in state waters of the Gulf of Mexico from June 1 through July 10 each year.

RULEMAKING AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 120.54(6), F.S. WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO: Bud Vielhauer, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

SUBSTANTIALLY AFFECTED PERSONS MAY WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, FILE AN OBJECTION TO THIS RULEMAKING WITH THE AGENCY. THE OBJECTION SHALL SPECIFY THE

PORTIONS OF THE PROPOSED RULE TO WHICH THE PERSON OBJECTS AND THE SPECIFIC REASONS FOR THE OBJECTION.

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-14.0038 Recreational Snapper Seasons.

(1) Recreational Red Snapper Season. In all state waters of the Gulf of Mexico, the season for the recreational harvest and possession of red snapper shall be from June 1 through July 10 18, each year (consistent with the Federal Standard established in vol. 77 76 of the Fed. Reg. page 31734 23911). Except for persons harvesting red snapper for commercial purposes pursuant to Rule 68B-14.0045, F.A.C., from July 11 19 through May 31, no person shall harvest in or from state waters of the Gulf of Mexico, nor possess while in or on state waters of the Gulf of Mexico, any red snapper.

(2) No change.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 10-20-98, Formerly 46-14.0038, Amended 12-30-99, 3-12-09, 8-7-09, 10-16-09, 6-4-10, 10-8-10, 7-22-11,_____.

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

RULE NOS.:	RULE TITLES:
69A-37.084	Definitions
69A-37.085	Eligibility Requirements for Supplemental Compensation
69A-37.086	Application for Eligibility Determination
69A-37.089	Employing Agency Request for Reimbursement
69A-37.090	Supplemental Compensation Forms

PURPOSE AND EFFECT: The proposed amendments address implementation issues that arose after the rules were last amended on March 11, 2011, to require regionally accredited bachelor's degrees for supplemental compensation eligibility.

SUMMARY: The proposed amendments clarify which firefighters are eligible for supplemental compensation and eliminate the transfer exception in subsection 69A-37.084(1), F.A.C. The proposed amendments define the terms "coursework applicable for fire department duties," "nationally accredited" and "regionally accredited"; provide that an employing agency will not be reimbursed for payment made to an ineligible firefighter; and incorporate several forms by reference.

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 conducted an economic analysis of the potential impact of the proposed changes and determined that there will be no adverse economic impact or regulatory increases that would require legislative ratification.

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: 633.45(2)(a) FS.

LAW IMPLEMENTED: 633.382 FS.

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

DATE AND TIME: July 6, 2012, 1:30 p.m.

PLACE: Fire College, Bureau of Fire Standards and Training, 11655 N.W. Gainesville Rd., Ocala, FL 34482

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: Bill Wentlandt at (352)369-2829 or Bill.Wentlandt@MyFloridaCFO.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bill Wentlandt, Assistant Superintendent, Bureau of Fire Standards and Training, Florida State Fire College, 11655 N.W. Gainesville Road, Ocala, FL 34482-1486, Phone (352)369-2829 or Bill.Wentlandt@MyFloridaCFO.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69A-37.084 Definitions.

In addition to the terms defined in Section 633.382(1), F.S., the following terms will have the following meanings for purposes of Rules 69A-37.082 through 69A-37.090 69A-37.089, F.A.C.:

(1) "Coursework applicable to fire department duties" means completed courses in the major field of study for an associate degree or a bachelor's degree, which relate in a meaningful way to fire department duties included in the firefighter's job description. The determination of whether the

completed courses constitute coursework applicable to fire department duties shall depend on the content of the individual courses and not solely on the title of the degree conferred. “Accredited” means recognized as having sufficient academic standards to qualify graduates by having been awarded accreditation from a regional accrediting agency that is recognized by the U.S. Department of Education. Documentation that a regional accredited Florida public or private university or college will accept a degree for transfer purposes will also be accepted for accreditation purposes.

(2) “Eligible Associate Degree” means an Associate in of Arts or Associate in of Science degree conferred by a public or private university or college in which required coursework the firefighter successfully completed courses that are applicable to fire department duties, as defined in subsection (4).

(3) “Eligible Bachelor’s Degree” means a bachelor’s degree that required coursework applicable to fire department duties and that was conferred by a:

(a) Regionally regional accredited public or private university or college;

(b) University or college located outside of the United States if a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services determines in writing that the degree is the equivalent of a bachelor’s degree conferred by a regionally accredited university or college;

(c) Nationally accredited university or college if the degree recipient was determined eligible by the division for supplemental compensation for that degree pursuant to an application for eligibility determination submitted to the division before March 14, 2011; or

(d) Nationally accredited university or college on or before [12 months after effective date of this rule], if the degree recipient submits a completed application for eligibility determination to the division on or before [14 months after the effective date of this rule], applicable to fire department duties, as defined in subsection (4).

(4) “Nationally accredited” means accredited by an accrediting agency recognized by the U.S. Department of Education, but which is not a regional accrediting agency listed in subsection (5). “Applicable to fire department duties” means degree courses that add value to fire department employment.

(5) “Regionally accredited” means accredited by one of the following regional accrediting agencies recognized by the U.S. Department of Education:

(a) The Middle States Association of Colleges and Secondary Schools, Commission on Higher Education;

(b) The New England Association of Schools and Colleges, Commission on Institutions of Higher Education;

(c) The North Central Association of Colleges and Schools;

(d) The Northwest Commission on Colleges and Universities;

(e) The Southern Association of Colleges and Schools, Commission on Colleges; or

(f) Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities or Accrediting Commission for Community and Junior Colleges.

~~(6)(5)~~ “Supplemental Compensation” means funds that may be paid to eligible firefighters by employing agencies pursuant to Section 633.382, F.S., and this rule chapter, in addition to any regular compensation paid by the employing agencies.

Rulemaking Authority 633.45(2)(a) FS. Law Implemented 633.382(2) FS. History—New 1-3-90, Amended 3-20-95, 7-17-00, Formerly 4A-37.084, Amended 3-14-11, _____.

69A-37.085 Eligibility Requirements for Supplemental Compensation.

(1) To be eligible to receive Supplemental Compensation, the employing agency must meet the definition in Section 633.382, F.S., and the firefighter must meet all of the following requirements:

(a) ~~(1)~~ Be certified as a firefighter pursuant to Section 633.35, F.S.;

(b) ~~(2)~~ Possess an eligible associate degree Associate or eligible bachelor’s degree.

(c) ~~(3)~~ Be employed full time as a firefighter by an employing agency.

(2) ~~(4)~~ A No firefighter shall not be eligible to receive supplemental compensation for more than one degree. If the firefighter holds two or more than one eligible degrees of which one or more is an eligible bachelor’s degree, compensation will be paid for one eligible bachelor’s the bachelors degree.

(3) ~~(5)~~ A firefighter An employing agency is ineligible not eligible to receive supplemental compensation be reimbursed for a firefighter’s supplemental pay when the firefighter.

(a) Is The firefighter is no longer employed by the employing agency;

(b) Is The firefighter is transferred to a position for which the firefighter’s degree no longer qualifies him or her;

(c) Is The firefighter is no longer employed in a full time capacity;

(d) Takes The firefighter takes a leave of absence without pay;

(e) Is The firefighter is suspended without pay; or

(f) Is The firefighter is no longer certified pursuant to Section 633.354, F.S.

(4) If a firefighter becomes ineligible for supplemental compensation, the employing agency shall submit Form DFS-K4-1055, “Firefighters Supplemental Compensation Program Notice of Ineligibility,” which is incorporated by reference in Rule 69A-37.090, F.A.C., to the division within 10 business days after the date upon which ineligibility occurred.

An employing agency shall not be reimbursed by the division for the payment of supplemental compensation to an ineligible firefighter on or after the date upon which ineligibility occurred.

~~(6) The effective date of ineligibility shall be that date on which the firefighter ceases to receive compensation from the employing agency for performing the duties of a full time firefighter.~~

Rulemaking Authority 633.45(2)(a) FS. Law Implemented 633.382(1), (2), ~~(4)~~ FS. History—New 1-3-90, Amended 3-20-95, Formerly 4A-37.085, Amended 3-14-11, _____.

69A-37.086 Application Request for Eligibility Determination.

(1) To participate in the Firefighters Supplemental Compensation Program, a firefighter shall submit the:

~~(a) Form DFS-K4-1057, “Application Whenever a question arises as to the eligibility of an employing agency to be reimbursed for Initial Entry.” which is incorporated by reference in Rule 69A-37.090, F.A.C., supplemental compensation paid to a firefighter as provided in Section 633.382, F.S., the question shall be submitted on Form DFS K4 1057, Firefighters Supplemental Compensation Program Bureau of Fire Standards & Training Request for Determination of Eligibility, <https://www.flrules.org/gateway/reference.asp?No=Ref 00141>, amended March 14, 2011, adopted and incorporated herein by reference, to the division for a determination of eligibility if the firefighter has not been previously determined eligible by the division to participate in the program. The form can be obtained as indicated in subsection 69A 37.089(3), F.A.C. The form shall be completed in full, signed by an authorized representative of the employing agency, and accompanied by the attachments set forth in the form.~~

(b) Form DFS-K4-1442, “Application for Upgrade from Associate Level to Bachelor Level,” which is incorporated by reference in Rule 69A-37.090, F.A.C., to the division for a determination of eligibility if the firefighter was previously determined eligible by the division to participate in the program at the associate degree level.

(c) Form DFS-K4-1056, “Application for Re-Entry,” which is incorporated by reference in Rule 69A-37.090, F.A.C., to the division for a determination of eligibility if the firefighter became ineligible for supplemental compensation under subsection 69A-37.085(3), F.A.C., but is no longer subject to any condition specified in that subsection.

(2) Each application must be completed in full, signed by the applicant and fire chief for the employing agency or his or her authorized agent, and include each attachment required by the form. The employing agency’s certification shall be based upon the completed coursework identified in the transcript and

not solely upon the title of the degree conferred. The standard shall be whether the courses within the major field of study relate in a meaningful way to the firefighter’s job description.

(3) The division shall will advise the applicant and employing agency of its determination of eligibility in writing.

Rulemaking Authority 633.45(2) FS. Law Implemented 633.382(2) FS. History—New 1-3-90, Amended 3-20-95, Formerly 4A-37.086, Amended 3-14-11, _____.

69A-37.089 Employing Agency Request for Reimbursement.

(1) Each employing agency seeking reimbursement for supplemental compensation paid to firefighters pursuant to Section 633.3082, F.S., and this rule shall submit quarterly reports to the division on March 31, June 30, September 30, and December 31 of each year on Form DFS-K4-1065, “Firefighters Supplemental Compensation Program Quarterly,” which is incorporated by reference in Rule 69A-47.090, F.A.C. Report Bureau of Fire Standards & Training, <https://www.flrules.org/gateway/reference.asp?No=Ref 00142>, amended March 14, 2011, adopted and incorporated herein by reference.

(2) Every employing agency must maintain written records relating to the eligibility of every firefighter whose name is submitted to the division pursuant to subsection (1) above in separate files for a period of five years for audit purposes.

~~(3) Copies of all forms listed in this rule chapter can be obtained through the Florida State Fire College, 11655 Northwest Gainesville Road, Ocala, Florida 34482-1486; website: www.floridastatefirecollege.org.~~

Rulemaking Authority 633.45(2)(a) FS. Law Implemented 633.382(4) (2), (3), ~~(5)~~ FS. History—New 1-3-90, Formerly 4A-37.089, Amended 3-14-11, _____.

69A-37.090 List of Supplemental Compensation Forms: Incorporation by Reference.

The following forms are hereby incorporated by reference and can be obtained by writing to the Florida State Fire College, 11655 NW Gainesville Road, Ocala, Florida 34482-1486 or by accessing the College’s website at <http://www.myfloridacfo.com/sfm/bfst/standard/stdsupcp.htm>:

(1) Form DFS-K4-1442, “Application for Upgrade from Associate Level to Bachelor Level,” Eff. 4/12.

(2) Form DFS-K4-1055, “Firefighters Supplemental Compensation Program Notice of Ineligibility,” Eff. 4/12.

(3) Form DFS-K4-1056, “Application for Re-Entry,” Eff. 4/12.

(4) Form DFS-K4-1057, “Application for Initial Entry,” Eff. 4/12.

(5) Form DFS-K4-1065, “Firefighters Supplemental Compensation Program Quarterly Report,” Rev. 4/12.

Rulemaking Authority 663.45(2) FS. Law Implemented 633.382 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bill Wentlandt, Assistant Superintendent, Division of State Fire Marshal

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jeff Atwater, Chief Financial Officer and State Fire Marshal

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 30, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 6, 2012

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Workforce Services

RULE NO.: RULE TITLE:

73B-20.001 Applicability

PURPOSE AND EFFECT: The purpose of this rule amendment is to simplify the rule and remove the reference to unemployment compensation

SUMMARY: The rule addresses the applicability of rule Chapter 73B-20, F.A.C. and the amendments remove a reference to unemployment compensation which is no longer applicable and simplifys the language of the rule.

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 nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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: 443.012(11) FS.

LAW IMPLEMENTED: 443.151(4) 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: Dorothy Johnson, Deputy General Counsel, Unemployment Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685

THE FULL TEXT OF THE PROPOSED RULE IS:

73B-20.001 Applicability.

These rules shall govern all ~~unemployment compensation proceedings conducted by appeals referees. These rules in whole or part shall also govern all other~~ proceedings conducted by appeals referees unless specifically provided otherwise by state or federal law or regulation.

Rulemaking Specific Authority 443.012(11) FS. Law Implemented 443.151(4)(a), (b), (d) FS. History--New 5-22-80, Formerly 38E-5.01, 38E-5.001, 60BB-5.001, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dorothy Johnson, Deputy General Counsel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Unemployment Appeals Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 23, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 11, 2012

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Workforce Services

RULE NO.: RULE TITLE:

73B-20.003 Form of Appeal

PURPOSE AND EFFECT: The Commission is proposing to amend the rule to incorporate form DEO-A100 in three languages by reference; to direct the public to the Department’s website to obtain the form; to remove language that conflicts with other proposed amendments to Department rules; and to add the employer tax account number to requested information to be included in the notice of appeal.

SUMMARY: The proposed changes provide notice to the public regarding what information must be provided to file an appeal, directs the public to where the form may be found on the agency website in English, Spanish and Creole.

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 nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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: 443.012(11) FS.

LAW IMPLEMENTED: 443.151(4)(d) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dorothy Johnson, Deputy General Counsel, Office of the Unemployment Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685

THE FULL TEXT OF THE PROPOSED RULE IS:

73B-20.003 Form of Appeal.

(1) No change.

(2) Any person entitled to file an appeal may obtain ~~an a printed~~ appeal form (~~DEO-A100(E) AWI-A100 (English), Notice of Appeal~~), (Rev. ~~05/12 4/04~~); ~~DEO-A100(S) (Spanish), Aviso de Apelación – español (Rev. 05/12); DEO-A100(C) (Creole), Objeksyon pou Dedomajman Travay – kreyòl (Rev. 05/12))~~, incorporated herein by reference, available at the Department’s website, <http://www.floridajobs.org/RAforms> at any of the locations listed in subsections 73B-20.004(1), (2), and (3), F.A.C., and at any location providing unemployment claim information. Use of the form is not mandatory; however, whatever instrument is used, it should ~~shall~~ include the following information:

(a) No change.

(b) The name and tax account number of each employer, if any, involved;

(c) No change.

(d) A concise ~~brief~~ statement of the reasons for disagreement with the determination.

(3) Failure to include all of the information listed in subsection (2) will not constitute cause for rejection of the appeal, but may result in ~~unnecessary~~ delay in processing the appeal and scheduling it for hearing.

Rulemaking Specific Authority 443.012(11) FS. Law Implemented 443.151(4)(d) FS. History–New 5-22-80, Formerly 38E-5.03, Amended 8-20-86, 8-7-01, Formerly 38E-5.003, 60BB-5.003, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dorothy Johnson, Deputy General Counsel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Unemployment Appeals Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 23, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 11, 2012

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Workforce Services

RULE NO.: RULE TITLE:

73B-20.004 Filing an Appeal

PURPOSE AND EFFECT: The Commission is proposing to amend the rule to specify the information requested by the Department’s Internet Appeals website and to clarify where and by what method an appeal may be filed.

SUMMARY: The amended rule will set out the specific information requested from claimants and employers using the Department internet appeals application and will clarify that an appeal may be filed by fax, courier service, in person, or by mail at the Office of Appeals or the Unemployment Appeals Commission in addition to online.

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 nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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: 443.012(11) FS.

LAW IMPLEMENTED: 443.151(4) 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: Dorothy Johnson, Deputy General Counsel, Office of the Unemployment Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685

THE FULL TEXT OF THE PROPOSED RULE IS:

73B-20.004 ~~Place for~~ Filing an Appeal.

(1) Appeals may be filed on-line at the Department of Economic Opportunity website at <https://www.floridajobs.org/IAP>, Internet Appeals Program (English)(2012) or by clicking on the Bienvenidos al Proceso

de Apelaciones por Internet (Spanish) (2012), or by clicking on the Klike la a to view sit entenet sa a an kreyol (Creole) (2012), or at one of the following locations:

~~(a)1) Any of the unemployment claim adjudication offices operated by the Department of Economic Opportunity;~~

~~(2) By facsimile number, courier service, in person, or mail to tThe central Office of Appeals (Caldwell Building MSC 347, 107 East Madison Street, Tallahassee, FL 32399-4143, facsimile number (850)921-3524), or~~

~~(b) By facsimile number, courier service, in person, or mail to the Reemployment Assistance Appeals Commission district appeals referee offices maintained by the Office of Appeals;~~

~~(3) The Unemployment Appeals Commission; and~~

~~(4) Any unemployment compensation office located outside the State of Florida.~~

(2) The Internet Appeals Program provides claimants, employers and their representatives the opportunity to file appeals of department determinations related to reemployment assistance, to request reopening of an appeal when the party failed to appear, to change addresses and telephone numbers for the appeal process, and to provide additional telephone numbers for the hearing. Parties may also provide information on representatives for the appeal process and witnesses to be contacted for the appeal hearing.

(a) To access the Internet Appeals Program the claimant will be asked to provide the following information:

1. Name of the person entering the appeal;
2. Organization or company name for the person entering the appeal;
3. Title of the person entering the appeal;
4. Telephone number for the person entering the appeal;
5. E-mail address for the person entering the appeal;
6. Location of the person entering the appeal;
7. Claimant name;
8. Claimant social security number; and,
9. Claimant reemployment assistance pin number.

(b) To access the Internet Appeals Program the employer will be asked to provide the following information:

1. Name of the person entering the appeal;
2. Organization or company name for the person entering the appeal;
3. Title of the person entering the appeal;
4. Telephone number of the person entering the appeal;
5. E-mail address for the person entering the appeal;
6. Location of the person entering the appeal;
7. Employer name;
8. Employer address;
9. Employer telephone number;
10. Employer e-mail address;

11. Name of the person representing the employer for the appeal;

12. Telephone number of the employer representative and, if different, the telephone number to contact the employer representative for the hearing;

13. Employer reemployment assistance tax number; and,

14. Employer reemployment assistance tax pin number used to file taxes if the employer wants information about a filed appeal or wants to provide witnesses for an appeal through the on-line system. The pin number is not needed to file an appeal.

(c) Once the Internet Appeals Program has been accessed the party will be asked to provide specific information to file an appeal.

1. To appeal a determination included in the determination list:

- a. Select the determination to be appealed or enter the date of the determination to be appealed;
- b. List the reason for the appeal;
- c. Provide the job site where the claimant worked if different from the employer address on the determination;
- d. Provide the job site address; and,
- e. Job site telephone number.

2. To appeal a wage credit determination the claimant must provide:

- a. Determination date;
- b. Employer name and address if it is not shown on the wage transcript;
- c. Dates of employment not shown on the wage transcript, if any;
- d. Pay rate; and,
- e. Statement as to whether the claimant has proof of earnings.

(d) To add a representative for either the claimant or employer the party will be asked to provide:

1. Name of representative;
2. Title of representative;
3. Company or firm, if any;
4. Street address;
5. Telephone number;
6. Fax number; and
7. Whether representing claimant or employer.

(e) To request a rehearing when a party failed to attend a hearing the party will be asked to provide:

1. Name of the party requesting reopening;
2. Company name if the requestor is a representative or employer;
3. Title, if applicable;
4. Telephone number;
5. E-mail address;
6. Location from which filing the appeal;

- 7. Name of the claimant:
- 8. Social security number:
- 9. Employer name:
- 10. Employer number:
- 11. Docket number:
- 12. Job site address, if any; and
- 13. Reason for not attending hearing.

(f) To provide contact information for witnesses a party plans to call during a hearing the party will be asked to provide:

- 1. Name of the party requesting the witness:
- 2. Docket number of the appeal:
- 3. Witness name; and
- 4. Witness telephone number.

Rulemaking Specific Authority 443.012(11) FS. Law Implemented 443.151(4)(b)1., (d) FS. History–New 5-22-80, Formerly 38E-5.04, Amended 8-20-86, 8-7-01, Formerly 38E-5.004, 60BB-5.004, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Dorothy Johnson, Deputy General Counsel
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Unemployment Appeals Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 23, 2012
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 11, 2012

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Workforce Services

RULE NO.: RULE TITLE:
73B-20.005 Time for Filing Appeal

PURPOSE AND EFFECT: The Commission is proposing to amend the rule to remove language that duplicates Rule 73B-20.004, F.A.C.; to include the future Connect System for delivery of determinations; and to clarify the effective dates of filing.

SUMMARY: This rule is amended to clarify when the 20-day period for filing an appeal begins to run and to specify what is timely filing of an appeal when it is filed by fax, by hand delivery, by courier service, or by electronic means.

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 nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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: 443.012(11) FS.

LAW IMPLEMENTED: 443.151(3)(a), (4)(b)1., (4)(d) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dorothy Johnson, Deputy General Counsel, Office of the Unemployment Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685

THE FULL TEXT OF THE PROPOSED RULE IS:

73B-20.005 Time for Filing Appeal.

(1) The appeal shall be filed within 20 calendar days of the date the determination or redetermination was mailed to the appellant’s last known address or made available electronically through a Department-approved electronic account, or, in the absence of mailing or electronic delivery, the date of other delivery to the appellant.

~~(2) The appeal shall be filed by mailing the appeal document to any of the locations designated in Rule 73B-20.004, F.A.C.; by facsimile transmission of the appeal document to any location designated in subsections 73B-20.004(1), (2), and (3), F.A.C.; or by hand delivery of the appeal document to any location designated in subsections 73B-20.004(2), (3), and (4), F.A.C.~~

~~(2)(3) Appeals filed by mail are shall be considered to have been filed when postmarked by the United States Postal Service. Appeals filed by hand delivery, courier service or facsimile are shall be considered to have been filed when date stamped received at an the authorized location. Appeals filed electronically are filed on the date the confirmation number is issued by the system.~~

~~(3)(4) Upon receipt of An appeal delivered in person or by facsimile transmission will be date stamped by a, the Commission or, Department of Economic Opportunity, or Office of Appeals employee on the date hand delivered or the date placed on the document by the Department or Commission fax system shall record the date of receipt on the appeal document. The Internet filing system shall post on the appeal the date the confirmation number is issued and the appeal was successfully received by the system.~~

Rulemaking Specific Authority 443.012(11) FS. Law Implemented 443.151(3)(a), (4)(b)1., (d) FS. History–New 5-22-80, Formerly 38E-5.05, Amended 8-20-86, 3-1-98, 8-7-01, Formerly 38E-5.005, 60BB-5.005, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Dorothy Johnson, Deputy General Counsel
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Unemployment Appeals Commission
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: May 23, 2012
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: May 11, 2012

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Workforce Services

RULE NO.: 73B-20.006
RULE TITLE: Computation of Time

PURPOSE AND EFFECT: The Department is proposing to amend the rule to clarify the definition of “holiday” for appeal purposes.

SUMMARY: The definition of holiday is amended to provide that the closing of the United States Postal Service will on constitute a holiday for purposes of the filing date of an appeal when the appeal was sent by mail.

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 nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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: 443.012(11) FS.

LAW IMPLEMENTED: 443.151(4)(b)1., (4)(d) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dorothy Johnson, Deputy General Counsel, Office of the Unemployment Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685

THE FULL TEXT OF THE PROPOSED RULE IS:

73B-20.006 Computation of Time.

- (1) No change.

- (2) For the purpose of this section, “holiday” means:
 - (a) No change.
 - (b) Any ~~other~~ day on which the offices of the Department of Economic Opportunity are closed; and
 - (c) For appeals filed by mail, aAny ~~other~~ day on which the United States Postal Service is closed.

Rulemaking Specific Authority, 443.012(11) FS. Law Implemented 443.151(4)(b)1., (d) FS. History–New 5-22-80, Formerly 38E-5.06, Amended 8-20-86, Formerly 38E-5.006, 60BB-5.006, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Dorothy Johnson, Deputy General Counsel
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Unemployment Appeals Commission
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: May 23, 2012
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: May 11, 2012

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Workforce Services

RULE NO.: 73B-20.007
RULE TITLE: Late Filing of Appeals

PURPOSE AND EFFECT: The Commission is proposing to amend the rule to reference the order to show cause provision in Section 443.151(4)(b)3., F.S.

SUMMARY: The rule is amended to recognize that Section 443.151(4)(b)3., F.S., authorizes the Department at its discretion to utilize an Order to Show Cause to address timeliness of an appeal.

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 nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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: 443.012(11) FS.

LAW IMPLEMENTED: 443.151(3)(a), (4)(b)1., (4)(d) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dorothy Johnson, Deputy General Counsel, Office of the Unemployment Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685

THE FULL TEXT OF THE PROPOSED RULE IS:

73B-20.007 Late Filing of Appeals.

(1) If it appears that the appeal initiating the proceedings was not filed within the time allowed by law, the appeals referee shall notify the parties that timeliness of the appeal shall be one of the issues to be considered at the hearing, except as provided in Section 443.151(4)(b)3., F.S.

(2) through (3) No change.

Rulemaking Specific Authority 443.012(11) FS. Law Implemented 443.151(3)(a), (4)(b)1., (d) FS. History--New 5-22-80, Formerly 38E-5.07, Amended 8-20-86, Formerly 38E-5.007, 60BB-5.007, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Dorothy Johnson, Deputy General Counsel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Unemployment Appeals Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 23, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 11, 2012

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Workforce Services

RULE NO.: 73B-20.015
 RULE TITLE: Notice of Hearing

PURPOSE AND EFFECT: The Commission is proposing to amend the rule to incorporate form DEO-6 in three languages and to clarify the procedure for delivering the notice of hearing to the Department.

SUMMARY: The Office of Appeals includes a DEO-6, Appeals Information, with every Notice of Hearing mailed to parties. This document provides directions for the hearing process to assist parties in preparing for the hearing and is thus being adopted as a rule. The rule is also amended to ensure the Department is properly noticed by the Office of Appeals where the Department is a party to the hearings.

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 nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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: 443.012(11) FS.

LAW IMPLEMENTED: 443.151(4)(a), (b), (d) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dorothy Johnson, Deputy General Counsel, Office of the Unemployment Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685

THE FULL TEXT OF THE PROPOSED RULE IS:

73B-20.015 Notice of Hearing.

(1) The appeals referee shall mail notice of the hearing to all parties at least 10 days prior to the date of the hearing. In proceedings to which the Department of Economic Opportunity is a party, the notice shall be directed to the Director of the Division of Workforce Services in Executive Director of the Department of Economic Opportunity or one or more of his or her designees. Whenever practicable, notices to employers shall be mailed to both the employer's official address of record and to the job site where the claimant was employed. Notices shall also be provided to attorneys and representatives of record.

(2) The notice shall include or be accompanied by:

(a) through (d) No change.

(e) A statement of the rules regarding requests for continuances and subpoenas; ~~and~~

(f) The address of the office to which all motions, requests of other correspondence concerning the hearing should be directed; ~~and-~~

(g) A DEO-6E (English) (Rev. 04/12) Appeals Information, DEO-6S (Spanish) (Rev. 04/12) Informacion Sobre Apelaciones, or DEO-6C (Creole) (Rev. 04/12) Dedomajman pou Chomaj Enfomasyon Apel, incorporated herein by reference, and available at the Department's website, www.floridajobs.org/appeals.

(3) No change.

Rulemaking Specific Authority 443.012(11) FS. Law Implemented 443.151(4)(a), (b), (d) FS. History—New 5-22-80, Amended 11-30-81, 5-22-83, Formerly 38E-5.15, Amended 8-20-86, Formerly 38E-5.015, 60BB-5.015, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dorothy Johnson, Deputy General Counsel
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Unemployment Appeals Commission
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 23, 2012
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 11, 2012

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Workforce Services

RULE NO.: 73B-21.002 RULE TITLE: Form of Appeal

PURPOSE AND EFFECT: The Commission is proposing to amend the rule to incorporate by reference the on-line appeal form and the appeal form; to remove duplicative provisions; to include all methods of delivery of appeals; to clarify where an appeal can be filed; and to include language requesting the reasons for the appeal.

SUMMARY: The rule is amended to include the forms for filing appeals with the Unemployment Appeals Commission. This includes DEO-A100RAAC in three languages and the form in the Commission’s on-line internet appeal filing application. The rule is also amended to specify that in addition to the on-line appeals process an appeal may be filed at the Commission or the Department’s Office of Appeals by fax, courier service, in-person or by mail. The rule is also amended to specify what information is requested when an appeal is filed.

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 nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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: 443.012(11) FS.

LAW IMPLEMENTED: 443.151(4)(d) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dorothy Johnson, Deputy General Counsel, Office of the Unemployment Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (950)487-2685

THE FULL TEXT OF THE PROPOSED RULE IS:

73B-21.002 Form of Appeal.

(1) An appeal of an appeals referee’s decision may be filed on-line at the Department of Economic Opportunity website at <https://www.floridajobs.org/RAACIAP>, Florida Reemployment Assistance Appeals Commission, Review Request (2012), incorporated herein by reference, or at any of the following locations:

(a) By facsimile number, courier service, in-person or mail to tThe Reemployment Assistance Unemployment Appeals Commission (Suite 101, Rhyne Building, 2740 Centerview Drive, Tallahassee, FL 32399-4151); facsimile number (850)488-2123; or,

(b) By facsimile number, courier service, in-person or mail to tThe central or district appeals referee offices maintained by the Department of Economic Opportunity Office of Appeals (Caldwell Building MSC 347, 107 East Madison Street, Tallahassee, FL 32399-4143, facsimile number (850)921-3524;

~~(c) Any of the unemployment claim adjudication offices operated by the Department of Economic Opportunity; and~~

~~(d) Any unemployment compensation claims office located outside the State of Florida.~~

(2) An appeal shall be in writing and should contain the following:

(a) No change.

(b) The name, tax account number, and mailing address of the employer or employers involved;

(c) The referee decision docket number of the case being appealed.

(3) The following shall constitute acceptable methods of appeal;

(a) No change.

(b) Any person entitled to file an appeal may obtain an ~~printed~~ appeal form (DEO-A100RAAC(E) (English) AWI-A100, Request for Reemployment Assistance Appeals Commission Review Notice of Appeal), (Rev. 04/12 4/01); DEO-A100RAAC(S) (Spanish), Solicitud Revision De La Comision De Apelaciones Por Pesempleo (Rev. 04/12); DEO-A100RAAC(C) (Creole), Demann Pou Komisyon Dapel Pou Alokasyon Chomaj Fe Yon Revizyon (Rev 04/12)),

incorporated herein by reference, at the Department’s website at <http://www.floridajobs.org/RAforms> any of the locations listed in subsections 73B-21.004(1), (2) and (3), F.A.C., and at any location providing unemployment claim information. Use of the form is not mandatory; however, ~~whatever if a letter or other instrument is used,~~ it should include the following information required in subsection (2) and:

1. ~~The name and social security account number of each claimant, if any, involved;~~
2. ~~The name of each employer, if any, involved;~~
3. ~~The date, subject matter, and docket number of the decision; and~~
4. ~~a concise brief statement of any and all allegations of error with respect to the referee’s decision, and factual and legal support for these challenges. Allegations of error not specifically set forth in the request for review may be considered waived the reasons for disagreement with the decision.~~

(c) Failure to include all of the information listed in paragraphs ~~paragraph (2)(b) and (3)(b)~~ will not constitute cause for rejection of the appeal, but may result in a delay in processing the appeal.

(4) No change.

Rulemaking Specific Authority 443.012(11) FS. Law Implemented 443.151(4)(d) FS. History–New 5-22-80, Formerly 60BB-6.02, Amended 8-20-86, 8-7-01, Formerly 38E-2.002, 60BB-6.002, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Dorothy Johnson, Deputy General Counsel
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Unemployment Appeals Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 23, 2012
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 11, 2012

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Workforce Services

RULE NO.: RULE TITLE:
73B-21.004 Computation of Time

PURPOSE AND EFFECT: The Commission is proposing to amend the rule to clarify the definition of “holiday” for appeal purposes.

SUMMARY: The definition of holiday is amended to provide that the closing of the United States Postal Service will only constitute a holiday for purposes of filing an appeal when the appeal has been filed by mail.

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 nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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: 443.012(11) FS.

LAW IMPLEMENTED: 443.151(4)(b), (d) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dorothy Johnson, Deputy General Counsel, Office of the Unemployment Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685

THE FULL TEXT OF THE PROPOSED RULE IS:

73B-21.004 Computation of Time.

(1) No change.

(2) As used in this rule, holiday means:

(a) No change.

(b) Any ~~other~~ day on which the Office of the Clerk of the Commission is closed; and

(c) When a document is mailed, aAny ~~other~~ day on which the United States Postal Service is closed.

Rulemaking Specific Authority 443.012(11) FS. Law Implemented 443.151(4)(b), (d) FS. History–New 5-22-80, Formerly 38E-2.04, Amended 8-20-86, Formerly 38E-2.004, 60BB-6.004, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Dorothy Johnson, Deputy General Counsel
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Unemployment Appeals Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 23, 2012
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 11, 2012

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Workforce Services

RULE NO.: RULE TITLE:
73B-21.006 Representation

PURPOSE AND EFFECT: The Commission is proposing to amend the rule to include the procedure for requesting representative fee approval.

SUMMARY: For a claimant representative to accept a fee from a claimant for assisting a claimant with an appeal before the Unemployment Appeals Commission the representative must submit a fee request to the Commission and receive approval for any fee. This rule amendment provides direction to claimant representatives for presenting a fee request to the Commission.

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 nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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: 443.012(11) FS.

LAW IMPLEMENTED: 443.041(2), 443.151(4)(d) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dorothy Johnson, Deputy General Counsel, Office of the Unemployment Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685

THE FULL TEXT OF THE PROPOSED RULE IS:

73B-21.006 Representation.

(1) through (3) No change.

(4) A request for approval of a fee to be paid by the claimant, if any fee is charged by a claimant's representative for services performed before the Commission, shall be in writing and received by the Commission no later than 15 days after the Commission's order ruling on the case. The request

should include a description of the time spent and services rendered in connection with the Commission appeal, and the amount of the proposed fee.

Rulemaking Specific Authority 443.012(11) FS. Law Implemented 443.041(2), 443.151(4)(d) FS. History--New 5-22-80, Formerly 38E-2.06, Formerly 38E-2.006, 60BB-6.006, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dorothy Johnson, Deputy General Counsel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Unemployment Appeals Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 23, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 11, 2012

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Workforce Services

RULE NO.: RULE TITLE:
73B-22.003 Record on Appeal to the Commission

PURPOSE AND EFFECT: To clarify application of the rule to appeals to the Unemployment Appeals Commission. Also, to conform the rule to name changes to the Department of Economic Opportunity and the Reemployment Assistance Appeals Commission

SUMMARY: The Legislature moved the Unemployment Program from the Agency for Workforce Innovation to the Department of Economic Opportunity and changed the name of the Unemployment Appeals Commission to the Reemployment Assistance Appeals Commission. This rule amendment conforms to those changes.

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 nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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: 443.012(11) FS.

LAW IMPLEMENTED: 443.151(4)(d) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dorothy S. Johnson, Deputy General Counsel, Office of the Unemployment Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685

THE FULL TEXT OF THE PROPOSED RULE IS:

73B-22.003 Record on Appeal to the Commission.

(1) The contents of the record on appeal to the Commission shall consist only of:

(a) No change.

(b) All ~~department agency~~ memoranda or data submitted to the appeals referee or other hearing officer, provided that such memoranda or data were submitted prior to disposition of the appeal, after notice of the submission to all parties;

(c) through (e) No change.

(f) The notice of docketing of the appeal of the referee's decision by the Reemployment Assistance Unemployment Appeals Commission, or the order of the Commission removing the proceedings to itself or initiating review upon its own motion;

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

Rulemaking Specific Authority 443.012(11) FS. Law Implemented 443.151(4)(d) FS. History--New 5-22-80, Formerly 38E-3.03, Amended 8-20-86, 1-5-93, Formerly 38E-3.003, 60BB-7.003, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dorothy Johnson

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Unemployment Appeals Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 23, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 11, 2012

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Workforce Services

RULE NO.: 73B-22.009 RULE TITLE: Record on Appeal to the Court

PURPOSE AND EFFECT: The Commission is proposing to amend the rule to clarify the record on appeal to the Court and to clarify that the rule references the Clerk of the Commission.

SUMMARY: The rule changes conform the rule to the change in name of the Commission passed in the 2012 Legislative Session and clarifies that the clerk named in the rule is the clerk of the Commission.

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 nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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: 443.012(11) FS.

LAW IMPLEMENTED: 443.151(4)(c)-(e) 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: Dorothy Johnson, Deputy General Counsel, Office of the Unemployment Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685

THE FULL TEXT OF THE PROPOSED RULE IS:

73B-22.009 Record on Appeal to the Court.

(1) The contents of the record shall consist only of:

(a) No change.

(b) All additional evidence made a part of the record in pursuant to further proceedings held pursuant to the direction of directed by the Reemployment Assistance Unemployment Appeals Commission;

(c) No change.

(d) The order of the Reemployment Assistance Unemployment Appeals Commission on appeal.

(2) Within 10 days of filing the notice, the appellant may direct the Clerk of the Commission (hereinafter Clerk) to exclude any of the documents or exhibits listed in subsection (1). If the appellant directs the Clerk to transmit less than the entire record, the appellant shall file with such directions a designation of the agency actions to be reviewed. Within 20 days of filing the notice, an appellee may direct the Clerk to include any additional documents or exhibits listed in subsection (1).

(3) Within 10 days of filing of the notice, the appellant shall designate those portions of the proceedings for transcription and inclusion in the record. Within 20 days of

filing of the notice, the appellee may designate additional portions of the proceedings. Copies of designations shall be served on the Clerk of the Commission along with a request that the Clerk provide a duplicate of the audio recording of the proceedings for transcription by a court reporter. Within 30 days of a designation, the designating party shall insure that the court reporter shall transcribe and deliver to the Clerk of the Commission the designated proceedings. In the alternative, the designating party may request that the Clerk of the Commission arrange transcription of the designated proceedings by the clerk's staff or other qualified person. The Clerk shall charge parties, other than claimants, no more than the actual costs for duplication of the audio recording of the proceedings or transcription of the proceedings. Costs shall be borne initially by the designating party, subject to taxation of costs as prescribed by Florida Rule of Appellate Procedure 9.400.

(4) No change.

Rulemaking Specific Authority 443.012(11) FS. Law Implemented 443.151(4)(c)-(e) FS. History--New 5-22-80, Formerly 38E-3.09, Amended 10-5-86, 1-5-93, Formerly 38E-3.009, 60BB-7.009, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE:
Dorothy Johnson, Deputy General Counsel
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Unemployment Appeals Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 23, 2012
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 11, 2012

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF STATE

Division of Cultural Affairs

RULE NO.: IT-1.038
RULE TITLE: Individual Artist Fellowship Program
NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 38, No. 18, May 4, 2012 issue of the Florida Administrative Weekly. The proposed rule referenced above was originated by: Morgan Lewis, Division of Cultural Affairs, (850)245-6470 or Morgan.Lewis@dos.myflorida.com.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ken Detzner, Secretary of State
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 16, 2012

STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: 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.

DEPARTMENT OF REVENUE

Property Tax Oversight Program

RULE NO.: 12D-16.002
RULE TITLE: Index to Forms

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 38, No. 14, April 6, 2012 issue of the Florida Administrative Weekly.

These changes are based on comments received by the Department from the Joint Administrative Procedures Committee of the Florida Legislature.

The changed rule text will be available at <http://dor.myflorida.com/dor/property/legislation/rules/10ruledrafts.html> and the changed forms will be available at <http://dor.myflorida.com/dor/property/forms/forms4review.html>. This version shows each addition and deletion to the original version of the rule text and forms which were originally published in the Notice of Proposed Rule on April 6, 2012.

When adopted, existing subsections (33), (34)(c), (37) and new subsection (39)(e) of Rule 12D-16.002, will read as follows:

(33)	DR-498AR	Removal of Total or Partial Exemption [front side of form]; Automatic Renewal of Receipt for Total or Partial Tax Exemption [back side of form]; (r. xx/12 4/93)	4/93
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