

Please note that if a written request for the workshop is not received by Close Of Business July, 6, 2006, the workshop will not be held.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Keantha Belton, Special Programs Manager, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329, (850)488-4197

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

Section II Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE NOS.:	RULE TITLES:
5B-57.001	Definitions
5B-57.002	Purpose
5B-57.007	Noxious Weed List
5B-57.011	Biomass Planting

PURPOSE AND EFFECT: The purpose of these rule amendments is to provide definitions for biomass permit and biomass planting, and contiguous, to add the language for biomass plantings within the purpose of Rule 5B-57.002, F.A.C., to add the following plants to the Noxious Weed List; *Abrus precatorius*, *Ardisia elliptica*, *Casuarina equisetifolia*, *Casuarina glauca*, *Colubrina asiatica*, *Leucaena leucocephala*, and *Scaevola taccada* and to provide specific requirements for issuing biomass permits. The effects of the amendments will make the Rules consistent with the provisions of Section 581.083(4), F.S., provide the authority for regulating several new plants known to be invasive noxious weeds and outlining specific procedures for obtaining permits to produce biomass plantings.

SUMMARY: To control the introduction into, or movement within this state of biomass plantings and to establish procedures under which the field release of such are permitted. Such procedures will assist in confirming that introductions and field releases are conducted in a manner which provides for public and environmental protection.

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

Any person who wishes to provide information regarding the statement of estimated regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 570.07(13), (23), 581.031(1) FS.

LAW IMPLEMENTED: 581.031(1), (4), (5), (6), (7), 581.083, 581.101, 581.141 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Richard Gaskalla, Director, Department of Agriculture and Consumer Services, Division of Plant Industry, Room A116, 1911 S.W. 34th Street, Gainesville, Florida 32608, (352)372-3505

THE FULL TEXT OF THE PROPOSED RULES IS:

5B-57.001 Definitions.

For the purpose of this rule chapter, the following definitions shall apply:

(1) through (3) No change.

(4) Biomass permit. A permit issued by the department authorizing a biomass planting.

(5) Biomass planting. The cultivation of a nonnative plant, including a genetically engineered plant for purposes of fuel production or purposes other than agriculture in plantings greater in size than two acres.

(7) Contiguous. Two or more plantings of non-native plants with a common boundary or a parcel of land that has been separated or divided into more than one planting of non-native plants whether separated or divided by a roadway or any other area not under cultivation with non-native plants.

(4) through (16) renumbered (6) through (17) No change.

Specific Authority 570.07(13), (23) FS. Law Implemented 581.031(4), (5), (6), 581.083, 581.091 FS. History--New 7-27-93, Amended 4-18-04,_____.

5B-57.002 Purpose.

The purpose of this rule chapter is to control the introduction into, or movement or spread within this state of any plant pest, noxious weed, or arthropod, and to establish procedures under which the field release of plant pests, noxious weeds, arthropods, and biological control agents or biomass plantings are permitted. Such procedures will assist in confirming that introductions and field releases are conducted in a manner which provides for public and environmental protection.

Specific Authority 570.07(13), (23) FS. Law Implemented 581.031(4), (5), (6), 581.083, 581.091 FS. History--New 7-27-93, Amended_____.

5B-57.007 Noxious Weed List.

(1) Parasitic Weeds.

(a) *Aeginetia* spp. (*Aeginetia*).

(b) *Alectra* spp. (*Alectra*).

(c) *Cuscuta* spp. Only the native Florida species are excluded from this list. These include:

1. *C. americana*.

2. *C. compacta*.

3. *C. exaltata*.

- 4. *C. gronovii*.
 - 5. *C. indecora*.
 - 6. *C. obtusiflora*.
 - 7. *C. pentagona*.
 - 8. *C. umbellata*.
 - (d) *Orobanche* spp. (broomrapes), with the exception of:
 - 1. *O. uniflora*. (oneflowered broomrape)
 - (2) Terrestrial Weeds.
 - (a) *Ageratina adenophora* (crofton weed).
 - (b) *Alternanthera sessilis* (sessile joyweed).
 - (c) *Abrus precatorius* (rosary pea).
 - (d) *Ardisia elliptica* (shoebutton ardisia).
 - (e)(~~e~~) *Asphodelus fistulosus* (onionweed).
 - (f)(~~f~~) *Avena sterilis* (including *Avena budoviciana*) (animated oat, wild oat).
 - (g)(~~e~~) *Borreria alata* (broadleaf buttonweed).
 - (h)(~~f~~) *Carthamus oxyacantha* (wild safflower).
 - (i) *Casuarina equisetifolia* (Australian pine).
 - (j) *Casuarina glauca* (suckering Australian pine).
 - (k)(~~g~~) *Chrysopogon aciculatus* (pilipiliula).
 - (l) *Colubrina asiatica* (latherleaf).
 - (m)(~~h~~) *Commelina benghalensis* (Benghal dayflower).
 - (n)(~~h~~) *Crupina vulgaris* (common crupina).
 - (o)(~~h~~) *Cupaniopsis anacardioides* (carrotwood)
- Propagation prohibited effective 7/1/99; sale or distribution prohibited 1/1/2001.
- (p)(~~k~~) *Digitaria scalarum* (African couchgrass, fingergrass).
 - (q)(~~h~~) *Digitaria velutina* (velvet fingergrass, annual couchgrass).
 - (r)(~~m~~) *Dioscorea alata* (white yam).
 - (s)(~~n~~) *Dioscorea bulbifera* (air potato).
 - (t)(~~o~~) *Drymaria arenarioides* (lightning weed).
 - (u)(~~p~~) *Emex australis* (three-corner jack).
 - (v)(~~q~~) *Emex spinosa* (devil's thorn).
 - (w)(~~r~~) *Euphorbia prunifolia* (painted euphorbia).
 - (x)(~~s~~) *Galega officinalis* (goat's rue).
 - (y)(~~t~~) *Heracleum mantegazzianum* (giant hogweed).
 - (z)(~~u~~) *Imperata brasiliensis* (Brazilian satintail).
 - (aa)(~~v~~) *Imperata cylindrica* (cogongrass).
 - (bb)(~~w~~) *Ipomoea triloba* (little bell, aiea morning glory).
 - (cc)(~~x~~) *Ischaemum rugosum* (murainograss).
 - (dd)(~~y~~) *Leptochloa chinensis* (Asian sprangletop).
 - (ee) *Leucaena leucocephala* (lead tree).
 - (ff)(~~z~~) *Lycium ferocissimum* (African boxthorn).
 - (gg)(~~aa~~) *Lygodium japonicum* (Japanese climbing fern).
 - (hh)(~~bb~~) *Lygodium microphyllum* (small-leaved climbing fern).
 - (ii)(~~ee~~) *Melaleuca quinquenervia* (melaleuca).¹
 - (jj)(~~dd~~) *Melastoma malabathricum* (Indian rhododendron).

- (kk)(~~ee~~) *Mikania cordata* (mile-a-minute).
- (ll)(~~ff~~) *Mikania micrantha* (climbing hempweed).
- (mm)(~~gg~~) *Mimosa invisa* (giant sensitive plant).
- (nn)(~~hh~~) *Mimosa pigra* (catclaw mimosa).¹
- (oo)(~~ii~~) *Nassella trichotoma* (serrated tussock).
- (pp)(~~jj~~) *Neyraudia reynaudiana* (Burma reed).
- (qq)(~~kk~~) *Opuntia aurantiaca* (jointed prickly pear).
- (rr)(~~ll~~) *Oryza longistaminata* (red rice).
- (ss)(~~mm~~) *Oryza punctata* (red rice).
- (tt)(~~nn~~) *Oryza rufipogon* (wild red rice).
- (uu)(~~oo~~) *Paederia cruddasiana* (sewer-vine).
- (vv)(~~pp~~) *Paederia foetida* (skunk-vine).
- (ww)(~~qq~~) *Paspalum scrobiculatum* (Kodomillet).
- (xx)(~~rr~~) *Pennisetum clandestinum* (Kikuyu grass).
- (yy)(~~ss~~) *Pennisetum macrourum* (African feathergrass).
- (zz)(~~tt~~) *Pennisetum pedicellatum* (Kyasuma grass).
- (aaa)(~~uu~~) *Pennisetum polystachyon* (missiongrass, thin napiergrass).
- (bbb)(~~vv~~) *Prosopis* spp.
- (ccc)(~~ww~~) *Pueraria montana* (kudzu).
- (ddd)(~~xx~~) *Rhodomirtus tomentosa* (downy myrtle).
- (eee)(~~yy~~) *Rottboellia cochinchinensis* (itchgrass).
- (fff)(~~zz~~) *Rubus fruticosus* (bramble blackberry).
- (ggg)(~~aaa~~) *Rubus molluccanus* (wild raspberry).
- (hhh)(~~bbb~~) *Saccharum spontaneum* (wild sugarcane).
- (iii)(~~eee~~) *Salsola vermiculata* (wormleaf salsola).
- (jjj)(~~ddd~~) *Sapium sebiferum* (Chinese tallow tree).
- (kkk) *Scaevola taccada* (beach naupaka). Propagation prohibited immediately and distribution prohibited by July 1, 2007.

- (lll)(~~eee~~) *Schinus terebinthifolius* (Brazilian pepper-tree).¹
- (mmm)(~~fff~~) *Setaria pallidifusca* (cattail grass).
- (nnn)(~~ggg~~) *Solanum tampicense* (wetland nightshade).
- (ooo)(~~hhh~~) *Solanum torvum* (turkeyberry).
- (ppp)(~~iii~~) *Solanum viarum* (tropical soda apple).
- (qqq)(~~jjj~~) *Tridax procumbens* (coat buttons).
- (rrr)(~~kkk~~) *Urochloa panicoides* (liverseed grass).

¹Department of Environmental Protection permit required for these species.

Specific Authority 570.07(13), (23) FS. Law Implemented 581.031(4), (5), (6), 581.083, 581.091 FS. History—New 7-27-93, Amended 2-28-94, 6-30-96, 7-7-99,_____.

5B-57.011 Biomass Plantings.

(1) Biomass Permit Requirements. It shall be unlawful to establish a biomass planting greater in size than two contiguous acres except under a biomass permit (DACS 08382) issued by the department. No biomass permit shall be issued for any planting of plants on the state noxious weed list or the federal noxious weed list. No biomass permit shall be

issued unless the applicant is the owner of the property or has written permission from the property owner to utilize the land for biomass plantings. Applications for biomass permits shall be made on form DACS 08381 and submitted to the Division of Plant Industry, P. O. Box 147100, Gainesville, FL 32614-7100. Separate applications for biomass permits shall be required for each noncontiguous growing location and must include a complete description of the nonnative plant to be grown and an estimated cost of removing and destroying the subject plant including the basis for calculating or determining that estimate. The applications must be submitted with the permit fee of \$50 and proof that a bond in the form approved by the department and issued by a surety company admitted to do business in Florida or a certificate of deposit has been obtained as described in Section 581.083(4), F.S. Biomass permits are valid for a twelve-month period following the date of issue and must be renewed annually by the submission of another biomass permit application and \$50 permit fee. The application forms can be obtained from the same address or from the Division of Plant Industry website, <http://www.doacs.state.fl.us/~pi/>. In evaluating the permit application, the department shall visit the proposed growing location and determine if feasible measures can be taken to prevent the spread of the plant into neighboring ecosystems. The permit will include the following requirements as a minimum:

- (a) A system of traps or filters shall be required to prevent plants or plant parts from spreading through ditches, natural waterways or other drainage.
- (b) Measures will be required to prevent spread by seed.
- (c) A fallow area, wide enough to prevent plant spread into adjacent areas, shall be required. The fallow area will be on both sides of a berm surrounding the biomass planting.
- (d) Any equipment used on the site must be cleaned of all plant debris before being moved from the property.
- (e) Wildfire protection measures will be required to mitigate fire risk and damages to surrounding areas.
- (f) A compliance agreement (DACS 08383) containing any additional requirements needed to prevent plant spread shall be signed and will be an addendum to the permit. Failure to abide by the permit stipulations or the compliance agreement is considered to be a violation of these rules.

(2) Bonds or Certificates of Deposit. Each permit holder shall maintain for each separate growing location a bond or a certificate of deposit in an amount of not less than 150 percent of the estimated cost of removing and destroying the plants as described in Section 581.083(4), F.S. The bond or certificate of deposit may not exceed \$5,000 per acre except as allowed by statute.

(3) Abandoned Biomass Plantings. It shall be unlawful for any person to abandon a biomass planting. It is the responsibility of the property owner or permit holder to completely destroy the planting prior to vacating the property or stopping commercial production. If the department

determines that the permit holder is no longer maintaining or cultivating the plants subject to the special permit and has not removed and destroyed the plants authorized by the special permit or has exceeded the conditions of the biomass permit, the department shall take action to initiate the removal of the plants through the issuance of an immediate final order and execution of the bond or certificate of deposit as described in Section 581.083(4), F.S.

(4) Exemptions. A biomass permit is not required for plants produced for purposes of agriculture as defined in Section 570.02(1), F.S. or if the department in consultation with the University of Florida, Institute of Food and Agricultural Sciences has determined that the nonnative plant is not invasive and specifically exempts it in this rule. The following plants or groups of plants are exempt:

- (a) Any plant that is produced for purposes of human food consumption.
- (b) Any plant that is commonly grown for commercial feed, feedstuff or forage for livestock.
- (c) *Pinus* spp.

Specific Authority 570.07(13), (23) FS. Law Implemented 581.031(4), (5), (6), 581.083, 581.091 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard Gestalt, Director, Department of Agriculture and Consumer Services, Division of Plant Industry, Room A116, 1911 S.W. 34th Street, Gainesville, Florida 32608, (352)372-3505

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Craig Meyer, Deputy Commissioner, Florida Department of Agriculture and Consumer Services, The Capital, 400 South Monroe Street, Tallahassee, Florida 32399

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 8, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 27, 2006

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
5B-62	Citrus Nursery Stock Certification Program
RULE NOS.:	RULE TITLES:
5B-62.001	Definitions
5B-62.002	Purpose
5B-62.003	Plant Pest Declaration
5B-62.004	Manuals
5B-62.005	Forms
5B-62.006	Citrus Budwood Technical Advisory Committee

- 5B-62.007 Citrus Nursery Stock Certification Program
- 5B-62.008 Requirements for Citrus Nursery Site Approval
- 5B-62.009 Requirements for Citrus Nursery Sanitation
- 5B-62.010 Requirements for Citrus Nursery Structure
- 5B-62.011 Requirements for Citrus Propagation Source Trees
- 5B-62.012 Parent Trees
- 5B-62.013 Foundation Trees
- 5B-62.014 Scion Trees
- 5B-62.015 Increase Trees
- 5B-62.017 Source Tree Registration Certificate
- 5B-62.018 Procedure for Identifying and Recording Commercial Citrus Nursery Stock
- 5B-62.019 Inter- or Intra-Nursery Movement of Plant Material
- 5B-62.020 Retail Sales
- 5B-62.021 Requirements for Soil Pit Approval
- 5B-62.022 Requirements for Utility and Road Construction
- 5B-62.023 Stop-Sale Notice or Hold Order (DACS-08016)
- 5B-62.024 Release from Quarantine or Withdrawal of Stop-Sale Notice or Hold Order (DACS-08016)
- 5B-62.025 Fees
- 5B-62.026 Citrus Produced for Research Purposes
- 5B-62.027 Exemptions

PURPOSE AND EFFECT: The purpose of this rule chapter is to minimize the spread of serious graft-transmissible diseases and certain other pathogens as well as nematodes of citrus by requiring all nurserymen propagating citrus to participate in a mandatory citrus nursery stock certification program.

SUMMARY: The requirements for program participation are established in this chapter. It is intended that there shall be no propagation of citrus nursery stock except as provided in this chapter, and it shall be unlawful to plant citrus nursery stock in Florida unless that citrus nursery stock has been propagated pursuant to this chapter.

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

Any person who wishes to provide information regarding the statement of estimated regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 570.07(23), 581.031(1), (3), (8) FS.
 LAW IMPLEMENTED: 570.07(2), (13), 570.0705, 581.031(1), (14), (17), (23) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Connie Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, P. O. Box 147100, Gainesville, FL 32614-7100

THE FULL TEXT OF THE PROPOSED RULES IS:

5B-62.001 Definitions.

For the purpose of this rule chapter, the definitions in Section 581.011, F.S., and the following definitions shall apply:

(1) African citrus psyllid. The insect known as African citrus psyllid, Trioza erytrae, classified in the order Homoptera, Family Psyllidae, and all of its life stages. It is a vector of citrus greening.

(2) Approved citrus nursery site. A defined area which meets the certification requirements as prescribed by the Department.

(3) Approved soil pit. A soil source used for fill purposes, highway or road construction, or as an ingredient in plant growing or potting media which meet the Department requirements as to the absence of injurious nematodes of citrus.

(4) Asian citrus psyllid. The insect known as Asian citrus psyllid, Diaphorina citri Kuwayama, classified in the order Homoptera, Family Psyllidae, and all of its life stages. It is a vector of citrus greening.

(5) Australian Citrus Dieback. A disease from Australia similar to citrus greening, but for which neither the causal organism nor the vector have been characterized and identified.

(6) Barrier. An area of land of sufficient width and length located or established in a manner to prevent or suppress the natural or artificial spread of nematodes or other pathogens of citrus from an infested property to another property.

(7) Brown citrus aphid. Toxoptera citricida (Kirkaldy), classified in the order Homoptera, Family Aphididae, and all of its life stages.

(8) Budwood. A portion of a stem or branch with a vegetative bud(s) used in propagation for budding or grafting.

(9) Certified citrus nursery. A nursery which has been certified by the Department as meeting the requirements for production of citrus nursery stock free of pests of citrus.

(10) Certified Tree. A scion tree meeting all the requirements of Chapter 5B-62, F.A.C., but not yet having borne fruit or nursery trees propagated from a certified scion tree.

(11) Citrus. All species of the genera Citrus, Poncirus, and Fortunella including any hybrids thereof.

(12) Citrus blight. A root graft-transmissible disease of unknown etiology associated with xylem dysfunction which results in wilting and slow decline of trees.

(13) Citrus Budwood Foundation Grove. Plantings of pathogen-tested citrus trees, maintained by the Bureau of Citrus Budwood Registration, representing major commercial varieties and rootstocks for the purposes of horticultural observation and distribution of budwood to Florida growers.

(14) Citrus canker. A bacterial disease of citrus incited by the organism *Xanthomonas axonopodis* pv. *citri*.

(15) Citrus *exocortis* viroid. A graft- and mechanically-transmissible pathogen incited by the organism *Citrus exocortis* viroid in the Pospoviridae family and Pospoviroid genus. Disease symptoms include tree decline, stunting of growth, scaling and shelling of the rootstock bark of *Poncirus trifoliata* and many *P. trifoliata* hybrids and Rangpur lime.

(16) Citrus greening. A phloem-limited bacterial disease of citrus and citrus relatives incited by the organism *Candidatus Liberibacter* spp., or huanglongbing (also known as yellow dragon disease) and vectored by *Diaphorina citri* and *Trioza erytreae*. Disease symptoms include mottled foliage, asymmetrical bitter fruit and trees which become non-productive.

(17) Citrus Nursery Stock Certification Program. A mandatory program administered by the Division of Plant Industry whereby nurserymen, growers and other people propagating citrus, including all dooryard, own-use and commercial plantings, are required to propagate citrus in accordance with these rules.

(18) Citrus *tristeza* virus. A graft-transmissible closterovirus in the Closteroviridae which is transmitted by aphids (primarily brown citrus aphid, *Toxoptera citricida*). Severe strains, as opposed to mild strains, of the virus cause severe stem pitting, seedling yellows, or quick decline on sour orange rootstock which result in reduced crops or loss of trees.

(19) Citrus viroids. Viroids in the family Pospoviroidea and the genus *Apscaviroid* (*Citrus* bent leaf viroid, citrus viroid I), *Citrus* viroid III, and the genus *Cocaviroid* (*Citrus* viroid IV), in addition to citrus *exocortis* viroid and citrus cachexia viroid (*xyloporosis*, *Citrus* Viroid II).

(20) Citrus cachexia viroid (*xyloporosis*, *Citrus* viroid II). A graft- and mechanically-transmissible viroid incited by the organism *Hop Stunt* viroid in the Pospoviridae family and *Hostuviroid* genus. Disease symptoms include phloem deterioration and blockage in many mandarin, mandarin hybrids, *Citrus macrophylla* Wester, Rangpur lime, and sweet lime. This disease causes decline, stunting, and crop reduction.

(21) Citrus Chlorotic Dwarf (CCD). A graft transmissible disease vectored by the bayberry whitefly, *Parabemisia myricae*, classified in the order Homoptera and family Aleyrodidae. It is a disease of the Eastern Mediterranean

causing chlorotic patterns and distortion in young leaves, stunting of young trees and reduced yields in lemon, mandarin, grapefruit and to a lesser degree, sweet orange.

(22) Citrus Leaf Blotch Virus (CLBV). Also known as Dweet Mottle, it is a wide-spread, graft-transmissible and seed-transmissible disease with no known vector. It is incited by a virus that is expected to be placed in a new genus in the Flexiviridae. It may cause a bud-union disorder in certain varieties on specific rootstocks.

(23) Citrus Leprosis Virus (CiLV). A non-systemic virus disease incited by a virus in the Nucleorhabdovirus genus in the Rhabdoviridae family, is vectored by mites in the *Brevipalpus* genus. It is a problem in Brazil through to upper Central America. It causes a non-systemic infection in citrus with local necrotic lesions on fruit and leaves with leaf and fruit drop, twig die back and where the vector is not controlled, death of the tree.

(24) Citrus Psorosis Virus (CPsV). A graft-transmissible virus thought to also be transmitted by a soil fungus in the *Olpidium* genus. Mild psorosis A, and Severe, psorosis B, are caused by viruses in the *Ophiovirus* genus which is not yet assigned to a virus family. Symptoms include bark-scaling, internal wood staining, ringspots or irregular chlorotic patterns in the foliage, and/or eventual tree decline.

(25) Citrus Stubborn. A graft-transmissible disease that is incited by *Spiroplasma citri* and vectored by several species of leaf hopper (Homoptera: Cicadellidae). Symptoms include buds on newly budded trees not sprouting, acorn-shaped fruit on diseased trees, small shoots and leaves, the presence of witches' brooms, and flowering out of season. It is present in California and Arizona.

(26) Citrus Sudden Death. A disease of unknown etiology thought to have an insect vector. Symptoms include rapid decline of trees budded on Rangpur Lime and to a lesser extent on Volkamer lemon in Brazil.

(27) Citrus Tatter Leaf Virus. A graft- and mechanically-transmitted disease incited by a virus also called citrange stunt or apple stem grooving virus in the *Capillovirus* genus which is not assigned to a virus family. Symptoms include a severe bud-union crease affects trees on trifoliolate orange or trifoliolate orange hybrid rootstocks causing death of the tree.

(28) Citrus Variegated Chlorosis (CVC). A graft-transmissible disease incited by a strain of *Xylella fastidiosa*, a fastidious xylem inhabiting bacterium which is vectored by many species of sharp shooters (Homoptera: Cicadellidae). It is found in Brazil and up into Central America. Affected trees are stunted with dieback and have fruit that are small and ripen early.

(29) Citrus Vein-Enation Virus (CVEV). A graft-transmissible disease also called woody gall is also transmitted in a persistent manner by aphid vectors including *Toxoptera citricida*, *Myzus persicae* and *Aphis gossypii*

(Homoptera: Aphididae). It is thought to be incited by a virus of unknown etiology possibly closely related to the Luteoviridae. It is widespread throughout the cooler citrus growing regions of the world and is present in California. It is symptomless in the majority of citrus cultivars and is not considered of major economic importance. Wood galls are formed on the trunks and branches of rough and Volkamer lemons. Severe infection on these rootstocks has been reported to eventually cause tree decline.

(30) Citrus Yellow Mosaic Virus (CYMV). A graft- and mechanically transmissible disease, it is also vectored by the citrus Mealybug, *Planococcus citri* (Homoptera: Pseudococcidae). It is incited by a Badnavirus in the Caulimoviridae family. Symptoms include yellow mosaic on leaves, reduced leaf size, stunted trees and fruit with elevated green areas and depressed yellow patches. It is known to be in India.

(31) Clone. An asexually reproduced cultivar; a group of genetically uniform plants that have been propagated vegetatively from a single original plant.

(32) Commercial citrus nursery stock. Citrus nursery stock to be used in or for establishing a planting of 40 or more citrus trees.

(33) Commercial citrus grove. A solid set planting of 40 or more citrus trees.

(34) Concave gum/blind pocket. Grant-transmissible pathogens causing infected trees to have concavities in the trunk and main branches. The disease is found in most citrus-growing areas where it reduces yield and tree vigor.

(35) Cooperating agencies. The University of Florida and the United States Department of Agriculture shall be regarded as cooperating agencies.

(36) Decline. A tree that is unthrifty and shows receding vigor, and/or has a significant amount of dieback.

(37) Dooryard citrus nursery stock. Citrus plants to be used only in a residential setting or for establishing a planting of less than 40 citrus trees.

(38) ELISA. Enzyme-Linked ImmunoSorbent Assay. A sensitive laboratory test which uses antibodies coupled with indicators to detect the presence of viruses.

(39) Florida gummosis. A disease of unknown etiology characterized by bark cracks and gumming of scions. This disease is called Rio Grande gummosis in Texas and ferment gum disease in California.

(40) Foundation tree. A citrus tree owned and maintained by the Department in accordance with Rule 5B-62.014, F.A.C., that is used for horticultural evaluation and to provide a source of budwood to nurserymen, primarily for establishing scion and increase trees.

(41) Graft-transmissible pathogens. Disease agents spread by vegetative propagation. This general term includes known viruses, viroids, bacteria, spiroplasmas, and other non-identified virus-like pathogens of citrus.

(42) Horticulturally true-to-type. A plant which conforms to the description of a particular cultivar and which is from the same genetic line of descent as that cultivar.

(43) Increase trees. Specially designated nursery propagations made to rapidly multiply supplies of propagative material for citrus nursery tree production and meeting all the requirements of Rule 5B-62.016, F.A.C.

(44) Indian Citrus Ringspot virus. A disease of mandarin in India incited by a Mandarivirus in the Flexiviridae family.

(45) Melon aphid. *Aphis gossypii* Glover, classified in the order Homoptera, Family Aphididae, and all of its life stages that is also known as the cotton aphid. It is a vector of citrus tristeza virus.

(46) Parent tree. A mature bearing citrus tree that has met all of the requirements of Rule 5B-62.007, F.A.C., and has been registered with the Department.

(47) PCR. Polymerase Chain Reaction. A highly sensitive laboratory test that can detect small amounts of DNA or RNA in a plant tissue sample by amplification of a specific DNA or RNA segment.

(48) Progeny nursery tree. A citrus nursery tree produced from budwood from a registered source tree in accordance with instructions outlined in this rule chapter.

(49) Propagative material. Any live plant material used to produce nursery stock, including cuttings, budwood, seeds, seedlings, air layers and tissue culture.

(50) Registration. The process of certifying source trees as being virus-tested and meeting the requirements of these rules, including annual renewal by notification and fee payment.

(51) Rootstock. A plant used as the recipient understock in budding or grafting.

(52) Satsuma Dwarf Virus. A graft- and mechanically-transmissible disease which apparently also has a non-nematode soil vector. It is incited by a Sadwavivirus which is not yet assigned to a viral family. Satsuma trees infected with SDV will also display a range of leaf symptoms including narrow, boat or spoon-shaped leaves, the surface of which is often distorted or crinkled. A severely affected tree has poor fruit-set and its fruit are small and irregularly shaped, and tree vigor is reduced.

(53) Seed source tree. A tree that supplies seed for propagation which has been determined by the Department as being apparently horticulturally true-to-type, and if of the genus Poncirus or its hybrids has been tested once at the owner's expense and found free of psorosis and other seed – transmitted diseases listed in Rule 5B-62.003, F.A.C., unless propagated from a foundation tree.

(54) Scion tree. A citrus tree grown in accordance with Rule 5B-62.015, F.A.C., from budwood taken from a registered foundation tree and registered with the Department as a source of budwood.

(55) Severe strains of citrus tristeza virus. Severe strains of citrus tristeza virus will be determined by the Department with input from the Citrus Budwood Technical Advisory Committee as to which strains are regulated and which techniques are approved for testing.

(56) Source tree. A citrus tree that has met all of the requirements as a source of budwood or propagative material, i.e., a scion tree, increase tree, foundation tree, or seed source tree.

(57) Tests. Standardized laboratory, biological greenhouse or field plot tests for certain graft-transmissible pathogens before trees are eligible for registration as source trees as contained in Graft-transmissible Diseases of Citrus: Handbook for detection and diagnosis, or approved by the Citrus Budwood Technical Advisory Committee.

(58) Witches' Broom Disease of lime (WBDL). A disease of Citrus aurantiifolia, small-fruited acid lime, in Asia incited by Candidatus Phytoplasma aurantifolia and thought to be vectored by *Hishimonous phycitis* (Homoptera: Cicadellidae).

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (13), 570.0705, 581.031(1), (14), (17), (23) FS. History--New _____.

5B-62.002 Purpose.

The purpose of this rule chapter is to minimize the spread of serious graft-transmissible diseases and certain other pathogens as well as nematodes of citrus by requiring all nurserymen propagating citrus to participate in a mandatory citrus nursery stock certification program. The requirements for program participation are established in this chapter. It is intended that there shall be no propagation of citrus nursery stock except as provided in this chapter, and it shall be unlawful to plant citrus nursery stock in Florida unless that citrus nursery stock has been propagated pursuant to this chapter.

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (13), 570.0705, 581.031(1), (14), (17), (23) FS. History--New _____.

5B-62.003 Plant Pest Declaration.

The following pathogens, nematodes and arthropods and plants infected with or exposed to the pathogens and nematodes, are declared to be plant pests and nuisances:

- (1) Australian citrus dieback.
- (2) Citrus canker.
- (3) Citrus chlorotic dwarf.
- (4) Citrus greening (Huanglongbing).
- (5) Citrus leaf blotch virus.
- (6) Citrus leprosis virus.
- (7) Citrus psorosis virus.
- (8) Citrus stubborn.
- (9) Citrus sudden death.
- (10) Citrus tatter leaf virus (Apple stem grooving virus).

(11) Citrus variegated chlorosis.

(12) Citrus vein-enation virus.

(13) Citrus viroids.

(14) Citrus yellow mosaic virus.

(15) Concave gum/blind pocket.

(16) Indian citrus ringspot virus.

(17) Satsuma dwarf virus.

(18) Severe strains of Citrus tristeza virus.

(19) Witches' broom disease of lime.

(20) Plant parasitic nematodes not known to occur in Florida. The following nematodes present a serious threat to Florida's commercial citrus industry:

(a) *Hemicycliophora arenaria*, a sheath nematode;

(b) *Meloidogyne* spp., species which are pathogenic to citrus; and

(c) Any other plant parasitic nematode species or biotype which may be determined by Department order or rule to be injurious to citrus.

(21) Plant parasitic nematodes which are known to be established in Florida. The following nematodes present a serious threat to Florida's commercial citrus industry:

(a) *Radopholus similis*, burrowing nematode;

(b) *Tylenchulus semipenetrans*, the citrus nematode;

(c) *Pratylenchus coffeae*, a root-lesion nematode;

(22) African citrus psyllid, *Trioza erytreae*

(23) Asian citrus psyllid, *Diaphorina citri*

(24) Brown citrus aphid, *Toxoptera citricida*

(25) Melon aphid, *Aphis gossypii*

(26) Any other plant virus, viroid, parasitic nematode species or biotype or arthropod found injurious to citrus.

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (13), 570.0705, 581.031(1), (6), (14), (23) FS. History--New _____.

5B-62.004 Manuals.

The regulations, definitions, and standards in Citrus Nursery Stock Certification Manual, Revised 4/01/06, Citrus Budwood Testing Manual, Revised 4/01/06, and C. N. Roistacher, Graft-transmissible Diseases of Citrus: Handbook for detection and diagnosis (Food and Agricultural Organization of the United Nations, Rome, 1991) are hereby adopted as regulations and rules under the Division of Plant Industry, pursuant to Chapter 581, F.S. Copies may be obtained by contacting the Secretary of State's Office, Tallahassee, FL. Copies are available for examination at the Florida Department of Agriculture and Consumer Services, Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, FL 33881, and the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Plant Pathology Section, 1911 S.W. 34th Street, Gainesville, FL 32608-1201.

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(23), 570.0705, 581.031(1), (14), (17), (23) FS. History–New _____.

5B-62.005 Forms.

All forms required for compliance in the Citrus Nursery Stock Certification Program are listed below and hereby adopted and incorporated by reference herein. The following forms may be obtained by writing or visiting the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, FL 33881-1438. www.doacs.state.fl.us.

Form DACS-08066, Revised 5/06, Application to produce citrus nursery stock.

Form DACS-08172, Revised 5/06, Source Tree Bud Cutting Report.

Form DACS-08072, Revised 7/03, Certificate of Source Tree Registration.

Form DACS-08111, Revised 7/03, Certification to Witness Registered Budwood.

Form DACS-08298, Revised 7/03, Parent Tree Candidate Entry Form.

Form DACS-08071, Revised 7/03, Growers Record of Registered Scion Tree Movement.

Form DACS-08064, Revised 6/03, Statement of Charges for Annual Source Tree Registration.

Form DACS-08218, Revised 10/04, Budwood Order Form.

Form DACS-08031, Revised 7/03, Compliance Agreement – Citrus Tristeza Virus Testing Laboratory Certification.

Form DACS-08274, Revised 7/03, Application and Permit to Plant Citrus Pathogen Infected Stock.

The following forms may be obtained by writing or visiting the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, FL 32614-7100.

Form DACS-08038, Revised 10/03, Citrus Nursery Stock Inspection Tag.

Form DACS-08016, Revised 1/04, Stop Sale Notice and Hold Order.

Form DACS-08004, Revised 10/04, Application for Certificate of Registration.

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (23), 570.0705, 581.031(1), (14), (17), (23) FS. History–New _____.

5B-62.006 Citrus Budwood Technical Advisory Committee.

The Commissioner of Agriculture shall name a Citrus Budwood Technical Advisory Committee of sixteen members selected as follows:

(1) Four members who shall be owners or employees of citrus nurseries with one representing a producer of dooryard citrus nursery stock;

(2) Four members who shall be commercial citrus fruit producers or employees of producers;

(3) Four members who shall represent the Institute of Food and Agricultural Sciences of the University of Florida or the USDA Agricultural Research Service, and who shall be non-voting advisors to the committee;

(4) Four members who shall be employees of the Department, and who shall be non-voting advisors to the committee;

(5) Two alternate members, one who shall be from (1) and one who shall be from (2), and who shall be non-voting members to the committee and have voting rights only on the absence of members (1) or (2);

(6) The above appointed committee may meet when called by the committee chairman. This committee shall make recommendations to the Department on matters pertaining to this rule chapter such as germplasm introduction, nursery stock certification, testing procedures, and other Citrus Budwood Protection Program procedures. In appointing the committee, the Commissioner will select members from various geographical areas who represent a broad cross-section of the industry and impacted businesses.

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (23), 570.0705, 581.031(1), (14), (17), (23) FS. History–New _____.

5B-62.007 Citrus Nursery Stock Certification Program.

It shall be unlawful for any person to propagate or plant citrus nursery stock, which is not produced in accordance with the provisions of the Citrus Nursery Stock Certification Program. Participation in the Citrus Nursery Stock Certification Program shall not imply any warranty on the part of the nurserymen, the Department, or any employee thereof.

(1) Prior to propagating nursery stock (including dooryard, own-use and commercial citrus), nurserymen and growers shall:

(a) Register with the Division of Plant Industry filling out Form DACS-08004, Application for Certificate of Registration according to Rule 5B-2.002, F.A.C.

(b) Make application to produce citrus nursery stock on Form DACS-08066, Application to produce citrus nursery stock.

(2) Applicants must agree to comply with all the conditions which apply to the Citrus Nursery Stock Certification Program as specified in this rule chapter.

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (13), 570.0705, 581.031(1), (14), (17), (23) FS. History–New _____.

5B-62.008 Requirements for Citrus Nursery Site Approval.

(1) Citrus nursery sites must be a minimum of one mile away from commercial citrus groves and 100 feet away from plants not certified by the Department as being free of nematodes listed in Rule 5B-62.003, F.A.C., and free of any exterior, field or container grown plants from all genera, species, and varieties of the Rutaceous subfamilies Aurantioideae, Rutoideae, and Toddalioideae, unless specifically excluded by the rules of the Department. Citrus nurseries located on sites prior to April 1, 2006 will not be required to comply with the one mile setback from commercial citrus groves while continuously operating at the April 1, 2006 location. Seed source trees may be kept within 100 feet of a citrus nursery site or on the nursery site until January 1, 2012 provided they are not infested with citrus canker or citrus greening and are treated to control Asian citrus psyllid.

(2) Sites found to be infested with nematodes listed in Rule 5B-62.003, F.A.C., will not be approved for field grown or in-ground production of citrus nursery stock. Citrus nursery stock may be produced on the site if grown on benches at least 18 inches above ground.

(3) The nursery site should be well drained with no runoff from surrounding areas.

(4) The site should have adequate parking outside the facility.

(5) The site should incorporate an area for deliveries and shipments.

(6) The site should have an adequate water supply without using surface water for irrigation.

(7) The site should incorporate natural or artificial windbreaks that would reduce wind blown rain.

(8) The nursery site must be fenced and all entrances must be secured.

(9) Site access shall have permitted entry only through an area that incorporates decontamination areas for personnel and equipment.

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (23), 570.0705, 581.031(1), (14), (17), (23) FS. History--New _____.

5B-62.009 Requirements for Citrus Nursery Sanitation.

(1) All equipment entering or leaving the nursery must be clean of all plant material, soil and decontaminated in accordance with Department procedures using approved decontamination products.

(a)1. Budding knives, clippers and other cutting implements shall be sterilized between different groups of propagations using a solution of household bleach 20% by volume.

2. Sterilization solution shall be made up fresh each day.

(b) All equipment, if possible, should be kept on site.

(2) Nursery employees who work with citrus produced outside of the approved structure shall not return to work within the approved structure until the following day.

(3)(a) Prior to entering the nursery everyone must decontaminate with an approved personal decontamination product and wear a clean garment that should be provided by the nursery. If gloves are worn, they must be disposable gloves or decontaminated each day and kept on site.

(b) All persons entering an approved structure or soil storage area shall walk through a sanitizing foot bath containing a decontaminant that is approved by the Department such as copper sulfate.

(4) All plants, plant parts (except seed), soil, peat, sawdust, mulch, manure or other plant-growing or potting media entering the approved site for the production of commercial citrus nursery stock must be accompanied by a nematode (BN) certificate.

(5)(a) All pots, cans, or other containers used to produce commercial citrus nursery stock free of nematodes of citrus must be stored in such a manner to prevent contact with the ground or contamination by flooding, rain-soil-splatter or ground water runoff.

(b) Growing containers shall be cleaned and decontaminated between crops of commercial citrus nursery stock.

(6) All benches approved for nematode certification for commercial citrus nursery stock must be at least 18 inches above the ground. Measurement shall be from the bottom of the bench to the ground surface. Benches shall be cleaned and decontaminated between crops.

(7) All nematode-certified growing or potting media used for commercial citrus nursery stock must be stored at least 18 inches above the ground or on concrete or asphalt that is above ground level and not subject to flooding or ground water runoff.

(8) Non-certified nursery stock cannot be grown in or introduced into the same greenhouse or structure with citrus nursery stock.

(9) Any plant certified free of nematodes that is dropped or set on the ground no longer meets nematode (BN) certification and shall not be returned to the bench.

(10) Nursery records shall be made available to division inspectors for:

(a) All chemical applications;

(b) Nursery budding and tree movement records.

(11) It shall be the responsibility of the nurseryman to:

(a) Prevent encroachment of Rutaceous subfamilies Aurantioideae, Rutoideae, and Toddalioideae, plants and the use of non-certified material, which would endanger the nursery site of becoming infested with injurious nematodes of citrus.

(b) Follow established sanitation procedures to prevent nematode, Diaprepes, psyllid, aphid or other common plant pest infestation of the nursery site.

(12) Nursery areas and perimeter shall remain weed free.

(13) Approved citrus nursery sites not planted within 12 months shall be reevaluated prior to use.

(14) Any citrus nursery stock or budwood source tree found infected or exposed to plant pest infestation shall be subject to immediate quarantine action and will not be eligible for certification until treated as prescribed by the Department and released from quarantine.

Specific Authority 570.07(23), 581.031(1) FS. Law Implemented 581.031(6) FS. History—New _____.

5B-62.010 Requirements for Citrus Nursery Structure.

(1) All citrus nursery stock propagated after January 1, 2007 must originate from a greenhouse structure and site approved by the Department. All citrus nursery stock moved or sold after December 31, 2007 must originate from a greenhouse structure and site approved by the Department.

(2) Effective January 1, 2007 newly propagated commercial and dooryard citrus nursery stock and all budwood source trees must be maintained in an approved structure at an approved site as follows:

(a) An approved structure must have enclosed sides and tops built to exclude insects with positive pressure double-door entries. Sides and roofs shall at a minimum exclude melon aphids.

(b) If cooling pads and fans are used, they must be enclosed with insect screen that will allow for adequate air displacement.

(c) If the integrity of the structure is compromised or breached, the citrus nursery stock shall be subject to immediate quarantine action and will not be eligible for certification until treated as prescribed by the Department and released from quarantine. Pest monitoring tools such as yellow sticky traps or other detection devices for plant-feeding insects should be used by the nursery and may be used by the Department to evaluate the integrity of the structure.

(d) Dooryard citrus nursery stock maintained in containers larger than seven inches in diameter may be kept in an enclosed screenhouse designed to deter citrus psyllids.

(e) Citrus nursery stock may be moved from one approved structure into another approved structure on the same approved site provided the plants are in the process of being actively relocated and are covered.

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (13), 570.0705, 581.031(1), (14), (17), (23) FS. History—New _____.

5B-62.011 Requirements for Citrus Propagation.

Commercial and dooryard citrus nursery stock shall be propagated according to the following provisions unless exempted in Rule 5B-62.016, F.A.C.

(1) Propagative material including budwood, air-layers, cuttings and all topworking material shall be from source trees produced or grown in accordance with Rule 5B-62.012, F.A.C., and for which a Certificate of Source Tree Registration (DACS-08072) has been issued as specified in Rule 5B-62.017, F.A.C.

(2) Budwood shall be taken under the direct supervision of a witness authorized by the Department. Budwood from each source tree shall be wrapped separately. Each bundle shall be labeled showing variety, the tree identification number, and the number of buds counted or estimated.

(3) All propagative material data including topworking shall be recorded on a Source Tree Bud Cutting Report (DACS-08172) and submitted to the Bureau of Citrus Budwood Registration at the time of collection. Persons authorized to fill out a Source Tree Bud Cutting Report (DACS-08172), shall sign a Certification To Witness Registered Budwood form, DACS-08111.

(4) Propagations from each source tree shall be maintained in nursery rows or on greenhouse benches so that each group can be traced back to an individual source tree. Nurserymen shall use permanent tags to label each separate group of propagations with the source tree registration number.

(5) All citrus nursery stock and propagative plant parts shall remain within the approved structure at all times or be moved under protective cover.

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (13), 570.0705, 581.031(1), (14), (17), (23) FS. History—New _____.

5B-62.012 Source Trees.

Source trees shall be registered on a Certificate of Source Tree Registration (DACS-08072) as specified in Rule 5B-62.017, F.A.C., and must meet the following requirements:

(1) Budwood used to propagate source trees shall be taken under the direct supervision of the Department and shall be reported on Form DACS-08172, Source Tree Bud Cutting Report.

(2) The source trees shall be budded on nursery rootstocks which have not previously had a bud inserted in them. If re-budding is necessary, buds from the same registered source tree as the original shall be used.

(3) The nurseryman shall furnish the Bureau of Citrus Budwood Registration the Budding Record Location portion on Form DACS-08172, Source Tree Bud Cutting Report within 30 days following date of budding. The Budding Record Location on the Source Tree Bud Cutting Report shall identify the location in the nursery of the progeny trees.

(4) The source trees shall have at no time shown symptoms of graft-transmissible pathogens or other diseases listed in Rule 5B-62.003, F.A.C.;

(5) The source trees shall have tested negatively for citrus tristeza virus, citrus greening, citrus viroids, citrus leaf blotch virus, psorosis virus, and citrus tatter leaf virus, by the Department at its expense and discretion, and shall be apparently free, based on an annual visual inspection, from Florida gummosis, citrus blight, decline, leprosis, evidence of unacceptable bud mutation, citrus canker, citrus greening and other quarantinable pests.

(a) Source trees meeting the specifications of increase trees will not be individually tested and shall meet the additional requirements of Rule 5B-62.016, F.A.C.

(6)(a) Source trees shall be grown under protective cover as specified in Rule 5B-62.010, F.A.C.

(b) Seed source trees are exempt from being grown under protective cover; however, to be propagated they must be grown under cover. Seed source trees must be free of seed-transmissible diseases listed in Rule 5B-62.003, F.A.C.

(7) Source trees meeting all the above requirements will be certified sources of budwood and shall have a Certificate of Source Tree Registration (DACS-08072) as specified in Rule 5B-62.017, F.A.C., issued.

(8) Source trees meeting all the above requirements and originated from program registered parent clones shall be registered sources of budwood upon being inspected for fruit trueness-to-type.

(a) Increase trees are not required to produce fruit to become registered.

(b) Scion trees that have not fruited may be used as certified sources of budwood to propagate certified nursery trees.

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (13), 570.0705, 581.031(1), (14), (17), (23) FS. History--New _____.

5B-62.013 Parent Trees.

Parent trees are selected, mature trees belonging to a nurseryman, grower, or researcher, or on property that the owner has given written permission to a nurseryman and the Department for access for observation and testing. At the time of entry into the Citrus Nursery Stock Certification Program, the owner shall sign a Parent Tree Candidate Entry Form DACS-08298.

(1) Prospective parent trees. As a prerequisite to entry into the program, an authorized representative of the Department must have visually inspected the prospective parent tree selected by the nurseryman, grower, or researcher.

(2) The parent tree shall be free of recognizable symptoms of graft-transmissible pathogens based on the initial visual inspection; apparently free from Florida gummosis, citrus

blight, citrus canker, citrus greening, decline, leprosis, evidence of unacceptable bud mutation, and other quarantinable pests or diseases.

(3) The parent tree shall be vigorous, productive, and horticulturally true-to-type and shall have borne fruit.

(4) The parent tree shall have tested negatively for all diseases listed in Rule 5B-62.003, F.A.C.

(5) All trees propagated for testing in the Department's facilities shall become property of the Department.

(6) Prospective parent trees of exceptional horticultural value that are found to be infected with one or more graft-transmissible pathogens can be subjected to shoot-tip grafting or other acceptable techniques to eliminate graft-transmissible pathogens provided this is done under the supervision of the Department. Plants that are shoot-tip grafted shall be retested for the graft-transmissible pathogen detected, subject to all other registration requirements, and if shoot-tip grafted by the Department, made available for distribution to all interested nurserymen and growers if approved by the owner.

(7) Parent trees will not be used for a source of propagating material, rather the tested registered propagation from the parent tree will be the source material of the parent tree clone to be used to establish foundation or scion trees.

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (13), 570.0705, 581.031(1), (14), (17), (23) FS. History--New _____.

5B-62.014 Foundation Trees.

Foundation trees belong to the Florida Department of Agriculture and Consumer Services and are kept in secure greenhouse facilities for budwood cutting and distribution to citrus nurseries. It shall be unlawful for any person to plant any genera, species, and varieties of the Rutaceous subfamilies Aurantioideae, Rutoideae, and Toddalioideae, within one mile of a foundation tree and unlawful to plant a commercial citrus grove within 10 miles of a foundation tree.

(1) Foundation trees originate from tested parent trees.

(2) Foundation trees shall be the source for all scion trees.

(3) Foundation trees shall meet all the requirements in Rule 5B-62.012, F.A.C., for source trees.

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (13), 570.0705, 581.031(1), (14), (17), (23) FS. History--New _____.

5B-62.015 Scion Trees.

Scion trees shall be propagated from foundation trees, be registered on a Certificate of Source Tree Registration (DACS-08072) as specified in Rule 5B-62.012, F.A.C., and must meet the following requirements:

(1) Scion tree planting is witnessed by the Department on Growers Record of Registered Scion Tree Movement Form DACS-08071.

(2) Registered scion trees shall be vigorous, productive, and horticulturally true-to-type and shall have borne fruit.

(3) Scion trees on which annual registration fees are not paid shall be removed from the protected greenhouse within 30 days of the second notification of the Statement of Charges For Annual Source Tree Registration (DACS-08064).

(4) Scion trees found infected with a pathogen shall be removed from the protected greenhouse within 10 days of notification of test results.

(5) Scion trees shall meet all the requirements in Rule 5B-62.012, F.A.C., for source trees.

(6) Effective January 1, 2007 all scion trees must be located in an approved structure as described in Rule 5B-62.010, F.A.C.

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (13), 570.0705, 581.031(1), (14), (17), (23) FS. History—New _____.

5B-62.016 Increase Trees.

Increase trees shall be registered on a Certificate of Source Tree Registration (DACS-08072) as specified in Rule 5B-62.012, F.A.C., provided they have been propagated as follows:

(1) Budwood must have been obtained under the direct supervision of the Department from foundation, or scion trees.

(2) There must be a minimum vacant space of 24 inches between each clone of increase trees planted in the ground and 12 inches between each clone of plants grown on greenhouse benches (or a well-defined physical barrier between clones) with each clone individually identified.

(3) Trees propagated as increase trees under this rule chapter serve as registered sources of budwood with no testing required for a period of up to 36 months from budding.

(4) Nursery stock propagated from increase trees shall not serve as further sources of registered budwood.

(5) Increase trees from foundation trees used for increase budwood shall qualify for scion grove planting in accordance with Rule 5B-62.015, F.A.C.

(6) Increase trees shall meet all the requirements in Rule 5B-62.012, F.A.C., for source trees.

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (13), 570.0705, 581.031(1), (14), (17), (23) FS. History—New _____.

5B-62.017 Source Tree Registration Certificate.

(1) Source tree registration certificate. The Department shall keep a record of all source trees. This record shall indicate the variety, strain, and age of the source trees; the owner; location of greenhouse, and location of individual trees in the greenhouse, row, and tree number and/or by identification number. This information shall be included in a Certificate of Source Tree Registration (DACS-08072) to be issued by the Department. Only those trees having a “Reg”

(Registered) or “Cert” (Certified) in the Reg (Registered) column shall qualify for budwood cutting. This certificate shall be sent to the owner or agent of the source trees, and copies shall be filed in the office of the Bureau of Citrus Budwood Registration at Winter Haven.

(2) Duration of registration certificate. The Certificate of Source Tree Registration (DACS-08072) shall be valid for a period of 12 months unless revoked due to failure to meet the requirements herein or voluntary withdrawal by the participant. The Certificate of Source Tree Registration (DACS-08072) for increase blocks shall be valid for a period of 36 months.

(3) Renewal. Source tree registration may be renewed, subject to continued eligibility, at the end of each 12 months with the payment of a renewal fee as described in Rule 5B-62.015, F.A.C.

(4) Billing. Annual source tree registration fees shall be billed annually on the Statement of Charges For Annual Source Tree Registration (DACS-08064).

(5) Cancellation. Source Tree Registration Certificates (DACS-08072) may be canceled or suspended upon:

(a) The detection of citrus pest or pathogens in the source tree or a progeny of the source tree;

(c) Alteration or misuse of the registration number;

(d) Mishandling of budwood taken from source trees, or the records thereof, which may confuse the facts regarding identity of source trees or nursery stock propagated from source trees;

(e) Evidence of an unacceptable degree of bud mutation on the source or progeny trees;

(f) Evidence that source trees are being allowed to decline or become unthrifty due to neglect, disease, pest infestation, or severe weather conditions;

(g) Failure to follow proper budwood harvesting sanitation procedures;

(h) Failure to pay fees.

(6) Registration fees will not be refunded if the Certificate of Source Tree Registration (DACS-08072) is canceled.

(7) Reinstatement. The Certificate of Source Tree Registration (DACS-08072) canceled or suspended as provided above may be reinstated when:

(a) Delinquent fees are paid;

(b) Careful examination or laboratory tests fail to disclose any evidence of the citrus pest or pathogens that cause the suspension;

(c) The source trees found to be pathogen-infected are removed from the planting;

(d) Unthrifty plantings or substandard trees are restored to a healthy condition.

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (13), 570.0705, 581.031(1), (14), (17), (23) FS. History—New _____.

5B-62.018 Procedure for Identifying and Recording Commercial Citrus Nursery Stock.

Identification and record of movement for commercial citrus nursery stock. For the benefit of the buyer, the nurseryman or grower shall identify registered nursery stock as being the progeny of registered source trees by completing the Citrus Nursery Stock Inspection Tag (DACS-08038) at the time of delivery.

(1) If the nursery stock was propagated from a certified tree, the Citrus Nursery Stock Inspection Tag (DACS-08038) must contain this information and the statement that the certified source had not yet been inspected for fruiting.

(2) The nurseryman or grower shall keep a systematic record of the movement of citrus trees (DACS-08038) which shall be available for examination by the Department for a period of three years.

(3) All movements of nursery stock shall comply with all Department requirements pertaining to the inspection and certification as to freedom from plant pests, as well as the use and recording of citrus invoice certificates (tags) (DACS-08038).

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (13), 570.0705, 581.031(1), (14), (17), (23) FS. History--New _____.

5B-62.019 Inter- or Intra-Nursery Movement of Plant Material.

(1) Commercial Citrus trees cannot leave a nursery without a Citrus Nursery Stock Inspection Tag, Form (DACS-08038).

(2) Liners cannot leave or enter a nursery without a Citrus Nursery Stock Inspection Tag, Form (DACS-08038).

(3) Budwood cannot leave or enter a nursery without a Source Tree Bud Cutting Report, Form (DACS-08172).

(4) Scion trees cannot leave or enter a nursery without a Growers Record of Registered Scion Tree Movement, Form DACS-08071.

(5) All seed movement must be accompanied with an invoice or a Citrus Nursery Stock Inspection Tag, Form (DACS-08038) that indicates the origin of the seed by seed block.

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (13), 570.0705, 581.031(1), (14), (17), (23) FS. History--New _____.

5B-62.020 Retail Sales.

Retail sales of dooryard citrus nursery stock shall abide by the following.

(1) All dooryard nursery stock shall originate from greenhouse nursery sites that have produced trees according to Rules 5B-62.007-.011, F.A.C.

(2) All citrus nursery stock maintained for retail sale including larger landscape citrus trees must be segregated from other nursery stock and maintained in a secure screen enclosure.

(a) Prior to entering the enclosure and upon exiting the enclosure, employees and customers must decontaminate hands, shoes and other articles coming into contact with citrus with an approved decontamination product.

(b) Retail outlets having less than 500 citrus trees in stock or retail sales areas within a larger nursery where less than 500 citrus trees are displayed for sale at any given time are exempt from (2) provided long term maintenance of dooryard trees after leaving the approved structure is regulated by an approved nursery protocol describing steps the nursery will implement to protect, chemically treat and inspect these trees.

(3)(a) All retail citrus trees must be tagged with information to identify the variety of the root stock and scion stock and producing nursery.

(b) Each individual tree shall be identified with a slip-on label bearing the producing nursery's certificate of nursery registration number that was issued by the Department, variety names along with the month and year acquired. It is not necessary to include the name of the producing nursery on the label.

(4) Unsold citrus trees at a retail outlet may not be returned to the producing nursery or placed back within the approved structure but must be destroyed by double bagging and burial in an approved landfill. Citrus trees may be returned to the nursery in cases where delivery to the retail outlet was not possible provided they are segregated from other citrus nursery stock.

(5) Any retail citrus tree found to be infested with or exposed to the Asian citrus psyllid shall be subject to quarantine action.

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (13), 570.0705, 581.031(1), (14), (17), (23) FS. History--New _____.

5B-62.021 Requirements for Soil Pit Approval.

(1) Upon the request of the owner of a soil pit, the Department may use sampling or other approved methods for establishing the absence or presence of nematodes of citrus. All host plants within a minimum distance of 100 feet of a proposed soil pit must be sampled and found free of any injurious nematodes of citrus as described in Rule 5B-62.003, F.A.C. Distances may be increased when, in the opinion of an authorized representative, there may be a threat to the approved soil pit because of slope, drainage, standing water, and other factors that may be present. Minimum distances shall be measured from the dripline of host plants and from the edge of rights-of-way of any public or private thoroughfare.

(2) The soil pit shall be at least the minimum distances specified as follows:

(a) One hundred feet maintained free of hosts from known infestations of any injurious nematodes of citrus as described in Rule 5B-62.003, F.A.C.

(b) Fifty feet maintained free of hosts from land planted or previously planted to host plants and from all rights-of-way or public thoroughfares with a negative sampling.

(3) It shall be the responsibility of the owner of an approved soil pit to maintain adequate security around the approved soil pit to prevent the entry of non-certified regulated articles.

Specific Authority 570.07(23), 581.031(1) FS. Law Implemented 581.031(6) FS. History--New _____.

5B-62.022 Requirements for Utility and Road Construction.

(1) Any person who installs service lines through or within a distance of 50 feet or less of a commercial citrus grove, commercial citrus grove site, approved citrus nursery site, or approved soil pit shall be required to contact the Department prior to installation and shall be required to clean and disinfect the service pole. All equipment used to install the service pole shall be disinfected using methods approved by the Department.

(2) Road construction companies and governmental agencies building public thoroughfares or road rights-of-way through or within a distance of 50 feet of a commercial citrus grove, commercial citrus grove site, approved citrus nursery site, or approved soil pit shall be approved by the Department prior to installation and shall be required to clean and disinfect all equipment prior to entering within 50 feet of the approved area using methods approved by the Department.

Specific Authority 570.07(23), 581.031(1), (5) FS. Law Implemented 581.031(5) FS. History--New _____.

5B-62.023 Stop-Sale Notice or Hold Order (DACS-08016).

A Stop-Sale or Hold Order (DACS-08016) shall be issued for the following reasons:

- (1) Compromise or breach of structure.
- (2) Failure to submit bud-cutting reports to the Bureau of Citrus Budwood Registration;
- (3) Misrepresenting citrus nursery stock as being progeny of registered source trees;
- (4) Misrepresenting the type of source tree from which citrus nursery stock was produced as certified trees;
- (5) Mishandling of budwood or scions, citrus nursery stock, or misuse of records thereof which do not verify or substantiate the correct parentage of citrus nursery stock or source trees;
- (6) Knowingly propagating budwood not meeting the requirements of this rule.

(7) Any citrus nursery stock found infected with plant pests listed in Rule 5B-62.003, F.A.C., or exposed to plant pests listed in Rule 5B-62.003, F.A.C., to such a degree that infestation is likely even if no visible symptoms are present. The presence of citrus canker or citrus greening in close proximity to a citrus nursery will not result in an automatic quarantine of the nursery provided the citrus nursery stock is in compliance with the other requirements of this rule chapter.

(8) Any budwood source tree found infected with plant pests listed in Rule 5B-62.003, F.A.C., or exposed to plant pests listed in Rule 5B-62.003, F.A.C., to such a degree that infestation is likely even if no visible symptoms are present. Budwood source trees found infested with Asian citrus psyllids will be immediately quarantined and suspended from budwood cutting.

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (13), 570.0705, 581.031(1), (14), (17), (23) FS. History--New _____.

5B-62.024 Release from Quarantine or Withdrawal of Stop-Sale Notice and Hold Order (DACS-08016).

(1) Trees shall be released from a Stop-Sale or Hold Order (DACS-08016) once conditions causing the Stop-Sale or Hold Order (DACS-08016) have been corrected and/or the pathogen threat has been found not to present a risk after evaluation by Department scientists.

(2) Risk evaluation shall be based on:

- (a) Length of time deficiencies existed prior to correction.
- (b) Number of past actions taken by the division.
- (c) Type of pathogen or vector of concern.
- (d) Identification of pathogen or vector
- (e) Test results
- (f) Presence or absence of pathogens, vectors and hosts in the geographic area of nursery site at such distances or levels that spread of these pathogens or vectors into the nursery is either likely or not.

(g) Degree of infestation or population numbers of vectors.

(h) Chemical application records supporting appropriate use of pesticides.

(i) Destruction or treatment of infested material.

(j) Interviews with employees or customers familiar with operational procedures.

(k) The implementation of a catastrophic weather plan.

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (13), 570.0705, 581.031(1), (14), (17), (23) FS. History--New _____.

5B-62.025 Fees.

An annual source tree registration fee shall be paid as follows:

Source Tree (includes seed source) \$5 per tree per year

Miscellaneous fees for division services:

Diagnostic Testing

<u>Biological greenhouse testing</u>	<u>\$50 per test</u>
<u>Laboratory PCR testing</u>	<u>\$25 per test</u>
<u>Laboratory ELISA testing</u>	<u>\$10 per test</u>
<u>Parent tree indexing</u>	<u>\$200 per tree</u>
<u>Shoot-tip grafting</u>	<u>\$500 per selection</u>
<u>Budwood¹</u>	<u>25 cents/eye, \$5.00 minimum</u>
<u>Cut from foundation trees</u>	
<u>Tip cuttings (6 inches)</u>	<u>\$1.00 each</u>
<u>Tip cuttings (6 inches)</u>	<u>\$2.00 each (Out-of-State)</u>
<u>New Division of Plant Industry releases \$1.00/eye (first year)</u>	
<u>Budwood shipment</u>	<u>\$2.00/eye, plus a \$100 processing fee (Out-of-State/Foreign)</u>
<u>Citrus seed</u>	<u>\$100 per quart</u>

Shipping and handling fee for budwood and seed in Florida Actual cost

Citrus Nursery Site Approval Fee shall include a \$50 per nematode sample plus mileage²

¹Requests for budwood are submitted on a Budwood Order Form DACS-08218.

²Mileage shall be based on the prevailing state mileage rate.

(1) Fees shall be paid prior to obtaining a Certificate of Source Tree Registration (DCS-08072) and annually thereafter on the anniversary date of the certificate.

(2) Fees not paid within 30 days of billing shall be considered past-due. A penalty of \$10.00 or 20 percent of the unpaid balance, whichever is greater, shall be assessed on all past-due fees.

(3) Cooperating research agencies whose registered citrus trees are used exclusively for planting on government property are exempt from payment of an annual registration fee for the first 100 trees.

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (13), 570.0705, 581.031(1), (14), (17), (23) FS. History–New _____.

5B-62.026 Citrus Produced for Research Purposes.

Citrus trees produced for research purposes shall abide with the following items and shall not be exempt from other program requirements contained in this rule chapter.

(1) Citrus breeding programs at the USDA or University of Florida Institute of Food and Agricultural Sciences centers will be required to have protocols approved by the Division of Plant Industry for managing material from the field entering and leaving quarantine greenhouses, specifically dealing with testing for citrus tristeza virus, citrus greening and citrus canker.

(2) Source trees utilized by research agencies may remain on site provided they are maintained under protective cover as specified in Rule 5B-62.010, F.A.C.

(3) Breeding selections intended for general citrus industry release must meet all the requirements of Rule 5B-62.013, F.A.C., Parent Trees.

(4) Research facilities shall sign a Compliance Agreement – Citrus Tristeza Virus Testing Laboratory Certification, DACS-08031.

(5) Requests to plant pathogen infected material for research projects shall be made on an Application and Permit To Plant Citrus Pathogen Infected Stock, DACS-08274.

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (13), 570.0705, 581.031(1), (14), (17), (23) FS. History–New _____.

5B-62.027 Exemptions.

(1) Retail outlets or retail sales areas having less than 500 citrus trees in stock at any given time, are exempt from subsection 5B-62.020(2), F.A.C.

(2) Propagation of pathogen-infected material maintained in the proper enclosed structure for the purpose of testing or shoot-tip grafting with the approval of the Department.

(3) Sites for dooryard citrus will be exempt from the nematode certification requirements.

Specific Authority 570.07(23), 581.031(1), (3), (8) FS. Law Implemented 570.07(2), (13), 570.0705, 581.031(1), (14), (17), (23) FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Connie Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, P. O. Box 147100, Gainesville, FL 32614-7100

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Craig Meyer, Deputy Commissioner, Florida Department of Agriculture and Consumer Services, The Capital, 400 South Monroe Street, Tallahassee, Florida 32399

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 7, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 24, 2006

DEPARTMENT OF REVENUE

Miscellaneous

RULE NO.:	RULE TITLE:
12B-7.0225	Computation of Phosphate Rock Tax Rate

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-7.0225, F.A.C., is to put the public on notice regarding the change in methodology for calculating the annual base rate adjustment to the phosphate rock tax rate for the year 2006 and the proposed new index to be used by the Department for calculating the tax rate adjustments for the year 2007 and thereafter.

Section 211.3103, F.S., requires an annual adjustment to the base price of \$1.62 by the change in the producer price index for phosphate rock primary products. Section 211.3103(9)(e), F.S., required the Department to select a "comparable index," if that index was discontinued. The original producer price index was discontinued. The Producer Price Index program changed its basis for industry classification from the 1987 Standard Industrial Classification (SIC) system to the North American Industry Classification System (NAICS). As a result, the Chemical and Fertilizer Mineral Mining Index, Commodity Code 147, was discontinued by the U.S. Department of Labor, Bureau of Labor Statistics, and it became necessary for the Department of Revenue to select a commodity index to replace that index. The Chemical Fertilizer Mineral Mining Index, Commodity Code 147, has since been renamed and renumbered as Other Nonmetallic Mineral Mining and Quarrying. As a consequence, the Bureau of Labor Statistics (BLS) has revised its numbering system as (BLS series: PCU 21239). Within this new series is a specific index for phosphate rock (BLS Series ID 212392).

When in effect, this rule will provide that the Department: (1) will calculate the 2006 phosphate tax rate using the change in the phosphate rock prices published by the U.S. Geological Survey; and (2) use NAICS Code 212392, Phosphate Rock, for purposes of accessing the Producer Price Index Industry Data from the BLS, beginning with the year 2007 and thereafter, for purposes of calculating the annual base rate adjustment to the phosphate rock tax rate.

The Department's current rule had selected a producer price index for chemical and fertilizer mineral mining comparable to the discontinued index and used it to calculate the annual phosphate rock base rate adjustment. As long as the three subcategories in that comparable index (Potash, Phosphate Rock, and Other Chemical Mining) changed more or less similarly, the use of that price index was entirely appropriate. However, data obtained from the U.S. Geological Survey indicates that the price for potash has almost doubled in the last three years; the price for phosphate rock has remained relatively stable, increasing by 1.5 percent over the same three-year period. As a result, the currently published tax rate increased from \$1.67 for 2005 to \$1.82 for 2006; an increase of almost 10%. Thus, the price index currently used by the Department is no longer a comparable index to be used in the calculation of the annual phosphate rock base rate adjustment.

Section 211.3103(9)(d), F.S., provides that if the price index for chemical and fertilizer mineral mining is substantially changed, the Department is required to make appropriate adjustments in the method used to compute the base rate adjustment that will produce results reasonably consistent with the producer price index for phosphate rock as if it had not been revised. Because the price index currently used by the Department does not produce results substantially consistent

with the unrevised index, it is necessary for the Department to make the required adjustments in computation of the base rate adjustment.

SUMMARY: The proposed amendments to Rule 12B-7.0225, F.A.C. (Computation of Phosphate Rock Tax Rate): (1) adopt, by reference, the Producer Price Index for the purpose of calculating the annual base rate adjustment to the phosphate rock tax rate beginning with the year 2007 and annually thereafter; and (2) provide the method that the Department will use to compute the phosphate rock tax rate for the year 2006.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 211.3103(9)(e), 213.06(1) FS.

LAW IMPLEMENTED: 211.3103 FS.

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

DATE AND TIME: July 18, 2006, 9:00 a.m.

PLACE: Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4709

THE FULL TEXT OF THE PROPOSED RULE IS:

12B-7.0225 Computation of Phosphate Rock Tax Rate.

The U.S. Bureau of Labor Statistics Producer Price Index North American Industry Classification System (NAICS) National Code 212392, Phosphate Rock Commodity Code 147, Chemical and Fertilizer Mineral Mining, is hereby adopted by reference for the purpose of calculating the annual base rate adjustment to the phosphate rock tax rate, beginning with the year 2007 and annually thereafter. For the purpose of implementing the provisions of Section 211.3103(9), F.S., the method used to compute the tax rate for the year 2006 will be

the percentage change in phosphate rock prices as published by the U.S. Geological Survey, from 2004 to 2005, times the 2005 tax rate for phosphate rock as published by the Department.

Specific Authority 211.3103(9)(e)(6)(e), 213.06(1) FS. Law Implemented 211.3103 FS. History—New 6-28-00, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4709

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mark Zych, Acting Director, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone (850)488-2576

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 12, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 12B-7.0225, F.A.C. (Computation of Phosphate Rock Tax Rate), were noticed for a rule development workshop in the Florida Administrative Weekly on April 14, 2006 (Vol. 32, No. 15, pp. 1630-1631). A rule development workshop was held on May 9, 2006. No comments were received from participants at the rule development workshop. No written comments have been received by the Department.

DEPARTMENT OF REVENUE

Child Support Enforcement Program

RULE NO.: 12E-1.012
RULE TITLE: Consumer Reporting Agencies

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12E-1.012, F.A.C. (Consumer Reporting Agencies) is to change the dollar threshold used in determining which cases are eligible to be reported to consumer reporting agencies, provide a definition for the term “delinquency” that supports the new threshold, amend the notice provision, and create criteria that exclude recipients of temporary cash assistance and Supplemental Security Income (SSI) benefits from having their overdue support reported. The amendments create a written agreement provision under which the department will forego reporting an obligor’s overdue support to consumer reporting agencies for as long as the obligor complies with an agreed payment plan. The amendments change the contest provision to require an obligor to have an informal review with department staff before the obligor can request an administrative hearing.

The effect of these amendments is to change the eligibility factors for reporting cases to consumer reporting agencies, give obligors an ability to opt out of being reported to consumer

reporting agencies by complying with a payment plan, and change the contest provision to allow disputes to be resolved informally.

SUMMARY: The proposed amendments change the criteria used to determine whether a noncustodial parent’s overdue support qualifies to be reported to consumer reporting agencies, require the department to conduct an informal review when the noncustodial parent contests the reporting of overdue support, and allow the department to agree to an alternative outcome in which the noncustodial parent can enter into a written agreement based on a negotiated payment plan in lieu of the support debt being reported.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of estimated regulatory cost was prepared.

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

SPECIFIC AUTHORITY: 61.1354(5), 409.2557 FS.

LAW IMPLEMENTED: 61.1354 FS.

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

DATE AND TIME: Friday, July 14, 2006, 1:30 p.m.

PLACE: 4070 Esplanade Way, Room 301, Tallahassee, Florida
NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in this hearing is asked to advise the Department at least 48 hours before the hearing by contacting Larry Green at (850)922-4830. A person who is hearing-impaired or speech-impaired, should contact the Department by using the Florida Relay Service, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The Department’s proposed rules are available on the Department’s web site: www.myflorida.com/dor/rules.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mike Vergenz, Government Analyst II, Department of Revenue, P. O. Box 8030, Tallahassee, Florida 32314-8030, telephone (850)922-9568, e-mail address vergenzm@dor.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULE IS:

12E-1.012 Consumer Reporting Agencies.

(1) Definitions. As used in this rule:

(a) through (b) No change.

(c) “Delinquency” means the total amount of support that has come due and is unpaid pursuant to the payment schedule set forth in the support order or the arrearage as adjudicated in the most recent order that established an arrearage.

(2) No change.

(3) Periodic Reporting to Consumer Reporting Agencies.

(a) Pursuant to Section 61.1354(2), F.S., the department shall report periodically to consumer reporting agencies ~~periodically~~, no more frequently than monthly, the names, social security numbers, and amounts of overdue support owed by obligors. The initial report concerning an obligor shall not be released until the department has complied with subsection (4) of this rule; subsequent periodic reports which update the amounts owed by an obligor shall be released without complying with subsection (4).

(b) The department shall use the following criteria in determining whether an obligor's overdue support shall be periodically reported pursuant to this subsection ~~section~~:

~~1.(a) Overdue support in the case must equal or exceed two times the monthly obligation, if any, and the delinquency in the case must equal or exceed \$5, according to the records of the department. The amount of the overdue support owed by the obligor, according to the records of the department, is greater than \$500 and there is a delinquency in the payment of the obligor's obligation under the order at the time the information is reported;~~

~~2.(b) The obligor's case has not been placed by the department in a closed status;~~

~~3.(c) The obligor's case has not been referred by the department to another state's IV-D agency to enforce the support obligation.~~

4. The obligor is not an SSI recipient.

5. The obligor does not receive temporary cash assistance.

(c)1. The department shall not release the initial report concerning an obligor's overdue support in a case that otherwise meets the criteria in paragraph (b) above if, after the obligor receives notice pursuant to subsection (4) below, the department and the obligor enter into a written agreement establishing a payment plan in accordance with Rule 12E-1.027, F.A.C. The department may not release the initial report for as long as the obligor complies with the written agreement.

2. If the obligor subsequently fails to make a payment due under the written agreement, the department shall release the initial report and subsequent periodic reports without further notice to the obligor, which shall be stated in the written agreement.

(4) Notice and Right to Hearing. Prior to releasing a report or providing information concerning an obligor in an instance governed by this section, the following procedures shall be followed:

(a) The department shall give notice to the obligor by regular mail at his or her last known address with Department of Revenue Form CS-EF32, 'Notice of Intent to Report to Consumer Reporting Agencies', ~~incorporated herein by reference with a revision date of February 2000. Members of the public may obtain a copy of this form by a written request to: Department of Revenue, Child Support Enforcement Program, attn.: Forms Coordinator, P. O. Box 8030,~~

Tallahassee, Florida 32314-8030. The notice will inform the obligor that the department will report the amount of overdue support owed by the obligor to consumer reporting agencies, that the department subsequently will report an update of the overdue support amount each month, that reporting the information may affect the obligor's ability to obtain credit, and that the obligor can avoid the initial report by paying the full amount owed within 15 days. The notice will also inform the obligor of the department's duty to release the information, that the obligor may request the department to enter into a written agreement that establishes a payment plan in lieu of reporting the overdue support, and that the obligor has the right to contest the information proposed to be released if the overdue support amount is incorrect or if he or she is not the individual obligated to pay support by requesting an informal review. Form CS-EF32 shall provide notice to the obligor of the intent of the department to release the following information to one or more consumer reporting agencies: the obligor's name, social security number, and the amount of overdue support owed by the obligor.

(b) An obligor may contest the reporting of his or her overdue support to consumer reporting agencies under subsections (2) and (3) above as follows. The notice shall inform the obligor of the department's duty to release the information, and that the obligor has the right to contest the accuracy of the information proposed to be released by requesting a hearing with the department by following the procedures in the next subsection.

1. The obligor must submit a written request for informal review to the department at the address specified in the notice (form CS-EF32) within 25 calendar days after the mailing date of the notice.

2. If a written request for informal review is received timely, the department must conduct the informal review to determine whether reporting to consumer reporting agencies is appropriate. The department must conclude its review within 20 days after receiving the request.

3. The department shall conclude its review by hand delivering or sending to the obligor by regular mail a notice of decision. The notice shall state the amount of overdue support owed and will inform the obligor whether the department intends to report the obligor's overdue support amount to the consumer reporting agencies. The notice must inform the obligor of the right under Chapter 120, Florida Statutes, to file a petition for administrative hearing to contest the accuracy of the information to be reported. The notice will advise that the obligor may avoid the reporting of the amount of overdue support by either paying the amount in full or by entering into a written agreement within 15 days after receipt of the notice of decision.

4. The obligor may contest the notice of decision by filing with the department at the address indicated in the notice a written petition for administrative hearing within 15 days after

receipt of the notice of decision. A petition is filed when it is received by the department, not when it is mailed. If the obligor contests the notice of decision by filing a timely petition, the department may not report information to consumer reporting agencies until the petition is resolved by the obligor withdrawing the petition, by agreement of the parties, or by the entry of a final order authorizing the release of the information following a hearing or other administrative proceeding under Chapter 120, F.S.

(e) To request a hearing with the department, the obligor shall:

1. File a written petition for administrative hearing with the department at the address indicated in the notice within 15 consecutive calendar days of the obligor's receipt of the notice (Form CS-EF32). A petition is filed when it is received by the department, not when it is mailed.

2. Include in the petition the information required by Rule 28-106.201, F.A.C. if the obligor disputes issues of material fact raised by the notice; or the information required by Rule 28-106.301, F.A.C. if the obligor does not dispute issues of material fact raised by the notice.

(d) If a petition for administrative hearing is received by the department within the 15 day period following the obligor's receipt of the notice, the department shall not release the information concerning overdue support owed by the obligor until the matter is disposed of by an order dismissing the petition on procedural grounds, by agreement of the parties, or by the entry of a final order authorizing the release of the information following a hearing or other administrative proceeding under Chapter 120, F.S.

(e) If a notice (CS-EF32) is returned to the department undelivered by the U. S. Postal Service, the department shall give a new notice to the obligor in compliance with this section prior to releasing a report or providing information concerning the obligor to consumer reporting agencies.

(5) No change.

(6) Department Requests for Consumer Reports. The department is authorized to request consumer reports from consumer reporting agencies pursuant to Sections 61.1354(3) and (4), F.S., according to the following procedures:

(a) Before the department submits any requests for consumer reports to a consumer reporting agency, the executive director of the Department of Revenue or his or her designee shall certify one-time to the consumer reporting agency that every subsequent request for a consumer report from that agency will meet the requirements set forth in Section 61.1354(3), F.S.

(b) The department shall provide notice to an individual whose consumer report is sought by sending Department of Revenue Form ~~CS-EF15~~ CS-EF10, 'Notice of Consumer Report Inquiry', by certified mail to the individual's last known address at least 15 days prior to transmitting the request to the consumer reporting agency. ~~Form CS-EF10 is~~

~~incorporated herein by reference with a revision date of January 1999. Members of the public may obtain a copy of this form by a written request to: Department of Revenue, Child Support Enforcement Program, attn.: Forms Coordinator, P. O. Box 8030, Tallahassee, Florida 32314-8030.~~

Specific Authority 61.1354(5), 409.2557 FS. Law Implemented 61.1354 FS. History--New 6-17-92, Amended 7-20-94, Formerly 10C-25.009, Amended 10-22-00,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mike Vergenz, Government Analyst II, Department of Revenue, P. O. Box 8030, Tallahassee, Florida 32314-8030, telephone (850)922-9568, e-mail address vergenzm@dor.state.fl.us.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Sharyn Thomas, Revenue Program Administrator II, Department of Revenue, P. O. Box 8030, Tallahassee, Florida 32314-8030

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 12, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 30, 2005, Vol. 31, No. 39, pp. 3394-3396. A workshop was held on October 17, 2005. No one other than Department staff presented written or verbal comments at the workshop. Changes have been made in the proposed rule since the workshop based on oral comments received from the Joint Administrative Procedures Committee.

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER NO.: 14-57
 RULE CHAPTER TITLE: Railroad Safety and Clearance Standards, and Public Railroad-Highway Grade Crossings, and Rail Corridor Crossing Management

RULE NO.: 14-57.014
 RULE TITLE: Rail Corridor Crossing Management

PURPOSE AND EFFECT: A new rule is being established as Part III of Rule Chapter 14-57, F.A.C. Upon adoption of this rule, the superseded rules in Rule Chapter 14-115, F.A.C., will be repealed.

SUMMARY: Part III of Rule Chapter 14-57, F.A.C., is to replace Rules 14-115.003 and 14-115.004, F.A.C., pertaining to rail corridor crossing management.

SPECIFIC AUTHORITY: 334.044(2) FS.

LAW IMPLEMENTED: 334.044(14), 337.242(3) FS.

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

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

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: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULES IS:

RAILROAD SAFETY AND CLEARANCE STANDARDS,
PUBLIC RAILROAD-HIGHWAY GRADE CROSSINGS,
AND RAIL CORRIDOR CROSSING MANAGEMENT
PART III RAIL CORRIDOR CROSSING MANAGEMENT

14-57.014 Rail Corridor Crossing Management.

(1) Definitions for Use in Part III.

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

(b) "Application" means the Rail Corridor Crossing Permit Application, DOT Form 725-080-86, Rev. 01/06, incorporated herein by reference.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) All construction and maintenance on the Department corridor shall conform to the *Manual on Uniform Traffic Control Devices (MUTCD)*, incorporated by reference under Rule 14-15.010, F.A.C., and the *Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways*, incorporated by reference under Rule 14-15.002, F.A.C.

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

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

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

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

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

3. Security Instrument Receipt, Form 850-040-20, Rev. 04/93, must be used, and is incorporated herein by reference.

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

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

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

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

(e) Traffic Signals and Other Traffic Control Devices. Traffic signals and other traffic control devices, installed by an applicant, shall conform to the MUTCD and Department design and construction standards referenced herein. The applicant is responsible for securing any additional permit or local governmental entity approval needed for traffic signalization and regulatory signing and marking.

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

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

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

Specific Authority 334.044(2) FS. Law Implemented 334.044(14), 337.242(3) FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Janice Bordelon, Rail Office

NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Denver J. Stutler, Jr., P.E., Secretary
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: June 13, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: June 2, 2006

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

PUBLIC SERVICE COMMISSION

DOCKET NO. 060243-EI

RULE NOS.:	RULE TITLES:
25-6.044	Continuity of Service
25-6.0455	Annual Distribution Service Reliability Report

PURPOSE AND EFFECT: To clarify various provisions and to require each utility’s annual distribution reliability report to include all outages caused by events listed in subsection (4) of this rule, described below.

SUMMARY: Revise requirements for investor-owned electric utilities to annually report outage data that is used to assess distribution service reliability and changes in quality of service.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: There should be no significant costs incurred by the utilities required to comply with the rule revisions.

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

SPECIFIC AUTHORITY: 366.05(1) FS.

LAW IMPLEMENTED: 366.03, 366.04(2)(c),(f), (5), 355.05, 366.05(7) FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

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 THE PROPOSED RULES IS: Christiana T. Moore, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850)413-6245

THE FULL TEXT OF THE PROPOSED RULES IS:

25-6.044 Continuity of Service.

(1) Definitions applicable to this part:

(a) “Area of Service.” A geographic area where a utility provides retail electric service. An Area of Service can be the entire system, a district, or a subregion of the utility’s system in which centralized distribution service functions are carried out a region into which a utility divides its system.

(b) through (p) No change.

(q) “Planned Service Interruption.” A Service Interruption initiated by the utility to perform necessary scheduled activities, such as maintenance, infrastructure improvements, and new construction due to customer growth. Customers are typically notified in advance of these events.

(2) Each utility shall keep a record of its system reliability and continuity of service data, customers’ Service Interruption notifications, and other data necessary for the annual reports filed under these rules. These records and data shall be retained for a minimum of ten years from the filing of each annual report. The utility shall record each Outage Event as planned or unplanned and shall identify the point of origination such as generation facility, transmission line, transmission substation equipment, or distribution equipment. The cause of each Outage Event shall be determined and recorded in a standardized manner throughout the utility. The date and time of the Outage Event and the number of Service Interruptions for the Outage Event shall also be recorded.

(3) through (5) No change.

Specific Authority 366.05(1) FS. Law Implemented 366.03, 366.04(2)(c), (5), 366.05 FS. History–New 7-29-69, Formerly 25-6.44, Amended 2-25-93, 11-7-02,_____.

25-6.0455 Annual Distribution Service Reliability Report.

(1) Each utility shall file a Distribution Service Reliability Report with the Director of the Commission’s Division of Economic Regulation on or before March 1st of each year, for the preceding calendar year. ~~The report shall contain the following information:~~

~~(a) The utility’s total number of Outage Events (N), categorized by cause for the highest 10 causes of Outage Events, the Average Duration of Outage Events (L- Bar), and Average Service Restoration Time (CAIDI). The utility shall record these data and analyses on Form PSC/ECR 102 1, entitled “Outage Events” which may be obtained from the Division of Economic Regulation, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, (850)413-6900;~~

~~(b) Identification of the three percent of the utility’s Primary Circuits (feeders) with the highest number of feeder breaker interruptions. For each primary circuit so identified the utility shall report the primary circuit identification number or name, substation origin, general location, number of affected customers by service class served, Number of Outage Events (N), Average Duration of Outage Events (L- Bar), Average Service Restoration Time (CAIDI), whether the same circuit is being reported for the second consecutive year, the number of years the primary circuit was reported on the “Three Percent~~

Feeder List" in the past five years, and the corrective action date of completion. The utility shall record these data and analyses on Form PSC/ECR 102-2, entitled "Three Percent Feeder List" which may be obtained from the Division of Economic Regulation, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, (850)413-6900;

(e) The reliability indices SAIDI, CAIDI, SAIFI, MAIFIE, and CEM15 for its system and for each district or region into which its system may be divided. The utility shall report these data and analyses on Form PSC/ECR 102-3, entitled "System Reliability Indices" which may be obtained from the Division of Economic Regulation, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, (850)413-6900. Any utility furnishing electric service to fewer than 50,000 retail customers shall not be required to report the reliability indices MAIFIE or CEM15;

(d) The calculations for each of the required indices and measures of distribution reliability;

(2) The Distribution Service Reliability Report will exclude the impact of all service interruptions associated with generation and transmission disturbances governed by subsections 25-6.018(2) and (3), Florida Administrative Code. A utility may exclude from the Annual Distribution Service Reliability Report the Outage Events directly caused by one or more of the following: planned interruptions, a storm named by the National Hurricane Center, a tornado recorded by the National Weather Service, ice on lines, a planned load management event, an electric generation disturbance, an electric transmission system disturbance, or an extreme weather or fire event causing activation of the county emergency operation center.

(3) The report shall contain the following information on an actual and adjusted basis: A utility may submit a request to exclude an Outage Event from the Annual Distribution Service Reliability Report that is not specifically provided for in subsection 25-6.0455(2), F.A.C. Such a request must be filed with the Commission's Division of the Commission Clerk and Administrative Services within 30 days of the Outage Event for which an exclusion is being requested. The Commission will approve the request if the utility is able to demonstrate that the outage was not within the utility's control, and that the utility could not reasonably have prevented the outage.

(a) The utility's total number of Outage Events (N), categorized by cause for the highest ten causes of Outage Events, the Average Duration of Outage Events (L-Bar), and Average Service Restoration Time (CAIDI). The utility shall record these data and analyses on Form PSC/ECR 102-1(a) (/06) and Form PSC/ECR 102-1(b) (/06), entitled "Causes of Outage Events – Actual" and "Causes of Outage Events-Adjusted", respectively, which may be obtained from the Division of Economic Regulation, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, (850)413-6900, and which are incorporated herein by reference;

(b) Identification of the three percent of the utility's Primary Circuits (feeders) with the highest number of feeder breaker interruptions. For each primary circuit so identified the utility shall report the primary circuit identification number or name, substation origin, general location, number of affected customers by service class served, Number of Outage Events (N), Average Duration of Outage Events (L-Bar), Average Service Restoration Time (CAIDI), whether the same circuit is being reported for the second consecutive year, the number of years the primary circuit was reported on the "Three Percent Feeder List" in the past five years, and the corrective action date of completion. The utility shall record these data and analyses on Form PSC/ECR 102-2(a) (/06) and Form PSC/ECR 102-2(b) (/06), entitled "Three Percent Feeder List – Actual" and "Three Percent Feeder List – Adjusted", respectively, which may be obtained from the Division of Economic Regulation, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, (850)413-6900, and which are incorporated herein by reference;

(c) The reliability indices SAIDI, CAIDI, SAIFI, MAIFIE, and CEM15 for its system and for each district or region into which its system may be divided. The utility shall report these data and analyses on Form PSC/ECR 102-3(a) (/06) and Form PSC/ECR 102-3(b) (/06), entitled "System Reliability Indices – Actual" and "System Reliability Indices – Adjusted", respectively, which may be obtained from the Division of Economic Regulation, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, (850)413-6900, and which are incorporated herein by reference. Any utility furnishing electric service to fewer than 50,000 retail customers shall not be required to report the reliability indices MAIFIE or CEM15; and

(d) The calculations for each of the required indices and measures of distribution reliability.

(4) Adjusted distribution reliability data may omit Outage Events directly caused by:

(a) Planned Service Interruptions;

(b) A storm named by the National Hurricane Center;

(c) A tornado recorded by the National Weather Service;

(d) Ice on lines;

(e) A planned load management event;

(f) Any electric generation or transmission event not governed by subsections 25-6.018(2) and (3), Florida Administrative Code; or

(g) An extreme weather or fire event causing activation of the county emergency operation center.

Specific Authority 366.05(1) FS. Law Implemented 366.03, 366.04(2)(c), (f), (5), 366.05, 366.05(7) FS. History–New 2-25-93, Amended 11-7-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jim Breman

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 6, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 32, No. 4, January 27, 2006

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of the Commission Clerk and Administrative Services at (850)413-6770 at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1(800)955-8771 (TDD).

LAND AND WATER ADJUDICATORY COMMISSION

Twin Creeks Community Development District

RULE CHAPTER NO.: RULE CHAPTER TITLE:

42DDD-1 Twin Creeks Community Development District

RULE NOS.: RULE TITLES:

42DDD-1.001 Establishment

42DDD-1.002 Boundary

42DDD-1.003 Supervisors

PURPOSE, EFFECT AND SUMMARY: The purpose of this proposed rule is to establish a community development district ("CDD"), the Twin Creeks Community Development District ("District"), pursuant to Chapter 190, F.S. The petition (amended during the February 13, 2006, local public hearing) filed by EH/Transeastern, LLC, requests the Commission establish a community development district located within St. Johns County, Florida. A Notice of Receipt of Petition for the Twin Creeks Community Development District was published in the January 27, 2006, edition of the *Florida Administrative Weekly*. The land area proposed to be served by the District comprises approximately 3,050 acres. A general location map is contained as Exhibit 1 to the petition, as amended, to establish the District. The site is generally located south of Durbin Creek, west of U.S. 1, east of Interstate 95, and on both sides of County Road 210 in St. Johns County, Florida. There are no parcels within the external boundaries of the proposed District which are to be excluded from the District. The Petitioner has obtained written consent to establish the District from the landowners of one hundred percent (100%) of the non-governmental real property located within the proposed District. The development plan for the proposed lands within the District includes the construction of approximately 5,000

units of single family detached units, single family attached units, multi-family housing along with 900,000 square feet of commercial mixed and 2,000,000 square feet of flexible industrial use space. Additional development plans include a 175 room hotel and a multiplex movie center. The District, if established, plans to finance certain master infrastructure improvements within the District boundaries. The improvements include complete construction of the basic infrastructure connecting and serving neighborhoods, including but not limited to: clearing, earthwork, water, sewer, and reclaimed utilities, internal roadways, and sodding/grassing. Master infrastructure also includes a community recreation center. Also included will be stormwater management facilities consisting of treatment ponds, outfalls, land to construct the retention and compensating storage areas, and wetland mitigation to serve the District in accordance with permitting agencies. Other District improvements include school facilities and substantial off-site improvements related to County Road 210 and US 1. All of the land in the proposed District is part of the Twin Creeks Development of Regional Impact.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The statement of estimated regulatory costs (SERC) supports the petition, as amended, to establish the District. The complete text of the revised SERC is contained as Exhibit 8 to the petition, as amended. The scope of the revised SERC is limited to evaluating the regulatory costs consequences of approving the proposal to establish the District. The requirements for a SERC are found in Section 120.541(2), F.S. A SERC must contain (a) a good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a description of the types of individuals likely to be affected by the rule; (b) a good faith estimate of the costs to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues; (c) a good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local governmental entities, required to comply with the requirements of the rule; (d) an analysis of the impact on small businesses, small counties, and small cities; (e) any additional information that the agency determines may be useful; and (f) any good faith written proposal submitted under section (a) and either a statement adopting the alternative or a statement rejecting the alternative in favor of the proposed rule. Addressing section (a), the principal entities that are likely to be required to comply with the rule include the District, the State of Florida, and St. Johns County. In addition, current and future property owners will be affected by the establishment of the proposed District. Under section (b), FLWAC and the State of Florida will incur minimal administrative costs. Review costs to St. Johns County are expected to be modest and the County will not incur any quantifiable on-going costs resulting from the on-going administration of the District. Adoption of

the proposed rule to approve the formation of the District will not have an adverse impact on State and local revenues. Addressing section (c), the District may levy non-ad valorem special assessments on properties within its boundaries to finance infrastructure that the District funds and to defray the costs of operating and maintaining the infrastructure and associated community facilities. The District may issue notes, bonds, or other indebtedness to fund its improvement program. Prospective future land owners would be required to pay off such indebtedness over time in the form of non-ad valorem special assessments or other rates, fees or charges. The District may also impose an annual levy for the operation and maintenance of the District. Under section (d), approval of the petition, as amended, to establish the District will have no impact or a positive impact on all small businesses. The petition, as amended, to establish the District will not have an impact on small counties and small cities as defined by section 120.52, F.S., as St. Johns County is not defined as a small county. Under section (e), the SERC analysis is based on a straightforward application of economic theory. Input was received from the developer's engineer and other professionals associated with the developer.

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, A HEARING WILL NOT BE HELD):

DATE AND TIME: Thursday, July 20, 2006, 10:00 a.m.

PLACE: Room 1802M, The Capitol, Tallahassee, Florida

Any person requiring a special accommodation to participate in the workshop because of a disability should contact Barbara Leighty, (850)487-1884, at least five (5) business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Barbara Leighty, Senior Policy Analyst, Florida Land and Water Adjudicatory Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, (850)487-1884

THE FULL TEXT OF THE PROPOSED RULES IS:

TWIN CREEKS COMMUNITY DEVELOPMENT
DISTRICT

42DDD-1.001 Establishment.

The Twin Creeks Community Development District is hereby established.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History--New _____.

42DDD-1.002 Boundary.

The boundaries of the District are as follows:

Subject Property South of C.R. 210

A portion of Sections 9, 10, 11, and 14, together with all of Section 15, all lying in Township 5 South, Range 28 East, St. Johns County, Florida, and being more particularly described as follows: For a Point of Beginning, commence at the corner common to Sections 15, 16, 21, and 22 of said Township and Range; thence North 01°06'17" West, along the Westerly line of said Section 15, a distance of 2,655.18 feet to an angle in said Westerly line; thence North 00°50'08" West, continuing along said Westerly line, 2,702.59 feet to the Northwest corner of said Section 15; thence South 89°12'49" West, along the Southerly line of said Section 9, a distance of 496.47 feet to its intersection with the Southerly right-of-way line of County Road 210, a 150 foot right-of-way per St. Johns County Right-of-Way Map, dated August 15, 2002; thence along said Southerly line the following six (6) courses: (1) thence North 51°03'28" East, 6,410.43 feet to the point of curvature of a curve concave Southerly, having a radius of 243.31 feet; (2) thence Northeasterly, along the arc of said curve, through a central angle of 75°41'49", an arc distance of 321.45 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 88°54'23" East, 298.58 feet; (3) thence South 53°14'43" East, 2,494.87 feet to the point of curvature of a curve concave Northeasterly, having a radius of 1,029.93 feet; (4) thence Southeasterly, along the arc of said curve, through a central angle of 15°27'40", an arc distance of 277.92 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South 60°58'33" East, 277.08 feet; (5) thence South 68°42'23" East, 1,737.76 feet to the point of curvature of a curve concave Northerly, having a radius of 393.31 feet; (6) thence Northeasterly, along the arc of said curve, through a central angle of 57°26'31", an arc distance of 394.31 feet to its intersection with the Westerly right-of-way line of a Florida East Coast Railroad right-of-way, a variable width right-of-way per Florida East Coast Railway Company Right-of-Way Track Map, dated December 31, 1927, said arc being subtended by a chord bearing and distance of North 82°34'22" East, 378.01 feet; thence South 41°00'02" East, departing said Southerly right-of-way line and along said Westerly right-of-way line, 2,283.78 feet to a point lying on the Southerly line of said Section 11; thence North 89°28'59" East, continuing along said Westerly right-of-way line and along said Southerly line, 36.95 feet; thence South 41°02'31" East, departing said Southerly line and along said Westerly right-of-way line, 253.73 feet to its intersection with the Easterly line of said Section 14; thence South 01°04'11" East, departing said Westerly right-of-way line and along said Easterly line, 5,180.32 feet to the Southeasterly corner of said Section 14; thence South 89°33'57" West, along the Southerly line of said Section 14, a distance of 5,363.20 feet to the Southwest corner of said Section 14, said point also being the Southeast corner of said Section 15, thence South 89°33'51"

West, along the Southerly line of said Section 15, a distance of 5,368.24 feet to the Point of Beginning. Containing 1,857.26 acres, more or less.

Subject Property North of C.R. 210

A portion of Sections 2, 3, 4, 9, 10, 11, and 16, together with a portion of Section 46, the Joseph Peavett Grant, all lying in Township 5 South, Range 28 East, St. Johns County, Florida, and being more particularly described as follows: For a Point of Reference, commence at the corner common to said Sections 9, 10, 16 and Section 15 of said Township and Range, thence South 89°12'49" West, along the Southerly line of said Section 9, a distance of 739.26 feet to its intersection with the Northerly right-of-way line of County Road No. 210, a 150 foot right-of-way per St. Johns County Right-of-Way Map dated August 15, 2002, said point also being the Point of Beginning.

From said Point of Beginning, thence South 89°12'49" West, departing said Northerly right-of-way line and continuing along said Southerly line of Section 9, a distance of 1,953.73 feet; thence South 89°55'22" West continuing along said Southerly line 1,349.80 feet to its intersection with the Easterly line of Government Lot 7 of said Section 16; thence South 01°18'02" West, departing said Southerly line and long said Easterly line, 12.69 feet; thence South 89°00'03" West, departing said Easterly line, 589.15 feet to a point lying on the Easterly limited access right-of-way line of Interstate Highway No. 95 (State Road No. 9), a 300 foot right-of-way per Florida Department of Transportation Right-of-Way Map Section No. 78080-2408 and Section No. 78080-2440, said point also lying on a curve; thence Northeasterly, along said Easterly limited access right-of-way line and along the arc of a curve concave Easterly, having a radius of 11,309.16 feet, through a central angle of 02°02'10", an arc distance of 401.88 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 02°58'05" East, 401.86 feet; thence North 03°59'10" East, 3,620 feet, more or less, to a point of intersection with the centerline of Durbin Creek, said point bearing South 03°59'10" West, 590 feet, more or less, from an angle point in said Easterly limited access right-of-way line, said point serving as Reference Point "A" for the purposes of this property description and bearing North 03°59'10" East, 4,208.87 feet from last said point of tangency, departing said Easterly limited access right-of-way line and along the meanderings of said centerline of Durbin Creek, 5,880 feet, more or less, to its intersection with the Southerly line of the Northwest one-quarter of the Southwest one-quarter of said Section 3, said line also being a Southerly line of those lands described and recorded in Official Records Book 60, page 689, of the Public Records of said county; thence North 89°30'48" East, along last said Southerly line, 510 feet, more or less, to the Southeasterly corner of the Northwest one-quarter of the Southwest one-quarter of said Section 3, said Southeasterly corner bearing North 68°19'26" East, 6,016.57

feet from said Reference Point "A"; thence North 00°18'06" West, along the Easterly line of said lands of Official Records Book 50, page 689, a distance of 240 feet, more or less, to its intersection with said centerline of Durbin Creek; thence Northeasterly, departing said Easterly line and along the meanderings of said centerline, 2,180 feet, more or less, to its intersection with a Southerly line of said lands of Official Records Book 60, page 689; thence North 89°29'16" East, along said Southerly line, 360 feet, more or less, to a point of intersection with the Westerly right-of-way line of a Florida East Coast Railroad right-of-way, a variable width right-of-way per Florida East Coast Railway Company Right-of-Way and Track Map, dated December 31, 1927, said point bearing North 57°49'04" East, 2,613.07 feet from said Southeast corner of the Northwest one-quarter of the Southwest one-quarter of Section 3; thence along said Westerly right-of-way line the following seven (7) courses: course one, thence South 41°00'02" East, 3,556.42 feet to a point lying on the Southerly line of said Section 2; course two, thence North 89°24'41" East, along said Southerly line, 26.27 feet; course three, thence South 41°00'02" East, departing said Southerly line, 1,807.93 feet; course four, thence South 48°39'58" West, 70.00 feet; course five, thence South 41°00'02" East, 1,745.00 feet; course six, thence North 89°16'33" East, 98.30 feet; course seven, thence South 41°00'02" East, 1,073.11 feet to an intersection with said Northerly right-of-way line of County Road No. 210, said point also lying on a curve concave Northerly, having a radius of 243.31 feet; thence along said Northerly right-of-way line the following six (6) courses: course one, thence Southwesterly, along the arc of said curve, through a central angle of 54°26'06", an arc distance of 231.16 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South 84°04'34" West, 222.57 feet; course two, thence North 68°42'23" West, 1,737.76 feet to the point of a curve concave Northeasterly, having a radius of 879.93 feet; course three, thence Northwesterly, along the arc of said curve, through a central angle of 15°27'40", an arc distance of 237.45 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 60°58'33" West, 236.73 feet; course four, thence North 53°14'43" West, 2,494.87 feet to the point of curvature of a curve concave Southerly, having a radius of 393.31 feet; course five, thence Southwesterly, along the arc of said curve, through a central angle of 75°41'49", an arc distance of 519.63 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South 88°54'23" West, 482.65 feet; course six, thence South 51°03'28" West, 6,601.35 feet to an intersection with the Southerly line of Section 9 and the Point of Beginning. The above described lands being subject to any submerged sovereign lands of the State of Florida associated with Durbin and Sampson Creeks. Containing 1,193 acres, more or less.

LESS AND EXCEPT a portion of Section 11, Township 5 South, Range 28 East, St. Johns County, Florida, being more particularly described as follows: Commence at the southwest corner of Section 10, Township 5 South, Range 28 East, St. Johns County, Florida; thence North 00°48'41" West, along the westerly line of said Section 10, 377.21 feet, to an intersection a line lying 10.00 feet southeasterly of and parallel with the southeasterly right-of-way of County Road No. 210 (a 150.00 foot right-of-way per St. Johns County Right-of-Way Map dated 8-15-2002); thence North 51°03'28" East, along last said line and the northeasterly extension thereof, 7,759.46 feet to the southwesterly existing right-of-way line of Florida East Coast Railroad (a variable width right-of-way as shown on Florida East Coast Railway Company Right-of-Way and Track Map dated December 31, 1927); thence southeasterly, southwesterly and easterly, along said southwesterly existing right-of-way line run of the following six (6) courses and distances: Course No. 1: South 41°00'02" East, 1,524.26 feet; Course No. 2: South 48°59'58" West, 70.00 feet; Course No. 3: South 41°00'02" East, 1,295.55 feet to the Point of Beginning; Course No. 4: South 41°00'02" East, 449.45 feet; Course No. 5: North 89°16'33" East, 98.30 feet; Course No. 6: South 41°00'02" East, 862.54 feet; thence South 48°59'58" West, 225.55 feet to the northeasterly right-of-way of said County Road 210; thence North 68°42'23" West, along said northeasterly right-of-way, 922.85 feet; thence North 23°54'33" West, 70.96 feet; thence North 20°53'17" East, 132.02 feet to the point of curvature of a curve leading northerly; thence northerly along and around the arc of said curve, concave westerly, having a radius of 310.00 feet, an arc distance of 334.85 feet, said arc being subtended by a chord bearing and distance of North 10°03'22" West, 318.81 feet to a point of tangency of last said curve; thence North 41°00'02" West, 37.36 feet; thence North 41°31'41" West, 115.11 feet; thence North 48°28'19" East, 279.45 feet to the Point of Beginning. Containing 13.02 acres, more or less.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History--New _____.

42DDD-1.003 Supervisors.

The following five persons are designated as the initial members of the Board of Supervisors: Paul Leikert, Jason Eisner, Robert Krief, Mark Newton, and Wayne Janzik.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Teresa Tinker, Florida Land and Water Adjudicatory Commission, Room 1801, The Capitol, Tallahassee, Florida 32399-0001

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Teresa Tinker, Florida Land and Water Adjudicatory Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 14, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 21, 2006

LAND AND WATER ADJUDICATORY COMMISSION

Sarasota National Community Development District

RULE CHAPTER NO.: RULE CHAPTER TITLE:

42EEE-1 Sarasota National Community Development District

RULE NOS.: RULE TITLES:

42EEE-1.001 Establishment

42EEE-1.002 Boundary

42EEE-1.003 Supervisors

PURPOSE, EFFECT AND SUMMARY: The purpose of this proposed rule is to establish a community development district ("CDD"), the Sarasota National Community Development District ("District"), pursuant to Chapter 190, F.S. The petition, as amended, filed by Tuscano, LLC, requests the Commission to establish a community development district located within Sarasota County, Florida. A Notice of Receipt of Petition for the Sarasota National Community Development District (originally filed under the name of Tuscano Community Development District) was published in the March 17, 2006, edition of the *Florida Administrative Weekly*. The land area proposed to be served by the District comprises approximately 2,353.80 acres (The original petition described the proposed District as approximately 2,375.12 acres in size. However, the District's legal description was amended to approximately 2,353.80 in size.). A general location map is contained as Exhibit 1 to the amended petition to establish the District. The proposed District is bounded on the north by U.S. 41, the east by the City of North Port, the south by Manasota Beach Road, and on the west by a single-family subdivision. There is no developable real property located within the external boundaries of the proposed District which is to be excluded from the District. The Petitioner either owns or has written consent to establish the District from the landowners of one hundred percent (100%) of the real property located within the proposed District. All of the land in the proposed District will be part of a golf course residential community comprising 1,584 residential units. It is presently anticipated that the proposed District will construct or provide for certain infrastructures, which include public roads, provisions for water and sewer facilities and water management facilities.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:

The statement of estimated regulatory costs (SERC) supports the petition, as corrected, to establish the District. The complete text of the SERC is contained as Exhibit 7 to the petition, as corrected. The scope of the SERC is limited to evaluating the regulatory costs consequences of approving the proposal to establish the District. The requirements for a SERC are found in Section

120.541(2), F.S. A SERC must contain (a) a good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a description of the types of individuals likely to be affected by the rule; (b) a good faith estimate of the costs to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues; (c) a good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local governmental entities, required to comply with the requirements of the rule; (d) an analysis of the impact on small businesses, small counties, and small cities; (e) any additional information that the agency determines may be useful; and (f) any good faith written proposal submitted under Section 120.541(1)(a) and either a statement adopting the alternative or a statement rejecting the alternative in favor of the proposed rule. Addressing section (a), the principal entities that are likely to be required to comply with the rule include the District, the State of Florida, and Sarasota County. In addition, current and future property owners will be affected by the establishment of the proposed District. Under section (b), FLWAC and the State of Florida will incur modest administrative costs. Sarasota County will incur modest costs resulting from the initial review and on-going costs resulting from the on-going administration of the District. There is a \$15,000 filing fee paid to Sarasota County to offset any costs it may incur. Adoption of the proposed rule to approve the formation of the District will not have an adverse impact on State and local revenues. Addressing section (c), the District may levy non-ad valorem special assessments on properties within its boundaries to finance infrastructure that the District funds and to defray the costs of operating and maintaining the infrastructure and associated community facilities. The District may issue notes, bonds, or other indebtedness to fund its improvement program. Prospective future land owners would be required to pay off such indebtedness over time in the form of non-ad valorem special assessments or other rates, fees or charges. The District may also impose an annual levy for the operation and maintenance of the District. Under section (d), approval of the petition, as corrected, to establish the District will have no impact or a positive impact on all small businesses. The petition, as corrected, to establish the District will not have an impact on small counties as defined by Section 120.52, F.S., as Sarasota County is not defined as a small county. Under section (e), the analysis provided in the SERC was based on a straightforward application of economic theory. Input was received from the developer's engineer and other professionals associated with the developer.

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, A HEARING WILL NOT BE HELD):

DATE AND TIME: Tuesday, July 18, 2006, 10:00 a.m.

PLACE: Room 1802M, The Capitol, Tallahassee, Florida

Any person requiring a special accommodation to participate in the workshop because of a disability should contact Barbara Leighty, (850)487-1884, at least five (5) business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Barbara Leighty, Senior Policy Analyst, Florida Land and Water Adjudicatory Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, (850)487-1884

THE FULL TEXT OF THE PROPOSED RULES IS:

SARASOTA NATIONAL COMMUNITY DEVELOPMENT DISTRICT

42EEE-1.001 Establishment.

The Sarasota National Community Development District is hereby established.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History--New _____.

42EEE-1.002 Boundary.

The boundaries of the District are as follows:

A parcel of land lying in Sections 35 and 36, Township 39 South, Range 19 East, and Sections 1 and 2, Township 40 South, Range 19 East, Sarasota County, Florida, described as follows:

Commence at the Northeast Corner of Section 36, Township 39 South, Range 19 East, Sarasota County, Florida; thence S.01°19'34"W., along the East line of said Section 36, a distance of 1421.71 feet to the POINT OF BEGINNING; thence N.89°39'01"W., leaving said East line of Section 36, a distance of 1961.34 feet to a point on the East line of a 100.00 foot wide Easement (Taylor Ranch Trail), recorded in Official Records Book 2913, Page 1787, Public Records of Sarasota County, Florida; thence S.00°20'59"W., along said East line of a 100.00 foot wide Easement, a distance of 933.32 feet; thence N.89°39'01"W., along the South line of said 100.00 foot wide Easement, a distance of 100.00 feet to the Southeast corner of lands described in Official Records Book 2020, Page 2228 (Taylor Ranch Elementary School), Public Records of Sarasota County, Florida; thence along the boundary of said lands the following four (4) courses: (1) N.89°39'01"W., a distance of 933.32 feet; (2) thence N.00°20'59"E., a distance of 515.93 feet; (3) thence N.89°39'01"W., a distance of 417.39 feet; (4) thence N.00°20'59"E., along said boundary and it's northerly extension, a distance of 1707.36 feet to the a point on the South Right of Way Line of State Road No. 45 (also known as U.S. Highway No. 41); thence along the South line of said Right of Way the following eleven (11) courses: (1) N.89°38'21"W., a distance of 394.82 feet; (2) N.83°55'43"W., a distance of 100.50 feet; (3) thence N.89°38'20"W., a distance of 2599.35 feet; (4) thence S.84°40'37"W., a distance of 100.38 feet; (5)

thence N.89°41'50"W., a distance of 100.05 feet; (6) thence N.83°53'08"W., a distance of 100.00 feet; (7) N.89°38'01"W., a distance of 1799.71 feet; (8) thence S.84°43'32"W., a distance of 100.41 feet; (9) thence N.89°39'57"W., a distance of 100.05 feet; (10) thence N.84°04'16"W., a distance of 100.40 feet; (11) thence N.89°38'23"W., a distance of 1798.25 feet to a point on the West line of Section 35, Township 39 South, Range 19 East, Sarasota County, Florida; thence S.00°17'41"W., along said West line of said Section 35, a distance of 5099.43 feet to the Northwest corner of Section 2, Township 40 South, Range 19 East, Sarasota County, Florida; thence S.01°00'41"W., along the West line of said Section 2, a distance of 1318.65 feet to the Northwest corner of the Southwest Quarter of the Northwest Quarter of said Section 2; thence S.89°15'33"E., along the North line of said Southwest Quarter of the Northwest Quarter, a distance of 1308.82 feet to the Northeast corner of said Southwest Quarter of the Northwest Quarter; thence S.01°19'18"W., along the East line of said Southwest Quarter of the Northwest Quarter, a distance of 1319.93 feet to the Southeast corner of said Southwest Quarter of the Northwest Quarter; thence N.89°12'31"W., a distance of 1301.94 feet to the West Quarter corner of said Section 2; thence S.01°01'27"W., along the West line of the Southwest Quarter of said Section 2, a distance of 2638.12 feet to the Southwest corner of said Section 2; thence S.89°08'48"E., along the South line of the said Southwest Quarter of Section 2, a distance of 2573.26 feet to the South Quarter corner of said Section 2; thence S.89°10'04"E., along the South line of the Southeast Quarter of said Section 2, a distance of 2572.48 feet to the Southwest corner of Section 1, Township 40 South, Range 19 East; thence S.88°59'00"E., along the South line of the Southwest Quarter of the Southwest Quarter of said Section 1, a distance of 1391.30 feet to said Southwest corner of the Southeast Quarter of the Southwest Quarter of said Section 1; thence S.88°59'38"E., along the South line of the Southeast Quarter of the Southwest Quarter of said Section 1, a distance of 1392.85 feet to the South Quarter corner of said Section 1; thence S.88°56'44"E., along the South line of the Southeast Quarter of said Section 1, a distance of 2783.84 feet the Southeast corner of Section 1; thence N.00°08'44"E., along the East line of Section 1, a distance of 2653.78 feet to the East Quarter corner of Section 1; thence continue along said East line of Section 1, N.00°08'52"E., a distance of 2653.77 feet to the Southeast corner of Section 36, Township 39 South, Range 19 East, Sarasota County, Florida; thence N.01°19'34"E., along the East line of said Section 36, a distance of 3876.89 feet to the POINT OF BEGINNING.

LESS the following described lands:

Parcel "A"

Being a parcel of land lying in Section 36, Township 39 South, Range 19 East, Sarasota County, Florida, being more particularly described as follows:

Commence at the Northeast corner of said Section 36; thence N.89°32'13"W., along the North line of said Section 36, a distance of 1985.57 feet; thence S.00°20'59"W., leaving said North line of Section 36, a distance of 125.74 feet to a point on the South line of U.S. Highway No. 41, State Road No. 45, at its intersection with the East line of Taylor Ranch Trail, 100 feet wide, recorded in Official Records Book 2913, Page 1787 and Official Records Book 2020, Page 2228, Public Records of Sarasota County, Florida; thence S.00°20'59"W., along said East line of Taylor Ranch Trail, a distance of 1299.69 feet to the POINT OF BEGINNING; thence leaving said East line S.89°39'01"E., a distance of 787.16 feet; thence S.03°26'01"E., a distance of 50.24 feet; thence S.05°10'03"E., a distance of 17.32 feet; thence S.00°14'48"W., a distance of 27.87 feet; thence S.01°56'54"W., a distance of 23.82 feet; thence S.15°18'29"W., a distance of 17.04 feet; thence S.24°48'08"W., a distance of 23.55 feet; thence S.21°55'16"W., a distance of 16.90 feet; thence S.14°25'32"W., a distance of 6.78 feet; thence S.26°10'37"W., a distance of 33.01 feet; thence S.34°52'48"W., a distance of 15.09 feet; thence N.83°30'09"W., a distance of 20.50 feet; thence S.48°55'36"W., a distance of 27.78 feet; thence S.65°27'08"W., a distance of 26.04 feet; thence S.74°19'03"W., a distance of 40.69 feet; thence S.67°55'56"W., a distance of 19.96 feet; thence S.61°24'49"W., a distance of 43.49 feet; thence S.29°37'12"W., a distance of 34.15 feet; thence S.06°51'04"W., a distance of 57.09 feet; thence S.31°40'44"W., a distance of 42.60 feet; thence S.18°35'01"W., a distance of 39.04 feet; thence S.47°16'37"W., a distance of 30.81 feet; thence S.00°20'59"W., a distance of 463.86 feet; thence N.89°39'01"W., a distance of 64.55 feet; thence N.00°25'30"E., a distance of 6.37 feet; thence N.37°08'06"W., a distance of 42.05 feet; thence N.84°11'44"W., a distance of 33.39 feet; thence S.73°05'18"W., a distance of 32.59 feet; thence S.71°17'14"W., a distance of 85.33 feet; thence S.71°54'19"W., a distance of 16.98 feet; thence N.89°39'01"W., a distance of 254.84 feet to a point on said East line of Taylor Ranch Trail; thence N.00°20'59"E., along said East line, a distance of 933.32 feet to the POINT OF BEGINNING.

ALSO LESS the following described lands:

PARCEL "B"

Being a parcel of land lying in Section 36, Township 39 South, Range 19 East, Sarasota County, Florida, being more particularly described as follows:

Commence at the Northeast corner of said Section 36; thence N.89°32'13"W., along the North line of said Section 36, a distance of 1,985.57 feet; thence S.00°20'59"W., leaving the said North line of Section 36, a distance of 125.74 feet to a point on the South line of U.S. Highway No. 41, State Road No. 45, at its intersection with the East line of Taylor Ranch Trail, 100 feet wide, recorded in Official Records Book 2913, Page 1787 and Official Records Book 2020, Page 2228, Public Records of Sarasota County, Florida; thence S.00°20'59"W.,

along said East line of Taylor Ranch Trail, a distance of 2233.01 feet to the POINT OF BEGINNING; thence leaving said East line S.89°39'01"E., a distance of 254.84 feet; thence S.71°54'19"W., a distance of 91.93 feet; thence S.46°17'00"W., a distance of 40.16 feet; thence S.49°01'33"W., a distance of 54.66 feet; thence S.12°39'54"W., a distance of 72.63 feet; thence S.87°10'18"W., a distance of 47.93 feet; thence N.02°49'42"W., a distance of 60.97 feet to the point of curvature of a curve to the left, having: a radius of 60.00 feet, a central angle of 180°00'00", a chord bearing of S.87°10'18"W. and a chord length of 120.00 feet; thence along the arc of said curve, a distance of 188.50 feet to the Point of Tangency of said curve; thence S.02°49'42"E., a distance of 127.69 feet to the point of curvature of a curve to the right having: a radius of 340.00 feet, a central angle of 22°20'22", a chord bearing of S.08°20'29"W. and a chord length of 131.73 feet; thence along the arc of said curve, a distance of 132.56 feet to a point on a curve to the left, having a radius of 2,967.82 feet, a central angle of 09°58'38", a chord bearing of N.78°06'40"W., and a chord length of 516.15 feet; thence along the arc of said curve, a distance of 516.80 feet to the end of said curve; thence N.13°44'02"E., a distance of 25.17 feet; thence N.39°40'52"W., a distance of 41.86 feet; thence N.25°22'25"W., a distance of 39.28 feet; thence N.28°18'54"E., a distance of 30.86 feet; thence N.00°20'59"E., a distance of 148.02 feet to a point on the South line of Taylor Ranch Elementary School, recorded in Official Records Book 2020, Page 2228, Public Records of Sarasota County, Florida; thence S.89°39'01"E., along said South line, a distance of 629.46 feet to the POINT OF BEGINNING.

AND ALSO LESS the following described lands:

PARCEL "C"

Being a parcel of land lying in Section 36, Township 39 South, Range 19 East, Sarasota County, Florida, being more particularly described as follows:

Commence at the Northeast corner of said Section 36; thence N.89°32'13"W., along the North line of said Section 36, a distance of 1,985.57 feet; thence S.00°20'59"W., leaving said North line of Section 36, a distance of 125.74 feet to a point on the South line of U.S. Highway No. 41, State Road No. 45, at its intersection with the East Line of Taylor Ranch Trail, recorded in Official Records Book 2913, Page 1787, and Official Records Book 2020, Page 2228, Public Records of Sarasota County, Florida; thence along said East line of Taylor Ranch Trail S.00°20'59"W. a distance of 2233.01 feet; thence leaving said East line N.89°39'01"W., a distance of 629.45 feet to a point on the South line of Taylor Ranch Elementary School, recorded in Official Records Book 2020, Page 2228, Public Records of Sarasota County, Florida, same being the POINT OF BEGINNING; thence leaving said South line S.00°20'59"W., a distance of 148.02 feet; thence S.28°18'54"W., a distance of 30.86 feet; thence S.25°22'25"E., a distance of 39.28 feet; thence S.39°40'52"E., a distance of

41.86 feet; thence S.13°44'02"W., a distance of 66.60 feet; thence S.06°41'23"W., a distance of 45.17 feet; thence S.15°58'30"W., a distance of 50.94 feet; thence S.37°00'49"E., a distance of 24.38 feet; thence S.52°35'39"W., a distance of 66.89 feet; thence S.58°32'41"W., a distance of 203.53 feet; thence N.73°39'03"W., a distance of 515.97 feet; thence N.38°42'21"W., a distance of 88.04 feet; thence N.14°54'25"E., a distance of 31.23 feet; thence N.31°07'47"W., a distance of 16.61 feet; thence N.84°03'15"W., a distance of 42.28 feet; thence S.80°03'20"W., a distance of 35.41 feet; thence N.41°06'48"W., a distance of 50.23 feet; thence N.14°31'17"W., a distance of 47.33 feet; thence N.24°55'21"W., a distance of 56.24 feet; thence N.26°55'29"W., a distance of 25.91 feet; thence N.05°56'26"W., a distance of 65.54 feet; thence S.52°39'15"E., a distance of 36.80 feet; thence N.33°21'54"E., a distance of 31.52 feet; thence N.22°42'14"W., a distance of 16.13 feet; thence N.59°29'08"W., a distance of 47.42 feet; thence N.27°14'29"W., a distance of 116.10 feet; thence N.28°44'51"E., a distance of 46.29 feet; thence N.22°32'30"W., a distance of 49.28 feet; thence N.00°55'55"E., a distance of 47.90 feet; thence N.25°06'47"E., a distance of 35.76 feet; thence N.05°33'03"E., a distance of 66.39 feet; thence N.19°09'55"E., a distance of 49.86 feet; thence N.21°07'28"E., a distance of 71.10 feet; thence N.21°45'21"E., a distance of 47.14 feet; thence N.46°02'09"E., a distance of 59.77 feet; thence N.35°47'19"E., a distance of 39.32 feet; thence S.89°39'01"E., a distance of 18.22 feet to the southwest corner of said Taylor Ranch Elementary School; thence along the boundary of said Taylor Elementary School the following three courses; (1) S.89°39'01"E., a distance of 417.39 feet; (2) S.00°20'59"W., a distance of 515.93 feet; (3) S.89°39'01"E., a distance of 403.86 feet to the POINT OF BEGINNING.

Parcel contains 2353.7966 Acres more or less.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History--New _____.

42EEE-1.003 Supervisors.

The following five persons are designated as the initial members of the Board of Supervisors: R. Scott Griffith, Sally Hall, John C. Kunkel, Seth Boots, and Chris Vanzant.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Teresa Tinker, Florida Land and Water Adjudicatory Commission, Room 1801, The Capitol, Tallahassee, Florida 32399-0001

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Teresa Tinker, Florida Land and Water Adjudicatory Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 14, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: May 19, 2006

LAND AND WATER ADJUDICATORY COMMISSION

Rivers Edge Community Development District

RULE CHAPTER NO.: RULE CHAPTER TITLE:

42FFF-1 Rivers Edge Community
 Development District

RULE NOS.: RULE TITLES:

42FFF-1.001 Establishment

42FFF-1.002 Boundary

42FFF-1.003 Supervisors

PURPOSE, EFFECT AND SUMMARY: The purpose of this proposed rule is to establish a community development district (“CDD”), the Rivers Edge Community Development District (“District”), pursuant to Chapter 190, F.S. (The petition filed on December 19, 2005, designated the name of the District as the Kendall Creek Community Development District. Both the Notice of Receipt of Petition and the Notice of Development of Proposed Rule were published under the name Kendall Creek Community Development District. Petitioner requested a change to the name Rivers Edge Community Development District on May 24, 2006.) The petition filed by The St. Joe Company requests the Commission establish a community development district located entirely within the unincorporated limits of St. Johns County, Florida. A Notice of Receipt of Petition for the District was published in the February 3, 2006, edition of the Florida Administrative Weekly. The land area proposed to be served by the District comprises approximately 4,086.6 acres. A general location map is contained as Exhibit 1 to the petition to establish the District. There are no out-parcels within the external boundaries of the proposed District which are to be excluded from the District. The Petitioner either owns or has obtained written consent to establish the District from the landowners of one hundred percent (100%) of non-governmental real property located within the proposed District. The lands within the District will accommodate approximately 3,700 single-family homes; 775 multi-family units; 80,000 square feet of retail/commercial/service space; 11,000 square feet of offices; 100,000 square feet of light industrial space; 18 holes of golf; 131 acres of parks; and 1 public school. The lands to be included in the District are located in the RiverTown Development of Regional Impact. The District, if established, plans to fund, own, operate and maintain the stormwater management system, certain roadways and the District’s recreation facilities including parks and amenities. The District will fund and construct the County public roadways and County public parks, and will dedicate them to the County. Water and wastewater utilities will be provided by JEA and owned by the JEA.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Statement of Estimated Regulatory Costs (SERC) supports the petition to establish the

District. The complete text of the SERC is contained as Exhibit 9 to the petition. The scope of the SERC is limited to evaluating the regulatory costs consequences of approving the proposal to establish the District. The requirements for a SERC are found in Section 120.541(2), F.S. A SERC must contain (a) a good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a description of the types of individuals likely to be affected by the rule; (b) a good faith estimate of the costs to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues; (c) a good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local governmental entities, required to comply with the requirements of the rule; (d) an analysis of the impact on small businesses, small counties, and small cities; (e) any additional information that the agency determines may be useful; and (f) any good faith written proposal submitted under section (a) and either a statement adopting the alternative or a statement rejecting the alternative in favor of the proposed rule. Addressing section (a), the principal entities that are likely to be required to comply with the rule include the District, the State of Florida, and St. Johns County. In addition, current and future property owners will be affected by the establishment of the proposed District. Under section (b), FLWAC and the State of Florida will incur modest administrative costs. St. Johns County will incur modest costs resulting from the initial review and on-going costs resulting from the on-going administration of the District. There is a \$15,000 filing fee paid to St. Johns County to offset any costs it may incur. Adoption of the proposed rule to approve the formation of the District will not have an adverse impact on State and local revenues. Addressing section (c), the District may levy non-ad valorem special assessments on properties within its boundaries to finance infrastructure that the District funds and to defray the costs of operating and maintaining the infrastructure and associated community facilities. The District may issue notes, bonds, or other indebtedness to fund its improvement program. Prospective future land owners would be required to pay off such indebtedness over time in the form of non-ad valorem special assessments or other rates, fees or charges. The District may also impose an annual levy for the operation and maintenance of the District. Under section (d), approval of the petition to establish the District will have no impact or a positive impact on all small businesses. The petition to establish the District will not have an impact on small counties as defined by Section 120.52, F.S., as St. Johns County is not defined as a small county. Under section (e), the analysis provided in the SERC was based on a straightforward application of economic theory. Input was received from the developer’s engineer and other professionals associated with the developer.

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, A HEARING WILL NOT BE HELD):

DATE AND TIME: Friday, July 21, 2006, 10:00 a.m.

PLACE: Room 1802M, The Capitol, Tallahassee, Florida

Any person requiring a special accommodation to participate in the workshop because of a disability should contact Barbara Leighty, (850)487-1884, at least five (5) business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Barbara Leighty, Senior Policy Analyst, Florida Land and Water Adjudicatory Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, (850)487-1884

THE FULL TEXT OF THE PROPOSED RULES IS:

RIVERS EDGE COMMUNITY DEVELOPMENT
DISTRICT

42FFF-1.001 Establishment.

The Rivers Edge Community Development District is hereby established.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History—New _____.

42FFF-1.002 Boundary.

The boundaries of the District are as follows:

A parcel of land, being a portion of the Francis P. Fatio Grant, Section 39, Township 5 South, Range 27 East; together with a portion of the Francis P. Fatio Grant, Section 44, Township 5 South, Range 26 East; all in St. Johns County, Florida, said parcel of land being more particularly described as follows:

For a POINT OF BEGINNING, BEGIN at the most Northeasterly corner of the plat BARTRAM PLANTATION PHASE TWO, as shown on the plat thereof, as recorded in Map Book 46, pages 78 through 89 of the Public Records of said St. Johns County, Florida, said point also being on the Southerly Right of Way line of GREENBRIAR ROAD, (a Variable Width Public Road Right of Way, as per Right of Way Map prepared by St. Johns County Surveying and Mapping Program, dated April 19, 1999, formerly known as STATE ROAD No. 11 and/or BOMBING RANGE ROAD), and run thence, along the aforesaid Southerly Right of Way line of GREENBRIAR ROAD, the following three (3) Courses and Distances:

Course No. 1: South 77°13'29" East, a distance of 732.72 feet, to a point;

Course No. 2: South 12°21'44" West, a distance of 17.00 feet, to a point;

Course No. 3: South 77°13'29" East, a distance of 218.82 feet, to a point, on the Westerly boundary line of GREENBRIAR SECTION ONE, as shown on the plat thereof, recorded in Map

Book 14, pages 58 and 58 of the Public Records of St. Johns County, Florida; run thence, along the Westerly boundary line of said GREENBRIAR SECTION ONE, the following two (2) Courses and Distances:

Course No. 1: South 35°18'11" West, a distance of 1,258.39 feet, to a point;

Course No. 2: South 00°00'46" West, along aforesaid Westerly boundary, and then along a Southerly prolongation thereof, a distance of 5,903.67 feet, to the monumented Southwest corner of those lands described and recorded in that instrument recorded in Official Records Book 702, page 995 of the Public Records of said St. Johns County, Florida; run thence, South 77°09'41" East, along the Southerly line of said lands described and recorded in Official Records Book 702, page 995, and then along the Southerly line of lands described and recorded in Official Records Book 702, page 992, all in the Public Records of said St. Johns County, Florida, a distance of 4,900.13 feet, to a point; run thence North 75°52'24" East, continuing along the aforesaid Southerly line of lands described and recorded in Official Records Book 702, page 992, and then along the Southerly line of lands described and recorded in Official Records Book 702, page 989 of the Public Records of said St. Johns County, Florida, a distance of 3,755.96 feet, to the Southeast corner of said lands described and recorded in Official Records Book 702, page 989 of the Public Records of said St. Johns County, Florida; run thence North 12°53'03" East, along the Easterly line of said lands described and recorded in Official Records Book 702, page 989 of the Public Records of said St. Johns County, Florida, a distance of 2,028.02 feet, to the Southerly line of lands described and recorded in Official Records Book 807, page 564 of the Public Records of said St. Johns County, Florida; run thence South 87°27'26" East, along the Southerly line of aforesaid lands, a distance of 3,744.64 feet, to a point on the Westerly line of those lands described and recorded in Official Records Book 1400, page 1204 of the Public Records of said St. Johns County, Florida, and being the boundary line of BARTRAM TRAIL HIGH SCHOOL; run thence, along and around the boundaries of BARTRAM TRAIL HIGH SCHOOL, the following fifteen (15) Courses and Distances:

Course No. 1: South 46°48'23" West, a distance of 414.48 feet, to a point;

Course No. 2: South 22°50'52" West, a distance of 170.75 feet, to a point;

Course No. 3: South 29°41'23" East, a distance of 105.05 feet, to a point;

Course No. 4: South 43°43'33" East, a distance of 242.38 feet, to a point;

Course No. 5: South 06°15'54" East, a distance of 461.02 feet, to a point;

Course No. 6: South 24°04'44" West, a distance of 767.51 feet, to a point;

Course No. 7: South 50°01'20" East, a distance of 672.15 feet, to a point;

Course No. 8: North 83°31'47" East, a distance of 438.97 feet, to a point;

Course No. 9: South 37°49'12" East, a distance of 138.56 feet, to a point;

Course No. 10: South 66°18'34" East, a distance of 290.82 feet, to a point;

Course No. 11: South 82°37'22" East, a distance of 375.87 feet, to a point;

Course No. 12: North 48°52'37" East, a distance of 831.78 feet, to a point;

Course No. 13: North 49°06'30" East, a distance of 480.59 feet, to a point;

Course No. 14: North 27°50'21" East, a distance of 414.04 feet, to a point;

Course No. 15: North 29°55'50" West, a distance of 1,405.58 feet, to a point, lying on the Southerly line of the aforesaid lands, described and recorded in Official Records Book 807, page 564 of the Public Records of said St. Johns County; run thence, on the aforesaid Southerly line of said lands, the following two (2) Courses and Distances:

Course No. 1: South 87°27'26" East, a distance of 560.74 feet, to a point;

Course No. 2: South 87°17'21" East, a distance of 5,264.98 feet, to a point, on the Easterly monumented line of Section 39, the Francis P. Fatio Grant; run thence, along last said line, the following four (4) Courses and Distances:

Course No. 1: South 41°26'00" West, (also being the Westerly line of Section 28), a distance of 6,287.87 feet, to a point, (a portion of this call is along the Westerly boundary line of WHITELOCK FARMS, as shown on the plat thereof, recorded in Map Book 37, pages 80 through 112 of the Public Records of said St. Johns County, Florida), said point being the intersection of Sections 28, 29 and 39;

Course No. 2: South 41°25'04" West, (also being the Westerly boundary line of Tract "J", of aforesaid WHITELOCK FARMS, and the Westerly line of said Section 29), a distance of 2,321.16 feet, to a point;

Course No. 3: South 41°34'03" West, (a portion of this call is along the Westerly boundary line of aforesaid WHITELOCK FARMS), a distance of 5,424.32 feet, to a point, at the intersection of Sections 39, 32 and 40;

Course No. 4: South 42°44'52" West, (also being the Westerly line of said Section 40), a distance of 2,199.20 feet, to a point, on the Northeasterly Right of Way line of STATE ROAD No. 13, (a 100 foot Public Road Right of Way, as per State of Florida, State Road Department Right of Way Map, Project 785); run thence, along the aforesaid Northeasterly Right of Way line of STATE ROAD No. 13, the following two (2) Courses and Distances:

Course No. 1: run thence Northwesterly, along and around the arc of a curve, being concave Southwesterly, and having a radius of 22,968.28 feet, through a central angle of 00°20'02" to the left, an arc distance of 133.89 feet, to the point of tangency of last said curve, said arc being subtended by a chord bearing and distance of North 63°17'25" West, 133.89 feet;

Course No. 2: North 63°27'26" West, along last said tangency, a distance of 6144.14 feet; run thence North 26°42'01" East, departing said Northeasterly Right of Way line, a distance of 249.39 feet, to a point; run thence South 63°14'24" East, a distance of 120.00 feet, to a point; run thence North 26°42'01" East, a distance of 223.42 feet, to a point; run thence North 11°17'57" East, a distance of 176.08 feet, to a point; run thence Southeasterly, around and along the arc of a curve, being concave Northeasterly, and having a radius of 219.00 feet, through a central angle of 09°27'56" to the left, an arc distance of 36.18 feet to the point of tangency of last said curve, said arc being subtended by a chord bearing and distance of South 73°58'04" East, 36.14 feet; run thence South 78°42'03" East, along last said tangency, 264.08 feet the point of curvature of a curve leading Southeasterly; thence Easterly, around and along the arc of said curve, being concave Southwesterly, and having a radius of 531.00 feet, through a central angle of 15°24'03" to the right, an arc distance of 142.73 feet to the point of tangency of last said curve, said arc being subtended by a chord bearing and distance of South 71°00'01" East, 142.30 feet; run thence South 63°17'59" East, along last said tangency, a distance of 404.36 feet; run thence North 26°42'01" East, a distance of 827.49 feet, to the point of curvature of a curve leading Northerly; thence Northerly and Northwesterly, around and along the arc of said curve, being concave Westerly, and having a radius of 25.00 feet, through a central angle of 80°40'40" to the left, an arc distance of 35.20 feet, said arc being subtended by a chord bearing and distance of North 13°38'19" West, 32.37 feet to the point of reverse curvature of last said curve with a curve leading Northwesterly; thence Northwesterly, around and along the arc of last said curve, being concave Northeasterly, and having a radius of 354.00 feet, through a central angle of 26°14'57" to the right, an arc distance of 162.18 feet to the point of tangency of last said curve, said arc being subtended by a chord bearing and distance of North 40°51'10" West, 160.77 feet; run thence North 27°43'42" West, along last said tangency, a distance of 45.05 feet, to a point; run thence South 62°16'18" West, a distance of 313.00 feet, to the point of curvature of a curve leading Westerly; thence Westerly, around and along the arc of said curve, being concave Northerly, and having a radius of 479.00 feet, through a central angle of 59°19'51" to the right, an arc distance of 496.01 feet, arc being subtended by a chord bearing and distance of North 88°03'46" West, 474.15 feet to the point of reverse curvature of last said curve with a curve leading Westerly; thence Westerly, around and along the arc of last said curve, being concave Southerly, and having a radius of 250.00

feet, through a central angle of 89°56'25" to the left, an arc distance of 392.44 feet to the end last said curve, said arc being subtended by a chord bearing and distance of South 76°37'57" West, 353.37 feet; run thence North 69°17'58" West, a distance of 265.03 feet; thence Southwesterly, around and along the arc of a curve, being concave Northwesterly, and having a radius of 500.00 feet, through a central angle of 09°47'49" to the right, an arc distance of 85.49 feet to the point of tangency of last said curve, said arc being subtended by a chord bearing and distance of South 25°34'49" West, 85.39 feet; run thence South 30°28'44" West, along last said tangency, a distance of 350.39 feet; run thence North 56°25'03" West, a distance of 314.88 feet; run thence South 45°28'44" West, a distance of 151.52 feet; run thence South 57°14'17" West, a distance of 100.62 feet; run thence South 53°38'43" West, a distance of 112.98 feet to a point situate on the Northeasterly right of way line of said STATE ROAD 13; run thence, along the Northeasterly Right of Way line of said STATE ROAD No. 13, the following seven (7) Courses and Distances:

Course No. 1: thence Northerly, around and along the arc of a curve, being concave Easterly, and having a radius of 1403.66 feet, through a central angle of 44°43'34" to the right, an arc distance of 1095.72 feet to the point of tangency of last said curve, said arc being subtended by a chord bearing and distance of North 06°47'20" West, 1068.12 feet;

Course No. 2: North 15°34'27" East, along last said tangency, a distance of 457.25 feet, to the point of curvature, of a curve leading northwesterly;

Course No. 3: thence Northwesterly, along and around the arc of a curve, being concave Southwesterly, and having a radius of 1,491.25 feet, through a central angle of 62°09'52" to the left, an arc distance of 1,617.97 feet, to the point of tangency of last said curve, said arc being subtended by a chord bearing and distance of North 15°30'29" West, 1,539.77 feet;

Course No. 4: North 46°35'25" West, along last said tangency, a distance of 1,725.01 feet, to the point of curvature, of a curve leading Westerly;

Course No. 5: thence Westerly, along and around the arc of a curve, being concave Southerly, and having a radius of 2,914.90 feet, through a central angle of 42°24'00" to the left, an arc distance of 2,157.08 feet, to the point of tangency of last said curve, last said arc being subtended by a chord bearing and distance of North 67°47'25" West 2,108.20 feet;

Course No. 6: North 88°59'25" West, along last said tangency, a distance of 2,754.72 feet, to the Point of Curvature, of a curve leading northwesterly;

Course No. 7: thence Northwesterly, along and around the arc of a curve, being concave Northeasterly, and having a radius of 1,382.69 feet, through a central angle of 08°42'40" to the right, an arc distance of 210.22 feet, to the Easterly line of lands described and recorded in Official Records Book 763, page 395 of the Public Records of said St. Johns County, Florida, last said arc being subtended by a chord bearing and distance

of North 84°38'05" West, 210.02 feet; run thence North 39°27'48" East, along the aforesaid Easterly line of lands described and recorded in Official Records Book 763, page 395, and then along the Easterly line of lands described and recorded in Official Records Book 1106, page 977 of the Public Records of said St. Johns County, Florida, a distance of 648.38 feet, to the Northeast corner of said lands, described and recorded in Official Records Book 1106, page 977 of said Public Records; run thence North 51°41'45" West, along the Northerly line of last said lands, and then along the Northerly line of those lands described and recorded in Official Records Book 1156, page 464, and then Official Records Book 1370, page 122 of the Public Records of said St. Johns County, Florida, a distance of 1,332.26 feet, to the Northeast corner of those lands described and recorded in Official Records Book 1370, page 122 of the Public Records of St. Johns County, Florida; run thence South 89°24'38" West, along the Northerly line of last said lands, a distance of 515.25 feet, to the Easterly Right of Way line of aforesaid STATE ROAD No. 13; run thence, along the aforesaid Easterly Right of Way line of STATE ROAD No. 13, the following four (4) Courses and Distances:

Course No. 1: run thence Northerly, along and around the arc of a curve, being concave Easterly, and having a radius of 1,382.69 feet, through a central angle of 13°55'33" to the right, an arc distance of 336.07 feet, to the point of tangency of last said curve, said arc being subtended by a chord bearing and distance of North 05°13'52" East, 335.24 feet;

Course No. 2: North 12°11'31" East, along last said tangency, a distance of 1,169.27 feet, to the point of curvature, of a curve leading northerly;

Course No. 3: thence Northerly, along and around the arc of a curve, being concave Westerly, and having a radius of 2,914.89 feet, through a central angle of 20°40'00" to the left, an arc distance of 1,051.40 feet, to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 01°51'31" East, 1,045.71 feet;

Course No. 4: North 08°28'29" West, along last said tangency, a distance of 2,119.40 feet, to the Southerly line of those lands described and recorded in Official Records Book 878, page 1283 of the Public Records of said St. Johns County, Florida; run thence, along last said line, the following two (2) Courses and Distances:

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

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

run the following thirteen Courses and Distances, along the Easterly boundary of the aforesaid plat of BARTRAM PLANTATION PHASE TWO:

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

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

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

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

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

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

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

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

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

Course No. 10: North 47°26'30" East, a distance of 103.39 feet, to a point;

Course No. 11: North 39°33'12" West, a distance of 99.33 feet, to a point;

Course No. 12: North 23°21'33" West, a distance of 92.86 feet, to a point;

Course No. 13: North 17°55'40" East, a distance of 203.96 feet, to a point, on the aforesaid Southerly Right of Way line of GREENBRIAR ROAD, and the POINT OF BEGINNING.

The lands thus described, contains 160,416,447 square feet, or 3,682.65 acres, more or less, in area.

TOGETHER WITH the following described parcel:

A parcel of land, being a portion of the Francis P. Fatio Grant, Section 39, Township 5 South, Range 27 East; together with a portion of the Francis P. Fatio Grant, Section 44, Township 5 South, Range 26 East; together with a portion of the Francis P. Fatio Grant, Section 43, Township 6 South, Range 27 East, all in St. Johns County, Florida, said parcel of land being more particularly described as follows:

For a Point of Reference, commence at the intersection of Section 32, Section 40, the F.J. Fatio Grant, and Section 39, the Francis P. Fatio Grant, all in Township 5 South, Range 27 East, St. Johns County, Florida, and run thence South 42°44'52" West, along the monumented Easterly line of said Section 39, the Francis P. Fatio Grant, and then along a southwesterly prolongation thereof, a distance of 2,199.20 feet, to the Northeasterly Right of Way line of STATE ROAD No. 13, (a 100 foot Public Road Right of Way, as per State of Florida, State Road Department Right of Way Map, Project 785); continue thence South 42°44'52" West, along aforesaid

prolongation, a distance of 104.15 feet, to the Southwesterly Right of Way line of said STATE ROAD NO. 13, and the POINT OF BEGINNING.

From the POINT OF BEGINNING, thus described, run thence, along the Southwesterly Right of Way line of said STATE ROAD No. 13, the following two (2) Courses and Distances:

Course No. 1: run thence Northwesterly, along and around the arc of a curve, being concave Southwesterly, and having a radius of 22,868.28 feet, through a central angle of 00°15'41" to the left, an arc distance of 104.28 feet, to the point of tangency of last said curve, said arc being subtended by a chord bearing and distance of North 63°19'36" West, 104.28 feet;

Course No. 2: North 63°27'26" West, along last said tangency, a distance of 4312.27 feet; run thence South 26°32'34" West, departing said Southwesterly right of way line, a distance of 254.81 feet; run thence North 87°40'31" West, a distance of 740 feet, more or less to a point on the Northeasterly "Mean High Water Line", of the St. Johns River, (Elevation 1.07 feet, NGVD 1929, as per Bureau of Surveying and Mapping, Division of State Lands, Department of Environmental Protection Tide Interpolation Point, MHW Data ID 4486 and 4485, and then Elevation 1.06, NGVD 1929, as per MHW Data ID 4484); run thence Southeasterly, along the aforesaid "Mean High Water Line" of the St. Johns River, a distance of 5,300 feet, more or less, to a point which lies South 42°44'52" West, 1,053 feet, more or less, from the POINT OF BEGINNING; run thence North 42°44'52" East, a distance of 1,053 feet, more or less, to the aforesaid Southwesterly Right of Way line of STATE ROAD No. 13, and the POINT OF BEGINNING.

The lands thus described, contains 108.93 acres, more or less, in area.

TOGETHER WITH the following described parcel:

A parcel of land, being a portion of the Francis P. Fatio Grant, Section 44, Township 5 South, Range 26 East, St. Johns County, Florida, said parcel of land being more particularly described as follows:

For a Point of Reference, commence at the intersection of Section 32, Section 40, the F.J. Fatio Grant, and Section 39, the Francis P. Fatio Grant, all in Township 5 South, Range 27 East, St. Johns County, Florida, and run thence South 42°44'52" West, along the monumented Easterly line of said Section 39, the Francis P. Fatio Grant, and then along a southwesterly prolongation thereof, a distance of 2,199.20 feet, to the Northeasterly Right of Way line of STATE ROAD No. 13, (a 100 foot Public Road Right of Way, as per State of Florida, State Road Department Right of Way Map, Project 785); continue thence South 42°44'52" West, along aforesaid prolongation, a distance of 104.15 feet, to the Southwesterly Right of Way line of said STATE ROAD NO. 13; run thence, along the Southwesterly Right of Way line of said STATE ROAD No. 13, the following nine (9) Courses and Distances:

Course No. 1: run thence Northwesterly, along and around the arc of a curve, being concave Southwesterly, and having a radius of 22,868.28 feet, through a central angle of 00°15'41" to the left, an arc distance of 104.28 feet, to the point of tangency of last said curve, said arc being subtended by a chord bearing and distance of North 63°19'36" West, 104.28 feet;

Course No. 2: North 63°27'26" West, along last said tangency, a distance of 6,281.57 feet, to the point of curvature, of a curve leading northerly;

Course No. 3: thence Northerly, along and around the arc of a curve, being concave Northeasterly, and having a radius of 1,503.66 feet, through a central angle of 79°01'54" to the right, an arc distance of 2,074.09 feet, to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 23°56'30" West, 1,913.53 feet;

Course No. 4: North 15°34'27" East, along last said tangency, a distance of 457.25 feet, to the point of curvature, of a curve leading northwesterly and the POINT OF BEGINNING;

Course No. 5: thence Northwesterly, along and around the arc of a curve, being concave Southwesterly, and having a radius of 1,391.25 feet, through a central angle of 62°09'52" to the left, an arc distance of 1,509.47 feet, to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 15°30'29" West, 1,436.52 feet;

Course No. 6: North 46°35'25" West, along last said tangency, a distance of 1,725.01 feet, to the point of curvature, of a curve leading Westerly;

Course No. 7: thence Westerly, along and around the arc of a curve, being concave Southerly, and having a radius of 2,814.90 feet, through a central angle of 42°24'00" to the left, an arc distance of 2,083.08 feet, to the point of tangency of last said curve, last said arc being subtended by a chord bearing and distance of North 67°47'25" West 2,035.87 feet;

Course No. 8: North 88°59'25" West, along last said tangency, a distance of 2,754.72 feet, to the point of curvature of a curve leading Westerly;

Course No. 9: thence Westerly, along and around the arc of a curve, being concave Northerly, and having a radius of 1482.69 feet, through a central angle of 10°53'45" to the right, an arc distance of 281.96 feet, to the point of tangency of last said curve, last said arc being subtended by a chord bearing and distance of North 83°32'33" West 281.53 feet, to the Northeasterly corner of Lot 22, REMINGTON PARK, as shown on the plat thereof, recorded in Map Book 7, page 1 of the Public Records of St. Johns County, Florida, thence South 40°31'00" West, along the Easterly line of said Lot 22, REMINGTON PARK, 749 feet, more or less, to a point on the Northeasterly "Mean High Water Line", of the St. Johns River, (Elevation 1.07 feet, NGVD 1929, as per Bureau of Surveying and Mapping, Division of State Lands, Department of Environmental Protection Tide Interpolation Point, MHW Data ID 4486 and 4485, and then Elevation 1.06, NGVD 1929, as

per MHW Data ID 4484); run thence Southerly, along the aforesaid "Mean High Water Line" of the St. Johns River, a distance of 2,330 feet, more or less, to a point on the Northwesterly boundary of those lands currently owned by John P. Hallows, Jr., et al (St. Johns County Property Appraiser PIN 000900 0000), as described and recorded in Official Records Book 107, page 495 of the Public Records of said St. Johns County; run thence, along the boundary lines of last said lands the following five (5) Courses and Distances:

Course No. 1: North 79°20'10" East, a distance of 390 feet, more or less, to a point;

Course No. 2: North 10°08'19" East, a distance of 636.87 feet, to a point;

Course No. 3: South 88°06'31" East, a distance of 581.67 feet, to a point;

Course No. 4: South 03°40'34" East, a distance of 742.73 feet, to a point;

Course No. 5: South 45°25'02" West, a distance of 874 feet, more or less, to a point on said Northeasterly "Mean High Water Line", of the St. Johns River; run thence Easterly, Northerly and Southeasterly, along the aforesaid "Mean High Water Line" of the St. Johns River, a distance of 9,100 feet, more or less, to a point which lies South 87°27'59" West, 1,043 feet, more or less, from the POINT OF BEGINNING; run thence North 52°50'53" East, a distance of 525 feet, more or less, to a point; run thence South 78°19'23" East, a distance of 314.43 feet to a point; run thence South 56°39'18" East, a distance of 377.64 feet to the aforesaid Southwesterly Right of Way line of STATE ROAD No. 13, and the POINT OF BEGINNING

The lands thus described, contains 295.02 acres, more or less, in area.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History--New _____.

42FFF-1.003 Supervisors.

The following five persons are designated as the initial members of the Board of Supervisors: William Petkoski, Scott Parr, Michael Veazy, Harry Waldron, and Michael Davis.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Teresa Tinker, Florida Land and Water Adjudicatory Commission, Room 1801, The Capitol, Tallahassee, Florida 32399-0001

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Teresa Tinker, Florida Land and Water Adjudicatory Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 14, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 19, 2006

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-9.009
 RULE TITLE: Standard of Care for Office Surgery

PURPOSE AND EFFECT: The proposed rule amendments are intended to clarify the rule with regard to office surgery facilities and general office surgery requirements.

SUMMARY: The proposed rule amendments clarify general office surgery requirements with regard to requirements for office surgical logs, and appropriate qualifications for physicians.

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

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

SPECIFIC AUTHORITY: 458.309(1), 458.331(1)(v) FS.
 LAW IMPLEMENTED: 458.331(1)(g), (t), (v), (w), 458.351 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry McPherson, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-9.009 Standard of Care for Office Surgery.

NOTHING IN THIS RULE RELIEVES THE SURGEON OF THE RESPONSIBILITY FOR MAKING THE MEDICAL DETERMINATION THAT THE OFFICE IS AN APPROPRIATE FORUM FOR THE PARTICULAR PROCEDURE(S) TO BE PERFORMED ON THE PARTICULAR PATIENT.

- (1) Definitions.
- (a) through (c) No change.

(d) Office surgery. For the purpose of this rule office surgery is defined as surgery which is performed outside of any facility licensed under Chapter 390 or 395, F.S. a hospital, an ambulatory surgical center, abortion clinic, or other medical facility licensed by the Department of Health, the Agency for Health Care Administration, or a successor agency. Office

surgical procedures shall not be of a type that generally result in blood loss of more than ten percent of estimated blood volume in a patient with a normal hemoglobin; require major or prolonged intracranial, intrathoracic, abdominal, or major joint replacement procedures, except for laparoscopic procedures; directly involve major blood vessels; or are generally emergent or life threatening in nature.

- (e) No change.
- (2) General Requirements for Office Surgery.
- (a) through (b) No change.

(c) The surgeon must maintain a log of all Level II and Level III surgical procedures performed, which must include a confidential patient identifier, time of arrival in the operating suite, the name of the physician who provided medical clearances, the surgeon’s name, diagnosis, CPT Codes, patient ASA classification, the type of procedure, the level of surgery, the anesthesia provider, the type of anesthesia used, the duration of the procedure, the type of post-operative care, duration of recovery, disposition of the patient upon discharge, list of medications used during surgery and recovery, and any adverse incidents, as identified in Section 458.351, F.S. The log and all surgical records shall be provided to investigators of the Department of Health upon request.

- (d) through (l) No change.
- (m) All physicians performing office surgery must be qualified by education, training, and experience to perform any procedure in the office surgery setting.
- (3) through (6) No change.

Specific Authority 458.309(1), 458.331(1)(v) FS. Law Implemented 458.331(1)(g), (t), (v), (w), 458.351 FS. History—New 2-1-94, Amended 5-17-94, Formerly 61F6-27.009, Amended 9-8-94, 11-15-94, Formerly 59R-9.009, Amended 2-17-00, 12-7-00, 2-27-01, 8-1-01, 8-12-01, 3-25-02, 3-22-05, 4-19-05, 10-23-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Surgical Care Committee, Board of Medicine
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 2, 2006
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 28, 2006

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-9.0091
 RULE TITLE: Requirement for Physician Office Registration; Inspection or Accreditation

PURPOSE AND EFFECT: The proposed rule amendments are intended to address deficiencies in office inspections.

SUMMARY: The proposed rule amendments set forth criteria with regard to deficiency notices in office surgery inspections.

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

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

SPECIFIC AUTHORITY: 458.309(1), (3) FS.

LAW IMPLEMENTED: 456.069, 456.072(1)(cc), 458.309(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin # C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-9.0091 Requirement for Physician Office Registration; Inspection or Accreditation.

- (1) No change.
- (2) Inspection.
- (a) through (d) No change.

(e) If the office is determined to be in noncompliance, the physician shall be notified and shall be given a written statement at the time of inspection. Such written notice shall specify the deficiencies. Unless the deficiencies constitute an immediate and imminent danger to the public, the physician shall be given 30 days from the date of inspection to correct any documented deficiencies and notify the Department of corrective action. Upon written notification from the physician that all deficiencies have been corrected, the Department is authorized to re-inspect for compliance. If the physician fails to submit a corrective action plan within 30 days of the inspection, the Department is authorized to re-inspect the office to ensure that the deficiencies have been corrected.

(f) The deficiency notice and any subsequent documentation shall be reviewed for consideration of disciplinary action under any of the following circumstances:- ~~This consideration shall include, but not be limited to the following:~~

1. When the initial notice of deficiencies contain deficiencies that constitute immediate and imminent danger to the public;
2. The physician fails to provide the Department with documentation of correction of all deficiencies within thirty (30) days from the date of inspection;
3. Upon a ~~A~~ finding of noncompliance after a reinspection has been conducted pursuant to paragraph (2)(e) of this rule.

(g) ~~Documentation~~ If disciplinary actions pursuant to Section 456.073, F.S., are taken, documentation of corrective action shall be considered in mitigation of any offense.

(h) Nothing herein shall limit the authority of the Department to investigate a complaint without prior notice.

(3) No change.

Specific Authority 458.309(1), (3) FS. Law Implemented 456.069, 456.072(1)(cc), 458.309(3) FS. History--New 5-15-00, Amended 9-18-01, 8-5-03, 9-1-03, 2-9-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Surgical Care Committee, Board of Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 2, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 5, 2006

DEPARTMENT OF HEALTH

Board of Orthotists and Prosthetists

RULE NOS.:	RULE TITLES:
64B14-4.001	Approved Examinations
64B14-4.003	Documentation of Eligibility for Licensure
64B14-4.110	Requirements for Orthotic Fitter, Orthotic Fitter Assistant and Pedorthic

PURPOSE AND EFFECT: The purpose of this rule development is to update the corporate name of the education providers approved to meet licensure requirements.

SUMMARY: The proposed rule amendment updates the corporate name of the education providers approved to meet licensure requirements.

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

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

SPECIFIC AUTHORITY: 456.017(1)(c), 468.802, 468.803, 468.805(3) FS.

LAW IMPLEMENTED: 456.013(1), (7), 456.017(1)(c), 468.803, 468.805(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists, 4052 Bald Cypress Way, Bin C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULES IS:

64B14-4.001 Approved Examinations.

(1) The board accepts the examination results of the following nations standards organization in lieu of administering a state examination:

(a) through (b) No change.

(c) Orthotic Fitter, Orthotic Fitter Assistant – Surgical Appliance Institute and Trulife Healthcare ~~CAMP Institute of Applied Technology~~ examinations.

(2) No change.

Specific Authority 456.017(1)(c), 468.802, 468.803(2), 468.805(3) FS. Law Implemented 456.017(1)(c), 468.803(2), 468.805(3) FS. History–New 11-1-99, Amended _____.

64B14-4.003 Documentation of Eligibility for Licensure.

(1) No change.

(2) In order to establish eligibility for licensure as an orthotic fitter under Section 468.803(3)(c), F.S., the applicant must provide at a minimum:

(a) No change.

(b) An original or certified copy of a certificate of completion of the Trulife Healthcare ~~CAMP Institute of Applied Technology~~ or the Surgical Appliance Industries orthotics course and examination.

(c) through (d) No change.

(3) In order to establish eligibility for licensure as an orthotic fitter assistant under Section 468.803(3)(d), F.S., the applicant must provide at a minimum:

(a) No change.

(b) An original or certified copy of a certificate of completion of the Trulife Healthcare ~~CAMP Institute of Applied Technology~~ or the Surgical Appliance Industries orthotics course and examination.

(c) No change.

(4) through (5) No change.

Specific Authority 468.802 FS. Law Implemented 456.013(1), (7), 468.803 FS. History–New 12-10-98, Amended 11-11-02, 11-1-05, _____.

64B14-4.110 Requirements for Orthotic Fitter, Orthotic Fitter Assistant and Pedorthic.

(1) Requirements for Licensure as an Orthotic Fitter. The applicant must demonstrate:

(a) Successful completion of the 32-hour Trulife Healthcare ~~CAMP Institute of Applied Technology~~ or the 32-hour Surgical Appliance Industries orthotics course and examination, and completion of an approved eight hour course in custom-molded shoes.

(b) No change.

(2) Requirements for Licensure as an Orthotic Fitter Assistant. The applicant must demonstrate successful completion of the 32-hour Trulife Healthcare ~~CAMP Institute~~

~~of Applied Technology~~ or the 32-hour Surgical Appliance Industries orthotics course and examination, and completion of an approved eight hour course in custom-molded shoes.

(3) No change.

Specific Authority 468.802, 468.803 FS. Law Implemented 468.803 FS. History–New 11-1-99, Amended 1-16-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Orthotists and Prosthetists

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 12, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 2, 2006

DEPARTMENT OF FINANCIAL SERVICES

Division of Agent and Agency Services

RULE NOS.:

RULE TITLES:

69B-220.001

Pre-qualification and Licensure of Emergency Adjusters

69B-220.051

Conduct of Public Adjusters

69B-220.201

Ethical Requirements

PURPOSE AND EFFECT: The purpose of the proposed rule development is to eliminate the licensing of emergency public adjusters, to make the licensing process for emergency company and independent adjusters faster and more economical by utilization of the Department’s website and to change Office of Insurance Regulation to Department of Financial Services to reflect legislation that changed jurisdiction over adjusters. The purpose of a new rule that applies to public adjusters after the Governor issues an executive order that a state of emergency exists is to protect consumers who hire public adjusters after disasters. The purpose of other changes is to clarify the rules.

SUMMARY: Rule 69B-220.001, F.A.C., is amended to repeal rules that provide for the licensing of emergency public adjusters and to require that adjuster license applications be submitted electronically through the Department’s website instead of by submission of paper applications. All three rules are amended to change Office of Insurance Regulation to Department of Financial Services to reflect legislation adopted in 2004 that made the same changes in the statutes that regulate adjusters. Rule 69B-220.201, F.A.C., is amended to provide new ethical requirements for public adjusters to follow after a disaster creates a state of emergency.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost has been prepared.

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

SPECIFIC AUTHORITY: 624.308(1), 626.878, 626.9611 FS.
 LAW IMPLEMENTED: 624.307(1), 626.112(1), 626.611, 626.621, 626.865(2), 626.8732, 626.8734, 626.874, 626.878, 626.9541(1)(b), (i) FS.

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

DATE AND TIME: July 17, 2006, 1:30 p.m. - 3:00 p.m.
 PLACE: Room 142, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Hazel Muhammad, Chief, Bureau of Licensing, Department of Financial Services, 200 E. Gaines Street, Room 412, Larson Building, Tallahassee, FL 32399-0319, (850)413-5460

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Serica Johnson, (850)413-4241.

THE FULL TEXT OF THE PROPOSED RULES IS:

69B-220.001 Pre-Qualification and Licensure of Emergency Adjusters.

(1) Purpose. This rule sets forth department office policy and procedure for licensure of emergency company adjusters and emergency independent adjusters under Section 626.874, Florida Statutes.

(2) No change.

(3) Definitions. For purposes of this rule, the following definitions shall apply.

(a) “Department” means the Department of Financial Services “Office” means the Office of Insurance Regulation.

(b) “Licensed adjuster” and similar terms, refer to and include only persons actually currently licensed in good standing by the department office as a public adjuster, company adjuster, or independent adjuster, whether the licensure be permanent resident licensure, permanent nonresident licensure or emergency licensure pursuant to this rule, and whether limited licensure or unlimited licensure. The terms do not include persons licensed as public adjusters by the department or persons licensed as any type of an adjuster or public adjuster by states other than the State of Florida.

(c) “Emergency” and “Catastrophe.” These two terms as used in Section 626.874, Florida Statutes are synonymous, and no separate treatment is afforded catastrophe over emergency adjusters.

(d) “Emergency adjuster” when used in this rule without further specification, includes emergency company adjusters and emergency independent adjusters, and emergency public adjusters.

~~(e) “Public adjuster” when used in this rule without further specification, includes both permanent resident licensed public adjusters and emergency public adjusters.~~

~~(e)(f) “Unlicensed persons” as used in this rule means and refers to persons who are not actually currently licensed in good standing by the department office as an adjuster, whether the licensure be permanent resident licensure, or emergency licensure pursuant to this rule.~~

(4) General Provisions Applicable to All Emergency Adjusters.

(a) Declaration of Emergency; Determination that Emergency Exists.

1. The department office does not issue proclamations or other formal declarations of emergency. Instead, any person believing that an emergency exists and desiring licensure under Section 626.874, Florida Statutes, shall apply or cause application to be made to the department office for such licensure.

2. For purposes of Section 626.874, Florida Statutes, an emergency exists when, due to a specific, infrequent, and sudden natural or manmade disaster or phenomenon, there have arisen losses to property in Florida that are covered by insurance, and the losses are so numerous and severe that resolution of claims related to such covered property losses will not occur expeditiously without the licensing of emergency adjusters due to the magnitude of the catastrophic damage.

3. A failure of claims to be resolved expeditiously shall exist upon an insurer’s filing with the department Office a written statement that one of the following conditions exists:

a. The insurer expects to incur at least 500 claims as a result of the event; or

b. The magnitude of the event is expected to generate twice the mean number of claims for one month for the affected area.

~~(b)4. Requests for emergency adjuster licensure as an independent adjuster must be accompanied by a statement from an insurer, an independent adjusting firm, a licensed independent resident adjuster, or a licensed general lines agent certifying that the applicant is qualified to act as an adjuster the same statement from an insurer who requires such services.~~

~~5. If the Office determines that an emergency exists, public adjusters seeking emergency licensure shall upon request be granted licensure pursuant to the provisions of this rule.~~

(5) Procedures for Licensing and Appointment of Emergency Adjusters; Responsibilities of Appointing Entity.

(a) All Florida-licensed insurers, independent adjusting firms, independent adjusters, and general lines agents, shall use the following procedures to utilize emergency company or independent adjusters. The entities or persons listed in the preceding sentence may immediately and without advance paperwork to this department, engage and cause

commencement of catastrophe adjusting work for themselves, by any persons, whether on their staff, or hired by them, or engaged by them as independent contractors or as employees of a contractor engaged by them, although the person is not currently licensed as an adjuster in Florida, if the Florida-licensed insurer, independent adjusting firm, independent adjuster or general lines agent utilizing these persons as emergency or catastrophe adjusters determine that these persons are qualified to do such adjusting work. A person is not qualified to adjust claims, for any entity or person who utilizes computer software program(s) in the adjusting process, unless the person has received training in and is capable of correctly utilizing the program(s). Within 7 calendar days after adjusting work has begun, the appropriate official must submit the "Application for License and Appointment as a Catastrophe or Emergency Adjuster," to the department. Applications shall be submitted on the Department's website at https://aalf.fldfs.com/common/com_index.asp. Applicable fees shall be submitted by electronic payment at the time of submission of an application.

1. The insurance company representative, independent adjusting firm, independent adjuster or general lines agent who submits the online application certifies that the applicant is qualified, thereby appoints the applicant to represent that company, independent adjusting firm, independent adjuster or general lines agent; and once the license is issued, the appointing person or entity is bound by the acts of the applicant as in the case of any regular licensed (non-Temporary or non-Catastrophic) adjuster licensed pursuant to Chapter 626, Florida Statutes, appointed by that company, independent adjusting firm, independent adjuster or general lines agent. This responsibility continues until the appointing entity, appointing person or licensee notifies the department through the online appointment system or the licensee notifies the department through the online application process that the appointing entity, appointing person or licensee desires to terminate the appointment.

2. The insurance company, independent adjusting firm, independent adjuster or general lines agent who certifies to the department that the applicant is qualified, is responsible for assuring, by due diligence inquiry, that the applicant is in fact qualified to adjust claims, has received training in and is capable of correctly utilizing any computer software program(s) utilized by the appointing entity or person to adjust claims and is of good and honest character.

3. There is an affirmative duty on the insurance company, independent adjusting firm, independent adjuster or general lines agent who certifies to the department that the applicant is qualified, to provide continuing and significant supervision of the applicant after licensure.

(b) Licenses Valid for 180 Days.

1. Emergency adjuster licenses are valid for 180 days from the date of issuance of the emergency license, unless a shorter period of time is specified in the license as issued. Because emergency licensure is an extraordinary deviation from regular licensing procedures, it is department office policy to specify, as the duration of emergency licensure, the shortest possible time in each particular emergency.

(6) Procedures for Extension of an Emergency Adjuster License.

2. The department office shall grant an extension of emergency licensure if the conditions set forth in subparagraph (4)(a)2. of this rule still exist. Each extension will last for a period of up to an additional 180 days.

(a)a. To apply for an extension of licensure as an emergency company or independent adjuster, the entity requesting a license extension shall submit an application for the extension on the department's website at www.fldfs.com licensee shall execute Form OIR-396E, "Application for Extension of License and Appointment as an Emergency Adjuster," rev. 10/95, which is hereby adopted and incorporated by reference, and shall submit to the office the applicable fee, as specified in Form OIR-396E, for each extension. Applicable fees shall be submitted by electronic payment at the time of submission of an application for the extension.

b. To apply for an extension of licensure as an emergency public adjuster the licensee shall execute Form OIR-AAS-1E, "Application for Extension of License and Appointment as an Emergency Public Adjuster," rev. 10/95, which is hereby adopted and incorporated by reference, and shall submit the fee specified in Form OIR-AAS-1E, for each extension.

e. These forms may be obtained at the Bureau of Licensing, 200 East Gaines Street, Tallahassee, Florida 32399-0319.

(b)d. Only the licensure type and class that which the licensee holds at the time of application for extension may be extended.

(c) No change.

(d) No change.

(e) Natural Persons Only. The department office issues emergency adjuster licenses only to natural persons.

(f) Address and Website for the Department For Office. Unless a different address is specified herein, any notice or other item to be provided to the department office, shall be addressed as follows: Bureau of Agent/Adjuster Licensing, Department of Financial Services Office of Insurance Regulation, 200 East Gaines Street, Tallahassee, FL 32399-0319. If the communication is from or on behalf of a licensee, it shall not be deemed effectively received unless it shows the licensee's full name, license number, address, and phone number. The department's website address is www.fldfs.com.

(g) Administrative and Civil Jurisdiction. By obtaining a license applying for pre-qualification determination or licensure as an emergency adjuster the licensee applicant agrees that:

1. The licensee applicant is subject to all the disciplinary provisions and penalties of the Florida Insurance Code and the administrative procedures set forth in the Florida Statutes for the routine processing of such charges;

2. The licensee is subject to the jurisdiction of the courts of Florida concerning civil liability for all acts in any way related to the licensee's activities under licensure in Florida;

~~3.2.~~ Jurisdiction for acts committed prior to licensure or while licensed continues after the emergency licensure expires or is terminated;

~~4.3.~~ If after the licensure expires or is terminated, the department office has reason to believe there was a violation of any provision of the Florida Insurance Code or these rules by the former licensee while licensed, the department office is not precluded from filing administrative action against the former licensee, and from serving the charges by certified mail to the licensee, or by publication of notice of action in the legal notices section of a newspaper of general circulation in or near the city or county of permanent residence or place of business as shown on the licensee's application for emergency licensure if certified mail service is unsuccessful;

~~5.4.~~ The licensee or former licensee will respond to and defend the charges in Florida, or be defaulted;

~~6.5.~~ The licensee or former licensee will not assert lack of jurisdiction; and

~~7.6.~~ The licensee or former licensee believes that the preceding provisions satisfy minimum due process requirements of all state and federal constitutions.

~~(h) Civil Jurisdiction; Service of Process. By the act of applying for pre-qualification determination or licensure as emergency public adjuster, the applicant irrevocably:~~

~~1. Agrees and submits to the jurisdiction of the courts of Florida concerning civil liability for all acts in any way related to the licensee's activities under licensure in Florida;~~

~~2. Designates the Chief Financial Officer as the applicant's agent for service of all process in any way related to the applicant's activities licensed as an emergency public adjuster; and~~

~~3. Agrees that these provisions shall survive the expiration or termination of pre-qualification or licensure.~~

(h) By the act of obtaining licensure as an emergency adjuster, a nonresident licensee irrevocably designates the Chief Financial Officer as the licensee's agent for service of all process in any way related to the licensee's activities as an emergency adjuster.

~~(5) Emergency Company and Independent Adjusters. The provisions of this subsection apply only to emergency company and emergency independent adjusters, and not to licensure of emergency public adjusters.~~

~~(a) All Florida-licensed insurers, independent adjusters, and general lines agents, shall use the following procedures to utilize emergency company or independent adjusters. The entities or persons listed in the preceding sentence may immediately and without advance paperwork to this department, engage and cause commencement of catastrophe adjusting work for themselves, by any persons, whether on their staff, or hired by them, or engaged by them as independent contractors or as employees of a contractor engaged by them, which persons they determine to be qualified to do such adjusting work, and even though the person is not currently licensed as an adjuster in Florida. Within 30 calendar days after adjusting work has begun, the appropriate entity official must execute and submit office Form OIR-396, "Application for License and Appointment as a Catastrophe or Emergency Adjuster," rev. 7/94, which is hereby adopted and incorporated by reference, and shall attach a check for applicable fee per applicant, as specified in Form OIR-396, payable to the Office of Insurance Regulation. Form OIR-396 is available at all office consumer service offices or from the office headquarters. The application and check shall be submitted to: Bureau of Licensing, P. O. Box 6000, Tallahassee, FL 32314-6000, or by overnight courier to: Bureau of Licensing, 200 East Gaines Street, Tallahassee, FL 32399-0319. One check may be used to pay the fees for multiple applications submitted together.~~

~~(b) Within 3 days of when an emergency adjuster begins work, the insurance company, independent adjuster, or general lines agent that is using the emergency adjuster must fax to the Bureau of Licensing the name of the emergency adjuster and his/her social security number. The fax must be on the letterhead of the insurance company, general lines agent, or independent adjuster/firm, and shall include the name and phone number of the contact person regarding emergency adjuster licensing. Contact should be made with the office for the appropriate fax numbers.~~

~~(c) The insurance company representative, general lines agent, or independent adjuster who signs Form OIR-396 to certify that the applicant is qualified (referred to herein as the "certifier"), thereby appoints the applicant to represent that company, agent, or independent adjuster; and once the license is issued, the certifier is bound by the acts of the applicant as in the case of any regular licensed (non-Temporary or non-Catastrophic) adjuster licensed pursuant to Chapter 626, Florida Statutes, appointed by that company, agent, or independent adjuster. Such responsibility continues until such time as said certifier shall notify the office in writing that the certifier desires to terminate the certification, at which time the emergency license is cancelled automatically, until such time as the applicant can obtain another certifier.~~

~~(d) The insurer, general lines agent, or independent adjuster who certifies to the office that the applicant is qualified, is responsible for assuring, by due diligence inquiry, that the applicant is in fact qualified to adjust claims and is of good and honest character.~~

~~(e) There is an affirmative duty on the insurance company, general lines agent, or independent adjuster, to provide continuing and significant supervision to the applicant after licensure.~~

~~(f) Nonresident Company Adjusters. Persons employed by insurers and licensed by the office as non-resident company adjusters may temporarily come into Florida and work out of Florida offices as emergency adjusters for their employing insurance company without further licensure from the office, for 180 days or such shorter time as the office may by emergency rule specify as the maximum duration of emergency licensure for that particular emergency, and will not be deemed to have a Florida office such as would disqualify them from holding non-resident licensure or be held violative of their non-resident license status; provided, their employing insurance company shall before allowing such persons to adjust emergency losses while physically in Florida, provide the office with a listing of the names and adjuster license numbers of all such persons, and shall obtain from the office written acknowledgment that an emergency exists, specifying the emergency.~~

~~(g) Application for Emergency Adjuster Licensure as a Company or Independent Adjuster. Application for licensure as an Emergency Adjuster shall be made on Form OIR 396, "Application for Licensure and Appointment as Emergency Adjuster," rev. 10/95, which is hereby adopted and incorporated by reference.~~

~~(6) Emergency Public Adjusters: General Provisions. This subsection pertains only to licensure of emergency public adjusters:~~

~~(a) Advance Approval Required:~~

~~1. No person may commence work as an emergency public adjuster until notified in writing by the office that the office:~~

~~a. Has received an application and made an affirmative pre-qualification determination and issued a letter so indicating, or~~

~~b. Has been approved for licensure if no pre-qualification determination was requested in advance.~~

~~2. If the pre-qualification method is used, the subject of the pre-qualification must request licensure pursuant to paragraph (7)(b) of this rule in order to commence work.~~

~~(b) Background Checking: Grounds for Denial. As to all applications for licensure as an emergency public adjuster, the office shall conduct such background inquiry as is necessary to determine the applicant's fitness and character. Adverse information noted in any area will be grounds for denial of application. The inquiry is limited to:~~

~~1. Inquiry of state or federal regulatory authorities in other states where the applicant has resided or done business;~~

~~2. Checking references provided;~~

~~3. Inquiry of criminal databases and law enforcement authorities; and~~

~~4. Checking for judgments and other adverse credit references.~~

~~(c) Bond Required. No person will be licensed as an emergency public adjuster unless the applicant has supplied to the office the \$5,000 bond required by Section 626.865(2), Florida Statutes. Applications for licensure will be received and preliminarily processed without the bond, but no licensure shall be issued until the bond is received in good and proper form.~~

~~(d) Policy Regarding Licensure Threshold. It is office policy and finding that a substantially higher threshold of certainty regarding fitness and character is appropriate and required for licensure as an emergency public adjuster, as compared to licensure as an emergency company or independent adjuster. This is because if a company or independent adjuster proves dishonest or incompetent, there is generally a regulated insurance company that may be required to make good that adjuster's misconduct. However, regarding a public adjuster, there is no such safeguard for consumers.~~

~~(e) Records To Be Kept:~~

~~1. All emergency public adjusters shall at all times while licensed and for 30 days thereafter maintain in Florida an office and keep their records or copies of all records relating to all Florida losses being adjusted or previously adjusted under said emergency licensure. All emergency public adjusters licensed under this rule shall designate their Florida office location to the office within 72 hours after becoming licensed, and shall notify the office in writing within 24 hours of any change in said office location. Failure to designate such an office or to timely update the office as to its location is grounds for immediate termination of licensure. The address of this office shall appear on all contracts, literature, etc., used by the public adjuster. This office shall be open and staffed at least six hours of every day, between the hours of 8 a.m. and 5 p.m., Monday through Friday, public holidays excluded.~~

~~2. The records and offices of all emergency public adjusters shall be subject to inspection by the office without notice at any time.~~

~~(f) Advertising. All emergency public adjusters are strictly prohibited from advertising. Advertising means promotions, statements of availability, qualifications, and other similar statements, appearing on or in television, radio, newspapers, or magazines; and flyers, brochures, adhesive stickers affixed to any structure showing the adjusters name, address, phone number, and other similar information. Emergency public adjusters shall not use the services of any person or firm, who advertises for the emergency public adjuster, or who is directly~~

or indirectly compensated for referring potential clients to the emergency public adjuster. The following do not constitute prohibited advertising:

1. The emergency public adjuster personally handing to any claimant or potential claimant brochures or other descriptive materials as to the public adjusting function, the public adjuster's qualifications, fees, and other similar information.

2. Solicitation (as defined herein) of work, by the emergency public adjuster in person, wherein the solicitation is made to the loss claimant, and subject to other limitations in this rule concerning solicitation; provided, limited emergency public adjusters may not solicit work on any premises which are not clearly commercial premises.

(g) ~~Advising Claimants and Others.~~ The advising of insureds, claimants, potential claimants, or other persons as to the role, value, or usefulness of public adjusters is deemed to be a material part of the business of public adjusting, and therefore requires licensure as a public adjuster under the laws of Florida and this rule, and may be engaged in only by persons licensed by the office as permanent or emergency public adjusters. Unlicensed persons may not engage in such activity even under the supervision of a licensed public adjuster.

(h) ~~Certain Contracts Unenforceable.~~ It is office policy that contracts engaging the services of a public adjuster, entered into in violation of any provisions of this rule or any emergency rule, shall be declared unenforceable on the part of any public adjuster, as violative of public policy.

(i) ~~Photo ID Required.~~ No emergency public adjuster, once approved for licensure by the office, shall be licensed or commence work, until obtaining from the office a photo identification card, paying in connection therewith the applicable fee as specified in Forms OIR-AAS-1 and OIR-AAS-3.

(7) Emergency Public Adjuster Applicants:

(a) To apply for licensure as an emergency public adjuster, the applicant shall execute Form OIR-AAS-1, "Application for License and Appointment as an Emergency Public Adjuster," rev. 3/96 which is hereby adopted and incorporated by reference, and shall submit the fee specified in Form OIR-AAS-1.

(b) To apply for pre-qualification determination for licensure as an emergency public adjuster, the applicant shall execute Form OIR-1199 "Application for Pre-qualification for Licensure as An Emergency Public Adjuster" Rev. 6/96 which is hereby adopted and incorporated by reference, and shall submit the fee specified in Form OIR-1199.

(c)1. ~~Pre-Qualification Determination is not required for licensure as an Emergency Public Adjuster. However, persons are urged to pre-qualify prior to a disaster in order to expedite the emergency licensure process.~~

2. ~~Pre-Qualification Determination requests will be considered between January 1 and April 30 of each year.~~

3. ~~Any Pre-Qualification Determination made will be valid for a period of two years.~~

(d)1. ~~Persons may apply for pre-qualification determination or licensure as an emergency public adjuster if they are currently licensed as a public adjuster in their home state for the type or kinds of insurance for which they intend to adjust claims in this state.~~

2. ~~Applicants must be in good standing in all states where so licensed.~~

3. ~~Evidence of good standing must be in the form of a current original Letter of Certification from the applicable state insurance department(s). The letter shall not be older than 90 days when submitted in connection with the application for licensure or pre-qualification determination.~~

(e) ~~The application form must be signed by three persons:~~

1. ~~The person to receive emergency licensure;~~

2. ~~A regularly licensed (non-Temporary, non-Catastrophic) public adjuster who will supervise the emergency public adjuster (the supervising public adjuster); and~~

3. ~~One of the following persons (the certifying person):~~

a. ~~An officer of a Florida-licensed or admitted insurance company; or~~

b. ~~A Florida-licensed independent adjuster in good standing; or~~

e. ~~A Florida-licensed resident general lines insurance agent in good standing.~~

(f) ~~The application forms may be obtained at all office consumer service offices or from office headquarters in Tallahassee and must be sent, with a check for the applicable fee, as specified in Form OIR-AAS-1 or OIR-1199, to: Office of Insurance Regulation, P. O. Box 6000, Tallahassee, FL 32314-6000; or the applicant may contact the office for an address for use of overnight courier service.~~

(g) ~~Supervising Public Adjuster.~~ Licensees who are licensed under this subsection must be supervised by a regularly licensed (non-Temporary, non-Catastrophic) resident public adjuster in good standing while they are performing work under their emergency public adjuster licensure. The emergency licensure automatically terminates if the supervising public adjuster ceases to supervise the emergency adjuster. The emergency adjuster will be deemed to be an appointee of the supervising public adjuster. The supervising public adjuster is under an affirmative duty to provide continuing, significant supervision to the emergency public adjuster whose application he/she signed. The supervising public adjuster may prospectively terminate this duty at any time by notifying the office by certified mail, return receipt requested, or by overnight courier, that he/she will no longer be supervising the emergency public adjuster as of a date specified in said letter. Such a notice is not effective until actually received by the office.

~~(8) Non-Resident Public and Independent Adjusters. Non-Resident Public and Independent Adjusters are required to annually execute Form OIR-1297, "Affidavit of Insurance For Non-Resident Public and Independent Adjusters", rev. 10/02 which is hereby adopted and incorporated by reference. A copy of Form OIR-1297 may be obtained from the State of Florida, Office of Insurance Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0319, phone (850)413-3137.~~

Specific Authority 624.308(1) FS. Law Implemented 624.307(1), 626.8732, 626.8734 FS. History—New 2-25-93, Amended 8-18-94, 1-7-97, 10-20-97, 1-9-03, Formerly 4-220.001, Amended _____.

69B-220.051 Conduct of Public Adjusters.

(1) Purpose and Scope. This rule sets forth department ~~Office~~ policy as to certain matters generally affecting public adjusters. Procedures regarding application for licensure are not dealt with in this rule. Ethical provisions are not dealt with in this rule.

(2) Definitions. The following definitions shall apply for purposes of this rule.

(a) through (c) No change.

(d) "Licensed public adjuster" and "public adjuster" refer to and include only persons ~~actually~~ currently licensed in good standing by the department ~~Office~~ as public adjusters, whether the licensure is resident licensure under Section 626.865, Florida Statutes, or nonresident licensure under Section 626.8732, Florida Statutes ~~emergency licensure under Section 626.874, Florida Statutes, and whether the licensure is limited or unlimited.~~ The phrase does not include persons licensed as public adjusters by other states but not by the State of Florida.

~~(e) "Resident public adjuster" and references thereto refers to a public adjuster not licensed on an emergency basis as contemplated by Section 626.874, Florida Statutes, and Rule 69B-220.001, F.A.C., and who is a bona fide resident of this state.~~

~~(e)(f)~~ "Unlicensed persons," as used in this rule, means and refers to persons who are not ~~actually~~ currently licensed and appointed in good standing by the department ~~Office~~ as resident or nonresident ~~emergency~~ public adjusters.

(3) Communications Concerning Public Adjuster Services.

(a) Solicitation. The solicitation of public adjusting business for compensation is deemed to be a material part of the business of public adjusting and, therefore, requires licensure as a public adjuster under the laws of Florida and the rules of the department ~~Office~~, and shall be engaged in only by persons licensed by the department ~~Office~~ as public adjusters. Unlicensed persons shall not engage in such activity even under the supervision of a licensed public adjuster. The phrase "solicitation of public adjusting business" and similar phrases as used in this rule means, for compensation, initiating contact

with any person, whether in person, by mail, by telephone, or otherwise, and therein seeking, causing, urging, advising, or attempting:

1. To have any person enter into any agreement engaging the services of a public adjuster in any capacity; or

2. To have any person subsequently speak or meet with a licensed public adjuster for the purpose of engaging the services of a public adjuster in any capacity or for the purpose of being advised by a public adjuster in any regard.

(b) No change.

(4) Advertising.

(a) As with all forms of advertising concerning the business of insurance, public adjusters shall not falsely inform or advertise as set forth in Section 626.9541(1)(b), Florida Statutes, as well as any other section within the Insurance Code that which relates to advertising.

(b) Only Licensed Adjusters to Advertise. No person or entity shall in any way advertise services as a public adjuster in this state, unless such person or entity is licensed as a ~~resident~~ public adjuster or is a member of the Florida Bar.

(c) Advertisements to Show Licensee's Full Name. Any advertisement by a ~~resident~~ public adjuster shall state the full name as specified in department ~~Office~~ records of the public adjuster who has caused the advertisement to appear. Where a firm containing multiple licensed public adjusters is causing the advertisement to appear, the firm shall designate one of said licensees whose full name as specified in department ~~Office~~ records shall appear in the advertisement.

1. Print and Website Advertisements. In print and website advertisements the public adjuster's full name as specified in department ~~Office~~ records shall be in typeface no smaller than the typeface of the main body of text in the advertisement. Print advertisements include newspapers, magazines, flyers, brochures, business cards, adhesive and magnetic publication, and similar printed materials. If the material is already printed when this rule takes effect, the required public adjuster's full name shall be added by means of rubber stamp, adhesive label, or other means.

2. Television Advertisements. In television advertisements the public adjuster's full name as specified in department ~~Office~~ records shall be made to appear on the screen for a period reasonably calculated to allow a viewer to write the name down.

3. Radio Advertisements. In radio advertisements, the public adjuster's full name as specified in department ~~Office~~ records shall be read during the advertisement, and at a speed reasonably calculated to allow an average listener to note the name of the licensee as it appears on his or her licensure.

(d) Responsibility of Advertising Licensee. The licensed adjuster whose name appears in the advertisement is responsible for personally reviewing the content of the advertisement and assuring that the advertisement complies

with the rules of the ~~department~~ Office and the Insurance Code and is in all regards fair, accurate, and in no way deceptive or misleading.

(5) It is the affirmative duty of every ~~resident~~ public adjuster to supervise their business affairs and their staff to ensure to the extent it is within the public adjuster's power that the Florida Insurance Code and Rule Chapter 69B-220, F.A.C., are ~~rule is~~ not violated.

(6) No change.

(7) All contracts for public adjuster services must be in writing. The contract must be signed by the public adjuster who solicited the contract. ~~If the public adjuster is licensed by the Department as an emergency public adjuster, the contract shall show the public adjuster's permanent home address and home phone number, and permanent home state business address and phone number and Florida Department license number.~~

(8) No change.

Specific Authority 624.308(1), 626.9611 FS. Law Implemented 624.307(1), 626.112(1), 626.865(2), 626.874, 626.9541(1)(b), (i) FS. History—New 4-26-94, Amended 12-18-01, Formerly 4-220.051, Amended.

69B-220.201 Ethical Requirements.

(1) Definitions. The following definitions shall apply for purposes of this rule.

(a) through (b) No change.

(c) "Department" means the Florida Department of Financial Services ~~"Office" refers to the Florida Office of Insurance Regulation.~~

(d) No change.

(2) No change.

(3) Code of Ethics. The work of adjusting insurance claims engages the public trust. An adjuster shall put the duty for fair and honest treatment of the claimant above the adjuster's own interests in every instance. The following are standards of conduct that define ethical behavior, and shall constitute a code of ethics that ~~which~~ shall be binding on all adjusters:

(a) through (h) No change.

(i) ~~An adjuster shall not negotiate or effect settlement directly or indirectly with any third-party claimant represented by an attorney, if the adjuster has knowledge of such representation, except with the consent of the attorney.~~

~~For purposes of this subsection, the term "third-party claimant" does not include the insured or the insured's resident relatives.~~

(j) ~~An adjuster is permitted to interview any witness, or prospective witness, without the consent of opposing counsel or party. In doing so, however, the adjuster shall scrupulously avoid any suggestion calculated to induce a witness to suppress or deviate from the truth, or in any degree affect the witness's appearance or testimony during deposition or at the trial.~~

~~2- If any witness making or giving a signed or recorded statement so requests, the witness shall be given a copy of the statement.~~

(k) No change.

(l) ~~An adjuster shall not attempt to negotiate with or obtain any statement from a claimant or witness at a time that the claimant or witness is, or would reasonably be expected to be, in shock or serious mental or emotional distress as a result of physical, mental, or emotional trauma associated with a loss.~~

~~2- The adjuster shall not conclude a settlement when the settlement would be disadvantageous to, or to the detriment of, a claimant who is in the traumatic or distressed state described above in subparagraph (l).~~

(m) ~~An adjuster shall not knowingly fail to advise a claimant of the claimant's claim rights in accordance with the terms and conditions of the contract and of the applicable laws of this state.~~

~~2- An adjuster shall exercise care not to engage in the unlicensed practice of law as prescribed by the Florida Bar.~~

(n) ~~A company or independent adjuster shall not draft special releases called for by the unusual circumstances of any settlement or otherwise draft any form of release, unless advance written approval by the insurer can be demonstrated to the Department.~~

~~2- Except as provided above, a company or independent adjuster is permitted only to fill in the blanks in a release form approved by the insurer they represent.~~

(o) No change.

(p) ~~No person shall, as a public adjuster, represent any person or entity whose claim the adjuster has previously adjusted while acting as an adjuster representing any insurer or independent adjusting firm.~~

~~2- No person shall, as a company or independent adjuster, represent him- or herself or any insurer or independent adjusting firm against any person or entity that the adjuster previously represented as a public adjuster.~~

(q) ~~A public adjuster shall not represent or imply to any client or potential client that insurers, company adjusters, or independent adjusters routinely attempt to, or do in fact, deprive claimants of their full rights under an insurance policy.~~

~~2- No insurer, independent adjuster, or company adjuster shall represent or imply to any claimant that public adjusters are unscrupulous, or that engaging a public adjuster will delay or have other adverse effect upon the settlement of a claim.~~

(r) ~~No public adjuster, while so licensed in the Department's records, may represent or act as a company adjuster, independent adjuster, or general lines agent.~~

~~2- No independent adjuster or company adjuster, while so licensed in the Department's records, may represent or act as a public adjuster.~~

(s) A company adjuster, independent adjuster, attorney, investigator, or other person acting on behalf of an insurer that needs access to an insured or claimant or to the insured property that is the subject of a claim shall provide at least 48 hours notice to the insured or claimant prior to scheduling a meeting with the claimant or an on-site inspection of the insured property. The insured or claimant may deny access to the property if this notice has not been provided.

(4) Public Adjusters, Other Ethical Constraints. In addition to considerations set out above for adjusters, the following ethical considerations are specific to public adjusters and shall be binding upon public adjusters:

(a) No change.

~~(b)~~ The public adjuster shall notify the insured or claimant in advance of the name and location of any proposed contractor, architect, engineer, or similar professional, before any bid or proposal by any of these persons may be used by the public adjuster in estimating the loss or negotiating settlement.

~~2.~~ The insured or claimant may exercise veto power of any of these persons, in which case that person shall not be used in estimating costs.

(c) through (e) No change.

~~(f)~~ A public adjuster shall not accept referrals of business from any person with whom the public adjuster may conduct business where there is any form or manner of agreement to compensate the person, whether directly or indirectly, for referring business to the public adjuster.

~~2.~~ Except as between licensed public adjusters, no public adjuster shall compensate any person, whether directly or indirectly, for the principal purpose of referring business to the public adjuster.

~~(g)~~ A public adjuster's contract with a client shall be revocable or cancelable by the insured or claimant, without penalty or obligation, for at least 3 business days after the contract is executed.

~~2.~~ The public adjuster shall disclose to the insured that the insured has the right to cancel with prompt notice within the revocation period.

~~3.~~ If the insured elects to cancel the contract, prompt notice shall be provided to the adjuster.

~~4.~~ Nothing in the provision shall be construed to prevent an insured from pursuing any civil remedy after the 3-day cancellation period.

(h) through (i) No change.

(j) A public adjuster shall not restrict or prevent an insurer, company adjuster, independent adjuster, attorney, investigator, or other person acting on behalf of the insurer from having reasonable access at reasonable times to an insured or claimant or to the insured property that is the subject of a claim.

(5) Public Adjusters, Ethical Constraints During State of Emergency. In addition to considerations set forth above, the following ethical considerations shall apply to public adjusters in the event that the Governor of the State of Florida issues an

Executive Order, by virtue of the authority vested in Article IV, Section 1(a) of the Florida Constitution and by the Florida Emergency Management Act, as amended, and all other applicable laws, declaring that a state of emergency exists in the State of Florida:

(a) No public adjuster shall require, demand, charge or accept any fee, retainer, compensation, commission, deposit, or other thing of value, prior to receipt by the insured or claimant of a payment of claim proceeds by the insurer.

(b) As to any one insured or claimant, no public adjuster shall charge, agree to, or accept as compensation or reimbursement any payment, commission, fee, or other thing of value equal to more than ten percent of the amount of any insurance settlement or claim payment.

(c) No public adjuster shall enter into any contract, agreement or other arrangement with any person, including an attorney, building contractor, architect, appraiser or repairman, by which the person would enter into an agreement to assist a claimant or insured on an insurance claim, utilize the services of the adjuster to carry out the agreement and pay the adjuster an amount that would exceed the limitation of the adjuster's compensation or reimbursement as provided in paragraph (b) above.

(d) This subsection applies to all claims that arise out of the events that created the State of Emergency, whether or not the adjusting contract was entered into while the State of Emergency was in effect and whether or not a claim is settled while the State of Emergency is in effect.

Specific Authority 624.308, 626.878, 626.9611 FS. Law Implemented 624.307(1), 626.611, 626.621, 626.865(2), 626.878, 626.9541(1)(i) FS. History--New 6-2-93, Amended 12-18-01, 3-27-05, Formerly 4-220.201, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Philip M. Fountain, Assistant Director, Division of Agent and Agency Services, Department of Financial Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mary Alice Palmer, Director, Division of Agent and Agency Services, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 8, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 16, 2006

DEPARTMENT OF FINANCIAL SERVICES

Board of Funeral, Cemetery, and Consumer Services

RULE NOS.:
69K-12.003

RULE TITLES:
Procedures for Submission and Approval of Monument Establishment Retail Sales Agreements

- 69K-12.004 Cancellation of Monument Establishment Retail Sales Agreements and Refunds
- 69K-12.005 Requirements for Monument Establishment Retail Sales Agreements

PURPOSE AND EFFECT: The purpose of the proposed rules is to implement Section 497.553(2), F.S., which requires that the retail sales agreements used by monument establishments be submitted to and approved by the Board.

SUMMARY: The proposed rules set forth the procedure for submitting retail sales agreements to the Board for approval and the specific details that shall be disclosed in the agreements to customers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of estimated regulatory cost has been prepared.

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

SPECIFIC AUTHORITY: 497.103, 497.553 FS.

LAW IMPLEMENTED: 497.103, 497.152, 497.553 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 19, 2006, 10:00 a.m.

PLACE: Alexander Building, 200 Capital Circle, S.E., Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Diana Evans, Executive Director, Board of Funeral, Cemetery, and Consumer Services, Alexander Building, 200 Capital Circle, S.E., Tallahassee, Florida 32399-0361, (850)413-3039

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program is asked to advise the Department at least 5 calendar days before the hearing by contacting the person listed above.

THE FULL TEXT OF THE PROPOSED RULES IS:

69K-12.003 Procedures for Submission and Approval of Monument Establishment Retail Sales Agreements.

(1) A copy of the retail sales agreement form shall be approved by the Board of Funeral, Cemetery, and Consumer Services prior to use by a monument establishment.

(2) Within 30 days of the effective date of this rule, each monument establishment shall mail a copy of its retail sales agreement form for approval to the Board of Funeral, Cemetery, and Consumer Services, 200 E. Gaines Street, Tallahassee, Florida 32399-0361.

(3) After reviewing the retail sales agreement for compliance with Rule 69K-12.005, F.A.C., the Board shall notify the monument establishment of its approval or disapproval of the agreement. The monument establishment shall make changes to the agreement within 45 days from the date of receipt of notice from the Board of the need for corrections.

Specific Authority 497.103(1)(u), 497.553(2) FS. Law Implemented 497.103(1)(u), 497.553(2) FS. History—New _____.

69K-12.004 Cancellation of Monument Establishment Retail Sales Agreements and Refunds.

(1) A purchaser may cancel an agreement in accordance with the terms of the agreement, statute and rules that were in effect at the time the agreement was executed.

(2) When an agreement is canceled, the terms of the agreement, statute and rules that were in effect at the time the agreement was executed shall apply.

(3) The failure of a monument establishment to deliver and install a purchased monument or marker by the date agreed in the agreement shall entitle the purchaser to a full refund of all amounts paid by the purchaser for the monument and its delivery and installation, unless the monument establishment has obtained a written agreement from the purchaser extending the delivery date. Such refunds shall be made within 30 days after receipt by the monument establishment of the purchaser's written request for a refund.

(4) The monument establishment may not cancel the agreement unless the purchaser is in default under the terms of the agreement or pursuant to the provisions of Chapter 497, F.S., and Chapter 69K, F.A.C.

Specific Authority 497.103 FS. Law Implemented 497.152(13), 497.553 FS. History—New _____.

69K-12.005 Requirements for Monument Establishment Retail Sales Agreements.

(1) A written retail sales agreement shall be executed between the monument establishment and the purchaser. Each written agreement shall be sequentially numbered and be entered into a sales journal by date of sale by the monument establishment. The provisions of the agreement shall be in at least 10 point type and shall be presented in a clear and legible format.

(2) Any additional purchases or changes made by the purchaser more than 30 days after the original sale date must be shown on a separate agreement. Any changes made by the purchaser within 30 days of the original sales date shall be made on the original agreement and shall be initialed and dated by the purchaser.

(3) The purchaser shall be provided with a copy of the executed agreement at the time of purchase and whenever any changes are made to the agreement.

(4) The agreement form must comply with all disclosure requirements of Parts I and V, Chapter 497, F.S.

(5) Each retail sales agreement shall contain a complete description of the monument, marker, or related product to be delivered and installed together with the price(s) for each item(s) or service(s) purchased and any fees that will be charged. The agreed date for delivery and installation shall be clearly and prominently specified in each retail sales agreement.

(6) The description of the merchandise or drawings shall be included on the agreement or an addendum, provided the form has been approved by the Board of Funeral, Cemetery, and Consumer Services. The approval of the Board shall be conditioned upon the form containing the applicable information required by this rule.

(a) Name, address, and telephone number of monument establishment;

(b) Name, address, and telephone number of purchaser and interment right owner (if different from purchaser);

(c) Date of purchase;

(d) Latest date by which delivery and installation will be made;

(e) Name and address of cemetery or memorial for delivery and installation;

(f) Lot, block, or section number of grave (if to be delivered to a cemetery) or memorial location;

(g) Terms of sale, including purchase price and payment schedule;

(h) Sales tax, down payment, and balance due;

(i) Signature of purchaser;

(j) Signature of monument establishment representative;

(7) If a custom designed product is sold to the purchaser, a general description of the product shall be sufficient, providing that the following information is also included in the agreement:

(a) For memorials or monuments:

1. Type (upright, slant, plaque, marker, ledger, etc.);

2. Material (marble, granite, bronze, etc.);

3. Size (dimension);

4. Foundation (material and dimension);

5. Color (finish);

6. Design (lettering, drawing, carving, decoration, emblems, etc.).

(b) For all related merchandise and products such as:

1. Urns and cremation vaults (type, dimensions, finish and location);

2. Posts/Corners (color, dimension and finish);

3. Coping (color, dimension and finish);

4. Portrait (image, dimension, finish and location);

5. Vase (type, dimension, finish and location);

6. Chips (marble, granite, etc. and amount);

7. All others (list accessories, dimension, finish and location).

(8) If the sales presentation uses the manufacturer's name and specifications, then the name of manufacturer and model number shall be included on the agreement in addition to color, materials, and design.

(9) The agreement shall disclose the latest date the memorial or monument will be installed and that the memorial or marker meets all of the cemetery's rules and regulations as of the date of the contract.

(10) The agreement shall disclose in bold print whether a restocking fee will be charged and the amount of the fee if the purchaser cancels the contract prior to delivery for any reason other than the monument establishment's failure to deliver. A restocking fee cannot be charged for the monument establishment's failure to timely deliver.

(11) The agreement shall disclose whether a setting fee will be charged and the amount of the fee.

(12) The agreement shall disclose whether a transportation fee will be charged for the delivery and/or installation of the merchandise and the amount of the fee.

(13) The agreement shall disclose that there will be a separate fee charged for any future inscriptions or engravings.

(14) The agreement shall disclose any other charges or fees which shall be itemized and detailed.

Specific Authority 497.103, 497.553(2) FS. Law Implemented 497.103(1)(u), 497.152(11), 497.553 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Funeral, Cemetery, and Consumer Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Funeral, Cemetery, and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 25, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 10, 2006

FINANCIAL SERVICES COMMISSION

Office of Insurance Regulation

RULE NO.:
690-141.021

RULE TITLE:
Procedures Implementing the
Moratorium Phaseout in Section
627.7013, Florida Statutes

PURPOSE, EFFECT AND SUMMARY: This is an action to repeal Rule 690-141.021, F.A.C., (Moratorium Phaseout) because this rule implements a statute that was repealed in 2001. The rule implements Section 627.7013, F.S., "Orderly Markets for Personal Lines Residential Property Insurance". This statute was repealed by its own terms on June 1, 2001.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of estimated regulatory cost has been prepared.

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

SPECIFIC AUTHORITY: 624.308(1), 627.7013(2)(b) FS.

LAW IMPLEMENTED: 624.307(1),(2),(3),(4), 624.315, 624.408, 624.424(6), 626.9541(1)(x), 627.062(2)(d), 627.4133, 627.7013 FS.

IF REQUESTED IN WRITING 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 19, 2006, 9:30 a.m.

PLACE: Room 143, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Claude Mueller, Director, Property and Casualty Financial Oversight, Office of Insurance Regulation, E-mail claudem.mueller@fldfs.com

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Office at least 5 calendar days before the program by contacting the person listed above.

THE FULL TEXT OF THE PROPOSED RULE IS:

690-141.021 Procedures Implementing the Moratorium Phaseout in Section 627.7013, Florida Statutes.

Specific Authority 624.308(1), 627.7013(2)(b) FS. Law Implemented 624.307(1),(2),(3),(4), 624.315, 624.408, 624.424(6), 626.9541(1)(x), 627.062(2)(d), 627.4133, 627.7013 FS. History—New 6-7-95, Formerly 4-141.021, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Claude Mueller, Property and Casualty Financial Oversight, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Streukens, Deputy Commissioner, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 6, 2006

FINANCIAL SERVICES COMMISSION

Office of Insurance Regulation

RULE NOS.:	RULE TITLES:
690-154.203	Categories of Reserves
690-154.204	Specific Minimum Standards for Morbidity, Mortality and Interest

PURPOSE, EFFECT AND SUMMARY: To revise the health reserve rules to reflect changes made by the NAIC in 2006 and to revise the Specific Minimum Standards for Morbidity, Mortality and Interest to reflect revisions made to the NAIC Accounting Practices and Procedures Manual in 2006.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 624.308(1), 625.121(14), 625.081 FS.

LAW IMPLEMENTED: 624.307(1), 625.081, 625.121 FS.

IF REQUESTED IN WRITING 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 20, 2006., 9:30 a.m.

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kerry Krantz, Life and Health Financial Oversight, Office of Insurance Regulation, E-mail kerry.krantz@fldfs.com

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Office at least 5 calendar days before the program by contacting the person listed above.

THE FULL TEXT OF THE PROPOSED RULES IS:

690-154.203 Categories of Reserves.

Adequacy of an insurer’s health insurance reserves shall be determined on the basis of all three categories combined. However, these standards emphasize the importance of determining appropriate reserves for each of the three categories separately.

- (1) Claim Reserves.
 - (a) No change.
 - (b) Minimum Standards for Claim Reserves.
 - 1. Disability Income.
 - a. No change.
 - b. No change.

(I) For claims incurred on or before December 31, 2006, with a duration from date of disablement of less than two years, reserves may at the option of the insurer be based on the insurer’s experience, if such experience is considered credible, or upon other assumptions designed to place a sound value on the liabilities.

(II) For individual disability income claims incurred on or after January 1, 2007, assumptions regarding claim termination rates for the period less than two years from the date of disablement may, at the option of the insurer, be based on the

insurer's experience, if such experience is considered credible, or upon other assumptions designed to place a sound value on the liabilities.

~~(III)(H)~~ Alternatively, Ffor group disability income claims incurred on or before December 31, 2006, with a duration from date of disablement of more than two (2) years but less than five (5) years, reserves may at the option of the insurer, be based on the insurer's experience for which the insurer maintains underwriting and claim administration control, and in accordance with commonly accepted actuarial practice.

(IV) For group disability income claims incurred on or after January 1, 2007.

(A) Assumptions regarding claim termination rates for the period less than two years from the date of disablement may, at the option of the insurer, be based on the insurer's experience, if such experience is considered credible, or upon other assumptions designed to place a sound value on the liabilities.

(B) Assumptions regarding claim termination rates for the period two or more years but less than five years from the date of disablement may, with the approval of the Office, be based on the insurer's experience, if such experience is considered credible, and for which the insurer maintains underwriting and claim administration control.

(V) With respect to (III) and (IV)(B) above, for experience to be considered credible, the company should be able to provide claim termination patterns over no more than six (6) years reflecting at least 5,000 claims terminations during the third through fifth claims durations on reasonably similar applicable policy forms.

(A) The request for approval of a plan of modification to the reserve basis shall include:

(i) through (iv) No change.

(v) For a company not domiciled in this state, a copy of the approval of the proposed plan of modification by the commissioner of the state of domicile.

(vi) No change.

~~(B) For experience to be considered credible for purposes of (II), the company shall be able to provide claim termination patterns over no more than six (6) years reflecting at least 5,000 claims termination during the third through fifth claims durations on reasonably similar applicable policy forms.~~

~~(B)(C)~~ For claim reserves to reflect "sound values;" and/or reasonable margins, reserve tables based on credible experience shall be adjusted regularly to maintain reasonable margins.

~~c.(H)~~ Duration of Disablement. For contracts with an elimination period, the duration of disablement shall be measured as dating from the time that benefits would have begun to accrue had there been no elimination period.

2. No change.

(2) Premium Reserves.

(a) General.

1. Except as noted in 2., uUnearned premium reserves shall be required for all contracts for the period of coverage for which premiums, other than premiums paid in advance, have been paid beyond the date of valuation.

2. Single premium credit disability insurance individual policies and group certificates, which are subject to the requirements of Section 625.121(13), F.S., are excluded from unearned premium reserve requirements of paragraphs (a), (b), and (c).

3.2.a. If premiums due and unpaid are carried as an asset, the premiums shall be treated as premiums in force, subject to unearned premium reserve determination.

b. No change.

4.3. The gross premiums paid in advance for a period of coverage beginning after the next premium due date following the date of valuation may at the option of the insurer be discounted to the valuation date, and shall be held ~~either~~ as a separate liability ~~or as an addition to the unearned premium reserve which would otherwise be required as a minimum.~~

(b) through (c) No change.

(3) Contract Reserves.

(a) No change.

(b) Minimum Standards for Contract Reserves.

1. Basis.

a. Morbidity or other Contingency.

(I) No change.

(II) Expect as provided in (a)1.b., if for a policy form there is no gross premium variation by age, the valuation net premiums will nonetheless vary based on age at issue for each such contract since at issue the present value of valuation net premiums for a contract must equal the present value of tabular claim costs.

~~(III)(H)~~ Contracts for which tabular morbidity standards are not specified in subsection 69O-154.204(1), F.A.C., shall be valued using tables established for reserve purposes by a qualified actuary. The morbidity tables shall contain a pattern of incurred claims cost that reflects the underlying morbidity, and shall not be constructed for the primary purpose of minimizing reserves.

(A) through (C) No change.

b. No change.

c. Termination Rates. Termination rates used in the computation of reserves shall be on the basis of a mortality table specified in rule subsection 69O-154.204(3), F.A.C., except as follows:

(I) Under contracts issued on or after January 1, 1999, for which premium rates are not guaranteed, and where the effects of insurer underwriting are specifically used by policy duration in the valuation morbidity standard or for return of premium or other deferred cash benefits, total termination rates may at the

option of the insurer be used at ages and durations where these exceed specified mortality table rates, but not in excess of the lesser of:

- (A) through (B) No change.
- (II) through (IV) No change.
- d. through f. No change.
- (c) through (d) No change.

Specific Authority 624.308(1), 625.121(14), 625.081 FS. Law Implemented 624.307(1), 625.081, 625.121 FS. History—New 4-14-99, Formerly 4-154.203, Amended 3-1-04, 4-7-05,_____.

690-154.204 Specific Minimum Standards for Morbidity, Mortality and Interest.

Specific minimum standards for morbidity, mortality and interest which apply to claim reserves according to year of incurral and to contract reserves according to year of issue:

- (1) through (2) No change.
- (3) Mortality.
- (a) through (d) No change.
- (e) For single premium credit insurance using the adjusted 85 CIDA table, no separate mortality shall be assumed.

Specific Authority 624.308(1), 625.121(14), 625.081 FS. Law Implemented 624.307(1), 625.081, 625.121 FS. History—New 4-14-99, Formerly 4-154.204, Amended 3-1-04, 4-7-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kerry Krantz, Actuary, Life and Health Financial Oversight, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rich Robleto, Deputy Commissioner, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 6, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 10, 2006

Section III Notices of Changes, Corrections and Withdrawals

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

FLORIDA PAROLE COMMISSION

RULE NO.: 23-21.004 RULE TITLE: Commission Meetings

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule published in Vol. 32, No. 6, February 10, 2006, issue of the Florida Administrative Weekly. Based on comments from the Joint Administrative Procedures Committee, the Commission has voted to change Rule 23-21.004 as follows:

(1) All Commission meetings are open to the public. However, due to the nature of the various proceedings, the following procedures are followed relative to persons wishing to address the Commission. Persons requesting permission to speak concerning the setting or reviewing of an inmate’s presumptive or effective parole release date, parole supervision review, or conditional medical release consideration date must obtain prior written approval to do so from the Chair. Those request(s) should be sent to:

Chair
Florida Parole Commission
2601 Blair Stone Road, Building C
1309 Winewood Blvd., Bldg. B
Tallahassee, Florida 32399-2450

ATTN: Request to Appear

Victims of the crime committed by the inmate, or a victim’s representative, shall be permitted to make an oral statement or submit a written statement regarding their views as to the granting, denying, or revoking of parole.

(2) through (4) No change.

Specific Authority 947.06, 947.07 FS. Law Implemented 947.06, 947.172, 947.174, 947.16, 947.173, 947.149 FS. History—New 9-10-81, Formerly 23-21.04, Amended 1-26-93, 1-5-94, 8-16-94, _____.

AGENCY FOR HEALTH CARE ADMINISTRATION

Division Health Quality Assurance

RULE CHAPTER NO.: RULE CHAPTER TITLE:

59A-33 Health Care Clinic Licensure

NOTICE OF CHANGE

This amended notice of change, amends changes to the Notice of Change published in the Vol. 32, No. 23, Notice Section: Notice of Change/Withdrawal, on June 9, 2006, the Florida Administrative Weekly, in accordance with subparagraph Section 120.54(3)(d)1. These changes correspond to objections from the Committee to proposed Rule Chapter 59A-33, F.A.C. All objections have been addressed and changes agreed by the Agency. The proposed rule chapter was originally published on January 13, 2006 in Vol. 32, No 2, Florida Administrative Weekly. **THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE CHANGES OR TO OBTAIN COPIES IS:** Roger Bell, Unit Manager of the Health Care Clinic Unit, 2727 Mahan Drive, Mail Stop #53, Tallahassee, Florida 32308-5704, (850)488-1365, Suncom 278-1365, e-mail: bellr@ahca.my florida.com