

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of State Fire Marshal**

RULE NO.: 69A-64.005  
 RULE TITLE: Adjustments to Reflect Consumer Price Index

PURPOSE AND EFFECT: To adopt price level changes relating to firefighter death benefits in Section 112.191, Florida Statutes, for the year 2008-2009.

SUBJECT AREA TO BE ADDRESSED: Firefighter death benefits in Section 112.191, Florida Statutes.

SPECIFIC AUTHORITY: 112.191 FS.

LAW IMPLEMENTED: 112.191 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Friday, November 7, 2008, 10:00 a.m.

PLACE: Third Floor Conference Room, the Atrium Building, 325 John Knox Road, Tallahassee, Florida 32303

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Georgia Dowell, (850)413-3170. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Michael Bannister, Senior Management Analyst II, Division of State Fire Marshal, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0340, phone: (850)413-3170; Fax: (850)922-1235

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69A-64.005 Adjustments to Reflect Consumer Price Index.

(1) No change.

(2) The amounts payable for the period from July 1, ~~2008~~ ~~2007~~ through June 30, ~~2009~~ ~~2008~~, using the Consumer Price Index for all urban consumers published by the United States Department of Labor for March, ~~2008~~ ~~2007~~, which is the most recent month for which data is available as of the time of the adjustment, are:

(a) For those benefits paid or to be paid under paragraph (a) of subsection (2) of Section 112.191, F.S.: ~~\$60,140.00~~ ~~57,759.00~~.

(b) For those benefits paid or to be paid under paragraph (b) of subsection (2) of Section 112.191, F.S.: ~~\$60,140.00~~ ~~57,759.00~~.

(c) For those benefits paid or to be paid under paragraph (c) of subsection (2) of Section 112.191, F.S.: ~~\$175,565.91~~ ~~173,278.31~~.

Specific Authority 112.191 FS. Law Implemented 112.191 FS. History--New 3-13-03, Amended 7-10-03, Formerly 4A-64.005, Amended 7-13-04, 6-30-05, 8-1-06, 4-07-08,\_\_\_\_\_.

**Section II  
 Proposed Rules**

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

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

**PUBLIC SERVICE COMMISSION**

RULE NOS.:	RULE TITLES:
25-30.455	Staff Assistance in Rate Cases
25-30.456	Staff Assistance in Alternative Rate Setting
25-30.457	Limited Alternative Rate Increase

PURPOSE AND EFFECT: To implement the change in Section 367.0814, F.S. The effect of the rule changes will be to allow more utilities to request staff assistance. Docket No. 080414-WS.

SUMMARY: These rules describe the water and wastewater utilities that are eligible to request and receive a staff assisted rate case from the Commission. These rules are being changed to implement the revision to Section 367.0814, F.S. The statute has been changed to raise the level of staff assistance from \$150,000 to \$250,000 for a water or wastewater utility or from \$300,000 to \$500,000 when combined.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: There should be minimal costs incurred by the Commission. More utilities will be eligible for staff assistance in rate cases and additional staff time will be required. However, staff time will be offset as less staff time will be spent on utility-sponsored rate cases. Fourteen more water and wastewater utilities will be eligible for staff assistance in rate cases. Their costs will likely decrease and ratepayers of the eligible utilities will potentially see a resulting decrease in rate case expense. There should be no negative impacts on small businesses, small cities, or small counties.

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

SPECIFIC AUTHORITY: 350.127(2), 367.0814, 367.121 FS.

LAW IMPLEMENTED: 367.0814 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: Rosanne Gervasi, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850)413-6224

THE FULL TEXT OF THE PROPOSED RULES IS:

25-30.455 Staff Assistance in Rate Cases.

(1) Water and wastewater utilities whose total gross annual operating revenues are \$250,000 \$150,000 or less for water service or \$250,000 \$150,000 or less for wastewater service, or \$500,000 \$300,000 or less on a combined basis, may petition the Commission for staff assistance in rate applications by submitting a completed staff assisted rate case application. In accordance with Section 367.0814(4), F.S., a utility that requests staff assistance waives its right to protest by agreeing to accept the final rates and charges approved by the Commission unless the final rates and charges would produce less revenue than the existing rates and charges. If a utility that chooses to utilize the staff assistance option employs outside experts to assist in developing information for staff or to assist in evaluating staff's schedules and conclusions, the reasonable and prudent expense will be recoverable through the rates developed by staff. A utility that chooses not to exercise the option of staff assistance may file for a rate increase under the provisions of Rule 25-30.443, F.A.C.

(2) through (14) No change.

Specific Authority 350.127(2), 367.0814, 367.121 FS. Law Implemented 367.0814 FS. History-New 12-8-80, Formerly 25-10.180, Amended 11-10-86, 8-26-91, 11-30-93, 1-31-00, \_\_\_\_\_.

25-30.456 Staff Assistance in Alternative Rate Setting.

(1) As an alternative to a staff assisted rate case as described in Rule 25-30.455, F.A.C., water and wastewater utilities whose total gross annual operating revenues are \$250,000 \$150,000 or less for water service or \$250,000 \$150,000 or less for wastewater service, or \$500,000 \$300,000 or less on a combined basis, may petition the Commission for staff assistance in alternative rate setting by submitting a completed staff assisted application for alternative rate setting.

(2) through (19) No change.

Specific Authority 350.127(2), 367.0814, 367.121 FS. Law Implemented 367.0814 FS. History-New 11-30-93, Amended 1-31-00, \_\_\_\_\_.

25-30.457 Limited Alternative Rate Increase.

(1) As an alternative to a staff assisted rate case as described in Rules 25-30.455 and 25-30.456, F.A.C., water utilities whose total gross annual operating revenues are \$250,000 \$150,000 or less for water service and wastewater utilities whose total gross annual operating revenues are \$250,000 \$150,000 or less for wastewater service may petition the Commission for a limited alternative rate increase of up to 20 percent applied to metered or flat recurring rates of all classes of service by submitting a completed application that includes the information required by subsections (8) and (9). In accordance with Section 367.0814(6), F.S., a utility that requests staff assistance waives its right to protest by agreeing to accept the final rates and charges approved by the Commission unless the final rates and charges would produce less revenue than the existing rates and charges. The original and two copies of the application shall be filed with the Office of Commission Clerk.

(2) through (18) No change.

Specific Authority 350.127(2), 367.0814, 367.121 FS. Law Implemented 367.0814 FS. History-New 3-15-05, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Craig Hewitt

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 14, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 34, No. 25, June 20, 2008

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE NOS.:	RULE TITLES:
40C-2.042	General Permit by Rule
40C-2.101	Publications Incorporated by Reference
40C-2.900	Forms and Instructions

PURPOSE AND EFFECT: The purpose of the proposed rule is to amend the General Permit by Rule set forth in Rule 40C-2.042, F.A.C., that regulates small irrigation uses below the consumptive use permit thresholds in Rule 40C-2.041(1), F.A.C. Amendments include: expanding the applicability of the rule to all sources of water; limiting the amount of water used for irrigation to only that necessary for efficient utilization, revising the applicability of subsection 40C-2.042(1), F.A.C., to include cemeteries, providing that irrigation using a micro-spray, micro-jet, or drip irrigation system is allowed anytime; providing that irrigation of newly planted, seeded or sprigged cemeteries, golf course greens, tees, fairways and primary rough, and recreational areas such as playgrounds, football, baseball and soccer fields is allowed at any time of the

day for one 60-day period; limiting the amount of water that can be used for the watering-in of chemicals; increasing the amount of time that irrigation systems can be operated for maintenance and repair purposes; excluding agricultural crops, nursery plants, and cemeteries from the definition of landscape irrigation; limiting landscape irrigation to no more than 2 specific days per week for residential properties (depending on address) and to no more than 2 specific days per week for non-residential properties, when Daylight Savings Time is in effect, and to no more than 1 specific day per week for residential properties (depending on address) and to no more than 1 specific day per week for non-residential properties, when Eastern Standard Time is in effect; defining the terms "residential landscape irrigation" and "non-residential landscape irrigation"; establishing limits on the amount of water that can be applied on the specific irrigation days; deleting the exceptions for the use of reclaimed water and for the use of recycled water from wet detention treatment ponds; providing that landscape irrigation with reclaimed water can occur on additional days under certain specified conditions; providing that the use of private irrigation wells for landscape irrigation is not authorized when reclaimed water is available; providing when reclaimed water is deemed "available"; revising Form 40C-2-1082-2; and revising the Applicant's Handbook: Consumptive Uses of Water, to reflect these changes. These amendments are proposed to be effective March 8, 2009.

SUMMARY: Amendments to General Permit by Rule in Rule 40C-2.042, F.A.C., and related Applicant's Handbook: Consumptive Uses of Water, provisions regarding irrigation regulation.

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

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

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

LAW IMPLEMENTED: 373.118, 373.219, 373.223, 373.250, 373.609 FS.

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

DATE AND TIME: Following the regularly scheduled Governing Board Meeting on December 9, 2008, which begins at 1:00 p.m.

PLACE: St. Johns River Water Management District Headquarters, Executive Building, 4049 Reid Street, Palatka, Florida 32177

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the

agency at least 5 days before the workshop/meeting by contacting: Sandy Bertram, Asst. District Clerk, (386)329-4159. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Norma Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)329-4459, email nmesser@sjrwm.com

THE FULL TEXT OF THE PROPOSED RULES IS:

#### 40C-2.042 General Permit by Rule.

A general consumptive use permit by rule is hereby established for consumptive uses of water listed below that do not meet or exceed any permitting threshold under subsection 40C-2.041(1), F.A.C., except as provided in subsection 40C-2.042(8), F.A.C. However, this rule section shall not apply to domestic uses of water by individuals, i.e., water used for the household purposes of drinking, bathing, cooking or sanitation. Persons using or proposing to use water in a manner not authorized under this rule section, must obtain a permit pursuant to Chapter 40C-2, 40C-20, or 40C-22, F.A.C.

(1) The Board hereby grants a general permit to each person located within the District to use, withdraw or divert water from any source to irrigate agricultural crops, nursery plants, cemeteries, golf courses, and recreational areas such as playgrounds, football, baseball, and soccer fields, provided the irrigation does not occur between the hours of 10:00 a.m. and 4:00 p.m. daily, and provided the amount of water used is limited to only that necessary for efficient utilization. Such water use shall be subject to the following exceptions:

(a) Irrigation using a micro-spray, micro-jet, or drip irrigation ~~micro-irrigation~~ system is allowed anytime.

(b) ~~The use of water for irrigation from a reclaimed water system is allowed anytime. For the purpose of this paragraph, a reclaimed water system includes systems in which the primary source is reclaimed water, which may or may not be supplemented by water from another source during peak demand periods.~~

(c) ~~The use of recycled water from wet detention treatment ponds for irrigation is allowed anytime provided the ponds are not augmented from any ground or off-site surface water, or public supply sources.~~

(b)(d) Irrigation is allowed at any time of day for one 30-day period following planting of agricultural crops or nursery stock, provided irrigation is limited to the minimum amount necessary for crop or plant establishment. Irrigation of newly planted, seeded or sprigged cemeteries, golf course greens, tees, fairways and primary roughs, and recreational areas such as playgrounds, football, baseball and soccer fields ~~recreational areas and newly seeded or sprigged golf course areas~~ is allowed at any time of day for one 60-day period.

~~(e)~~ Chemigation and fertigation are allowed at any time of day one time per week, and anytime during the normal 4:00 p.m. to 10:00 a.m. irrigation hours.

~~(c)(f)~~ Watering in of chemicals, including insecticides, pesticides, fertilizers, fungicides, and herbicides when required by law, the manufacturer, or best management practices, is allowed anytime of day within 24 hours of application. Watering in of chemicals shall not exceed 1/4 inch of water per application except as otherwise required by law, the manufacturer, or best management practices.

~~(d)(g)~~ Irrigation systems may be operated anytime of day for maintenance and repair purposes not to exceed 20 ~~ten~~ minutes per hour per irrigation zone.

(h) through (j) renumbered (e) through (g) No change.

~~(h)(k)~~ The use of water to protect agricultural crops, nursery plants and golf course turf from heat stress damage is allowed anytime, provided the watering does not exceed ten minutes per hour per irrigation zone or one twenty minute period per day, whichever is applicable.

(l) through (n) renumbered (i) through (k) No change.

(2)(a) The Board hereby grants a general permit to each person located within the District to use, withdraw or divert water from any source for landscape irrigation, provided landscape irrigation occurs in accordance with the provisions of subsection 40C-2.042(2), F.A.C., and provided the amount of water used is limited to only that necessary for efficient utilization provided the irrigation does not occur more than two days per week and does not occur between the hours of 10:00 a.m. and 4:00 p.m. daily. An irrigator may select the two irrigation days unless a local government adopts an ordinance identifying the specific two days irrigation is allowed pursuant to paragraph(b). A contiguous property may be divided into different zones and each zone may be irrigated on different days than other zones of the property unless a local government adopts an ordinance identifying the specific two days irrigation is allowed pursuant to paragraph (b). However, no single zone may be irrigated more than 2 days a week. Additionally, any person who irrigates landscape with an automatic lawn sprinkler system installed after May, 1991, shall install, maintain and operate a rain sensor device or switch that overrides the irrigation system when adequate rainfall has occurred. For the purpose of this rule, "landscape irrigation" means the outside watering of plants in a landscape such as shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens and other such flora that are situated in such diverse locations as residential areas, cemeteries, public, commercial, and industrial establishments, and public medians and rights-of-way, but it. For the purpose of this rule, "landscape irrigation" does not include agricultural crops, nursery plants, cemeteries, golf course greens, tees, fairways, primary roughs, and vegetation associated with intensive recreational areas such as but not limited to, playgrounds, football, baseball and soccer fields. For the purpose of this

rule, the terms "residential landscape irrigation" and "non-residential landscape irrigation" are defined in this paragraph (a) as follows. "Residential landscape irrigation" means the irrigation of landscape associated with any housing unit having sanitary and kitchen facilities designed to accommodate one or more residents, including multiple housing units and mobile homes. "Non-residential landscape irrigation" means the irrigation of landscape not included within the definition of "residential landscape irrigation," such as that associated with public, commercial and industrial property, including commercial or transient housing units, hotel and motel units, and public medians and rights-of-way. For the purpose of this rule, "address" means the "house number" of a physical location of a specific property. This excludes post office box numbers. If a lot number in a mobile home park or similar community is used by the U.S. Postal Services to determine a delivery location, the lot number shall be the property's address. An "even numbered address" means an address ending in the numbers 0, 2, 4, 6, 8 or letters A-M. An "odd numbered address" means an address ending in the numbers 1, 3, 5, 7, 9 or the letters N-Z. Landscape irrigation shall be subject to the following exceptions:

1. When Daylight Savings Time is in effect, from the second Sunday in March through the first Sunday in November, landscape irrigation shall occur in accordance with the following irrigation schedule:

a. Residential landscape irrigation at odd numbered addresses or no address may occur only on Wednesday and Saturday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

b. Residential landscape irrigation at even numbered addresses may occur only on Thursday and Sunday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

c. Non-residential landscape irrigation may occur only on Tuesday and Friday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

d. No more than 3/4 inch of water may be applied per irrigation zone on each day that irrigation occurs, and in no event shall irrigation occur for more than 1 hour per irrigation zone on each day that irrigation occurs.

2. When Eastern Standard Time is in effect, from the first Sunday in November to the second Sunday in March, landscape irrigation shall occur only in accordance with the following irrigation schedule:

a. Residential landscape irrigation at odd numbered addresses or no address may occur only on Saturday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

b. Residential landscape irrigation at even numbered addresses may occur only on Sunday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

c. Non-residential landscape irrigation may occur only on Tuesday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

d. No more than 3/4 inch of water may be applied per irrigation zone on each day that irrigation occurs, and in no event shall irrigation occur for more than 1 hour per irrigation zone on each day that irrigation occurs.

3. Landscape irrigation shall be subject to the following exceptions:

a.1. Irrigation using a micro-spray, micro-jet or drip irrigation ~~micro-irrigation~~ system is allowed at any time of day on any day ~~anytime~~.

b.2. No change.

c.3. Watering in of chemicals, including insecticides, pesticides, fertilizers, fungicides, and herbicides, when required by law, the manufacturer, or best management practices, is allowed at any time of day on any day ~~anytime~~ within 24 hours of application. Watering in of chemicals shall not exceed 1/4 inch of water per application except as otherwise required by law, the manufacturer, or best management practices.

d.4. Irrigation systems may be operated at any time of day on any day ~~anytime~~ for maintenance and repair purposes not to exceed 20 ~~ten~~ minutes per hour per irrigation zone.

e.5. Irrigation using a hand-held hose equipped with an automatic shut-off nozzle is allowed at any time of day on any day ~~anytime~~.

f.6. No change.

4. Although the use of reclaimed water for landscape irrigation is subject to the irrigation schedules set forth in subparagraphs 40C-2.042(2)(a)1. and 2., F.A.C., in those limited conditions described in this subparagraph 4., a person is authorized to irrigate landscape with reclaimed water on more than the 2 days specified in the schedule for Daylight Savings Time and on more than the 1 day specified in the schedule for Eastern Standard Time. This additional authorization is provided under certain conditions because some reclaimed water providers cannot feasibly operate their wastewater disposal systems currently unless they provide reclaimed water to their customers for use on a more continuous basis than what would occur under the day limitations in these irrigation schedules. Those persons who receive written notification from their reclaimed water provider that this condition exists are authorized to irrigate landscape with reclaimed water on those additional days specified in the notification. The additional authorization shall cease upon written notification that this condition no longer exists. During the period in which additional days of irrigation are authorized, the irrigation prohibition between 10:00 a.m. and 4:00 p.m., the irrigation volume limitation, and the 1 hour per zone limitation in the irrigation schedules shall continue to apply.

6. When reclaimed water is available, the use of a private irrigation well for landscape irrigation is not authorized under subsection 40C-2.042(2), F.A.C. Reclaimed water is deemed

available when reclaimed water is provided by a utility through a service connection at the property boundary or on the property.

7. Any person who irrigates landscape with an automatic lawn sprinkler system installed after May 1991, shall install, maintain and operate a rain sensor device or switch that overrides the irrigation system when adequate rainfall has occurred. The use of water from a reclaimed water system is allowed ~~anytime~~. For the purpose of this paragraph, a reclaimed water system includes systems in which the primary source is reclaimed water, which may or may not be supplemented from another source during peak demand periods.

8. The use of recycled water from wet detention treatment ponds for irrigation is allowed ~~anytime~~ provided the ponds are not augmented from any ground or off-site surface water, or public supply sources.

(b)1. A local government is strongly encouraged to enforce paragraph 40C-2.042(2)(a), F.A.C., within its jurisdiction by adopting a landscape irrigation ordinance that incorporates each of the ~~incorporates~~ these provisions set forth in paragraph 40C-2.042(2)(a), F.A.C. If the local government chooses to identify specific days on which landscape irrigation will occur, then the schedule within the ordinance shall be:

a. Landscape irrigation at odd numbered addresses must only occur on Wednesday and Saturday; and

b. Landscape irrigation at even numbered addresses or no address must only occur on Thursday and Sunday.

c. Non-residential landscape irrigation may be designated on two alternative days other than those combinations in subparagraphs a. or b. above to address utility system-related demands.

2. For the purpose of this rule, "address" means the "house number" of a physical location of a specific property. This includes "rural route" numbers but excludes post office box numbers. If a lot number in a mobile home park or similar community is used by the U.S. Postal Service to determine a delivery location, the lot number shall be the property's address. An "even numbered address" means an address ending in the numbers 0, 2, 4, 6, 8 or the letters A-M. An "odd numbered address" means an address ending in the numbers 1, 3, 5, 7, 9 or the letters N-Z.

3. Local governments within a jurisdiction divided between the St. Johns River Water Management District and another water management district may propose an alternative schedule from (b) above, when necessary for the local government to achieve a uniform schedule within its jurisdiction. The local government shall submit its proposed alternative schedule for this District's review and approval prior to introducing the ordinance for adoption.

~~2.4. Where a local government has adopted a landscape irrigation ordinance, if the strict application of the specified day of week uniformly required schedule for specified "day of week" limitations would lead to unreasonable or unfair results in particular instances, the local government may grant a variance from the specific day or days for landscape irrigation identified in subparagraphs 40C-2.042(2)(a)(b)1. and 2., F.A.C., provided that the applicant demonstrates with particularity that compliance with the schedule of days for landscape irrigation will result in a substantial economic, health or other hardship on the applicant requesting the variance or those served by the applicant. Where a contiguous property is divided into different zones, a variance may be granted hereunder so that each zone may be irrigated on different days than other zones of the property. However, no single zone may be irrigated more than 2 days per week when Daylight Savings Time is in effect and no more than 1 day per week when Eastern Standard Time is in effect. Local governments shall not grant a variance from any other provision of this rule.~~

~~3.5. At least thirty (30) days prior to the adoption of an ordinance to enforce paragraph 40C-2.042(2)(a), F.A.C., the local government shall provide a copy of the proposed ordinance to the District.~~

~~(c)(d) A person proposing to use water for landscape irrigation where factors establish the need for irrigation to occur in a manner other than that authorized in subsection 40C-2.042(2), F.A.C., on three days per week may submit an application for a Standard General Consumptive Use Permit using form 40C-2-1082-2, for Landscape Irrigation Three Days Per Week pursuant to Chapter 40C-20, F.A.C. This permit application is limited to including no more than twenty-five (25) nearby properties within a common plan of development. If a development consists of more than one phase or section, the twenty-five (25) properties must be located within a single phase or section.~~

~~(e) All variances for landscape irrigation from Water Shortage Order F.O.R. 2000-62 that have not expired as of the effective date of this rule shall be automatically extended for a 2-year time period in accordance with the terms and conditions of the variance. No other changes to the terms and conditions of the variances shall be allowed. Landscape irrigation activities not authorized pursuant to a variance extension or elsewhere in this rule will require a standard general permit.~~

(3) through (7) No change.

(8) The Board hereby grants a general permit to each person located within the District to withdraw groundwater from a well solely to irrigate a total of one acre or less of landscape on contiguous property, provided the withdrawal does not meet or exceed any thresholds of paragraphs 40C-2.041(1)(a)-(c), F.A.C. This permit is subject to all the provisions requirements in paragraph 40C-2.042(2)(a), F.A.C. and the exceptions in subparagraphs (2)(a)1. & 8. When

reclaimed water is available, the use of a private irrigation well for landscape irrigation is not authorized under this subsection. Reclaimed water is deemed available when reclaimed water is provided by a utility through a service connection at the property boundary or on the property.

Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.118, 373.219, 373.223, 373.250, 373.609 FS. History–New 7-23-91. Amended 1-7-99, 2-15-06, 3-8-09.

40C-2.101 Publications Incorporated by Reference.

(1) The Governing Board hereby adopts by reference Parts I, II and III, the "Water Conservation Public Supply" requirements in Appendix I, and "Legal Description of the Central Florida Coordination Area of the St. Johns River Water Management District" in Appendix L of the document entitled "Applicant's Handbook, Consumptive Uses of Water", 3-8-09 8-12-08. The purpose of the document is to provide information regarding the policy, procedure, criteria, and conditions which pertain to the District's administration of the consumptive use permitting program.

(2) No change.

Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.073, 373.079, 373.103, 373.109, 373.196, 373.219, 373.223, 373.229, 373.233, 373.236, 373.239, 373.250 FS. History–New 1-1-83. Amended 5-31-84, Formerly 40C-2.101, 40C-2.0101, Amended 10-1-87, 1-1-89, 8-1-89, 10-4-89, 7-21-91, 7-23-91, 11-12-91, 9-16-92, 1-20-93, 12-6-93, 2-15-95, 7-10-95, 4-25-96, 10-2-96, 1-7-99, 2-9-99, 4-10-02, 2-15-06, 2-13-08, 8-12-08, 3-8-09.

40C-2.900 Forms and Instructions

(1) No change.

(2) Standard General Consumptive Use Permit for Landscape Irrigation Three Days Per Week, form number 40C-2-1082-2, effective 3-8-09 2-15-06, is hereby incorporated by reference.

(3) and (4) No change.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.109, 373.116, 373.118, 373.219, 373.229 FS. History–New 5-30-90, Amended 7-21-91, 7-23-91, 1-20-93, 2-15-95, 4-25-96, 10-2-96, 1-7-99, 2-15-06, 3-8-09.

APPLICANT'S HANDBOOK SECTIONS:

17.0 General Conditions by Type of Use

17.1 Public Supply-Type Uses

The following general conditions are generally applied to permits for public supply-type uses:

(a) through (d) No change.

(e) Landscape irrigation shall be in conformity with the requirements set forth in subsection 40C-2.042(2), F.A.C. is prohibited between the hours of 10:00 a.m. and 4:00 p.m., and shall not occur more than two days per week except as follows:

1. Irrigation using a micro-irrigation system is allowed anytime.

- 2. The use of reclaimed water for irrigation is allowed anytime.
- 3. Irrigation of new landscape is allowed any time of day or any day for the initial 30 days and every other day for the next 30 days for a total of one 60 day period provided that the irrigation is limited to the minimum amount necessary for such landscape establishment.
- 4. Watering in of chemicals, including insecticides, pesticides, fertilizers, fungicides, and herbicides when required by law, the manufacturer, or best management practices is allowed anytime within 24 hours of application.
- 5. Irrigation systems may be operated anytime for maintenance and repair purposes not to exceed ten minutes per hour per zone.

(f) No change.

17.2 and 17.3 No change.

17.4 Agricultural Uses

The following conditions are generally applied to individual permits for agricultural-type uses:

(a) No change.

(b) Irrigation of agricultural crops shall be in conformity with the requirements set forth in subsection 40C-2.042(1), F.A.C. is prohibited between the hours of 10:00 a.m. and 4:00 p.m., except as follows:

- 1. Irrigation using a micro irrigation system is allowed anytime.
- 2. The use of reclaimed water for irrigation is allowed anytime.
- 3. The use of recycled water from wet detention treatment ponds to irrigate agricultural crops is allowed anytime provided the ponds are not augmented from any ground or off-site surface water sources.
- 4. Irrigation is allowed any time of day for one 30 day period following planting of agricultural crops, provided that the irrigation is limited to the minimum amount necessary for crop or plant establishment.
- 5. Chemigation and fertigation are allowed at any time of day one time per week, and anytime during the normal 4:00 p.m. to 10:00 a.m. irrigation hours.
- 6. Watering in of chemicals, including insecticides, pesticides, fertilizers, fungicides, and herbicides when required by law, the manufacturer or best management practices is allowed anytime within 24 hours of application.
- 7. Irrigation systems may be operated anytime for maintenance and repair purposes not to exceed ten minutes per hour per zone.
- 8. Irrigation of agricultural crops by seepage systems which regulate off site discharges through the use of water control structures is allowed anytime, provided

the discharge does not overtop the control structure by more than one half inch, the structure is well maintained, and there is no discharge between 1:00 p.m. and 7:00 p.m. unless associated with a storm event.

- 9. The use of water to protect agricultural crops from frost or freeze damage is allowed when freezing temperatures or frost are predicted by an official weather forecasting service.
- 10. The use of water to protect agricultural crops from heat stress damage is allowed anytime, provided the watering does not exceed ten minutes per hour per zone or one twenty minute period per day, whichever is applicable.
- 11. Irrigation of agricultural crops by traveling volume guns which require manual repositioning is allowed anytime.

(c) No change.

17.5 Nursery Use

The following conditions are generally applied to individual permits for nursery-type uses:

(a) Irrigation of nursery plants shall be in conformity with the requirements set forth in subsection 40C-2.042(1), F.A.C. is prohibited between the hours of 10:00 a.m. and 4:00 p.m., except as follows:

- 1. Irrigation using a micro irrigation system is allowed anytime.
- 2. The use of reclaimed water for irrigation is allowed anytime.
- 3. The use of recycled water from wet detention treatment ponds to irrigate nursery plants is allowed anytime provided the ponds are not augmented from any ground or off-site surface water sources.
- 4. Irrigation is allowed any time of day for one 30 day period following planting of nursery stock provided that the irrigation is limited to the minimum amount necessary for plant establishment.
- 5. Chemigation and fertigation are allowed at any time of day one time per week, and anytime during the normal 4:00 p.m. to 10:00 a.m. irrigation hours.
- 6. Watering in of chemicals, including insecticides, pesticides, fertilizers, fungicides, and herbicides when required by law, the manufacturer or best management practices is allowed anytime within 24 hours of application.
- 7. Irrigation systems may be operated anytime for maintenance and repair purposes not to exceed ten minutes per hour per zone.
- 8. The use of water to protect nursery plants from frost or freeze damage is allowed when freezing temperatures or frost are predicted by an official weather forecasting service.

9. ~~The use of water to protect nursery plants from heat stress damage is allowed anytime, provided the watering does not exceed ten minutes per hour per zone or one twenty minute period per day.~~

(b) No change.

17.6 No change.

17.7 Golf Course/Recreation Use

The following conditions are generally applied to individual permits for golf course-type uses and recreational area-type uses:

(a) ~~Irrigation of gGolf courses and recreational areas irrigation shall be in conformity with the requirements set forth in subsection 40C-2.042(1), F.A.C. is prohibited between the hours of 10:00 a.m. and 4:00 p.m., except as follows:~~

1. ~~Irrigation using a micro-irrigation system is allowed anytime.~~
2. ~~Facilities using reclaimed water for irrigation may do so anytime.~~
3. ~~The use of recycled water from wet detention treatment ponds to irrigate golf courses and recreational areas is allowed anytime provided the ponds are not augmented from any ground or off-site surface water sources.~~
4. ~~Irrigation of, or in preparation for planting, new golf courses and recreational areas is allowed at any time of day for one 30 day period provided irrigation is limited to the amount necessary for plant establishment. Irrigation of newly seeded or sprigged golf course areas is allowed any time of day for one 60 day period.~~
5. ~~Chemigation and fertigation are allowed at any time of day one time per week, and anytime during the normal 4:00 p.m. to 10:00 a.m. irrigation hours.~~
6. ~~Watering in of chemicals, including insecticides, pesticides, fertilizers, fungicides, and herbicides when required by law, the manufacturer or best management practices is allowed anytime within 24 hours of application.~~
7. ~~Irrigation systems may be operated anytime for maintenance and repair purposes not to exceed ten minutes per hour per zone.~~
8. ~~The use of water to protect golf course turf from heat stress damage is allowed anytime, provided the watering does not exceed ten minutes per hour per zone.~~

(b) No change.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Hal Wilkening, Director, Department of Resource Management, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)329-4250

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governing Board of the St. Johns River Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 14, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 23, 2008

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.:	RULE TITLE:
40D-3.037	Rules, Publications and Agreements Incorporated by Reference

PURPOSE AND EFFECT: The purpose of this rulemaking is to amend Rule 40D-3.037, F.A.C., to incorporate by reference a Memorandum of Agreement Between the U.S. Environmental Protection Agency, Region 4, Superfund Division and the Southwest Florida Water Management District. The effect of the Memorandum of Agreement (MOA) is to establish a working relationship between the two agencies on District permitting matters involving well construction and other regulated activities that are proposed in or near selected Superfund sites within the District.

SUMMARY: The District and EPA have entered into a Memorandum of Agreement (MOA) to outline a cooperative relationship between the agencies and to establish a protocol for sharing information when the District is reviewing an application for a permit to regulate activity proposed in or near certain designated Superfund sites within the District. The District anticipates that this will occur most often in the context of reviewing applications for well construction permits. Therefore, this rulemaking amends Rule 40D-3.037, F.A.C., to incorporate by reference the Memorandum of Agreement between the U.S. Environmental Protection Agency, Region 4, Superfund Division and the Southwest Florida Water Management District. The MOA will improve coordination between the two agencies and enable each agency to implement their respective regulatory practices in a manner that best minimizes the potential effects of ground water contamination in areas that are or could be impacted by a Superfund site. Information sharing will include detailed geographic descriptions of the contaminated areas associated with the Superfund sites covered by the Agreement. Upon receipt of this information, the District will make available to the public through its website aerial depictions of the contaminated areas. This will enable persons who seek to apply for District permits authorizing activities in or around the selected Superfund sites to know the extent of groundwater contaminant plumes and associated buffer areas. Making this information available to the public and to District staff will also avoid the potential for property owners to unwittingly risk causing pollutants to spread and thus become potentially responsible parties for cleanup of a Superfund site. Presently,



the MOA applies to only one site located within Polk County. Additional sites will be added as site-specific information is developed.

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

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

**SPECIFIC AUTHORITY:** 373.044, 373.113, 373.309 FS.

**LAW IMPLEMENTED:** 373.046, 373.308, 373.309, 373.323, 373.324, 373.333 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:** Martha Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

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

40D-3.037 Rules, ~~and~~ Publications and Agreements Incorporated by Reference.

(1) The regulations promulgated by the Department governing the construction of water wells as set forth in Chapter 62-532, F.A.C. (3-28-02), the construction of water wells in delineated areas as set forth in Chapter 62-524, F.A.C. (6-27-00), the licensing requirements for Water Well Contractors as set forth in Chapter 62-531, F.A.C. (11-25-07), and the construction of public supply water wells as set forth in Chapter 62-555, F.A.C. (1-17-05), are hereby incorporated by reference and made a part of this rule and shall apply to all water wells constructed, repaired, modified or abandoned in the District.

(2) The Department's Water Well Contractor Disciplinary Guidelines and Procedures Manual (October 2002) and the Department's Florida Unified Citations Dictionary for Water Well Construction (October 2002) are hereby incorporated by reference and made a part of this rule.

(3) Well Construction Forms are incorporated by reference into Rule 40D-1.659, F.A.C., and are available from the District upon request and from the District's website at [www.watermatters.org](http://www.watermatters.org).

(4) The Memorandum of Agreement Between the U.S. Environmental Protection Agency, Region IV, Superfund Division and the Southwest Florida Water Management District (August 2008) is incorporated by reference.

Specific Authority 373.044, 373.113, 373.309 FS. Law Implemented 373.046, 373.308, 373.309, 373.323, 373.324, 373.333 FS. History—New 7-1-90, Amended 12-31-92, 4-11-94, 6-27-94, 9-22-94, 7-5-95, 10-19-95, 7-15-99, 6-23-03, 1-8-04, 8-19-08,\_\_\_\_\_.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Martha Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

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

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** August 26, 2008

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** September 5, 2008

#### **AGENCY FOR HEALTH CARE ADMINISTRATION**

##### **Medicaid**

**RULE NO.:**  
59G-6.010

**RULE TITLE:**  
Payment Methodology for Nursing Home Services

**PURPOSE AND EFFECT:** The purpose of the proposed rule is to incorporate changes to the Florida Title XIX Long-Term Care Reimbursement Plan (the Plan) payment methodology, effective July 1, 2008.

1. Section IV. J.3. of the Title XIX Long-Term Care Reimbursement Plan has been modified as follows:

As part of the operating component, interim rate adjustments shall be granted to reflect increases in the cost of premiums for general or professional liability insurance policies and payments into qualifying self-insurance funds as defined in CMS 15-1, 2162, if the change in cost of premiums and payments to the provider is at least \$5,000 and would cause a change of one percent or more in the provider's current total per diem rate.

2. Section IV. J.4. of the Title XIX Long-Term Care Reimbursement Plan has been modified to include a reference to Section IV. J.3 above.

**SUMMARY:** The Florida Title XIX Long-Term Care Reimbursement Plan has been modified to clarify an interim rate provision as it pertains to General and Professional Liability Insurance.

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

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

**SPECIFIC AUTHORITY:** 409.919 FS.

**LAW IMPLEMENTED:** 409.908 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: November 18, 2008, 9:00 a.m. – 10:00 a.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Conference Room C, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Edwin Stephens, Medicaid Program Analysis, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2120B, Mail Stop 21, Tallahassee, Florida 32308, (850)414-2756 or by e-mail at stephene@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.010 Payment Methodology for Nursing Home Services

Reimbursement to participating nursing homes for services provided shall be in accord with the Florida Title XIX Long-Term Care Reimbursement Plan, Version ~~XXXIII~~ XXXIV ~~Effective Date July 1, 2008 January 1, 2008~~ and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Deputy Secretary for Medicaid, 2727 Mahan Drive, Mail Stop 8, Tallahassee, Florida 32308. The Plan incorporates Provider Reimbursement Manual (CMS Pub. 15-1).

Specific Authority 409.919 FS. Law Implemented 409.908 FS. History—New 7-1-85, Amended 10-1-85, Formerly 10C-7.482, Amended 7-1-86, 1-1-88, 3-26-90, 9-30-90, 12-17-90, 9-15-91, 3-26-92, 10-22-92, 4-13-93, 6-27-93, Formerly 10C-7.0482, Amended 4-10-94, 9-22-94, 5-22-95, 11-27-95, 11-6-97, 2-14-99, 10-18-99, 1-11-00, 4-24-00, 9-20-00, 11-20-01, 2-20-02, 7-14-02, 1-8-03, 6-11-03, 12-3-03, 2-16-04, 7-21-04, 10-12-04, 4-19-06, 8-26-07, 2-12-08, 9-22-08, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Edwin Stephens

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Holly Benson

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 13, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2008

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Barbers' Board**

RULE NO.: 61G3-16.010 RULE TITLE: Supervised Practice Exception

PURPOSE AND EFFECT: The proposed rule amendment sets forth the time limit in which an applicant must discontinue practicing once he/she has taken the examination.

SUMMARY: The proposed rule amendment sets forth the time limit in which an applicant must discontinue practicing once he/she has taken the examination.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Costs has been prepared and is available by contacting Robyn Barineau, Executive Director, at the address listed below.

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

SPECIFIC AUTHORITY: 455.217, 476.064(4), 476.124, 476.144(7), 475.184(2), (10) FS.

LAW IMPLEMENTED: 455.217, 476.144(7), 475.184(2), (10) 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: Robyn Barineau, Executive Director, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT FOR THE PROPOSED RULE IS:

(Substantial rewording of Rule 61G3-16.010 follows. See Florida Administrative Code for present text.)

61G3-16.010 Supervised Practice Exception.

(1) Following the completion of both the written and practical portions of the first licensing examination by an applicant for licensure as a barber by examination who has completed the barber training required by Chapter 476, F.S. and Rule 61G3-16.001, F.A.C., the applicant is eligible to practice as a barber and perform barbering services temporarily in a current, actively licensed barbershop under the following conditions:

(a) In the event an applicant obtains passing scores on the first attempt of both the written and practical portions of the examination, the applicant shall be eligible, prior to having the application acted on by the Board, to practice in a licensed barbershop, provided that the applicant post the examination results for both portions of the examination at the work station with a recent photograph affixed thereto.

(b) In the event that the applicant fails to obtain a passing score on either or both of the written or practical portion of the examination on the first attempt, the applicant shall not be eligible to practice under this rule until the applicant:

1. Applies to the Department for authorization to retake the failed portion(s) of the examination; and

2. Presents the holder of the license for the barbershop a copy of both the reexamination application and the examination scheduling authorization letter from the department or the testing vendor.

3. Upon completion of these conditions, the applicant is eligible to practice in a licensed barbershop subject to the provisions of paragraph (c) referenced below, provided that the

applicant posts the examination results for both portions of the examination at the work station with a recent photograph affixed thereto. The applicant must discontinue practicing when 180 days have passed from the date the written or practical portion of the first examination was taken, whichever portion was taken earlier, if reexamination has not yet been completed. Under no circumstances shall the applicant be eligible to practice prior to having applied for reexamination and having obtained the examination scheduling authorization letter from the department or testing vendor.

(c) All barbering services performed by the applicant under this exception shall be performed under the supervision of a licensed barber. "Under the supervision of a licensed barber" shall mean that an individual who then holds a current, active Florida license as a barber shall be physically present at all times when the applicant is performing barbering services.

(2) In the event an applicant, who previously failed either or both portions of the examination on the first attempt, fails to obtain a passing score on either or both portions of the second licensure examination, the applicant is no longer eligible to practice as a barber under this exception and must immediately discontinue practicing barbering services until the applicant has been issued a license to practice by the Department.

Specific Authority 455.217, 476.064(4), 476.124, 476.144(7), 476.184(2), (10) FS. Law Implemented 455.217, 476.144(7), 476.184(2), (10) FS. History—New 12-9-98, Amended 11-12-00,

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Barbers' Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Barbers' Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 25, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 13, 2008

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

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

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

RULE NO.: 62-204.800  
RULE TITLE: Federal Regulations Adopted by Reference

PURPOSE, EFFECT AND SUMMARY: The proposed rule amendments update, through September 30, 2008, the department's adoption-by-reference of air pollution regulations promulgated by the U.S. Environmental Protection Agency (EPA) at 40 CFR Parts 52, 63 and 89.

SPECIFIC AUTHORITY: 403.8055 FS.

LAW IMPLEMENTED: 403.061, 403.087, 403.8055 FS.

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 120.54(6), F.S.

WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO: Ms. Patricia E. Comer, Office of General Counsel, Department of Environmental Protection, 3900 Commonwealth Blvd., MS 35, Tallahassee, Florida 32399-3000

SUBSTANTIALLY AFFECTED PERSONS MAY WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, FILE AN OBJECTION TO THIS RULEMAKING WITH THE AGENCY. THE OBJECTION SHALL SPECIFY THE PORTIONS OF THE PROPOSED RULE TO WHICH THE PERSON OBJECTS AND THE SPECIFIC REASONS FOR THE OBJECTION.

THE FULL TEXT OF THE PROPOSED RULE IS:

62-204.800 Federal Regulations Adopted by Reference.

All federal regulations cited throughout the air pollution rules of the Department are adopted and incorporated by reference in this rule. The purpose and effect of each such federal regulation is determined by the context in which it is cited. Procedural and substantive requirements in the incorporated federal regulations are binding as a matter of state law only where the context so provides.

(1) through (2) No change.

(3) Title 40, Code of Federal Regulations, Part 52, Approval and Promulgation of Implementation Plans. The following subparts of 40 CFR Part 52, revised as of July 1, 2003, or later as specifically indicated, are adopted and incorporated by reference:

(a) No change.

(b) 40 CFR Part 52, Subpart K, Florida, amended July 22, 2003, at 68 FR 43312; amended August 11, 2003, at 68 FR 47468; amended February 13, 2004, at 69 FR 7127; amended March 29, 2004, at 69 FR 16167; amended June 17, 2004, at 69 FR 33860; amended April 28, 2006, at 71 FR 25327; amended November 28, 2006, at 71 FR 68743; amended October 12, 2007, at 72 FR 58016; amended September 16, 2008, at 73 FR 53378.

(4) through (10) No change.

(11) Title 40, Code of Federal Regulations, Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories.

(a) No change.

(b) Standards Adopted. The following National Emission Standards for Hazardous Air Pollutants contained in 40 CFR Part 63, revised as of July 1, 2001, or later as specifically indicated, are adopted and incorporated by reference:

1. through 6. No change.

7. 40 CFR 63, Subpart M, Perchloroethylene Dry Cleaning Facilities; amended June 23, 2003, at 68 FR 37333; amended July 27, 2006, at 71 FR 42723; amended September 21, 2006, at 71 FR 55280; amended July 11, 2008, at 73 FR 39871; except that the Secretary is not the Administrator for purposes of 40 CFR 63.326(c)(1) through (4).

8. through 61. No change.

62. 40 CFR 63, Subpart EEEE, Organic Liquids Distribution (Non-Gasoline); promulgated February 3, 2004, at 69 FR 5038; amended April 20, 2006, at 71 FR 20445; amended July 28, 2006, at 71 FR 42897; amended July 17, 2008, at 73 FR 40977; except that the Secretary is not the Administrator for purposes of 40 CFR 63.2402(b)(1) through (4).

63. through 83. No change.

84. 40 CFR 63, Subpart BBBBB, Semiconductor Manufacturing; promulgated May 22, 2003, at 68 FR 27913; amended April 20, 2006, at 71 FR 20445; amended July 22, 2008, at 73 FR 42529; except that the Secretary is not the Administrator for the purposes of 40 CFR 63.7194(c)(1) through (4).

85. through 116. No change.

(c) through (e) No change.

(12) through (24) No change.

(25) Title 40, Code of Federal Regulations, Part 89, Control of Emissions From New and In-Use Nonroad Compression-Ignition Engines. The following subparts of 40 CFR Part 89, revised as of July 1, 2007, or later as specifically indicated, are adopted and incorporated by reference.

(a) 40 CFR Part 89, Subpart A, General.

(b) 40 CFR Part 89, Subpart B, Emission Standards and Certification Provisions.

(25) through (26) renumbered (26) through (27) No change.

Specific Authority 403.061, 403.8055 FS. Law Implemented 403.031, 403.061, 403.087, 403.8055 FS. History—New 3-13-96, Amended 6-25-96, 10-7-96, 10-17-96, 12-20-96, 4-18-97, 6-18-97, 7-7-97, 10-3-97, 12-10-97, 3-2-98, 4-7-98, 5-20-98, 6-8-98, 10-19-98, 4-1-99, 7-1-99, 9-1-99, 10-1-99, 4-1-00, 10-1-00, 1-1-01, 8-1-01, 10-1-01, 4-1-02, 7-1-02, 10-1-02, 1-1-03, 4-1-03, 10-1-03, 1-1-04, 4-1-04, 7-1-04, 10-1-04, 1-1-05, 4-1-05, 7-1-05, 10-1-05, 1-1-06, 4-1-06, 7-1-06, 9-4-06, 9-6-06, 1-8-07, 1-31-07, 4-2-07, 5-31-07, 7-2-07, 10-1-07, 2-1-08, 7-1-08, 10-6-08, 12-1-08.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

RULE NO.: 62-620.100  
 RULE TITLE: Scope/Applicability/References

PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to revise DEP Form 62-620.910(17) and paragraph 62-620.100(2)(o), Florida Administrative Code to allow applicants to submit the form(s) using the Department's electronic permitting application. In addition, minor clean-up of existing language is planned.

SUMMARY: The proposed rule will address the electronic submittal of the No Exposure Certification for Exclusion from NPDES Stormwater Permitting.

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

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

SPECIFIC AUTHORITY: 403.061, 403.087 FS.

LAW IMPLEMENTED: 403.061, 403.087, 403.0885 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: Steven Kelly, Department of Environmental Protection, NPDES Stormwater Program, 2600 Blair Stone Road, MS 2500, Tallahassee, Florida 32399; telephone (850)245-7518; email Steven.Kelly@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

62-620.100 Scope/Applicability/References.

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

(o) Conditional exclusion for “no exposure” of industrial activities and materials to stormwater. Discharges composed entirely of stormwater are not stormwater discharges associated with industrial activity if there is “no exposure” of industrial materials and activities to precipitation and/or runoff, and the discharger satisfies the conditions in subparagraphs (o)1. through (o)3. of this section. “No exposure” means that all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to precipitation and/or runoff. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product.

1. Qualification. To qualify for this exclusion, the operator of the discharge must:

a. Provide a storm resistant shelter to protect industrial materials and activities from exposure to precipitation and runoff;

b. Submit to the Department a completed and signed Form 62-620.910(17), entitled “No Exposure Certification for Exclusion from NPDES Stormwater Permitting,” effective \_\_\_\_\_, certifying that there are no discharges of stormwater contaminated by exposure to industrial materials and activities from the entire facility, except as provided in subparagraph (o)2. of this section. The completed and signed

Form 62-620.910(17), and certification fee as required by subparagraph 62-4.050(4)(d)3., F.A.C., must be submitted either by mail to: Department of Environmental Protection, NPDES Stormwater Notices Center, Mail Station #2510, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; or electronically using the Department's Interactive Notice of Intent (iNOI) at <http://www.dep.state.fl.us/water/stormwater/npdes/>;

c. Renew the certification every 5 years on or before the expiration of each 5 year interval by filing a new completed and signed Form 62-620.910(17) effective \_\_\_\_\_, and certification fee as required by subparagraph 62-4.050(4)(d)3., F.A.C., either by mail to the Department of Environmental Protection, NPDES Stormwater Notices Center, Mail Station #2510, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or electronically using the Department's Interactive Notice of Intent (iNOI) at <http://www.dep.state.fl.us/water/stormwater/npdes/>;

d. Allow the Department or its agents to inspect the facility to determine compliance with the "no exposure" conditions; and

e. For facilities that discharge through a Municipal Separate Storm Sewer System (MS4), submit a copy of the certification of "no exposure" to the MS4 operator, as well as allow inspection and public reporting by the MS4 operator.

2. Industrial materials and activities not requiring storm resistant shelter. To qualify for this exclusion, storm resistant shelter is not required for:

a. Drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated and do not leak ("Sealed" means banded or otherwise secured and without operational taps or valves);

b. Adequately maintained vehicles used in material handling; and

c. Final products, other than products that would be mobilized in stormwater discharge (e.g., rock salt).

3. Limitations. This conditional exclusion from stormwater permitting under this chapter and/or Chapter 62-621, F.A.C., is not available:

a. For stormwater discharges from construction activities;

b. For individual outfalls. The exclusion is available on a facility-wide basis only;

c. If circumstances change and industrial materials or activities become exposed to precipitation and/or runoff, the conditions for this exclusion no longer apply. In such cases, the discharge becomes subject to enforcement for un-permitted discharge. Any conditionally excluded discharger who anticipates changes in circumstances should apply for and obtain permit authorization prior to the change of circumstances; and

d. Notwithstanding the provisions of this paragraph, the Department retains the authority to require permit authorization (and deny this exclusion) upon making a

determination that the discharge causes or contributes to the violation of an applicable water quality standard, including designated uses.

(3) through (4) No change.

Specific Authority 403.061, 403.087, 403.0885 FS. Law Implemented 403.061, 403.087, 403.088, 403.0885 FS. History—New 11-29-94, Amended 12-24-96, 3-2-00, 10-22-00, 10-23-00, 6-1-01, 8-25-03, 12-8-03, 12-23-04, 2-7-06, 3-13-06, 6-19-06, 7-10-06, 10-16-07, 11-28-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Janet G. Llewellyn

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael W. Sole

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 10, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 5, 2008

#### DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: RULE TITLE:

62-621.300 Permits

PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to revise DEP Forms 62-621.300(4)(b), 62-621.300(5)(b) and 62-621.300(6) to allow applicants to submit the form(s) using the Department's electronic permitting application. In addition, the Department plans to provide minor clean-up of existing language in the forms and document number 62-621.300(4)(a), Generic Permit for Stormwater Discharge from Large and Small Construction Activities.

SUMMARY: The proposed rule will address the electronic submittal of NPDES Stormwater forms and provide minor clean-up of existing language.

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

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

SPECIFIC AUTHORITY: 403.061, 403.087 FS.

LAW IMPLEMENTED: 403.061, 403.087, 403.0885 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: Steven Kelly, Department of Environmental Protection, NPDES Stormwater Program, 2600 Blair Stone Road, MS 2500, Tallahassee, Florida 32399; telephone (850)245-7518; email Steven.Kelly@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

62-621.300 Permits.

(1) through (3) No change.

(4) Generic Permit for Stormwater Discharge from Large and Small Construction Activities.

(a) The document "Generic Permit for Stormwater Discharge from Large and Small Construction Activities," document number 62-621.300(4)(a), issued by the Department and effective ~~May 1, 2003~~, is hereby incorporated by reference and made a part of this chapter.

(b) Form number 62-621.300(4)(b), Notice of Intent to Use Generic Permit for Stormwater Discharge from Large and Small Construction Activities, effective ~~May 1, 2003~~, is hereby incorporated by reference and made part of this chapter. This form may be obtained by writing the Department of Environmental Protection, NPDES Stormwater Notices Center, Mail Station #2510, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or from the Department's website.

~~(c) The "Generic Permit for Stormwater Discharge from Large and Small Construction Activities" shall become effective May 1, 2003. Prior to May 1, 2003, operators initiating activities disturbing five or more acres shall continue to obtain coverage under the "Generic Permit for Stormwater Discharge from Construction Activities that Disturb Five or More Acres of Land," and any such activities shall continue to remain covered under the terms of the "Generic Permit for Stormwater Discharge from Construction Activities that Disturb Five or More Acres of Land" until such time as permit coverage is terminated, revoked, or the permittee's five year period of coverage has expired. Effective May 1, 2003, anyone initiating activities that disturb one or more acres of land but less than five acres (small construction), or five or more acres (large construction), shall obtain coverage under the "Generic Permit for Stormwater Discharge from Large and Small Construction Activities." If an operator initiates activities that disturb at least one acre but less than five acres, prior to May 1, 2003, and those activities are ongoing as of May 1, 2003, the operator must file a notice of intent and permit fee to obtain permit coverage under the Generic Permit for Stormwater Discharge from Large and Small Construction Activities by June 1, 2003.~~

(5) Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity.

(a) The Department hereby adopts and incorporates by reference Federal Register, Volume 60, Number 189, pages 50804-51319, published on September 29, 1995; Federal Register, Volume 61, Number 28, pages 5248-5254, published on February 9, 1996; Federal Register, Volume 61, Number 34, page 6412, published on February 20, 1996; Federal Register, Volume 63, Number 152, pages 42534-42548, published on August 7, 1998; Federal Register, Volume 63, Number 189, pages 52430-52577, published on September 30, 1998; and, Federal Register, Volume 64, Number 11, pages 2898-2900,

published on January 19, 1999, which shall hereinafter be referred to as the "Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity." When used in the Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity, the following shall mean:

1. EPA shall mean the Department of Environmental Protection.

2. Regional Administrator, Director, or State Director, shall mean the Secretary of the Department of Environmental Protection or the Secretary's designee where appropriate.

(b) Form number 62-621.300(5)(b), Notice of Intent to Use Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity, effective October 22, 2000, is hereby incorporated by reference and made part of this chapter. This form may be obtained by writing the Department of Environmental Protection, NPDES Stormwater Notices Center, Mail Station #2510, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or from the Department's website.

(c) Facilities or activities seeking coverage under this generic permit shall apply to the Department on the form referenced in paragraph 62-621.300(5)(b), F.A.C., and in accordance with the Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity, and shall include the appropriate processing fee as required by Rule 62-4.050, F.A.C.

(d) Form number 62-621.300(5)(b), Notice of Intent to Use Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity shall be submitted either by mail to: Department of Environmental Protection, NPDES Stormwater Notices Center, Mail Station #2510, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; or electronically using the Department's Interactive Notice of Intent (iNOI) at <http://www.dep.state.fl.us/water/stormwater/npdes/>. All other notices, certifications, reports; or any other information required to be submitted under the Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity, excluding discharge monitoring reports, shall be submitted to Department of Environmental Protection, NPDES Stormwater Notices Center, Mail Station #2510, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(e) Discharge monitoring reports (DMRs) required to be submitted under the Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity shall be sent to Department of Environmental Protection, NPDES Stormwater MSGP DMR, Mail Station #2511, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(f) The effective date of coverage under this generic permit shall be two (2) days after a complete Notice of Intent is submitted to the Department in accordance with paragraph 62-621.300(5)(c), F.A.C.

(g) Coverage under this generic permit is limited to a term not to exceed five years from the effective date of coverage. Permittees may request continued coverage under this generic permit in accordance with the requirements of paragraph 62-621.300(5)(c), F.A.C. Request for continued coverage shall be made at least two (2) days before expiration of the current coverage.

(6) Form number 62-621.300(6), National Pollutant Discharge Elimination System (NPDES) Stormwater Notice of Termination effective ~~April 20, 2005~~, is hereby incorporated by reference and made a part of this chapter. Facilities or activities seeking to terminate coverage under the generic permits in subsections 62-621.300(4) and (5), F.A.C., as well as the conditional exclusion for “no exposure” of industrial activities and materials to stormwater provided in paragraph 62-620.100(2)(o), F.A.C., shall file a National Pollutant Discharge Elimination System (NPDES) Stormwater Notice of Termination with the Department. This form may be obtained by writing the Department of Environmental Protection, NPDES Stormwater Notices Center, Mail Station #2510, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or from the Department’s website.

(7) No change.

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

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Janet G. Llewellyn

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael W. Sole

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 10, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 5, 2008

**DEPARTMENT OF JUVENILE JUSTICE**

**Staff Training**

RULE NOS.:	RULE TITLES:
63H-1.001	Purpose and Scope
63H-1.002	Definitions
63H-1.003	Authorized Levels of Response
63H-1.011	Rehired Employee Training

PURPOSE AND EFFECT: The amendments clarify the purpose and scope to reflect the agency preference for verbal intervention and the least restrictive means of physical intervention. Definitions of “program” and “facility” are amended to specify that day treatment and facility-based conditional release will be deemed “facilities”, while community-based conditional release will be deemed “programs”. A form is updated, and the threshold for a level 2

physical response is clarified to require an identifiable risk to safety and security. The rule section governing training upon rehiring is also amended.

SUMMARY: The amended rule clarifies the purpose and scope, makes necessary changes to definitions, updates a form, and clarifies the authorized level of response for the department's verbal and physical intervention techniques. The amended rule also changes the training requirements for rehired staff.

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

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

SPECIFIC AUTHORITY: 985.64, 985.645 FS.

LAW IMPLEMENTED: 985.645 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: Wednesday, November 19, 2008, 10:00 a.m.

PLACE: DJJ Headquarters, 2737 Centerview Dr., General Counsel's Conference Room 3223, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: John Milla, 2737 Centerview Dr., Ste. 3200, Tallahassee, FL 32399-3100, e-mail: john.milla@djj.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

63H-1.001 Purpose and Scope.

This rule establishes a statewide framework to implement procedures governing the use of verbal and physical intervention techniques and mechanical restraints. Protective Action Response (PAR), as authorized by the department, shall be the verbal and physical intervention program trained and utilized by direct care staff in state-operated and contracted facilities and programs. PAR verbal intervention is the most common and preferred method of preventing or de-escalating conflict. It is the intent of the department that the least restrictive means of physical intervention be employed based on the individual needs of each youth.

Specific Authority 985.405, 985.4055 FS. Law Implemented 985.4055 FS. History—New 11-19-06, Amended\_\_\_\_\_.

63H-1.002 Definitions.

(1) through (11) No change.

(12) Facility – A contracted or state-operated secure environment that provides custody, care, supervision or confinement of youth alleged or found to have committed a

violation of law. This includes, but is not limited to, secure detention, law enforcement operated facilities, ~~and~~ residential commitment programs, day treatment programs, and contracted facility based conditional release programs.

(13) through (23) No change.

(24) Program – A contracted or state-operated non-residential environment providing supervision of youth who have been identified to receive services within the community. This includes, but is not limited to, probation, non-secure detention, home detention, juvenile assessment centers, Intensive Delinquency Diversion Services (IDDS) programs, community based conditional release programs and screening and intake units, ~~and day treatment programs.~~ This does not include prevention programs.

(25) through (28) No change.

(29) PAR Incident Report – The form used to document the occurrence of an event where an employee has used one of the enumerated physical intervention techniques. The PAR Incident Report (ADSD-005, revised 6/23/08 ~~6/01/06~~) is incorporated by reference, and is available at the department's website ([http://www.djj.state.fl.us/forms/sd/par\\_incident\\_report.pdf](http://www.djj.state.fl.us/forms/sd/par_incident_report.pdf)).

(30) through (36) No change.

Specific Authority 985.4055, 985.405 FS. Law Implemented 985.4055 FS. History–New 11-19-06, Amended 3-4-07, \_\_\_\_\_.

63H-1.003 Authorized Levels of Response.

(1) LEVEL 1 RESPONSE – This level of employee response consists of verbal intervention techniques and shall be utilized in response to all levels of resistance by the youth. Verbal intervention techniques shall be the initial response by an employee to resistance by a youth except where physical intervention techniques are necessary to prevent: physical harm to the youth, employee or another person; property damage; or the youth escaping or absconding from lawful supervision.

(2) LEVEL 2 RESPONSE – In this level of response, verbal attempts to diffuse a youth or situation have been exhausted, and the youth has initiated ~~passive~~, active, combative, or aggravated resistance. There will be no physical intervention for passive resistance without a clear and identifiable risk to safety and security. Physical intervention techniques may encompass the use of touch, countermoves, control techniques, or takedowns as described in Rule 63H-1.004, F.A.C.

(3) LEVEL 3 RESPONSE – This level of response involves the use of mechanical restraints. The use of mechanical restraints is authorized in situations where a youth has initiated active, combative, or aggravated resistance, and in situations where a youth poses a physical threat to self, employees, or others. Rules 63H-1.005-.007, F.A.C., explain the duties and responsibilities of employees when using

mechanical restraints. Rule 63H-1.004, F.A.C., describes the authorized mechanical restraint techniques for facility employees.

(4) All responses shall be commensurate with the youth's level of resistance according to the PAR Escalation Matrix and this rule.

(a) Additionally, responses shall only be used when reasonably necessary to control youth and only after all reasonable alternatives have been exhausted, including verbal persuasion, warnings, and verbal intervention techniques; or when the alternatives are considered inappropriate due to the rapid escalation of dangerous behavior.

(b) Prior authorization for the use of physical intervention techniques and mechanical restraints shall be obtained from the supervisor or acting supervisor unless doing so could result in physical harm to the youth, employee or another person, property damage, or the youth escaping or absconding from lawful supervision.

(c) PAR certified employees shall immediately report the following intervention actions to their immediate supervisor or acting supervisor, and these incidents shall be documented per Rule 63H-1.007, F.A.C.:

1. Level 2 responses including countermoves, control techniques, and takedowns.

2. Level 3 applications of soft or hard mechanical restraints.

(d) In the event a youth is armed with a weapon or firearm and there is imminent danger of bodily harm or death, facility and program employees shall, if possible, isolate or contain the youth and request emergency assistance from law enforcement if application of the PAR Escalation Matrix is insufficient to control the youth.

(e) If a youth is in the process of inflicting grave bodily harm, or possible death, upon others or self, facility and program employees shall immediately contact law enforcement. Employees are authorized to use reasonable and necessary means to stabilize the situation.

Specific Authority 985.405, 985.4055 FS. Law Implemented 985.4055(2)(a) FS. History–New 11-19-06, Amended \_\_\_\_\_.

63H-1.011 Rehired Employee Training.

(1) through (2) No change.

(3) If an employee is rehired after 12 calendar months but within 24 calendar months of termination, the employee must satisfy the following requirements:

(a) Attend a minimum of 8 hours of remedial training; ~~and~~

(b) Obtain 100% satisfactory performance of the techniques specified on the employee's PAR Training Plan using the PAR Performance Evaluation; and:

(c) Obtain a minimum score of seventy-five percent (75%) on the PAR written exam.



(4) If an employee is rehired after 24 calendar months of termination, he or she is no longer considered certified and must complete all requirements as outlined in Rule 63H-1.009, F.A.C.

Specific Authority 985.405, 985.4055 FS. Law Implemented 985.4055(2)(b) FS. History--New 11-19-06, Amended\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael McCaffrey, Director, DJJ Staff Development and Training

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Frank Peterman, Jr., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 13, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 18, 2008

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE NO.: 64B5-1.021  
 RULE TITLE: List of Approved Forms; Incorporation

PURPOSE AND EFFECT: The Board proposes the rule amendment to adopt language to clarify the application for Health Access Dental License and have form # DH-MQA 1154 (revised 9/23/08) incorporated by reference.

SUMMARY: The rule amendment will adopt language to clarify the application for Health Access Dental License and have form # DH-MQA 1154 (revised 9/23/08) incorporated by reference.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of Estimated Regulatory Cost was prepared. The Board voted at it's meeting on September 11, 2008 that the rule amendment would not effect small businesses.

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

SPECIFIC AUTHORITY: 466.004 FS.

LAW IMPLEMENTED: 120.52(15) FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-1.021 List of Approved Forms; Incorporation.

The following forms used by the Board in its dealings with the public are listed as follows and are hereby adopted and incorporated by reference, and can be obtained from the Board office at 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258.

(1) through (10) No change.

(11) Any person wishing to be issued a Health Access Dental License shall apply to the Board of Dentistry. The application shall be made on the Application for Health Access Dental License form #DH-MQA 1154 (revised 9/11/08) hereby adopted and incorporated by reference, and can be obtained from the Board of Dentistry's website at <http://www.doh.state.fl.us/mqa/dentistry/>.

Specific Authority 466.004 FS. Law Implemented 120.52(15) FS. History--New 8-19-97, Amended 9-20-01,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 11, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 10, 2008

**DEPARTMENT OF HEALTH**

**Division of Environmental Health**

RULE NOS.:	RULE TITLES:
64E-9.001	General
64E-9.002	Definitions
64E-9.003	Forms
64E-9.0035	Exemptions
64E-9.004	Operational Requirements
64E-9.005	Construction Plan or Modification Plan Approval
64E-9.006	Construction Plan Approval Standards
64E-9.007	Recirculation and Treatment System Requirements
64E-9.008	Supervision and Safety
64E-9.009	Wading Pools
64E-9.010	Spa Pools
64E-9.011	Water Recreation Attractions and Specialized Pools
64E-9.013	Bathing Places
64E-9.015	Fee Schedule
64E-9.016	Variances
64E-9.017	Enforcement
64E-9.018	Public Pool Service Technician Certification

PURPOSE AND EFFECT: Develop rules to address necessary definition changes, technical changes, and reference changes resulting from statutory changes, previous rulemaking, and recent developments in this field.

SUMMARY: Numerous revisions including amendments in each rule are proposed. A public hearing is scheduled.

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

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

SPECIFIC AUTHORITY: 381.006, 381.0011, 386.02, 514.021 FS.

LAW IMPLEMENTED: 381.006, 381.0011, 381.0025, 386.01, 386.02, 386.03, 386.041, 386.051, 514.011, 514.021, 514.03, 514.031, 514.05, 514.071, 514.075 FS.

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

DATE AND TIME: Tuesday, December 2, 2008, 1:00 p.m. – 4:00 p.m. is scheduled and will continue until all attendees have presented

PLACE: Florida Dept of Health Building 4042, Room 301, 4042 Bald Cypress Way, Tallahassee 32399-1742

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 24 hours before the workshop/meeting by contacting: Pat Duncan, Bureau of Water Programs, C-22, 4042 Bald Cypress Way, Tallahassee 32399-1742, phone (850)245-4240. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Bob Vincent, Bureau of Water Programs, (850)245-4240

THE FULL TEXT OF THE PROPOSED RULES IS:

64E-9.001 General.

(1) No change.

(2) This chapter prescribes minimum design, construction, and operation requirements.

(a) The department will accept dimensional standards for competition type pools as published by the National Collegiate Athletic Association, 2008~~3~~; Federation Internationale de Natation Amateur (FINA), 2005~~2-2009~~~~5~~ Handbook; 2006-2007 ~~1998-1999~~ Official Rules and of Diving & Code of USA Diving with 2007 Amendments by Regulation of United States Diving, Inc.; 2008 USA ~~3-United States~~ Swimming Rules and Regulations, and National Federation of State High School Associations, Swimming and Diving and Water Polo

Rules Book, 2008 ~~2002-2009~~ 2003, which are incorporated by reference in these rules and can be obtained from: NCAA.org, fina.org, usadiving.org, usaswimming.org, and nfhs.org, respectively.

(b) No change.

(3) No change.

(4) The Americans with Disabilities Act of 1990 may relate to public pools and should be reviewed by the design engineer and the pool owner. Chapter 11 and Section 424.1 of the Florida Building Code also have application to public pools.

Specific Authority 381.006, 381.0011, 514.021 FS. Law Implemented 381.006, 381.0011, 381.0025, 386.01, 386.02, 386.03, 386.041, 386.051, 514.011, 514.021, 514.03, 514.031, 514.05, 514.06 FS. History—New 10-5-93, Formerly 10D-5.130, Amended 12-27-98, 5-27-04,\_\_\_\_\_.

64E-9.002 Definitions.

(1) through (3) No change.

(4) “Collector Tank” – A reservoir, with a minimum of 2.25 square feet water surface area open to the atmosphere, from which the recirculation or feature pump takes suction, which receives the gravity flow from the main drain line, surface overflow system or feature water source line, and that is cleanable.

(5) “D.E.” – is the Diatomateous Earth that is used as a filter aid in DE type filters. For the purpose of this rule, it also includes alternative filter aids that have been approved under NSF/ANSI Standard 50-2007, and accepted by the filter manufacturer.

(6)~~(5)~~ “Department” – The Department of Health (DOH), specifically, Division of Environmental Health and county health departments unless specified otherwise.

(7)~~(6)~~ “Effective Barrier” – A barrier which consists of a building, or equivalent structure, plus a 48 inch minimum height fence on the remaining sides or a continuous 48 inch minimum height fence. All access through the barrier must have one or more of the following safety features: alarm, key lock or self-locking doors and gates. Safety covers that comply with the American Society for Testing Materials standard F1346 may also be considered as an effective barrier.

(8)~~(7)~~ “Flow Through” – Continuous verifiable inflow and outflow or in the case of spring fed lakes shall be verifiable by continuous outflow.

(9)~~(8)~~ “Inaccessible” – Enclosed by an effective barrier.

(10)~~(9)~~ Interactive Water Features – A structure designed to allow for recreational activities with recirculated, filtered, and treated water; but having minimal standing water. Water from the interactive fountain type features is collected by gravity below grade in a collector tank or sump. The water is filtered, disinfected and then pumped to the feature spray discharge heads.

~~(11)(10)~~ “Lifeguard” – Person responsible for the safety of the users of a public swimming pool.

~~(12)(11)~~ “Living Unit” – Room(s) or spaces capable of being occupied by an individual or group for temporary or permanent lodging purposes. This includes motel and hotel rooms, apartment units, boarding house rooms, condominium units, travel trailers, recreational vehicles, mobile homes, single family homes, and individual units in multiple unit housing complexes.

~~(13)~~ “Marking” or “Markings” – Refers to the placement and installation of visual marking cues to help patrons identify step, bench and swimout outlines, slope break location, depth designations, and NO ENTRY and NO DIVING warnings. When markings are specified by code to be dark the term dark shall mean a Munsell Color Value from zero to four.

~~(14)(12)~~ “Modification” – Any act which changes or alters the original characteristics of the pool as approved. For example, changes in the recirculation systems, decking, treatment systems, disinfection system, and pool shape are modifications.

~~(15)(13)~~ “NTU” – Nephelometric Turbidity Unit which is a means of measuring water clarity.

~~(16)(14)~~ “Perimeter Overflow Gutter” – A level trough or ledge around the inside perimeter of the pool containing drains to clean the pool water surface.

~~(17)(15)~~ “Plunge Pool” – The receiving body of water located at the terminus of a recreational water slide.

~~(18)(16)~~ “Pool Floor” – The interior pool bottom surface which consists of that area from a horizontal plane up to a maximum of a 45 degree slope.

~~(19)(17)~~ “Pool Wall” – The interior pool side surfaces which consist of that area from a vertical plane to a 45 degree slope.

~~(20)(18)~~ “Pool Turnover” – The circulation of the entire pool volume through the filter system.

~~(21)(19)~~ “Precoat Pot” – A container with a valved connection to the suction side of the recirculation pump of a pressure diatomaceous earth (D.E.) type filter system used for coating the filter with D.E. powder or NSF/ANSI Standard 50-2007 and manufacturer approved substitute filter aid.

~~(22)(20)~~ “Private Pool” – See Section 514.011(3), F.S.

~~(23)(21)~~ “Public Bathing Place” – See Section 514.011(4), F.S. The bathing water areas of public bathing places include lakes, ponds, rivers, springs, streams, and artificial impoundments.

~~(24)(22)~~ “Public Swimming Pool” or “Public Pool” – See Section 514.011(2), F.S.

~~(25)(23)~~ “Recirculation System” – The system of piping and mechanics designed to remove the water from the pool then filter, disinfect and return it to the pool.

~~(26)~~ “River Ride” – A water recreation attraction designed to convey bathers around a relatively flat course using an artificially created current.

~~(27)(24)~~ “Sanitary Survey” – A professional assessment of any existing and potential sources of pollution of a specific land or water area.

~~(28)(25)~~ “Slip Resistant” – Having a textured surface which is not conducive to slipping under contact of bare feet unlike glazed tile or masonry terrazzo and non-textured plastic materials. Manufactured surface products shall be designated by the manufacturer as suitable for walking surfaces in wet areas. Minimum acceptable static coefficient of friction to determine slip resistance is 0.6 on horizontal wet walking surfaces in the pool and for the wet deck area.

~~(29)(26)~~ “Spa Pool” – A pool used in conjunction with high velocity air or water.

~~(30)(27)~~ “Special Purpose Pool” – A public pool used exclusively for a specific, supervised purpose, including springboard or platform diving training, SCUBA diving instruction, and aquatic programs for handicapped individuals, pre-school or kindergarten children.

~~(31)(28)~~ “Swimming Instructor” – Person who offers progressive swimming instruction.

~~(32)~~ “Swimming Pool Slide” a slide designed by its manufacturer to discharge over the sidewall of a swimming pool.

~~(33)(29)~~ “Swim Spa” – A pool used in conjunction with a directional flow of water against which one swims.

~~(34)(30)~~ “Wading Pool” – A shallow pool designed to be used by children.

~~(35)(31)~~ “Water Recreation Attraction” – A facility with design and operational features that provide patron recreational activity and purposefully involves immersion of the body partially or totally in the water. Water recreation attractions include water slides, river rides, water course rides, water activity pools, interactive water features, ~~and~~ wave pools and any additional pool within the boundaries of the attraction.

~~(36)(32)~~ “Water Activity Pool” – A water recreation attraction which has water related activities such as rope ladders, rope swings, cargo nets and other similar activities.

~~(33)~~ “River Ride” – ~~A water recreation attraction designed to convey bathers around a relatively flat course using an artificially created current.~~

~~(37)(34)~~ “Water Slides” – A water recreation attraction ride which is characterized by having trough-like or tubular flumes or chutes.

~~(38)~~ “Water Theme Park” – Means a complex with controlled access, fenced and gated attraction where guests enter through a limited number of entrances upon purchase of a ticket. These facilities are permanent and consist of multiple water recreation attractions. Lifeguards are present during all operating hours.

(39) “Water Therapy Facilities” as that term is used in Section 514.0115(1), F.S., are pools used exclusively for water therapy to treat a diagnosed injury, illness, or medical condition, wherein the therapy is provided under the direct supervision of a Florida licensed physical therapist, occupational therapist, or athletic trainer; pursuant to a prescription by a physician or a physician’s assistant (PA) licensed pursuant to Chapter 458 or 459, F.S., a podiatrist licensed pursuant to Chapter 461, F.S., or an advanced registered nurse practitioner (ARNP) licensed pursuant to Chapter 464, F.S.; and the prescribing physician, PA, podiatrist or ARNP, authorizes a plan of treatment justifying use of the pool for health care purposes.

(40)(35) “Wave Pool” – A water recreation attraction that is characterized by wave action.

(41)(36) “Wet Deck Area” – The four foot wide unobstructed pool deck area around the outside of the pool water perimeter, curb, ladders, handrails, diving boards, diving towers, pool slides, waterfalls, water features, starting blocks, planters, or lifeguard chairs.

(42)(37) “Zero Depth Entry Pool” – A pool where the pool floor continues to slope upward to a point where it meets the surface of the water and the pool deck.

(38) “Marking” or “Markings” – Refers to the placement and installation of visual marking cues to help patrons identify step, bench and swimout outlines, slope break location, depth designations, and NO ENTRY and NO DIVING warnings. When markings are specified by code to be dark the term dark shall mean a Munsell Color Value from zero to four.

Specific Authority 381.0011, 381.006, 514.021 FS. Law Implemented 381.0011, 381.0025, 381.006, 386.01, 381.02, 386.03, 386.041, 386.051, 514.011, 514.021, 514.03, 514.031, 514.05, 514.06, 514.071 FS. History–New 10-5-93, Formerly 10D-5.131, Amended 12-27-98, 5-27-04,\_\_\_\_\_.

64E-9.003 Forms.

(1) All forms listed in this section are herein incorporated by reference ~~in these rules~~ and may be obtained from the department, at: <http://www.doh.state.fl.us/environment/water/swim/download.html>, or DOH, mail bin C-22, 4052 Bald Cypress Way, Tallahassee 32399-1742, or at the local County Health Department. The following forms are for use by the department or the public:

(a) DH 1350, 7/08 3/98, Public Swimming Pool Engineering Inspection Report.

(b) through (c) No change.

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

(c) DH 914, 7/08 Sept. 99, Application For Approval Of Swimming Pool Plans.

(d) DH 916, 7/08 3/98, Application for Swimming Pool Operating Permit/Authorization.

(e) DH 917, 3/98, Application for a Bathing Place Operating Permit/Authorization.

(f) No change.

(g) DH 4080, 7/08 April 97, Application for Variance from Chapter 64E-9, F.A.C.

(h) DH 4144 1/09, Application for Swimming Pool Exemption Status – Water Therapy Facilities.

Specific Authority ~~381.0011~~, 381.006, 514.021 FS. Law Implemented ~~Part I, Ch. 386, 381.0011, 381.0025~~, 381.006, ~~514.011~~, 514.0115, 514.021, 514.025, 514.03, 514.031, 514.033 FS. History–New 10-5-93, Formerly 10D-5.132, Amended 12-27-98, 3-30-00, 5-27-04,\_\_\_\_\_.

64E-9.0035 Exemptions.

(1) A person seeking an initial exemption, or an existing facility claiming to be exempt from department regulation pursuant to the provisions of Section 514.0115, F.S., shall apply to the department on forms listed in Rule 64E-9.003, F.A.C. Each such application shall be renewed bi-annually, by July 1st of each even numbered year.

(a) Applicants for a swimming pool exemption pursuant to paragraph (2)(a) or (2)(b) or subsection (1), of Section 514.0115, F.S., shall submit the following information along with the applicable department form listed above:

1. For condominiums, the recorded declaration of condominium, the condominium’s articles of incorporation and bylaws, and all duly adopted and recorded amendments, supplements, and all recorded exhibits thereto, and a copy of a plot plan diagram for the proposed property; or

2. For cooperatives, the articles of incorporation of the association, the bylaws, and the ground lease or other underlying lease, if any; the document evidencing a unit owner’s membership or share in the association; and the document recognizing a unit owner’s title or right of possession to his or her unit, and a copy of a plot plan diagram for the proposed property.

3. For exemption as a water therapy facility pool, a written statement signed by a medical professional that they have already, or intend to prescribe medical water therapy for a patient in the pool and this professional shall be a physician or a physician’s assistant (PA) licensed pursuant to Chapter 458 or 459, F.S., a podiatrist licensed pursuant to Chapter 461, F.S., or an advanced registered nurse practitioner (ARNP) licensed pursuant to Chapter 464, F.S. For subsequent biannual exemption renewals, in addition to the signed written statement from a medical professional as required above, each water therapy facility shall provide a list of the Florida licensed physical therapist(s), occupational therapist(s), and athletic trainer(s) providing therapy in the pool.

(b) For purposes of Section 514.0115, F.S., the term condominium shall be as defined in Chapter 718, F.S., and the term cooperative shall be as defined in Chapter 719, F.S.

(2) A person who sought and received an exemption from public swimming pool regulation, shall contact the department if the conditions upon which the exemption was granted

change so as to eliminate the exemption status. Under such circumstances, the pool must be modified in order to comply with the provisions of this chapter and Chapter 514, F.S.

(3) An exemption from department rules does not exempt the pool from Florida Building Code requirements.

Specific Authority 381.006, 514.021 FS. Law Implemented 514.0115 FS. History–New \_\_\_\_\_.

64E-9.004 Operational Requirements.

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

(d) Chemical quality – Chemicals used in controlling the quality of the pool water shall be tested and approved using the National Sanitation Foundation (NSF-ANSI) Standard 60, 2005 1996a 1997, which is incorporated by reference in these rules and shall be compatible with other accepted chemicals used in pools. The following parameters shall be adhered to for pool water treatment:

1. through 3. No change.

4. Cyanuric acid – 40 100 mg/L maximum in pools and 40 mg/L in spa pools

5. through 7. No change.

(e) Landscape irrigation water that wets the wet deck area of the pool, the pool itself, collector tank or an interactive water feature must be potable water from a public water system.

(2) through (10) No change.

(11) Test kits are required to be on the premises of all pools to determine free active chlorine and total chlorine using N,N-Diethyl-p-Phenylenediamine (DPD), or bromine level, total alkalinity, calcium hardness, and pH.

(a) The following test kits shall be provided if the corresponding chemicals are used: cyanuric acid, sodium chloride, quaternary ammonium, ozone and copper.

(b) through (d) No change.

(12) No change.

(13) The keeping of a daily record of information regarding pool operation, using the Monthly Swimming Pool Report – DH 921 3/98, obtained from the local county health department, shall be the responsibility of the pool owner or operator. Customized report forms may be substituted provided they contain the appropriate information and are acceptable to the department. The completed report shall reflect manually conducted pool water tests for pH and disinfectant levels at least once every 24 hours, and weekly testing for cyanuric acid when chlorinated isocyanurates are used at spas, monthly at pools, and shall be retained at the pool or submitted monthly as required by the local health department. DH 921, 3/98, may be obtained at the local county health department. For the purposes of daily testing of the pool water and keeping of the Monthly Swimming Pool Log, the requirements of Rule 64E-9.018, F.A.C., are not applicable.

(14) Should a human fecal accident occur, the pool operator or owner shall comply with all recommendations found in ~~consider~~ the Centers for Disease Control's (CDC) "Fecal accident response recommendations for Aquatics pool Staff" found on the internet web site: <http://www.cdc.gov/healthyswimming/fecalacc.htm> ~~http://www.cdc.gov/healthy-swimming/~~. Alternative emergency disinfection methods approved by the CDC may also be used.

Specific Authority 381.0011, 381.006, 514.021 FS. Law Implemented Part I, Ch. 386, 381.0011, 381.0025, 381.006, 514.021, 514.03, 514.031, 514.05, 514.06 FS. History–New 10-5-93, Formerly 10D-5.133, Amended 12-27-98, 5-27-04, \_\_\_\_\_.

64E-9.005 Construction Plan or Modification Plan Approval.

It is unlawful for any person(s) to begin construction or modification of any public pool without first having received written approval from the department. Unapproved pools and proposed modifications to previously approved aspects of pools shall satisfy the requirements of the rules in effect at the time of project plans submittal. The department shall allow flow velocities through the main drain and surface overflow system piping which exceed those specified in subsection 64E-9.007(8), F.A.C., when retrofitting the pool recirculation system with a collector tank. However, the design engineer must provide appropriate calculations justifying the design. The flow rate through the main drain grating shall not exceed 1.5 feet per second.

(1) No change.

(a) No change.

1. No change.

2. Construction drawings of the project which contain sufficient detail to clearly apprise the department of the work to be undertaken which includes a site map with nearest cross streets and major thoroughfares, all views of the pool including dimensions, equipment area or enclosure, project layout and location, sanitary facility detail and location, a scaled site plan, a property survey (if available), a pool equipment list including the manufacturer or distributor names, model numbers, and catalog numbers or equipment description. All prints shall be drawn to a standard scale and shall be a minimum size of 18 × 24 inches and a maximum size of 36 × 42 inches. The details on the drawings shall be satisfactory for photographic reproduction. Color coded drawings are not acceptable. A four by six inch blank space shall be left vacant on the lower right hand corner or directly above the title block on each sheet.

3. No change.

4. If available, an electronic copy of the plans in PDF, TIF, DWG, or JPEG format.

(b) through (g) No change.

(h) If construction of the pool shell has not commenced within one year from the date of plans approval, the approval shall expire. After plans approval expires, and there have been

no changes to Chapter 64E-9, F.A.C., that affect the proposed plans, the applicant may submit the same plans to the department for re-approval, along with the fee established in paragraph 64E-9.015(1)(b), F.A.C. If there have been changes to Chapter 64E-9, F.A.C., that affect the proposed plans, or if the plans differ from the original submission, then the applicant must submit the fee established in paragraph 64E-9.015(1)(a), F.A.C.

(i) No change.

1. through 2. No change.

3. When night swimming is proposed, an engineer licensed in Florida shall provide certification that the deck and surface lighting requirements of paragraph 64E-9.006(2)(c), F.A.C., have been met.

(j) No change.

(2) No change.

(a) through (d) No change.

(e) The pool ladder must have a three to six inch clearance from the pool wall. New cross braced ladder(s) shall be installed in place of non-cross braced ladder(s) in conformance with subparagraph 64E-9.006(1)(d)1., F.A.C., during a pool re-surfacing.

(f) through (g) No change.

(h) The County Health Department shall be notified in writing of any proposed pool resurfacing or upgrades to decking at least 10 days prior to commencement. The notification shall include an itemized list of all proposed work that is to be performed, the license number of the contractor selected and shall indicate that all work will meet the requirements of paragraphs 64E-9.005(2)(a) through (g), F.A.C.

(i) No change.

(j) Recessed treads that protrude from the pool wall shall be removed and replaced with a cross braced ladder or reconstructed to meet the requirements of subparagraph 64E-9.006(1)(d)2., F.A.C.

(3) through (6) No change.

(7) The installation of copper or copper/silver ionization units and ozone generators capable of producing less than a pool water ozone contact concentration of 0.1 milligrams per liter (mg/L), shall not be considered a pool modification provided compliance with when the following is met:

(a) The ionization or ozone generator unit complies with paragraph 64E-9.007(16)(e), F.A.C.

(b) No change.

1. through 3. No change.

4. The unit shall meet the requirements of the NSF standard 50.

(c) At least 7 days before ~~At~~ the time of installation, the installer will provide a photocopy of the above drawings and a letter of intent identifying the pool on which the unit is to be installed.

(d) No change.

Specific Authority 381.0011, 381.006, 514.021 FS. Law Implemented 381.0011, 381.0025, 381.006, 386.01, 386.02, 386.03, 386.041, 386.051, 514.021, 514.025, 514.03, 514.031, 514.05, 514.06 FS. History--New 10-5-93, Formerly 10D-5.134, Amended 12-27-98, 5-27-04, \_\_\_\_\_.

64E-9.006 Construction Plan Approval Standards.

(1) Pool Structure – Pools shall be constructed of concrete or other impervious and structurally rigid material. All pools shall be watertight, free from structural cracks and shall have a nontoxic smooth and slip resistant finish. All materials shall be installed in accordance with manufacturer's specifications unless such standards violate rule requirements or NSF approval.

(a) Floors and walls shall be white or light pastel in color and shall have the characteristic of reflecting rather than absorbing light. A minimum 4 inch tile line, each tile a minimum size of four square inches, shall be installed at the water line, but shall not exceed 12 inches in height if a dark color is used. Gutter type pools may substitute 2-inch tile, each a minimum size of four square inches, along the pool wall edge of the gutter lip.

1. through 2. No change.

3. One inch square tile may be used throughout the remainder of the pool if the licensed contractor provides a signed written certification to the approving department engineer that the adhesive used on the one inch square tile has a manufacturer's tested sheer strength of at least 250 psi and the manufacturer has specified the adhesive for use underwater to adhere the type of tile used (vitreous (glass) or ceramic).

(b) Sizing – The bathing load for conventional swimming pools, wading pools, interactive water features, water activity pools less than 24" deep, and special purpose pools shall be computed on the basis of one person per five gallons per minute (gpm) of recirculation flow. ~~The bathing load for wading pools and interactive water features shall be established by averaging one person per 20 square feet of pool area and one person per 5 gallons per minute of filter rate.~~ The bathing load for spa type pools shall be based on one person per each 10 square feet of surface area. The filtration system for swimming pools shall be capable of meeting all other requirements of these rules while providing a flowrate of at least one gallon per minute for each living unit at transient facilities and three-fourths gallon per minute at non-transient facilities. Recreational vehicle sites, campsites and boat slips designated for live-aboards shall be considered a transient living unit. For properties with multiple pools, this requirement includes the cumulative total GPM of all swimming pools, excluding spas, wading pools and interactive water features. All other types of projects shall be sized according to the anticipated bathing load and proposed uses. For the purpose of determining minimum pool size only, the pool turnover period used cannot be less than three hours.

## (c) Dimensions.

1. Walls and corners – All pool walls shall have a clearance of 15 feet perpendicular to the wall (as measured at design water level from gutter lip to gutter lip, or on skimmer pools, from vertical wall to vertical wall). Offset steps, ~~and~~ spa coves, spa pools and wading pools are exempt from this clearance requirement. Where interior steps protrude into the pool resulting in less than 15 feet of clearance from any wall such protrusion shall not exceed six feet on any perpendicular line from a tangent to any pool wall from which the steps emanate. The upper part of pool walls in areas five feet deep or less shall be within five degrees of vertical for a minimum depth of two and one-half feet from which point the wall may join the floor with a maximum radius equal to the difference between the pool depth and two and one-half feet. The upper part of pool walls in areas over five feet deep shall be within five degrees of vertical for a minimum depth equal to the pool water depth minus two and one-half feet from which point the wall may join the floor with a maximum radius of two and one-half feet. Corners shall be a minimum 90 degree angle. The corner intersections of walls which protrude or angle into the pool water area shall be rounded with a minimum radius of two inches. This radius shall be continued through the top of the gutter edge; chamfering is allowed. Pool coping shall not overhang into the pool more than one and a half inches.

2. through 3. No change.

(d) Access – All pools shall have a means of access every 75 feet of pool perimeter with a minimum of two, located so as to serve both ends of the pool. In addition, an access point shall be provided at the deep portion, if the deep portion is not at one end of the pool. When the deep portion of the pool is over 30 feet wide both sides of this area shall have a means of access. Access shall consist of ladders, stairs, recessed treads or swimouts and may be used in combination. All treads shall have a slip resistant surface.

1. Ladders – Ladders shall be of the cross-braced type and shall be constructed of corrosion resistant materials and be securely anchored into the pool deck. Clearance between the ladder and pool wall shall be between three to six inches. Ladders shall extend at least 28 inches and no more than 40 inches above the pool deck. Ladder bottom braces shall have intact end caps or bumpers that rest firmly against the pool wall. The top rung of the ladder shall be at or below the water level on open gutter pools and not more than 12 inches below the deck or curb top on all other type pools.

2. No change.

3. Stairs – Stairs shall have a minimum tread width of 10 inches and a maximum width of 48 inches for a minimum tread length of 24 inches and a maximum riser height of 10 inches. Treads and risers between the top and bottom treads shall be uniform to within 1/2 inch in width and height. The riser heights shall be measured at the marked step edges and the differences in elevation shall be considered the riser heights.

The front 3/4 to 2 inches of the tread and the top 2 inches of the riser shall be tile, dark in color, contrasting with the interior of the pool. Tile shall be slip resistant. Bullnose tile that is slip resistant may be used when the 3/4ths inch segment is placed on the tread or horizontal surface and the 2 inch segment is placed on the riser or vertical surface. Where the gutter is used as the top step, the tile on the gutter for the width of the steps shall be slip resistant. Vinyl liner and fiberglass pools may use other material for the step edge marking, provided the material is permanent, permanently secured, dark in color, non-fading, and slip resistant.

4. No change.

5. Handrails and Grabrails – Handrails shall be provided for all stairs, shall be anchored in the bottom step and the deck. Where “figure 4” deck mounted type handrails are used, they shall be anchored in the deck and extend laterally to any point vertically above the bottom step. Grabrails must be mounted in the pool deck at each side of recessed steps. Handrails and grabrails shall extend between at least 28 and 40 ~~to 36~~ inches above the step edge and deck.

6. No change.

(e) No change.

1. No change.

2. Underwater seat benches may be installed in areas less than five feet deep. Bench seats must be 14 to 18 inches wide and must have a dark contrasting tile marking on the seat edge extending two inches on the horizontal and vertical surface. Tile must be slip resistant. Bullnose tile may be substituted and installed in accordance with subparagraph 64E-9.006(1)(d)3., F.A.C. Vinyl liner, stainless steel, and fiberglass pools may use other material for the bench edge marking, provided the material is permanently secured, dark in color, non-fading, and slip resistant. Benches shall not protrude into the 15 foot clearance requirement of subparagraph 64E-9.006(1)(c)1., F.A.C.

(f) No change.

(g) Diving Areas – Diving facilities shall meet the minimum requirements of the FINA dimensions for diving facilities in accordance with the 2005 ~~1998-2009~~ FINA Handbook.

1. through 4. No change.

(2) Pool Appurtenances.

(a) Decks and Walkways – Wooden decks and walkways are prohibited.

1. Pool wet decks shall have a minimum unobstructed width of four feet around the perimeter of the pool, pool curb, ladders, handrails, diving boards, diving towers, and slides, shall be constructed of concrete or other nonabsorbent material having a smooth slip resistant finish and shall be uniformly sloped at a minimum of two percent to a maximum of four percent away from the pool or to deck drains to prevent standing water. Textured deck finishes that provide pitting and crevices that accumulate soil are prohibited. If settling or

weathering occurs that would cause standing water, the original slopes shall be restored. When a curb is provided, the deck shall not be more than 10 inches below the top of the curb. Wet deck area finishes shall be designed for such use and shall be installed in accordance with the manufacturer's specifications. Traffic barriers shall be provided as needed so that parked vehicles do not extend over the deck area. Walkways shall be provided between the pool and the sanitary facilities, and shall be constructed of concrete or other nonabsorbent material having a smooth slip resistant finish for the first 15 feet of the walkway measured from the nearest pool water's edge. A hose bibb with a vacuum breaker shall be provided to allow the deck to be washed down with potable water.

2. through 3. No change.

(b) Bridges and overhead obstructions over the pool shall be designed so they will not introduce any contamination to the pool water. The minimum height of the bridge or obstruction shall be at least eight feet from the bottom of the pool and at least four feet above the surface of the pool. Minimum 42 inch high handrails shall be provided along each side of the bridge. The walking surfaces shall be constructed of concrete or other nonabsorbent material having a smooth slip resistant finish. Pool coping shall not overhang into the pool more than one and a half inches.

(c) No change.

1. Outdoor pool lighting – ~~Overhead L~~ighting shall provide a minimum of three foot candles of illumination at the pool water surface and the pool wet deck surface. Underwater lighting shall be a minimum of one-half watt per square foot of pool water surface area.

2. Indoor pool lighting – ~~Overhead L~~ighting shall provide a minimum of 10 foot candles of illumination at the pool water surface and the pool wet deck surface. Underwater lighting shall be a minimum of eight-tenths watt per square foot of pool surface area.

3. Underwater lighting – Underwater lighting shall utilize transformers and low voltage circuits with each underwater light being grounded. The maximum voltage for each light shall be 15 volts and the maximum incandescent lamp size shall be 300 watts. The location of the underwater lights shall be such that the underwater illumination is as uniform as possible and shall not be less than 18 inches below the normal operating water level determined by the centerline of the skimmer or top lip of the gutter. All underwater lights which depend upon submersion for safe operation shall have protection from overheating when not submerged. Underwater lighting requirements can be waived when the overhead lighting provides at least 15 foot candles of illumination at the pool water surface and pool wet deck surface. Alternative lighting systems which use 15 volts or less, or use no ~~do not~~ utilize electricity in the pool or on the pool deck, such as LED, (light emitting diode) or fiber optic systems, may be utilized if

the applicant demonstrates to reasonable certainty that the system development has advanced to the point where the department is convinced that the pool illumination is equal to the requirements in subparagraphs 1. and 2. above.

4. Overhead wiring – Overhead service wiring shall not pass within an area extending a distance of 10 feet horizontally away from the inside edge of the pool walls, diving structures, observation stands, towers, or platforms. Allowances in the National Electrical Code or Florida Building Code may used instead.

(d) Electrical Equipment and Wiring – Electrical equipment wiring and installation including the grounding of pool components shall conform with the National Electrical Code (NEC), 2008 1996 Edition, ~~and which is incorporated by reference in these rules and shall comply~~ with applicable local codes. The NEC is incorporated by reference in these rules and is available from the National Fire Protection Association, Quincy Massachusetts. A signature ~~Written evidence~~ shall be provided on form DH916 from the electrical contractor or the electrical inspector certifying of compliance with the National Electrical Code.

(e) Equipment Enclosures, Area or Rooms – Equipment designated by the manufacturer for outdoor use may be located in an equipment area, all other equipment must be located in an equipment room or enclosure. Plastic pipe subject to a period of prolonged sunlight exposure must be coated to protect it from ultraviolet light degradation. An equipment area shall be surrounded with a fence at least four feet high on all sides not confined by a building or equivalent structure. A self-closing and self-latching gate with a locking device shall be provided if necessary for access. An equipment room shall be protected on at least three sides and overhead. The fourth side may be a gate, fence, or open if otherwise protected from unauthorized entrance. An equipment enclosure shall be lockable or otherwise protected from unauthorized access. This access security shall be installed on all pool equipment areas by one year from the effective date of this rule for those that do not presently have a similar level of security. The equipment enclosure, area or room floor shall be of concrete or other nonabsorbent material having a smooth slip resistant finish and shall have positive drainage, including a sump pump if necessary. Ancillary equipment, such as a heater, not contained in an equipment enclosure or room shall necessitate an equipment area as described above, which shall also be installed by one year from the effective date of this rule.

1. Ventilation and Access – Equipment enclosures or rooms shall have either forced draft or cross ventilation. All below grade equipment rooms shall have a stairway access with forced draft ventilation or a fully louvered door and louvered vent on at least one other side. Where stairway access is not necessary to carry heavy items into the below grade room or vault, a "ship's ladder" may be used if approved by the department engineer. The opening to the equipment room or



area shall be a minimum of three feet by six feet and shall provide easy access to the equipment. A hose bibb with vacuum breaker shall be located in the equipment room or area.

2. No change.

(f) Sanitary Facilities – Swimming pools with a bathing load of 20 persons or less may utilize a unisex restroom. Pools with bathing loads of 90 persons or less may utilize two unisex restrooms or meet the requirement on the chart below. Unisex restrooms shall meet all the requirements for materials, drainage and signage as indicated in subparagraphs 64E-9.006(2)(f)2. through 7. below. Each shall include a water closet, a diaper change table, and a lavatory; a urinal is optional. Pools with a bathing load larger than 90 persons shall provide s~~Separate sanitary facilities shall be provided and labeled for each sex. The entry doors of all such restrooms must be and must be~~ located within a 200 foot walking distance of the nearest water’ s edge of each pool served by the facilities.

1. Fixtures shall be provided as indicated on the following chart: The fixture count on this chart is deemed to be adequate for the pool and pool deck area that is up to three times the area of the pool surface provided.

Size of Pool (square feet)	<u>Required Fixture Count</u>				
	Men’s Restroom			Women’s Restroom	
	Urinals	WC	Lavatory	WC	Lavatory
0-2500	1	1	1	1	1
2501-5000	2	1	1	5	1
5001-7500	2	2	2	6	2
7501-10000	3	23	3	89	3

An additional set of fixtures shall be provided in the men’s restroom for every 7,500 5,000 square feet or major fraction thereof for pools greater than 10,000 square feet. Women’s restrooms must have a ratio of three to two water closets provided for women to the combined total of water closets and urinals provided for men. Lavatory counts shall be equal.

2. Outside access to facilities shall be provided for bathers at outdoor pools. Where the restrooms are located within an adjacent building and the restroom doors do not open to the outside, the restroom doors shall be within 50 feet of the buildings exterior door. If the restrooms and if they are not visible from any portion of the pool deck, signs shall be posted showing directions to the facilities. These directions shall be legible from any portion of the pool deck and the letters shall be a minimum of one inch high.

3. Sanitary facility floors shall be constructed of concrete or other nonabsorbent materials and shall have a smooth slip resistant finish and shall slope to floor drains. Carpets, duckboards and footbaths are prohibited. The intersection

between the floor and walls must be covered where either floor or wall is not made of waterproof materials or the intersection is not sealed waterproof.

4. No change.

5. A hose bibb with vacuum breaker shall be provided in or within 25 feet of near each restroom to allow for ease of cleaning.

6. No change.

7. One d~~Diaper~~ changing tables shall be provided at each restroom. Diaper changing tables are not required at restrooms where all pools served are restricted to adult use only. Swim diapers are recommended for use by children that are not toilet trained. Persons that are ill with diarrhea can not enter the pool facilities that cater to families with small children.

(g) No change.

(h) All public pools shall be surrounded by a minimum 48 inch high fence or other substantial barrier approved by the department. The fence shall be continuous around the perimeter of the pool area that is not otherwise blocked or obstructed by adjacent buildings or structures and shall adjoin with itself or abut to the adjacent members. Access through the barrier or fence from dwelling units such as homes, apartments, motel rooms, and hotel rooms, other than from doored exits of adjacent building(s) shall be through self-closing self-latching lockable gates of 48 inch minimal height from the floor with the latch located a minimum of 54 inches from the bottom of the gate or at least 3 inches below the top of the gate on the pool side. Doored access points from public rooms such as lobbies or club houses need not be through gates. Gates shall open outward away from the pool area. A latched, lockable gate shall be placed in the fence within ten feet of the closest point between the pool and the equipment area for service access. Instead of a fence, permanent natural or man-made features such as bulkheads, canals, lakes, navigable waterways, etc., adjacent to a pool may be permitted as a barrier when approved by the department. When evaluating such barrier features, the department may perform onsite inspections, and review evidence, such as surveys, aerial photographs, water management agency standards and specifications, and any other similar documentation to verify at minimum, the following: the barrier feature is not subject to natural changes, deviations, or alterations and is capable of providing an equivalent level of protection as that provided by a structure, and the barrier feature clearly impedes, prohibits or restricts access to the pool.

Screened pool enclosures must be hardened on the bottom three feet. Fencing c~~onsideration~~ shall be given to the U.S. Consumer Product Safety Commission (CPSC) Publication- No. 362 guidelines available from CPSC.gov, or the Florida Building Code sections R4101.17.1.1 –R4101.17.1.8. Safety Covers that comply with ASTM Standard F1346 do not satisfy this requirement.

Specific Authority 381.0011, 381.006, 514.021 FS. Law Implemented 381.0011, 381.0025, 381.006, 386.01, 386.02, 386.03, 386.041, 386.051, 514.021, 514.03, 514.031, 514.05, 514.06 FS. History—New 10-5-93, Formerly 10D-5.135, Amended 12-27-98, 5-27-04,

64E-9.007 Recirculation and Treatment System Requirements.

(1) Recirculation and treatment equipment such as filters, recessed automatic surface skimmers, ionizers, ozone generators, disinfection feeders and chlorine generators must be tested and approved using the NSF/ANSI ~~ANSI International~~ Standard 50-2007 ~~1996~~, Circulation System Components and Related Materials for Swimming Pool, Spas/Hot Tubs, dated April ~~October 28, 2007~~ ~~1996~~, which is incorporated by reference in these rules. The standard and a list of approved devices is available from www.NSF.org. If standards do not exist for a specific product, the manufacturer must work with NSF or other American National Standards Institute (ANSI) approved agency to develop such standards.

(2) through (3) No change.

(3)(a) Perimeter overflow gutters – The lip of the gutter shall be uniformly level with a maximum tolerance of one-fourth inch between the high and low areas. The bottom of the gutter shall be level or slope to the drains. The spacing between drains shall not exceed 10 feet for two inch drains or 15 feet for two and one-half inch drains, unless hydraulically justified by the design engineer. Gutters may be eliminated along pool edges for no more than fifteen feet and this shall not exceed 10% of the perimeter (at least 90% of the perimeter shall be guttered). In areas where gutters are eliminated, handholds shall be provided within nine inches of the water surface. Handhold design shall be approved by the department prior to construction. The gutter lip shall be tiled with a minimum of 2 inch tile on the pool wall, each a minimum size of four square inches, except that stainless steel gutters are exempt from this requirement.

1. Either recessed type or open type gutters shall be used. Special designs can be approved provided they are within limits of sound engineering practice. Recessed type gutters shall be at least four inches deep and four inches wide, and no part of the recessed gutter shall be visible from a position directly above the gutter sighting vertically down the edge of the deck or curb. Open type gutters shall be at least six inches deep and 12 inches wide. The back vertical wall of the gutter shall be tiled with glazed tile, each a minimum size of four square inches. This tile shall be smooth and easily cleanable. The gutter shall slope downward 2 inches, plus or minus 1/4 inch, from the lip to the drains. When open type gutters are located at pool steps and the gutter is used as a step tread, the gutter slope may be reduced to 1 inch in the area of the steps, and this tread shall be tiled with slip resistant tile. The back of the gutter drains shall be located within 3/4 inch of the back

vertical wall of the gutter, where the gutter is deepest at the deepest part of the gutter and shall be flush with the surrounding area or be recessed no more than 3/8 inch.

2. No change.

3. The department shall waive the requirements of tile on stainless steel gutter systems when it can be shown that the surfaces at the waterline and back of the gutter are smooth and easily cleanable.

(b) No change.

1. No change.

2. Prevailing wind direction and the pool outline shall be considered by the designer in the selection of skimmer locations and the location of skimmers shall be such that the interference of adjacent inlets and skimmers is minimized. Recessed automatic surface skimmers shall be installed so that there is no protrusion into the pool water area. The deck or curb shall provide for a handhold around the entire pool perimeter and shall not be located more than nine inches above the mid point of the opening of the skimmer.

3. through 4. No change.

5. A minimum 6-inch water line tile shall be provided on all pools with automatic skimmer systems, each a minimum size of four square inches. Glazed tile that is smooth and easily cleanable shall be utilized.

(4) No change.

(5) No change.

(5)(a) Filter capacities – The maximum filtration rate in gallons per minute per square foot of filter area shall be: fifteen (twenty if so approved utilizing the procedure stated in subsection 64E-9.007(1), F.A.C.) for high rate sand filters, three for rapid sand filters, three-hundred-seventy-five thousandths for pleated cartridge filters and two for Diatomaceous Earth (D.E.) type filters.

(b)1. through 2. No change.

3. Precoat – A precoat pot or collector tank shall be provided for D.E. type systems.

(c) Filter tanks and elements – The filter area shall be determined on the basis of effective filtering surfaces with no allowance given for areas of impaired filtration, such as broad supports, folds, or portions which may bridge. D.E. Filter elements shall have a minimum one inch clear spacing between elements up to a four square foot effective area. The spacing between filter elements shall increase one-eighth inch for each additional square foot of filter area or fraction thereof above an effective filter area of four square feet. All cartridges used in public pool filters shall be permanently marked with the manufacturer's name, pore size and area in square feet of filter material. All cartridges with end caps shall have the permanent markings on one end cap. Vacuum filter tanks shall have covered intersections between the wall and the floor and the tank floor shall slope to the filter tank drain. The D.E. filter tank and elements shall be installed such that the recirculation

flow draw down does not expose the elements to the atmosphere whenever only the main drain valve is open or only the surface overflow gutter system valve is open.

(6) through (7) No change.

(8) Flow Velocity – Pressure piping shall not exceed 10 feet per second, except that precoat lines with higher velocities may be used when necessary for agitation purposes. The flow velocity in suction piping shall not exceed six feet per second except that flow velocities up to 10 feet per second in filter assembly headers will be acceptable. Main drain systems and surface overflow systems which discharge to collector tanks shall be sized with a maximum flow velocity of three feet per second. The filter and vacuuming system shall have the necessary valves and piping to allow filtering to pool, vacuuming to waste, vacuuming to filter, complete drainage of the filter tank, backwashing for sand and pressure D.E. type filters and precoat recirculation for D.E. type filters.

(9) Inlets – All inlets shall be adjustable with wall type inlets being directionally adjustable and floor type inlets having a means of flow adjustment. Floor inlets shall be designed and installed such that they do not protrude above the pool floor and all inlets shall be designed and installed so as not to constitute sharp edges or protrusions hazardous to pool bathers. Floor inlets for vinyl liner and fiberglass pools, shall be smooth with no sharp edges, and shall not extend more than 3/8 inches above the pool floor. Wall inlets shall be installed a minimum of 12 inches below the normal operating water level unless precluded by the pool depth or intended for a specific acceptable purpose.

(a) through (c) No change.

(d) Pools greater than 30 feet in width shall have either floor inlets only, or a combination of floor inlets and wall inlets. Pools with floor inlets only shall have a number of floor inlets provided such that the spacing between adjacent inlets does not exceed 20 feet and the spacing between inlets and an adjacent wall does not exceed 10 feet.

(e) Pools greater than 30 feet in width with ~~may have~~ a combination of wall and floor inlets shall have ~~provided~~ the number of wall inlets ~~is~~ such that the maximum spacing between the wall inlets is 20 feet and floor inlets are provided for the pool water area beyond a 15 feet perpendicular distance from all walls. The number of floor inlets shall be such that the spacing between adjacent inlets does not exceed 20 feet and the distance from a floor inlet and an adjacent wall does not exceed 25 feet.

(f) No change.

(10) No change.

(a) through (e) No change.

(f) All pools built without a main drain collector tank must be retrofitted with a properly sized and piped collector tank on or before the following dates to eliminate direct suction through the main drain.

1. For all pools, including wading pools, except spa type pools, with a main drain grate water depth of 4 feet or less, construction shall be completed on or before one year from the effective date of this rule; for all spa type pools built before 1977, retrofit by July 1, 2010, for all spa type pools built between 1977 and 1986, retrofit by July 1, 2011, for all spa type pools built between 1986 and 1995, retrofit by July 1, 2012 and for all other pools, retrofit by July 1, 2013.

2. All existing public pools with direct suction main drains shall install as soon as possible, but in no case later than 120 days after the effective date of this rule, a main drain cover/grate that meets both the ASME/ANSI A112.19.8-2007 standard for drain covers and the water velocity requirement of this rule.

3. A modification permit shall be obtained prior to installation of the collector tank.

4. Pools that cannot be retrofitted by these dates shall be closed on or before these dates.

(g)(f) Main drain covers/grates installed after the effective date of this rule shall comply with the requirements of ASME/ANSI A112.19.8-2007 and the water velocity requirement of this rule. Main drain outlet grates shall be flat and flush with the surrounding area.

(11) through (15) No change.

(16) Disinfection and pH adjustment shall be added to the pool recirculation flow using automatic feeders meeting the requirement of NSF/ANSI Standard 50-2007+996. All chemicals shall be fed into the return line after the pump, heater and filters, unless the feeder was designed by the manufacturer and approved by the NSF to feed to the collector tank or to the suction side of the pump. Feeding chlorinated isocyanurates disinfectant is prohibited ~~in~~ spas, wading pools and interactive water features, and these existing feeders shall be replaced with non-isocyanurate chlorinators, or equivalent, with a pH adjustment feeder on or before June 1, 2011. Dual or multiuse feeders can be used if approved for and feeding an acceptable rate of alternate disinfectant.

(a) Gas chlorination – When gas chlorination is utilized, the chlorinator shall be capable of continuously feeding a chlorine dosage of ~~six four~~ mg/L to the recirculated flow of the filtration system. The application point for chlorine shall be located in the return line downstream of the filter, recirculation pump, heater, and flow meter, and as far as possible from the pool.

1. through 5. No change.

(b) through (c) No change.

(d) No change.

1. No change.

2. Ozone generating equipment shall meet the NSF/ANSI- s Standard ~~Number~~ 50-2007+996.

3. through 7. No change.

(e) No change.

1. No change.

2. Ionization equipment shall meet the NSF/ANSI- s Standard 50-2007~~1992~~, Circulation System Components and Related Materials for Swimming Pools, Spas/Hot Tubs, or equivalent, shall meet UL standards and shall be electrically interlocked with recirculation pump.

(f) Ultraviolet (UV) light disinfectant equipment may be used as supplemental water treatment on public pools (and alternative treatment on IWFs) subject to the conditions of this paragraph and manufacturer's specifications. UV is encouraged to be used to eliminate chlorine resistant pathogens, especially the protozoan *Cryptosporidium*.

1. UV equipment and electrical components and wiring shall comply with the requirements of the National Electrical Code and the manufacturer shall provide a certification of conformance to the department.

2. UV equipment shall meet UL standards and shall be electrically interlocked with recirculation pump(s) on all pools and with feature pump(s) on an IWF.

3. UV equipment shall be validated by a capable party that it delivers the required and predicted UV dose at the validated flow, lamp power and water UV transmittance conditions, and has complied with all professional practices summarized in the USEPA Ultraviolet Disinfectant Guidance Manual dated November, 2006, EPA 815-R-06-007.

4. UV equipment shall constantly produce a validated dosage of at least 40 mJ/cm<sup>2</sup> (milliJoules per square centimeter) at the end of lamp life.

(17) Water features such as waterfalls or fountains in pools may use up to 20% of the return water from the filter system, however all waters used in the feature shall not be counted toward attaining the designed turnover rate. Return piping system shall be designed and capable of handling the additional feature flow when the feature is turned off. Features that require more than 20% of the flow rate shall be supplied by an additional pump that drafts from a suitable collector tank. All water features that utilize water from the pool shall be designed to return the water to the pool. Spray features mounted in the pool deck shall be flush with the pool deck and shall be designed with the safety of the pool patron in mind.

Specific Authority 381.0011, 381.006, 514.021 FS. Law Implemented 381.0011, 381.0025, 381.006, 386.01, 386.02, 386.03, 386.041, 386.051, 514.021, 514.03, 514.031, 514.05, 514.06 FS. History— New 10-5-93, Formerly 10D-5.136, Amended 12-27-98, 5-27-04, \_\_\_\_\_.

64E-9.008 Supervision and Safety.

(1) No change.

(a) Lifeguards or swimming instructors, if provided, shall be in full charge of persons using the pool and shall have authority to enforce all rules. Lifeguards and swimming instructors shall be certified in lifeguarding or swimming instruction, respectively, by the American Red Cross, the

YMCA or other equivalent national aquatic training agencies which meet the established standards, objectives and standards of care provided in the American Red Cross or YMCA programs. For the purpose of this rule, the standards found in the 2007~~0~~ edition of the American Red Cross Lifeguarding Instructors Manual, the 2004 ~~1995~~ edition of the American Red Cross Water Safety Guide for Training Instructors Manual, the On the Guard II, The YMCA Lifeguard Manual, (2001) Fourth Edition, (YMCA), The Youth and Adult Aquatic Program Manual (1999), and (YMCA) The Parent/Child and Preschool Aquatic Program Manual (1999), are hereby adopted by reference. Swimming instructors of developmentally disabled students shall also be certified in accordance with Section 514.072, F.S.

(b) Lifeguards and swimming instructors shall also be currently certified in first aid and in adult, child and infant cardiopulmonary resuscitation through the American Red Cross, or the American Heart Association or the National Safety Council or the American Academy of Orthopaedic Surgeons.

(c) Swim coaches are exempted from the swimming instructor certification requirement when training advanced level swimmers for competition.

(d) Verification of equivalence, as required above, shall be the responsibility of the Division Director Assistant Health Officer for Environmental Health or his designee. The department shall form an ad hoc advisory group composed of professionals in the field of aquatics. This group shall consist of five members and shall make recommendations to the department State Health Officer or his designee regarding the equivalence of lifeguard or swimming instructor certification programs submitted to the department under paragraph 64E-9.008(1)(a), F.A.C. Members shall be appointed for a period of 3 years with such appointments being staggered so that the terms of no more than two members expire in any one year.

(e) No change.

(2) Safety Equipment – All swimming pools shall be provided with a shepherd' s hook securely attached to a one piece pole not less than 16 feet in length, and at least one 18 inch diameter lifesaving ring with sufficient rope attached to reach all parts of the pool from the pool deck. Safety equipment shall be mounted in a conspicuous place and be readily available for use. Pools greater than 50 feet in length shall have multiple units with at least one shepherd' s hook and one lifesaving ring located along each of the longer sides of the pools. Spa pools ~~and wading pools~~ under 200 square feet of surface area, and interactive water features or wading pools with two feet or less of water depth are exempt from this requirement.

(3) through (6) No change.

(7) No change.

1. through 4. No change.

5. For new or modified pools submitted for plan approval application on or after the effective date of this rule, their posted sign shall add: Do not swallow the pool water.

(8) through (9) No change.

Specific Authority 381.0011, 381.006, 514.021 FS. Law Implemented 381.0011, 381.0015, 381.0025, 381.006, 386.01, 386.02, 386.03, 386.041, 386.051, 514.021, 514.03, 514.031, 514.05, 514.06, 514.071 FS. History—New 10-5-93, Formerly 10D-5.137, Amended 12-27-98, 5-27-04, \_\_\_\_\_.

64E-9.009 Wading Pools.

(1) No change.

(2) Depths – Wading pools shall have a maximum depth of 2 feet. The depth at the perimeter of the pool shall be uniform and shall not exceed 12 inches. However, where department-approved zero depth entry designs are used, this uniform depth requirement must be met only on the remainder of the pool outside the zero depth entry portion. ~~Where recessed automatic surface skimmers are used,~~ The pool floor shall not be more than 12 inches below the deck unless steps and handrails are provided. Depth and NO DIVING markers are not required on wading pools

(3) Recirculation – Wading pools shall have a minimum of one turnover every one hour. Lines from main drains shall discharge into a collector tank.

(a) Skimmer equalizer lines when required shall be plumbed into the main drain installed in the pool floor with a grate covering.

(b) No change.

(4) through (5) No change.

(6) Vacuuming – Wading pools shall have no provisions for direct suction vacuuming where the vacuum port is in the pool floor or pool wall or accessible to patrons. Wading pools of less than 200 square feet are not required to have a vacuuming method provided. Wading pools 200 square feet or larger shall provide for vacuuming through the skimmer, a portable vacuum system or an alternative approved method that does not involve a direct suction port in the pool. ~~The~~ Department recommends that all existing direct suction vacuum apparatus be removed for bather safety.

(7) Wading pool decks – When adjacent to swimming pools within 50 feet, wading pools shall be enclosed and separated from the swimming pool by a barrier or fence of a minimum of 48 inches in height with self-latching and self-closing gates. When adjacent to areas less than one foot deep of zero depth entry pools, the fence or effective barrier is required if the water edges are less than 40 feet apart. Wading pools shall have a minimum 10 foot wide deck around at least 50 percent of their perimeter with the remainder of the perimeter deck being at least four feet wide. There shall be at least 10 feet between adjacent swimming pools and wading pools.

(8) Wading pools are exempt from underwater lighting requirements but do require deck and surface overhead lighting of 10 foot-candles if indoors or 6 foot-candles for outdoor night use. Such illumination shall be provided over the pool water surface and the pool deck surface.

(9) No change.

(10) Should a fecal accident occur, the requirements of subsection 64E-9.004(14), F.A.C., shall be met or the pool may be drained and both the pool and the filter system and all plumbing shall be properly disinfected.

Specific Authority 381.0011, 381.006, 514.021 FS. Law Implemented 381.0011, 381.0025, 381.006, 386.01, 386.02, 386.03, 386.041, 386.051, 514.021 FS. History—New 10-5-93, Formerly 10D-5.138, Amended 12-27-98, 5-27-04, \_\_\_\_\_.

64E-9.010 Spa Pools.

(1) through (3) No change.

(4) Steps and handrails – Steps or ladders shall be provided and shall be located to provide adequate entrance to and exit from the pool. The number of sets of steps or ladders required shall be on the basis of one for each 75 feet, or major fraction thereof, of pool perimeter. Step sets for spa type pools with more than 200 square feet of pool water surface area shall comply with subparagraph 64E-9.006(1)(d)3., F.A.C. Step sets for spa type pools with 200 square feet or less of pool water surface area shall comply with the following: Step treads shall have a minimum width of 10 inches for a minimum continuous tread length of 12 inches. Step riser heights shall not exceed 12 inches ~~except when the bottom step is used for a bench or seat, the bottom riser may be a maximum of 14 inches.~~ Intermediate treads and risers between the top and bottom treads and risers shall be uniform in width and height, respectively. Contrasting markings on the leading edges of the submerged benches and the intersections of the treads and risers are required to be installed in accordance with subparagraph 64E-9.006(1)(d)3., F.A.C.

(a) through (b) No change.

(5) Decks – Decks shall have a minimum four foot wide unobstructed width around the entire pool perimeter except that pools of less than 120 square feet of pool water surface area shall have a minimum four foot wide unobstructed continuous deck around a minimum of 50 percent of the pool perimeter. Decks less than four feet wide shall have barriers to prevent their use. Decks shall not be more than 10 inches below the top of the pool. For pools of 120 square feet or greater, ten percent of the deck along the pool perimeter may be obstructed.

(6) No change.

(a) through (b) No change.

(c) Cold plunge spas do not require a therapy or jet system, but do require the installation of a chiller.

(d) No change.

(7) through (10) No change.

(11) Bench seat edges shall be marked in accordance with subparagraph 64E-9.006(1)(e)2., F.A.C. When spa pools are part of a conventional swimming pool, the spa pool area shall be offset from the main pool area with the same water depth as the main pool area. The spa pool shall meet all the spa pool requirements of this chapter, and the deck area at the spa shall be protected by connected 30 inch high stanchions or other impediment acceptable to the department. The deck perimeter at the offset spa area shall not exceed 15 percent of the entire swimming pool perimeter.

(12) through (15) No change.

(16) ~~If~~ When a spa is equipped with an emergency cut-off or kill switch, provisions for a minimum 80 decibel audible alarm near the spa to sound continuously until deactivated when such device is triggered shall be incorporated. This is to alert pool patrons and operators of a potential public health situation or to indicate that the spa filtration and treatment system may be off. The following additional rule sign shall be visible by the spa which reads “ALARM INDICATES SPA PUMPS OFF. DO NOT USE SPA WHEN ALARM SOUNDS UNTIL ADVISED OTHERWISE.”

(17) Should a fecal accident occur, the requirements of subsection 64E-9.004(14), F.A.C., shall be met or the pool may be drained and both the pool and the filter system and all plumbing shall be properly disinfected.

Specific Authority 381.0011, 381.006, 514.021 FS. Law Implemented 381.0011, 381.0015, 381.0025, 381.006, 386.01, 386.02, 386.03, 386.041, 386.051, 514.011, 514.021, 514.03, 514.031, 514.05, 514.06 FS. History—New 10-5-93, Formerly 10D-5.139, Amended 12-27-98, 5-27-04,\_\_\_\_\_.

64E-9.011 Water Recreation Attractions and Specialized Pools.

(1) General – Water recreation attraction projects shall be designed and constructed within the limits of sound engineering practice. Design engineers may consult with the department in reference to concepts of design variations and to areas where potential problems may exist. In addition to the requirements of this section, compliance is required with Rules 64E-9.001 through 64E-9.008 and 64E-9.017, F.A.C., of this chapter depending upon the pool design and function. Additionally, all pools listed in this section shall have a ~~two~~ three hour turnover rate unless otherwise noted. A lifeguard and/or safety plan shall be submitted with the application for construction of the pools listed below in subsections 64E-9.011(2), (3), F.A.C., when climbable structures are planned.

(2) Water slide plunge pools.

(a) No change.

1. through 2. No change.

3. Slide flume terminus.

a. The slide flume terminus shall be designed by the design engineer who can demonstrate to the department’s satisfaction that riders will be adequately slowed prior to discharge so as to prevent injury or harm to the rider upon impact with the plunge pool water. The slide terminus shall be flush with the pool wall and located at or below the pool water level.

b. through c. No change.

4. through 5. No change.

6. Plunge pool decks.

a. Width – The minimum width of plunge pool decks along the exit side shall be 10 feet ~~there shall be a pool deck along the side opposite the plunge pool weir, and this deck shall have a minimum width of four feet.~~

~~b. Curbs – All plunge pool decks shall have a minimum six inch high curb or adequate free board to contain the water surge generated by the person entering the water via the slide.~~

~~b.e. Slopes – All plunge pool decks shall slope away from the plunge pool unless the curb is located at the outside perimeter of the deck. If the curb is located at the outside perimeter of the deck, the plunge pool deck shall slope to the plunge pool or pump reservoir or to deck drains which discharge to waste, or other acceptable means. All slopes shall be between two and four percent grade.~~

~~7. Hand holds shall be provided along the sides of the plunge pool in areas where the water depth exceeds three feet, except that no hand holds shall be required along the wall where the slide enters the pool nor shall they be required at the pool exit.~~

(b) Run out lanes –

1. No change.

2. ~~Five~~ Eight foot wide walkways shall be provided adjacent to run out lanes.

3. through 4. No change.

(c) Pump reservoirs – Pump reservoirs shall be made of concrete or other impervious material with a smooth slip resistant finish ~~and shall be connected to the plunge pool by a weir. Pump reservoirs shall be for the slide pump intakes, but where properly sized may also be used as a collector tank for the filter system.~~ Pump reservoir designs shall be as follows:

1. Pump reservoir volume – The minimum reservoir volume shall be equal to ~~three~~ two minutes of the combined flow rate in gpm of all filter and slide pumps.

2. through 5. No change.

6. The pump reservoir shall be fed by main drains within the plunge pool itself (either in the floor or side wall). They shall have the maximum flow velocity of 1.5 feet per second through the main drain grating and 3 feet per second through piping to the reservoir.

(d) through (e) No change.

1. No change.

2. Surface skimmers – Surface skimmers may be used in lieu of perimeter overflow gutters and shall be appropriately spaced and located according to the structural design. Unless an overflow gutter system is used, surface skimmers shall be provided in the plunge pool and in the pump reservoir and the skimmer system shall be designed to carry 60 percent of the filtration system design flow rate with each skimmer carrying a minimum 30 gallons per minute. All surface skimmers shall meet the requirements for NSF commercial approval as set forth in NSF/ANSI NSF Standard 50-2007+996, Circulation System Components and Related Materials for Swimming Pools, Spas/Hot Tubs, which is incorporated by reference in these rules, including an equalizer valve in the skimmer and an equalizer line to the pool wall on systems with direct connection to pump suction.

(f) Water slide recirculation – filtration equipment.

1. Recirculation rate – The recirculation-filtration system of water slides shall recirculate and filter a water volume equal to the total water volume of the facility in a period of two ~~three~~ hours or less.

2. through 3. No change.

(g) No change.

(h) Slide design and construction is the responsibility of a professional engineer licensed in Florida and the applicant.

(j) A lockable gate shall be provided at the stair or ladder entrance to the slide.

(j) Upon construction completion, a professional engineer licensed in Florida shall certify that the slide was constructed in accordance with the manufacturer's specifications and is structurally sound.

(3) Water activity pools.

(a) No change.

(b) Water activity pools shall be constructed of concrete or other structurally rigid impervious materials with a non-toxic, smooth and slip resistant finish. These pools shall be of such shape, length, width, and design as to be operated and maintained in a safe and sanitary manner.

(c) The recirculation-filtration system of water activity pools shall achieve be capable of a minimum of one turnover every two ~~three~~ hours for water activity pools over two feet deep, and in one hour for these pools that are two feet deep or less.

(d) Those portions of the activity pool where the water depth will not allow for the proper installation of underwater lighting, shall be provided with six foot candles of lighting on the deck and the water surface.

(e) Fence requirements shall be in accordance with subsection 64E-9.009(7), F.A.C., below.

(f) Play features with an overhead clearance of less than four feet shall be blocked or barricaded to preclude children becoming entrapped.

(g) In addition to the requirements of subsection 64E-9.008(7), F.A.C., all water activity pool signs shall have the following added in one inch letters within one year of the effective date of this rule.

Do not swallow the pool water, it is recirculated.

Do not use pool if you are ill with diarrhea.

(4) Wave pools.

(a) through (c) No change.

(d) Floors shall be sloped in accordance with the manufacturer's or design engineer's specifications, however, they shall not exceed the slope limits of sub-subparagraph 64E-9.006(1)(c)2.a., F.A.C.

(5) River Rides.

(a) through (e) No change.

(f) Access and exit shall be provided at the start and end of the ride, and additional ~~only, except that emergency~~ exit locations shall be located along the ride course as necessary to provide for the safety of the patrons.

(g) Propulsion jets shall be installed in the walls of the river ride. In the alternative, propulsion jets may be installed in the floor if they are covered by a grate that will inhibit entrapment or injury of the pool patrons' feet or limbs.

(6) Zero Depth Entry Pools.

(a) through (b) No change.

(c) The pool deck may slope a maximum of 1 in 12 toward the pool for no more than seven ~~5~~ feet, as measured from the overflow system grate outward. Beyond this area the deck shall slope away from the pool in accordance with subparagraph 64E-9.006(2)(a)1., F.A.C.

(d) ~~Barriers and No-Entry, Shallow Water~~ signs shall be provided along the pool wall edge where the water depth is less than 3 feet deep. No-entry signs shall be slip-resistant tile, shall have 4 inch high letters, shall be located within 2 feet of the pool edge, shall be spaced no more than 15 feet apart and shall be recessed flush with the surrounding area.

(e) Additional inlets shall be provided in areas of less than 18 inches deep. The numbers and location shall be such as to double the flow rate into this area.

(f) The recirculation-filtration system shall be of a minimum of one turnover every two hours in the area of the pool that is three feet deep or less. In the remainder of the pool where the depth is greater than three feet, the system shall have a maximum six hour turnover rate.

(g) Those portions of the zero depth entry pool, where the water depth will not allow for the proper installation of underwater lighting, shall be provided with 6 foot candles of lighting on the deck and the water.

(h) Play structures in a zero depth entry area (in depth 0-3 feet) may be within 15 feet of the pool walls, but shall comply with sound engineering requirements for the safety of pool patrons.

(7) No change.

(8) Interactive Water Features. (IWFs)

(a) Waters discharged from all fountain or spray features shall not pond on the feature floor but shall flow by gravity through a main drain fitting to a ~~below grade sump or~~ collection system which discharges to a collector tank. The minimum size of the ~~sump or~~ collector tank shall be equal to the volume of 3 minutes of the combined flow of all feature pumps and the filter pump. Adequate access shall be provided to the ~~sump or~~ collector tank. Stairs or a ladder shall be provided as needed to ensure safe entry into the tank.

(b) ~~When an underground sump is utilized, a~~ An automatic skimmer system shall be provided in the collector tank. A variable height skimmer may be used or a custom surface skimmer device may be substituted if deemed appropriate by both the design engineer and the department.

(c) Chemical feeders shall be ~~provided~~ in accordance with Rule 64E-9.007, F.A.C., except that the disinfection feeder shall be capable of feeding 12 mg/L of free chlorine to the filter return piping (based upon a hypothetical 30 minute turnover of the contained volume within the system). Automated Oxidation Reduction Potential (ORP) and pH controllers with sensing probes shall be provided to assist in maintaining proper disinfection and pH levels.

(d) No change.

(e) All electrical work shall comply with the ~~NFPA 70,~~ National Electrical Code 2005 1996 Edition that is incorporated by reference.

(f) Hydraulics.

1. The filter system shall ~~be capable of filtering and chemically treating all the entire water that is returned to the spray features volume of the water feature within 30 minutes.~~ The filter system shall draft from the collector tank and return filtered and treated water directly to the spray features. Excess water not required by the spray features shall be returned to the collector tank tank via equally spaced inlet fittings. The flow rate through these fittings shall not exceed 20 gpm.

2. Alternatively, the contained volume of the system may be filtered and chemically treated based upon a 30 minute turnover of the contained volume with 100% returned to the collector tank by manifold piping. If this alternative is chosen, all water returned to the spray feature(s) must also be treated with an Ultraviolet (UV) light disinfection equipment to accomplish protozoan destruction in accordance with sound engineering. The water feature pump shall draft from the collector tank.

3. through 5. No change.

6. A means of vacuuming and completely draining the tank(s) shall be provided.

7. Where the filter system described in subparagraph 64E-9.011(8)(f)1., F.A.C., is utilized, a second filter system and disinfection system shall be provided to treat the water in the collector tank when the feature/filter pump is not in operation. Said system shall be capable of filtering the total

volume of water in the collector tank in 30 minutes and the disinfection system shall be capable of providing 12 mg/L of disinfectant to this flow rate.

(g) IWFs shall be fenced in the same fashion as wading pools as noted in subsection 64E-9.009(7), F.A.C. Where the IWF is at least 50 feet from all other pools and is not designed to have any standing water, fencing requirements should be carefully considered by the applicant to control usage, but are not required by rule.

(h) A minimum four foot wide wet deck area shall be provided around all IWFs. The wet deck shall meet the requirements of subparagraph 64E-9.006(2)(a)1., however, up to 50% of the perimeter may be obstructed.

(i) Play features with an overhead clearance of less than two feet shall be blocked or barricaded to preclude children becoming entrapped.

(j) IWFs shall be constructed of concrete or other impervious and structurally rigid material.

(k) In addition to the requirements of subsection 64E-9.008(7), F.A.C., all IWF pool signs shall have the following added in one inch letters within one year of the effective date of this rule.

Do not swallow the fountain water, it is recirculated.

Do not use fountain if you are ill with diarrhea.

(l) Floor slopes of an IWF shall be a maximum one foot vertical in ten feet horizontal and a minimum of one foot vertical in fifty feet horizontal.

(9) Water Theme Parks: Shall meet all other aspects of these rules for the features provided.

(a) Rules and regulations for water theme parks shall be posted in minimum 1-inch letters at each entrance to the park and shall contain the following:

1. No food, drink, glass, or animals in the pool or on the pool decks.

2. Park operating hours A.M. to P.M.

3. Shower before entering.

4. Do not swallow the pool water.

(b) Showers shall be provided at or near the entrance (queue line) to a water recreation attraction.

(c) Water theme parks are exempt from the fencing requirements of subsection 64E-9.006(2)(h), F.A.C., except that pools designed for small children shall be fenced when located within 50 feet of a pool with water depths of 3 feet or more.

(d) Sanitary Facilities within a water theme park shall be as near to the water recreation attractions as prudent to ensure patron use, but not over 200 feet walking distance from any exit of a water attraction.

Specific Authority 381.0011, 381.006, 514.021 FS. Law Implemented 381.0011, 381.0025, 381.006, 386.01, 386.02, 386.03, 386.041, 386.051, 514.021, 514.03, 514.031, 514.05, 514.06 FS. History—New 10-5-93, Formerly 10D-5.140, Amended 12-27-98, 5-27-04, \_\_\_\_\_.



64E-9.013 Bathing Places.

(1) through (2) No change.

(a) through (b) No change.

(c) A bacteriological survey shall be submitted to the department and the fecal coliform, *E. coli*, or enterococci densities indicated by this survey shall not exceed the standards of subsection 64E-9.013(4), F.A.C. The survey shall consist of a minimum of three bacteriological samples collected from the proposed bathing area daily for the first three days of each week for three consecutive weeks. Either MPN or MF counts may be utilized. Should the MF method results differ significantly from the MPN method results, the MPN results shall prevail. The bacteriological survey results shall be reviewed in light of the sanitary survey.

(d) through (e) No change.

(f) A water clarity measurement by Secchi disk reading in feet using an 8 inch diameter black and white Secchi disk. Where water clarity does not achieve four feet depth for a period of at least 5 days during the period of operation due to natural water color, the department will consider approval of the bathing area with submittal of a satisfactory lifeguard plan, patron notification plan and materials, swim zone depth demarcation for children and beginners, and other special conditions that would apply to the individual site.

(g) A lifeguard and/or safety plan shall be submitted with the application for development of all new bathing areas.

(3) Operation.

(a) through (b) No change.

(c) Bacteriological samples shall be collected monthly. A set of two samples shall be collected for every 200 feet of shoreline, the samples shall be taken a foot below the surface in ~~three two~~ feet of water and at least 25 feet apart. The samples shall be analyzed by a DOH certified laboratory using EPA approved methods for ambient water and the results submitted to the department within 10 days after the end of the month. Should the test results average of these samples exceed the standards in subsection 64E-9.013(4), F.A.C., below 175 fecal coliform per 100 ml, or exceed 28 enterococci per 100 ml, the county health department shall be notified within 24 hours of receipt from the lab, and additional re-sampling by the permit holder shall be required within 24 hours. All sampling and the results shall be submitted to the county health department. If 24 hour resampling is not possible for any reason, then the bathing place shall be closed immediately to swimming based upon these initial results during the time period waiting for re-sampling results. If the 24 hour confirmation samples reveal an exceedance of the standards, the bathing place shall be closed immediately to swimming until additional testing reveals the water meets single sample standards again. If a pollution source is identified, that source shall be eliminated before reopening the bathing area.

(d) Inspections – county health departments shall perform two inspections per year which shall include:

1. A site inspection in light of the original sanitary survey, changed natural conditions, changed use conditions, and originally permitted facilities.

2. A bacteriological test consisting of the normal monthly sampling requirement. The fecal coliform, *E. coli* or enterococci density must not exceed the single sample standards of subsection 64E-9.013(4), F.A.C.

3. No change.

4. The bathing place shall be temporarily closed or swimming prohibited, as appropriate, by the owner or the department if inspection reveals water clarity violations, unsafe bacterial test results, or immediate hazards to health or safety such as, but not limited to sewage in water, broken glass, dangerous wildlife, hazardous structural or electrical conditions, toxic algal blooms, or other serious disease agents present.

5. The bathing load shall be calculated on one bather per 25 square feet of surface area in areas of less than four feet of depth and one bather per 75 square feet of surface area where the water depth exceeds four feet.

(e) through (f) No change.

(g) Site specific signage shall be provided. The bathing load shall be posted and due consideration shall be given to safety guidelines such as steep slope, diving areas, deep water, underwater obstruction, dangerous wildlife, or lifeguard not on duty. Additional signage shall be provided if the bathing area is longer than 300 feet.

(h) Restrooms, platforms, diving boards, docks, beaches and walkways shall be kept clean and in good repair. Diving areas shall be readily identified, and shall have adequate water depth for safe diving based on the depth requirements of the FINA standards previously adopted herein. Shallow areas shall not be utilized for diving and shall be so marked.

(i) through (j) No change.

(4) Bacteriological Standards – Either fecal coliform, *E. coli*, or enterococci bacteria shall be tested for, at the option of the permit holder. All samples tested will be considered to determine compliance, unless found to be invalid by the certified lab or county health department. The enterococci density shall not exceed an average of 33 colony forming units (CFU) per 100 mL of water, nor exceed 61 per 100 mL of water in any single sample; or the *E. fecal coliform* density shall not exceed an average of 126 CFU 200 per 100 mL of water sample, nor exceed 235 400 per 100 ml of sample in 10 percent of the samples, nor exceed 800 per 100 mL of water sample in any single sample; or the fecal coliform shall not exceed an average of 200 CFU per 100 mL of water, or 400 per 100 mL of water in 10 percent of the samples, or 800 CFU per 100 mL of water in a single sample one day. This average shall be expressed as geometric means using at least 5 samples per 30 day period.

Specific Authority 381.0011, 381.006, 514.021 FS. Law Implemented 381.0011, 381.0025, 381.006, 386.01, 386.02, 386.03, 386.041, 386.051, 514.021, 514.03, 514.031, 514.04, 514.05, 514.06 FS. History–New 10-5-93, Formerly 10D-5.142, Amended 12-27-98, 5-27-04,\_\_\_\_\_.

64E-9.015 Fee Schedule.

(1) Plan review:

(a) Original construction – ~~\$350.00~~

1. Pools of 25,000 gallons or less – \$350.00

2. Pools greater than 25,000 gallons – \$500.00

(b) Modifications of Approved Construction Plans – \$150.00 ~~400.00~~.

(c) through (e) No change.

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

(d) Annual renewal of operating permits:

1. Pools greater than 25,000 gallons and bathing places – \$250.00 ~~200.00~~.

2. Pools of 25,000 gallons or less – \$125.00 ~~100.00~~.

3. Exempted condominiums/cooperatives with over 32 units – \$50.00

4. Non-routine inspection (no charge for first reinspection) – \$40.00

(3) through (4) No change.

(5) Variances – Review of application for variance – \$300.00

Specific Authority 381.0011, 381.006, 514.021, 514.033 FS. Law Implemented 514.021, 514.03, 514.031, 514.033 FS. History–New 10-5-93, Formerly 10D-5.144, Amended 12-27-98, 5-27-04,\_\_\_\_\_.

64E-9.016 Exemptions and Variances.

~~(1) Pools that meet the following criteria of Section 514.0115, F.S., shall be exempt from regulation under these rules. If at any time the criteria for exemption ceases to exist, the swimming pool shall be brought into full compliance with the current requirements for public swimming pools. It shall be the responsibility of the swimming pool owner to inform future owners of the conditions for exempt status.~~

~~(2) Variances – A variance from requirements of these rules may be requested by the pool owner or their representative to relieve or prevent hardship only in cases involving deviations from the rule, when it is shown that the hardship was not caused intentionally by the action of the applicant, where no reasonable alternative exists and the health and safety of the pool patrons is not at risk. Application for variance shall be submitted through the county health department utilizing DOH Form 4080. Each application can be accompanied by supportive materials such as drawings, pictures or manufacturers specifications. Applications must be received at least 30 days prior to the scheduled meeting of the Governor’s Swimming Pool Advisory Board, which normally meets on the second Wednesday of each odd-numbered month.~~

Specific Authority 381.0011, 381.006, 514.0115, 514.021 FS. Law Implemented 514.0115, 514.021, 514.028, 514.051, 514.06 FS. History–New 10-5-93, Formerly 10D-5.145, Amended 12-27-98,\_\_\_\_\_.

64E-9.017 Enforcement.

No change.

(1)(a) – (d) No change.

(e) A main drain grate is missing, unsecured, improperly secured or damaged.

(f) Operation without a valid permit.

(g) Direct suction exists on the main drain or other outlets, except vacuum fittings, automatic surface skimmer(s), and their equalizer grates provided the flow velocity through the grate does not exceed 1.5 feet per second, or the corrective actions specified in paragraph 64E-9.007(10)(f), F.A.C., are not completed by dates specified.

~~(h)(e) Any other conditions which endangers the health, safety, or welfare of persons using the pool, which may include for example: a drowning hazard, broken glass, sharp edged or broken tile or metal, fecal accident(s), electrical code violation, or severe biological growth a missing, unsecured or damaged main drain grate.~~ The division or department may attach a sign that states “Pool Closed. This pool is not in compliance with Chapter 64E-9, F.A.C., and may endanger the health, safety or welfare of persons using this facility”. With the department’s permission, the pool operator may remove signs from the pool area immediately following correction of the cited deficiencies provided the county health department is notified of this action at the earliest possible time.

Specific Authority 381.0011, 381.006, 514.021, 514.05 FS. Law Implemented 381.0025, 381.006, 386.01, 386.02, 386.03, 386.041, 386.051, 514.021, 514.04, 514.05, 514.06 FS. History–New 10-5-93, Formerly 10D-5.146, Amended 12-27-98, 5-27-04,\_\_\_\_\_.

64E-9.018 Public Pool Service Technician Certification.

No change.

(1) through (2) No change.

(3) Any individual or organization requesting the department to review their courses for compliance with the requirements of this rule, must submit copies of their training materials to the department prior to providing that training within the state. A copy of the test to be given, answers to the test questions, and a statement indicating the length of time a classroom topic will be conducted shall be included. The department shall review the materials and inform the applicant of its findings within 90 ~~60~~ days from receipt of all training materials.

(4) through (6) No change.

(7) Internet based classes – Where courses have been approved above, they may be approved to be delivered in an electronic means as follows:

(a) Provider shall provide documentation establishing that their proposed online course is identical or better in content to the existing classroom course.

(b) Provider course will provide training and materials that have already been approved by the department.

(c) Provider will provide at least sixteen (16) hours of class online, or a mixture of on-line and traditional face-to-face classroom instructional setting for a total of sixteen (16) hours of training may be offered.

(d) The course and any changes to the course as approved, delivery method, or identification verification and validation procedure must be approved by the department prior to the change, except for changes to course content in accordance with the next section, below.

(e) The course training materials shall be kept current with the science and the technology of the public pool industry, and the State of Florida rules related to public swimming pools.

(f) Each online course section must have a minimum time to finish that section before it is possible to move on to the next section. The minimum time is 120 minutes for each one eighth (1/8th) of the online course.

(g) Identification verification and validation is required for each student taking the course and test. This shall occur prior to the initiation of the online course, using an identity verifying technology that seeks verification using credit bureau contacts. Following initial identity verification, validation shall occur during the course, at least every five hours during the online training portion, and then again immediately before the student's entrance to the final test and again when half of the questions have been answered.

Failure by a student to answer a validation question during a 60-second response time period, or a student providing more than one incorrect answer to a validation question, will cause the online course or test to automatically terminate. The student can register to take the course or test again after a 24-hour waiting period.

(h) If Provider or the department determines that a student has attempted or acquired certification by committing fraud, deceit, false statements, or perjury, provider shall notify the department in writing within 30 days of such determination, and shall revoke the certificate.

(i) At a minimum, provider shall include on the registration form, initial blocks in which the student signs off on the following information:

1. That the student who registers for the course is the person taking the course. That the student must take a test of at least 50 questions on course content and get 70 percent correct to receive a course completion certificate. Failure to answer correctly 70 percent content questions will result in a test failure and the student must wait at least 24-hours to retake the test.

2. That the student will be asked time-limited validation questions during the course and test. The validation questions will ask the student questions about themselves based on information provided by them and obtained through credit bureaus. Failure by a student to answer a validation question during a 60-second response time period, or a student providing more than one incorrect answer to a validation question, will cause the course or test to automatically terminate. Upon termination, a 24-hour waiting period is required before the student is allowed to register again.

3. Failure of student to sign-off to each stipulation listed above will result in the student's inability to proceed with the course.

(j) Provider will provide an electronic or paper report of students taking the course and those passing the final test every three months (first of January, April, July and October) to the Department of Health, the Bureau of Water Programs, Mail bin C-22, Tallahassee, Florida 32399-1742. Included in the report will be the student's name, address, business affiliation and date of certificate issuance. This information will be handled by the department as required by statute and rule.

(k) Provider must maintain electronic records of the information in the above section for at least 10 years after the certificate is issued.

(l) A subject matter expert representing Provider must be available by telephone or via electronic means during normal business hours to assist students.

(m) Any reference to department approval shall state no more than: "This course is approved by the Florida Department of Health for student certification as a Public Pool Service Technician under Chapters 514, Florida Statutes, and 64E-9, Florida Administrative Code."

(n) In order to ensure that the requirements of this section are met, the department retains the right, two (2) or three (3) times a year, to sign-on and take the providers course, as any interested student would. In order to allow such inspection, provider shall reimburse the department the cost of the course. The department, when making a request for the reimbursement, shall provide the provider with the time and date the course was taken, and the number of the credit card used to pay for the course.

(o) This internet-based online course approval is not transferable and only applies to this internet course and to the provider it was issued to.

Specific Authority 381.006, 381.0011, 514.021, 514.075 FS. Law Implemented 514.025, 514.075 FS. History--New 9-25-97, Amended 5-27-04, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Bob Vincent, phone (850)245-4240, Environmental Administrator, Bureau of Water Programs, Department of Health, Mail Bin C-22, 4042 Bald Cypress Way, Tallahassee, FL 32399-1742

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Viamonte Ros, MD, State Surgeon General

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 12, 2008

DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 4, 2008; September 29, 2006; and January 21, 2005

**DEPARTMENT OF HEALTH**

**Division of Emergency Medical Operations**

RULE NOS.:	RULE TITLES:
64J-3.001	Definitions
64J-3.002	Certification of 911 Emergency Dispatchers

PURPOSE AND EFFECT: To implement a certification process for 911 emergency dispatchers as required by Section 401.465, F.S., the “Denise Amber Lee Act.” This new legislation requires the Department of Health to establish criteria for the initial certification of 911 emergency dispatchers. The effect of this rule is the incorporation of an application that facilitates the certification process.

SUMMARY: The proposed rule incorporates the application in which an applicant must complete while meeting the criteria outlined in the application to successfully receive a certification. The application provides fee requirements, outlines experience and education; defines terms used in the application so the applicant can determine if they fit the criteria for this certification, and distinguishes between applicants that have spent the required time frame in a supervised full-time employment as a 911 Emergency Dispatcher since January 1, 2001.

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

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

SPECIFIC AUTHORITY: 401.35, 401.465 FS.

LAW IMPLEMENTED: 401.465 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:

DATE AND TIME: November 20, 2008, 11:00 a.m. – 12:00 noon

PLACE: Florida Department of Health, Division of Emergency Medical Services, Bureau of Emergency Medical Services, 4025 Esplanade Way, 3rd Floor, Room 301A/B, Tallahassee, FL 32399-1738

REQUEST FOR HEARING MUST BE RECEIVED IN WRITING TO Lisa Walker, Government Analyst II, Phone: (850)245-4440 ext. 2733; or email Lisa\_Walker2@doh.state.fl.us.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Lisa Walker, Government Analyst II, Phone: (850)245-4440, ext. 2733; or email Lisa\_Walker2@doh.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Steve McCoy, EMS Systems Analyst, Phone: (850)245-4440, ext. 2727; or email Steve\_McCoy@doh.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

64J-3.001 Definitions.

Department – means the Florida Department of Health (DH), Bureau of Emergency Medical Services, 4052 Bald Cypress Way, Bin C18, Tallahassee, Florida 32399-1738.

The proposed effective date is February 1, 2009.

Specific Authority 401.35, 401.465 FS. Law Implemented 401.465 FS. History–New \_\_\_\_\_.

64J-3.002 Certification of 911 Emergency Dispatchers.

Qualifications and procedures for Certification pursuant to Section 401.465, F.S. – To be qualified for 911 emergency dispatch certification, an individual must:

Apply for Florida 911 emergency dispatch certification on DH Form 5066, 10/08, 911 Emergency Dispatcher Initial/Original Certificate Application which is incorporated by reference and available from the department, as defined by subsection 64J-3.001(1), F.A.C., or on the forms page of <http://www.fl-ems.com>.

The proposed effective date is February 1, 2009.

Specific Authority 401.35, 401.465 FS. Law Implemented 401.465 FS. History–New 2-1-09.

NAME OF PERSON ORIGINATING PROPOSED RULE: John C. Bixler, Bureau of EMS Chief, Florida Department of Health, 4052 Bald Cypress Way, C-18, Tallahassee, FL 32399-1738

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: State Surgeon General Ana Viamonte Ros, Florida Department of Health, 4052 Bald Cypress Way, Tallahassee, FL 32399

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 15, 2008  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 29, 2008, Vol. 34/35

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Economic Self-Sufficiency Program**

RULE NO.: 65A-1.206  
 RULE TITLE: Lifeline Service

PURPOSE AND EFFECT: The proposed rule is required to comply with section 11 of Chapter 2007-29, Laws of Florida. Lifeline service helps make phone service affordable to low-income customers. The rule creates procedures to automatically enroll potential Lifeline customers once approved for at least one qualifying public assistance program.  
 SUMMARY: The proposed rule allows for automatic enrollment for Lifeline service.

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

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

SPECIFIC AUTHORITY: 364.10(3)(h)2. FS.

LAW IMPLEMENTED: 364.10 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:

DATE AND TIME: November 17, 2008, 1:30 p.m.

PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Cindy Keil, ACCESS Florida Program Policy, 1317 Winewood Boulevard, Building 3, Tallahassee, Florida 32399-0700, (850)410-3291

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-1.206 Lifeline Service.

(1) The Department participates in eligibility determinations for automatic Lifeline service enrollment. The automatic Lifeline service enrollment process is an electronic interface between the Department and the Public Service Commission. Applicants and recipients can indicate their interest in receiving Lifeline service within the ACCESS Florida Web Application, CF-ES 2353, 03/2008, incorporated by reference in Rule 65A-1.400, F.A.C. After being determined eligible for Food Stamps, Temporary Cash Assistance or Medicaid, the Department sends an electronic file to the Public Service Commission to ensure automatic enrollment with the appropriate eligible telecommunications carrier.

(2) The CF-ES 2353 is available on the Department's web site at <http://www.myflorida.com/accessflorida/>.

Specific Authority 364.10(3)(h)2. FS. Law Implemented 364.10 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Nathan Lewis

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: George H. Sheldon

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 13, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 29, 2008

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Funeral, Cemetery, and Consumer Services**

RULE NO.: 69K-17.0035  
 RULE TITLE: Communicable Disease Education

Required for Operational Personnel

PURPOSE AND EFFECT: Section 497.162, F.S., requires certain employees to complete a communicable disease educational class and requires the Board to adopt rules that provide for the use of approved videocassette courses and other types of audio, video, Internet, or home study courses to fulfill this educational requirement. The proposed amendment clarifies which employees are required to take a communicable disease course and updates the types of courses that can be used to fulfill this educational requirement.

SUMMARY: The proposed amendment requires operational personnel, as defined by Rule 69K-15.005, F.A.C., to take and pass a two hour course on communicable diseases. Rule 69K-15.005, F.A.C., defines "operational personnel" as "those individuals who come in direct contact with or remove or transport dead human remains, or those individuals who come in direct contact with blood or other body fluids." The proposed amendments also implement the changes made by Chapter 2007-55, Laws of Florida, by allowing operational personnel to use the Internet to take approved communicable disease education courses required by Section 497.162, F.S.

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

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

SPECIFIC AUTHORITY: 497.103(1)(s), (5)(a), 497.162 FS.

LAW IMPLEMENTED: 497.162 FS.

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

DATE AND TIME: Monday, November 17, 2008, 10:00 a.m.  
 PLACE: Alexander Building, 2020 S.E. Capital Circle, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Doug Shropshire (850)413-3039 or doug.shropshire@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Doug Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services, Alexander Building, 2020 Capital Circle S.E., Tallahassee, Florida 32399-0361 (850)413-3039

THE FULL TEXT OF THE PROPOSED RULE IS:

69K-17.0035 Communicable Disease Education Required for Operational Personnel and Nonlicensed Individuals.

(1) All ~~unlicensed~~ operational personnel as defined in Rule 69K-15.005, F.A.C., affiliated with a direct disposal establishment, cinerator facility, removal service, refrigeration facility, or centralized embalming facility, and unlicensed persons who will be involved in the removal or transportation of human remains for a funeral establishment, direct disposal establishment, or cinerator facility shall must successfully complete one Board approved course ~~approved by the Board~~ on communicable diseases, within 10 days after the date they are employed by ~~become operational personnel~~ for any entity that is subject to licensed/registered under Chapter 497, F.S. ~~Additionally, all nonlicensed persons who will be involved in the removal or transportation of human remains for a funeral establishment must also successfully complete one Board approved course on communicable diseases.~~ The course shall be at least consist of two (2) hours and which may include the use of approved video-cassette courses, or other types of audio, video, Internet, or home study ~~alternative nonclassroom~~ courses to fulfill the continuing education requirements. Each person shall complete and pass a post course test with a 75% correct score or higher, to be graded by the course provider. All persons subject to this rule shall maintain documentation showing as proof of meeting the communicable disease health and safety education requirement as a condition of employment with any establishment, facility or service regulated under Chapter 497, F.S.

(2) Courses approved for two (2) or more hours pursuant to paragraph 69K-17.0042(3)(c), F.A.C., can be used to fulfill the two (2) hour communicable disease educational requirement are also approved for this purpose. Information about approved continuing education providers that offer

courses that will satisfy this communicable disease educational requirement can be found on the Department's website (<http://www.myfloridacfo.com>).

Specific Authority 497.103(1)(s), (5)(a), 497.162 FS. Law Implemented 497.162 FS. History--New 4-10-94, Amended 9-10-96, 11-20-96, 6-24-01, Formerly 61G8-17.0035, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Funeral, Cemetery, and Consumer Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Funeral, Cemetery, and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 3, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 21, 2007

**FINANCIAL SERVICES COMMISSION**

**OIR – Insurance Regulation**

RULE NO.: 69O-137.001  
 RULE TITLE: Annual and Quarterly Reporting Requirements

PURPOSE AND EFFECT: This rule is being amended to adopt the 2008 NAIC manuals for annual and quarterly statements and also adopts the 2008 NAIC accounting practices and procedures manual. The 2008 version is the latest version of these manuals. The current rule adopted the 2007 version.

SUMMARY: Section 624.424, Florida Statutes, requires insurers to file quarterly and annual financial reports with the Office of Insurance Regulation and allows the Office to enact rules setting the standards for those reports. By establishing up-to-date, uniform standards for annual and quarterly reports, this rule enhances the Office's position under the statute. This rule ensures that all reports are in a standard format which provides the information needed to evaluate the insurer's financial condition. In addition, by adopting the 2008 versions of the manuals, the Office is preventing any potential challenges from insurers who may protest the Office using manuals which have not been formally adopted.

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

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

SPECIFIC AUTHORITY: 624.308 FS.

LAW IMPLEMENTED: 624.316 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: November 26, 2008, 9:30 a.m.

PLACE: 116 Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Kerry Krantz, Office of Insurance Regulation, E-mail kerry.krantz@fldfs.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kerry Krantz, Office of Insurance Regulation, E-mail kerry.krantz@fldfs.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69O-137.001 Annual and Quarterly Reporting Requirements.

(1) through (3) No change.

(4) Manuals Adopted.

(a) Annual ~~and quarterly~~ statements shall be prepared in accordance with the following manuals, which are hereby adopted and incorporated by reference:

1. The NAIC's ~~Quarterly and~~ Annual Statement Instructions, Property and Casualty, ~~2008 2007~~;

2. The NAIC's ~~Quarterly and~~ Annual Statement Instructions, Life, Accident and Health, ~~2008 2007~~;

3. The NAIC's ~~Quarterly and~~ Annual Statement Instructions, Health, ~~2008 2007~~;

4. The NAIC's ~~Quarterly and~~ Annual Statement Instructions, Title, ~~2008 2007~~; and

5. The NAIC's Accounting Practices and Procedures Manual, as of March ~~2008 2007~~.

(b) Quarterly statements shall be prepared in accordance with the following manuals, which are hereby adopted and incorporated by reference:

1. The NAIC's Quarterly Statement Instructions, Property and Casualty, 2008;

2. The NAIC's Quarterly Statement Instructions, Life, Accident and Health, 2008;

3. The NAIC's Quarterly Statement Instructions, Health, 2008;

4. The NAIC's Quarterly Statement Instructions, Title, 2008; and

5. The NAIC's Accounting Practices and Procedures Manual, as of March 2008.

~~(c)~~ ~~(b)~~ Copies of the manuals are available:

1. From the National Association of Insurance Commissioners, 2301 McGee, Suite 800, Kansas City, MO 64108-2604, and

2. For inspection at the Office at its headquarters in Tallahassee, Florida, during regular business hours.

Specific Authority 624.308(1), 624.424(1) FS. Law Implemented 624.424(1) FS. History—New 3-31-92, Amended 8-24-93, 4-9-95, 4-9-97, 4-4-99, 11-30-99, 2-11-01, 4-5-01, 12-4-01, 12-25-01, 8-18-02, 7-27-03, Formerly 4-137.001, Amended 1-6-05, 9-15-05, 1-25-07,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kerry Krantz, Office of Insurance Regulation, E-mail kerry.krantz@fldfs.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 14, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 8, 2008

## FINANCIAL SERVICES COMMISSION

### OIR – Insurance Regulation

RULE NO.: RULE TITLE:

69O-138.001 NAIC Financial Condition

Examiners Handbook Adopted

PURPOSE AND EFFECT: Section 624.316, Florida Statutes, requires the Office to examine insurer's financial condition, using generally accepted accounting procedures. This statute also allows the Office to adopt the NAIC Financial Condition Examiners Handbook to facilitate these exams. By adopting the newest version of the handbook, this rule improves the Offices' position by ensuring that the procedures used to examine insurers are the current generally accepted accounting practices.

SUMMARY: This rule is being amended to adopt the 2008 NAIC Financial Condition Examiners Handbook. The 2008 version is the latest version of this handbook. The current rule adopted the 2007 version.

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

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

SPECIFIC AUTHORITY: 624.308 FS.

LAW IMPLEMENTED: 624.316 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: November 26, 2008, 9:30 a.m.

PLACE: 116 Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the

agency at least 5 days before the workshop/meeting by contacting: Kerry Krantz, Bureau of Life and Health, Office of Insurance Regulation, E-mail kerry.krantz@fldfs.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kerry Krantz, Bureau of Life and Health, Office of Insurance Regulation, E-mail kerry.krantz@fldfs.com

THE FULL TEXT OF THE PROPOSED RULE IS:

690-138.001 NAIC Financial Condition Examiners Handbook Adopted.

(1)(a) No change.

(b) The National Association of Insurance Commissioners Financial Condition Examiners Handbook 2008 ~~2007~~ is hereby adopted and incorporated by reference.

(2) through (3) No change.

Specific Authority 624.308(1), 624.316(1)(c) FS. Law Implemented 624.316(1)(c) FS. History–New 3-30-92, Amended 4-9-97, 4-4-99, 11-30-99, 2-11-01, 12-25-01, 8-18-02, 7-27-03, Formerly 4-138.001, Amended 1-6-05, 9-15-05, 1-25-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kerry Krantz, Bureau of Life and Health, Office of Insurance Regulation, E-mail kerry.krantz@fldfs.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 14, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 8, 2008

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NOS.:	RULE TITLES:
690-157.302	Facility Only Rates
690-157.303	Home Health Care Only Rates
690-157.304	Comprehensive Only Rates

PURPOSE AND EFFECT: To establish a framework for evaluating rate increases for long term care insurance, and to ensure that the rate increases are not excessive.

SUMMARY: Section 627.9407(7)(c), Florida Statutes, provides that rates charged to an insured for renewal of an existing long term care insurance policy may not exceed the price the insurer charges for newly issued policies. The problem this statute addresses relates to “closed blocks” of business. A closed block of business occurs when a particular approved policy is no longer being sold to new customers. There will be a group of insureds who have the insurance, and they will continue to be renewed, but no new customers will be sold that policy. This statute protects the insureds in that closed block by

precluding an insurer from having higher renewal rates than its rates for new business. This new rule implements this statute by defining terms used in the statute and explaining how calculations are to be done so the insurer can be sure it is in compliance with the statute.

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

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

SPECIFIC AUTHORITY: 627.9408(1) FS.

LAW IMPLEMENTED: 627.031(1)(a), 627.062, 627.9407(7) 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: November 19, 2008, 9:30 a.m.

PLACE: 142 Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Gerry Smith, L&H Product Review, Office of Insurance Regulation, E-mail gerry.smith@fldfs.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Gerry Smith, L&H Product Review, Office of Insurance Regulation, E-mail gerry.smith@fldfs.com

THE FULL TEXT OF THE PROPOSED RULES IS:

690-157.302 Facility Only Rates.

(1) The footnote following Section 627.9407, F.S., states that Section 11, Ch. 2006-254, L.O.F., provides that “[t]his act shall apply to long-term care insurance policies issued or renewed on or after July 1, 2006. For any long-term care insurance policy issued prior to July 1, 2006, the provisions of [Section 627.94076, F.S.] shall apply to such policy only upon renewal of such policy on or after July 1, 2008, and the policy shall so provide by endorsement to the policy.”

(2) The following maximum new business rates are effective for 2009 ~~2006~~ rate increase filings and for 2010 ~~2007~~ rate filings until new rates are published: These annual rates are appropriate for:

- (a) Tax qualified policies;
- (b) A benefit of \$100/day;
- (c) An elimination period of 90 days.



(d) Policies offering Restoration of Benefits, and  
 (e) Sales in Hillsborough County

(3)(a) Facility Only Rates:

<u>Issue Age</u>	<u>3-Yr Benefit Period</u>	<u>5-Yr. Benefit Period</u>	<u>Unlimited Benefit Period</u>
30	\$284.03	\$350.92	\$459.40
31	\$287.49	\$356.69	\$468.20
32	\$291.06	\$362.46	\$477.10
33	\$294.63	\$368.43	\$486.30
34	\$298.31	\$374.41	\$495.60
35	\$301.98	\$380.48	\$505.10
36	\$305.97	\$386.97	\$514.70
37	\$310.07	\$393.46	\$524.50
38	\$314.16	\$400.05	\$534.50
39	\$318.36	\$406.75	\$544.70
40	\$322.67	\$413.65	\$555.00
41	\$326.97	\$420.55	\$565.60
42	\$331.28	\$427.66	\$576.40
43	\$335.69	\$434.87	\$587.40
44	\$340.20	\$442.18	\$598.60
45	\$344.72	\$449.60	\$610.00
46	\$350.81	\$458.76	\$623.20
47	\$357.00	\$468.14	\$636.70
48	\$363.30	\$477.71	\$650.50
49	\$369.71	\$487.50	\$664.60
50	\$376.22	\$497.49	\$679.00
51	\$382.83	\$507.69	\$693.80
52	\$389.55	\$518.09	\$708.80
53	\$396.38	\$528.70	\$724.20
54	\$403.41	\$539.51	\$739.90
55	\$410.55	\$550.54	\$755.90
56	\$440.48	\$588.75	\$809.80
57	\$472.61	\$629.64	\$867.50
58	\$507.05	\$673.31	\$929.30
59	\$543.90	\$720.07	\$995.50
60	\$583.59	\$770.03	\$1,066.40
61	\$626.12	\$823.49	\$1,142.40
62	\$671.79	\$880.65	\$1,223.80
63	\$733.74	\$962.95	\$1,339.80
64	\$801.47	\$1,052.97	\$1,466.80
65	\$865.58	\$1,126.68	\$1,569.48
66	\$934.83	\$1,216.81	\$1,679.34
67	\$1,009.62	\$1,314.16	\$1,796.89
68	\$1,090.38	\$1,419.29	\$1,930.23
69	\$1,211.81	\$1,547.81	\$2,150.64
70	\$1,340.75	\$1,729.87	\$2,396.25
71	\$1,540.77	\$1,933.44	\$2,669.85
72	\$1,735.55	\$2,160.93	\$2,974.77
73	\$1,924.97	\$2,433.75	\$3,335.67
74	\$2,109.14	\$2,740.95	\$3,740.31
75	\$2,346.15	\$3,087.00	\$4,194.18
76	\$2,642.60	\$3,476.81	\$4,702.95
77	\$2,976.56	\$3,915.74	\$5,273.55
78	\$3,282.46	\$4,316.20	\$5,783.13
79	\$3,619.73	\$4,757.64	\$6,342.03
80	\$3,991.68	\$5,244.13	\$6,954.93
81	\$4,401.81	\$5,867.91	\$7,804.10
82	\$4,854.18	\$6,530.20	\$8,685.00
83	\$5,343.31	\$7,198.98	\$9,574.40
84	\$5,881.77	\$7,874.25	\$10,472.40
85	\$6,474.57	\$8,556.00	\$11,379.10
86	\$7,127.00	\$9,704.97	\$12,907.30
87	\$7,845.30	\$10,842.09	\$14,419.60
88	\$8,524.85	\$11,967.26	\$15,916.00
89	\$9,263.27	\$13,080.28	\$17,396.40

Issue Age	3 Yr Benefit Period	5 Yr. Benefit Period	Unlimited Benefit Period
35	\$247.43	\$302.74	\$378.50
45	\$363.53	\$446.70	\$555.75
55	\$522.32	\$646.08	\$810.43
65	\$1,126.33	\$1,406.97	\$1,750.61
75	\$3,073.57	\$3,879.00	\$4,769.07

(b) The insurers used to tabulate the above rates are:

Insurer	Weighting Percentage
Bankers Life & Casualty	90.3%
Penn Treaty Network America Insurance Company	9.7%

Specific Authority 627.9408(1) FS. Law Implemented 627.9407(7) FS. History—New 11-1-07, Amended \_\_\_\_\_.

690-157.303 Home Health Care Only Rates.

(1) The footnote following Section 627.9407, F.S., states that Section 11, Ch. 2006-254, F.S., provides that “[t]his act shall apply to long-term care insurance policies issued or renewed on or after July 1, 2006. For any long-term care insurance policy issued prior to July 1, 2006, the provisions of [Section 627.94076, F.S.] shall apply to such policy only upon renewal of such policy on or after July 1, 2008, and the policy shall so provide by endorsement to the policy.”

(2) The following maximum new business rates are effective for 2009 ~~2006~~ rate increase filings and for 2010 ~~2007~~ rate filings until new rates are published. These annual rates are appropriate for:

- (a) Tax qualified policies;
- (b) A benefit of \$100/day;
- (c) An elimination period of 90 days;
- (d) Policies offering Restoration of Benefits, and
- (e) Sales in Hillsborough County. For all other counties, the rate from this table should be adjusted by the insurer’s current area factor applicable in that county relative to the insurer’s area factor in Hillsborough County.

(3)~~(a)~~ Home Health Care Only Rates:

Issue Age	3-Yr Benefit Period	5-Yr. Benefit Period	Unlimited Benefit Period
30	\$269.87	\$312.28	\$349.95
31	\$269.87	\$312.28	\$349.95
32	\$269.87	\$312.28	\$349.95
33	\$269.87	\$312.28	\$349.95
34	\$269.87	\$312.28	\$349.95
35	\$289.72	\$338.50	\$387.94
36	\$289.72	\$338.50	\$387.94
37	\$289.72	\$338.50	\$387.94
38	\$289.72	\$338.50	\$387.94
39	\$289.72	\$338.50	\$387.94
40	\$322.79	\$378.01	\$432.23
41	\$322.79	\$378.01	\$432.23
42	\$322.79	\$378.01	\$432.23
43	\$322.79	\$378.01	\$432.23
44	\$322.79	\$378.01	\$432.23
45	\$369.28	\$443.74	\$508.03
46	\$369.28	\$443.74	\$508.03
47	\$369.28	\$443.74	\$508.03
48	\$369.28	\$443.74	\$508.03
49	\$369.28	\$443.74	\$508.03
50	\$419.54	\$503.66	\$578.79
51	\$432.77	\$523.33	\$597.70
52	\$452.62	\$536.43	\$623.00
53	\$465.85	\$562.65	\$648.29
54	\$485.87	\$582.50	\$673.50
55	\$529.97	\$636.44	\$726.61
56	\$556.75	\$663.03	\$768.52
57	\$590.32	\$699.83	\$810.60
58	\$630.64	\$749.93	\$865.74
59	\$670.96	\$796.74	\$921.05
60	\$708.00	\$853.39	\$976.28
61	\$754.93	\$903.67	\$1,034.35

<u>62</u>	<u>\$802.05</u>	<u>\$956.95</u>	<u>\$1,095.97</u>
<u>63</u>	<u>\$865.99</u>	<u>\$1,040.67</u>	<u>\$1,184.05</u>
<u>64</u>	<u>\$933.27</u>	<u>\$1,124.47</u>	<u>\$1,281.90</u>
<u>65</u>	<u>\$1,010.63</u>	<u>\$1,214.83</u>	<u>\$1,376.28</u>
<u>66</u>	<u>\$1,087.98</u>	<u>\$1,301.72</u>	<u>\$1,476.97</u>
<u>67</u>	<u>\$1,165.25</u>	<u>\$1,398.64</u>	<u>\$1,583.96</u>
<u>68</u>	<u>\$1,262.76</u>	<u>\$1,515.59</u>	<u>\$1,707.65</u>
<u>69</u>	<u>\$1,366.99</u>	<u>\$1,642.56</u>	<u>\$1,844.12</u>
<u>70</u>	<u>\$1,477.73</u>	<u>\$1,772.81</u>	<u>\$1,986.80</u>
<u>71</u>	<u>\$1,595.09</u>	<u>\$1,912.89</u>	<u>\$2,135.79</u>
<u>72</u>	<u>\$1,712.46</u>	<u>\$2,056.24</u>	<u>\$2,297.47</u>
<u>73</u>	<u>\$1,840.71</u>	<u>\$2,204.01</u>	<u>\$2,445.41</u>
<u>74</u>	<u>\$1,968.78</u>	<u>\$2,355.32</u>	<u>\$2,599.83</u>
<u>75</u>	<u>\$2,106.93</u>	<u>\$2,516.29</u>	<u>\$2,763.85</u>
<u>76</u>	<u>\$2,248.33</u>	<u>\$2,680.72</u>	<u>\$2,930.87</u>
<u>77</u>	<u>\$2,389.72</u>	<u>\$2,848.23</u>	<u>\$3,104.12</u>
<u>78</u>	<u>\$2,571.75</u>	<u>\$3,056.67</u>	<u>\$3,308.54</u>
<u>79</u>	<u>\$2,753.77</u>	<u>\$3,268.58</u>	<u>\$3,519.36</u>
<u>80</u>	<u>\$2,949.12</u>	<u>\$3,483.48</u>	<u>\$3,726.71</u>
<u>81</u>	<u>\$3,151.09</u>	<u>\$3,715.14</u>	<u>\$3,950.13</u>
<u>82</u>	<u>\$3,359.66</u>	<u>\$3,949.80</u>	<u>\$4,179.86</u>
<u>83</u>	<u>\$3,571.71</u>	<u>\$4,188.29</u>	<u>\$4,410.21</u>
<u>84</u>	<u>\$3,793.92</u>	<u>\$4,433.35</u>	<u>\$4,656.64</u>
<u>85</u>	<u>\$4,025.90</u>	<u>\$4,688.13</u>	<u>\$4,899.59</u>
<u>86</u>	<u>\$4,267.96</u>	<u>\$4,952.94</u>	<u>\$5,158.79</u>
<u>87</u>	<u>\$4,513.17</u>	<u>\$5,224.30</u>	<u>\$5,420.66</u>
<u>88</u>	<u>\$4,885.73</u>	<u>\$5,633.61</u>	<u>\$5,792.96</u>
<u>89</u>	<u>\$5,261.44</u>	<u>\$6,049.38</u>	<u>\$6,171.47</u>

Issue Age	3-Yr Benefit Period	5-Yr Benefit Period	Unlimited Benefit Period
35	\$166.18	\$203.65	\$242.26
45	\$245.38	\$306.44	\$366.65
55	\$369.58	\$455.50	\$548.26
65	\$691.78	\$836.06	\$989.23
75	\$1,318.83	\$1,520.52	\$1,702.93

(b) The insurers used to tabulate the above rates are:

Insurer	Weighting Percentage
<del>Bankers Life &amp; Casualty Company</del>	<del>97.2%</del>
<del>Colonial American Life Insurance Company</del>	<del>2.3%</del>
<del>Penn Treaty Network America Insurance Company</del>	<del>0.5%</del>

Specific Authority 627.9408(1) FS. Law Implemented 627.9407(7) FS. History--New 11-1-07, Amended.

69O-157.304 Comprehensive Only Rates.

(1) The footnote following Section 627.9407, F.S., states that Section 11, Ch. 2006-254, L.O.F., provides that “[t]his act shall apply to long-term care insurance policies issued or renewed on or after July 1, 2006. For any long-term care insurance policy issued prior to July 1, 2006, the provisions of [Section 627.94076, F.S.] shall apply to such policy only upon renewal of such policy on or after July 1, 2008, and the policy shall so provide by endorsement to the policy.”

(2) The following maximum new business rates are effective for ~~2009~~ ~~2006~~ rate increase filings and for ~~2010~~ ~~2007~~ rate filings until new rates are published. These annual rates are appropriate for:

- (a) Tax qualified policies;
- (b) A benefit of \$100/day;
- (c) An elimination period of 90 days;
- (d) Policies offering Restoration of Benefits, and
- (e) Sales in Hillsborough County. For all other counties, the rate from this table should be adjusted by the insurer’s current area factor applicable in that county relative to the insurer’s area factor in Hillsborough County.

(3)~~(a)~~ Comprehensive Only Rates:

<u>Issue Age</u>	<u>3-Yr Benefit Period</u>	<u>5-Yr. Benefit Period</u>	<u>Unlimited Benefit Period</u>
30	\$357.66	\$452.19	\$592.98
31	\$359.27	\$454.73	\$596.13
32	\$360.91	\$457.15	\$599.55
33	\$362.81	\$467.83	\$610.09
34	\$372.25	\$470.36	\$613.92
35	\$392.37	\$485.24	\$646.03
36	\$394.19	\$495.83	\$656.91
37	\$396.24	\$498.95	\$660.88
38	\$398.57	\$501.94	\$664.98
39	\$408.46	\$505.21	\$669.38
40	\$422.18	\$538.84	\$704.43
41	\$426.52	\$542.98	\$711.03
42	\$430.28	\$547.83	\$717.94
43	\$434.51	\$552.75	\$733.25
44	\$445.46	\$558.21	\$740.15
45	\$457.15	\$588.24	\$767.35
46	\$469.07	\$593.07	\$782.73
47	\$474.02	\$599.22	\$790.99
48	\$479.33	\$605.50	\$799.51
49	\$492.01	\$611.69	\$822.72
50	\$502.21	\$631.63	\$839.32
51	\$518.00	\$648.72	\$859.73
52	\$533.51	\$674.20	\$887.15
53	\$550.58	\$693.44	\$918.49
54	\$568.09	\$721.86	\$949.96
55	\$588.25	\$733.65	\$980.98
56	\$626.56	\$787.13	\$1,040.83
57	\$661.34	\$841.03	\$1,109.08
58	\$705.13	\$905.55	\$1,179.64
59	\$741.88	\$954.58	\$1,260.83
60	\$795.99	\$1,022.36	\$1,336.52
61	\$852.97	\$1,093.08	\$1,431.38
62	\$919.59	\$1,166.20	\$1,537.41
63	\$991.75	\$1,254.51	\$1,661.23
64	\$1,059.64	\$1,337.42	\$1,777.18
65	\$1,130.19	\$1,414.66	\$1,895.31
66	\$1,239.89	\$1,554.84	\$2,083.84
67	\$1,369.00	\$1,719.56	\$2,290.03
68	\$1,512.16	\$1,894.92	\$2,524.36
69	\$1,651.51	\$2,086.98	\$2,776.71
70	\$1,802.07	\$2,295.68	\$3,049.92
71	\$2,041.92	\$2,572.02	\$3,414.19
72	\$2,293.64	\$2,876.35	\$3,811.27
73	\$2,557.01	\$3,196.06	\$4,229.60
74	\$2,833.53	\$3,547.08	\$4,682.75
75	\$3,132.41	\$3,931.85	\$5,162.40
76	\$3,519.05	\$4,396.08	\$5,779.67
77	\$3,925.72	\$4,914.88	\$6,453.45
78	\$4,344.97	\$5,450.22	\$7,131.36
79	\$4,779.15	\$5,988.95	\$7,829.68
80	\$5,206.95	\$7,201.34	\$9,704.96
81	\$5,695.37	\$7,855.63	\$10,582.32
82	\$6,200.20	\$8,560.10	\$11,522.41
83	\$6,772.84	\$9,335.36	\$12,551.65
84	\$7,380.07	\$10,190.80	\$13,680.13
85	\$8,971.35	\$11,276.50	\$15,228.74
86	\$10,532.62	\$13,010.62	\$17,716.18
87	\$11,566.04	\$14,303.82	\$19,459.57
88	\$12,659.68	\$15,643.72	\$21,277.97
89	\$13,799.95	\$17,046.75	\$23,185.77

Issue Age	3 Yr Benefit Period	5 Yr Benefit Period	Unlimited Benefit Period
35	\$332.88	\$414.10	\$574.47
45	\$474.36	\$592.44	\$822.62
55	\$666.65	\$824.77	\$1,151.34
65	\$1,313.19	\$1,640.75	\$2,259.55
75	\$3,288.22	\$4,210.08	\$5,603.51

(b) The insurers used to tabulate the above rates are:

Insurer	Weighing Percentage
Bankers Life & Casualty Insurance Company	52.7%
Blue Cross Blue Shield of Florida	5.1%
Genworth Life Insurance Company	11.5%
Great American Life Insurance Company	9.8%
John Hancock Life Insurance Company	14.2%
Metlife Insurance Company	6.7%

Specific Authority 627.9408(1) FS. Law Implemented 627.9407(7) FS. History--New 11-1-07, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: :  
 Dan Keating, Actuary, L&H Forms and Rates, Office of Insurance Regulation  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Financial Services Commission  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 14, 2008  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 28, 2007

(1) In Rule 19-11.002(7)(b), the whole paragraph will now read as follows, adding "Social Security Number" in addition to "Taxpayer Identification Number," in three places.

(b) The FRS Investment Plan Administrator will, at the time of distribution, make a reasonable effort to obtain the beneficiary's Social Security Number or Taxpayer Identification Number, using available search tools, including the internet, Nexis Lexis Accurint, the Internal Revenue Service, and the Social Security Administration. Additionally, by calendar year-end, in the year the distribution occurred, the FRS Investment Plan Administrator will attempt to locate and obtain the Social Security Number or the Taxpayer Identification Number of the beneficiary, and, at least one time in the calendar year following the distribution, to locate the beneficiary. The Investment Plan Administrator will document for the Internal Revenue Service the efforts taken to locate the beneficiary's Social Security Number or Taxpayer Identification Number.

(2) In paragraph 19-11.007(5)(a), the ELE-2EZ enrollment form will have the rule number in which it is adopted displayed in accordance with Section 120.55(1)(a)4., Florida Statutes.

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

#### BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

#### STATE BOARD OF ADMINISTRATION

RULE NOS.:	RULE TITLES:
19-11.002	Beneficiary Designation for FRS Investment Plan
19-11.007	Second Election Enrollment Procedures for the FRS Retirement Programs

#### NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 32, August 8, 2008 issue of the Florida Administrative Weekly.

#### DEPARTMENT OF CORRECTIONS

RULE NO.:	RULE TITLE:
33-601.733	Visiting – Special Status Inmates

#### NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 27, July 3, 2008 issue of the Florida Administrative Weekly.

33-601.733 Visiting – Special Status Inmates.

(1) Inmates in special statuses, except for medical reasons, are not considered inmates with regular visiting privileges and must have special approval to visit. Inmates in special statuses shall be prohibited or restricted from regular visiting due to adverse impacts on security and orderly institutional operation.