

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

Section II  
Proposed Rules

**AGENCY FOR ENTERPRISE INFORMATION TECHNOLOGY**

RULE NO.: 71-1.001  
RULE TITLE: Delegation of Authority

PURPOSE AND EFFECT: The purpose of the proposed new Rule 71-1.001, F.A.C., is to grant delegation of authority to the Executive Director of the Agency for Enterprise Information Technology (AEIT) from the Governor and Cabinet for the general day-to-day administrative duties of the agency and for those duties and responsibilities outlined in Florida Statute Ch. 14.204, establishes the AEIT, and outlines the responsibilities of the agency in regards to enterprise IT services in the State of Florida; Ch. 282.201, F.S. outlines the duties and responsibilities of the AEIT concerning the State Data Center System; and Ch. 282.318, F.S. outlines the duties and responsibilities relating to enterprise information security. Duties which cannot be delegated, and which require approval of the Governor and Cabinet by statute, include (1) final approval of the Agency’s Annual Operational Work Plan; (2) Initiation of the rule-making process; and (3) Final approval of rules created by the Agency.

SUBJECT AREA TO BE ADDRESSED: Delegation of Authority.

SPECIFIC AUTHORITY: 14.204, 282.201, 282.318 FS.

LAW IMPLEMENTED: 14.204, 282.201, 282.318 FS.

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

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: Dawn Creamer at (850)922-7502. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Dawn Creamer at (850)922-7502

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

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Plant Industry**

RULE NO.: 5B-57.012  
RULE TITLE: Casuarina Cunninghamiana Windbreaks

PURPOSE AND EFFECT: The purpose of this rule is to establish procedures for propagating male Casuarina cunninghamiana trees in nurseries to be used as windbreaks around commercial citrus groves, and permitting procedures that grove owners or operators must follow to plant and maintain Casuarina cunninghamiana windbreaks in designated areas of Indian River, Martin and St. Lucie Counties. The effect will be to provide fast growing trees to serve as windbreaks to protect citrus groves in those counties from the spread of citrus canker disease while ensuring that the Casuarina cunninghamiana trees will not spread into and disrupt the environment.

SUMMARY: This rule requires nurseries to obtain a permit from the Department in order to propagate Casuarina cunninghamiana trees. It requires the trees to be vegetatively propagated from registered source trees that have been certified as male trees by the Department. It also requires citrus growers in the three counties to obtain a permit from the Department in order to plant Casuarina cunninghamiana windbreaks. It establishes requirements for maintenance of the windbreak plantings, and destruction of the windbreaks if they are no longer properly maintained, the grove is no longer operating, or hybridization is found to occur. It also establishes fees for the permits.

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: 570.07(23), 581.031(1), (3), (8), 581.091 FS.

LAW IMPLEMENTED: 570.07(2), (13), 570.32(5), (6), 581.031(1), (17), 581.091 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: Richard Gaskalla, Director, Division of Plant Industry, Department of Agriculture and Consumer Services, P. O. Box 147100, Gainesville, FL 32614-7100

THE FULL TEXT OF THE PROPOSED RULE IS:

5B-57.012 *Casuarina Cunninghamiana* Windbreaks.

Purpose. – The Department is authorized pursuant to Section 581.091, F.S., to develop and administer a pilot program to allow for, under special permits, the propagation of male *Casuarina cunninghamiana* trees, and the planting of those trees as windbreaks for commercial citrus groves in Indian River, Martin and St. Lucie Counties. The program is a five-year pilot that may be extended and expanded if so approved at the end of five years by the Noxious Weed and Invasive Plant Review Committee, the Department of Environmental Protection, the Department and a representative of the citrus industry, as provided in Section 581.091(5)(b), F.S.; or permanently suspended if hybrids are found that the Department determines, pursuant to Section 581.091(5)(k), F.S., have a high potential to be invasive.

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

(a) *Casuarina cunninghamiana* means a perennial tree in the family Casuarinaceae commonly called the “river she-oak.”

(b) Commercial citrus grove means a contiguous planting of 100 or more citrus trees where citrus fruit is produced for sale.

(c) Department means the Florida Department of Agriculture and Consumer Services.

(d) Registered source tree means a *Casuarina cunninghamiana* male tree of Florida origin that the Department has verified as sexually mature and horticulturally true to type and for which the Department has assigned a source tree registration number.

(2) Nursery Propagation Permit Application Requirements. The following requirements must be met in order obtain a permit to propagate *Casuarina cunninghamiana* for use as a windbreak around commercial citrus groves:

(a) *Casuarina cunninghamiana* may only be propagated by nurseries registered with the Department pursuant to Section 581.031(21), F.S.

(b) The nursery must submit an application for a special permit to propagate *Casuarina cunninghamiana*. The form titled Application and Compliance Agreement Permit To Propagate *Casuarina Cunninghamiana* (DACS-08446, Rev. 02/09) is hereby adopted and incorporated herein by reference. The form may be obtained from the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, P. O. Box 147100, Gainesville, FL 32614-7100.

(c) The application must be accompanied by a fee of \$200.

(d) The Compliance Agreement included in the application shall include a statement that the owner or operator acknowledges that this is a pilot program, and that the

Department may order the destruction at owner’s or operator’s expense of all *Casuarina cunninghamiana* trees propagated pursuant to the permit.

(e) Within 30 days of receipt of a complete permit application and signed compliance agreement that meet the requirements of this rule, the Department shall issue the applicant a Special Permit for Propagation of *Casuarina cunninghamiana*.

(f) If the application is not complete, the Department shall notify the applicant in writing of the reasons that the permit will not be issued and any corrective measures that the applicant must take to obtain approval.

(g) The special permit expires twelve months after the date of issuance.

(h) Application for renewal of the special permit for propagation must be received by the Department at least 60 days prior to its expiration and be accompanied by the application fee of \$200.

(3) Propagation Permit Requirements.

(a) All *Casuarina cunninghamiana* plants must be vegetatively propagated from registered source trees.

(b) An annual fee of \$50 must be paid for each registered source tree and each registered source tree must be labeled with a permanent tag that contains the source tree registration number assigned by the Department.

(c) Each plant propagated from the registered source tree must be labeled with a permanent tag that contains the source tree registration number.

(d) Propagations from each registered source tree shall be maintained in nursery rows or on greenhouse benches so that each group can be identified as originating from an individual registered source tree.

(e) Source tree registration numbers of the parent plants must be documented on each invoice provided to the buyer.

(f) Nurseries may only sell *Casuarina cunninghamiana* to a person with a Special Permit for *Casuarina cunninghamiana* Windbreaks. The nursery must include the buyers permit number on each invoice.

(g) Copies of *Casuarina cunninghamiana* invoices must be maintained for 5 years and be made available to the Department upon request.

(h) Upon expiration of the Special Permit to Propagate *Casuarina cunninghamiana* issued by the Department, all remaining propagations must be destroyed, or sold or transferred to a nursery that has a current Special Permit to Propagate *Casuarina cunninghamiana*.

(i) The destruction or movement of any *Casuarina cunninghamiana* plants must be done under the direct supervision of the Department.

(4) Citrus Grove Windbreak Permit Application Requirements. The following requirements must be met in order obtain a permit to plant a *Casuarina cunninghamiana* Windbreak around commercial citrus groves:

(a) *Casuarina cunninghamiana* windbreaks may only be planted around a commercial citrus grove as defined in paragraph 5B-57.012(1)(b), F.A.C., located in areas of Indian River, Martin, or St. Lucie Counties in which the Department has determined that citrus canker is widespread.

(b) The property owner or operator must submit an Application and Compliance Agreement for a Special Permit for *Casuarina cunninghamiana* Windbreaks. The form titled Application and Compliance Agreement For *Casuarina Cunninghamiana* Windbreaks (DACS-08445, Rev. 02/09) is hereby adopted and incorporated herein by reference. The form may be obtained from the Florida Department of Agriculture and Consumer Services; Division of Plant Industry, P. O. Box 147100, Gainesville, FL 32614-7100.

(c) A separate permit must be obtained for each noncontiguous commercial citrus grove where the applicant intends to plant the windbreak.

(d) Each application must include the following:

1. The name of the applicant and the applicant's address or the address of the applicant's principal place of business and the location and multiblock numbers of each commercial citrus grove for which a permit is sought. If the applicant is a corporation, partnership, or other business entity, the applicant must also provide in the application the name and address of each officer, partner, or managing agent.

2. An application fee in the amount of \$200.

3. A baseline survey of all lands within 500 feet of the proposed windbreak to detect any *Casuarina* species. If any *Casuarina* species is detected, a map showing the location and identification of each *Casuarina* species must be provided. Identifications must be verified by the Department prior to issuance of a permit.

(e) An estimate of the cost of removing and destroying the proposed *Casuarina cunninghamiana* windbreak and the basis for calculating the estimate.

(f) A signed compliance agreement stating that the property owner or operator will abide by all permit conditions. The compliance agreement in the application shall include a statement that the owner or operator acknowledges that this is a pilot program, and that the Department may order the destruction at owner's or operator's expense of all *Casuarina cunninghamiana* trees planted pursuant to the permit.

(g) Within 30 days of receipt of a complete application and signed compliance agreement that meets the requirements of this rule, the Department shall issue the applicant a Special Permit For *Casuarina cunninghamiana* Windbreak or notify the applicant in writing of the reasons that the permit will not be issued and any corrective measures that applicant must take to obtain approval of the permit.

(h) The Special Permit for *Casuarina cunninghamiana* Windbreaks shall be valid for 5 years from the date of issuance and is transferable to subsequent owners or operators upon approval by the Department.

(i) Application for renewal of the special permit for a *Casuarina cunninghamiana* windbreak must be received by the Department at least 60 days prior to its expiration and be accompanied by the application fee of \$200.

(5) Citrus Grove Windbreak Permit Conditions. The special permit shall require the property owner or operator to:

(a) Maintain the commercial citrus grove in such a manner to facilitate inspections and to provide unrestricted access to the site for purposes of inspecting the *Casuarina cunninghamiana* windbreaks;

(b) Notify the Department within 30 days following the initial planting and any subsequent planting of *Casuarina cunninghamiana*;

(c) Be responsible for the removal of *Casuarina cunninghamiana* if invasive populations or other adverse environmental factors are determined to be present by the Department as a result of the use of *Casuarina cunninghamiana* windbreaks;

(d) Maintain all records of the invoices documenting the purchase of the *Casuarina cunninghamiana*, including the source tree registration numbers as stated in paragraph 5B-57.012(1)(d), F.A.C., and make those records available to the Department during normal business hours for their review.

(e) Notify the Department within 30 business days of any change of address or change in the principal place of business.

(f) Notify the Department of the property owner's intent to sell or otherwise transfer the ownership of the property at least 30 days prior to the transfer of ownership. The permit holder shall provide the new owner with a copy of the Special Permit and of all invoices and certification documents prior to closing.

(g) The permit holder shall remain responsible for all aspects of the permit until the Department has issued a new permit to the new owner.

(h) The application must be accompanied by a fee of \$200 for each non-contiguous citrus grove.

(i) This special permit expires 5 years after issuance.

(6) Additional Permit Requirements For Maintenance And Mitigation.

(a) If the property owner or operator detects any *Casuarina* seedlings within 500 feet of the planted windbreak, the property owner or operator shall notify the Department immediately. Once notified, the Department shall follow the procedures in subsection 5B-57.012(7), F.A.C.

(b) The property owner or operator shall inspect the windbreak at least one time per month for any signs of female flowers or cones and shall notify the Department immediately if any are detected. Records of each inspection shall be maintained by the property owner or operator and be available for inspection by the Department.

(7) Destruction of *Casuarina cunninghamiana* Windbreaks. *Casuarina cunninghamiana* windbreaks shall be destroyed under any of the following circumstances and conditions:

(a) By the property owner within 6 months after:

1. The property owner takes permanent action to no longer use the site for commercial citrus production; or

2. The site has not been used for commercial citrus production for five years; or

3. The Department determines the *Casuarina cunninghamiana* on the site has become invasive based on its own determination or on the recommendation of the Noxious Weed and Invasive Plant Review Committee and the Department of Environmental Protection and in consultation with a representative of the citrus industry who has a *Casuarina cunninghamiana* windbreak.

4. If the owner or operator neglects or refuses to comply, the Department shall destroy the plants, assess the expense against the owner and if payment is not received, record a lien against the property.

(b) Within a time specified by the Department if the Department determines that female flowers or cones have been produced on any *Casuarina cunninghamiana* plant within a windbreak.

(c) By immediate final order if the Department determines that:

1. The permit holder is no longer maintaining the *Casuarina cunninghamiana* subject to the provisions of the special permit and has not removed and destroyed the trees; or

2. The continued use of *Casuarina cunninghamiana* as windbreaks presents an imminent danger to public health, safety, or welfare; or

3. The permit holder has violated the conditions of the special permit;

(d) In cases governed by subparagraph 5B-57.012(7)(c)1.-3., F.A.C., above, the Department may issue an immediate final order, which shall be immediately appealable or enjoined as provided by Chapter 120, Florida Statutes, directing the permit holder to immediately remove and destroy the *Casuarina cunninghamiana* authorized to be planted under the special permit.

(e) The permit holder may make a written request to the Department for a specified extension of time to remove and destroy the *Casuarina cunninghamiana* as ordered in the immediate final order. The request must demonstrate specific facts showing why the *Casuarina cunninghamiana* could not reasonably be removed and destroyed in the applicable timeframe.

(f) Upon a showing that the permit holder has demonstrated the need for additional time to destroy the trees, the Department may specify a later date by which the trees subject to the special permit must be destroyed.

(g) If upon issuance by the Department of an immediate final order to the permit holder, the permit holder fails to remove and destroy the *Casuarina cunninghamiana* subject to the special permit within 60 days after issuance of the order, such other extended time as granted by the Department, or such shorter period as is designated in the order as public health, safety, or welfare requires, the Department may remove and destroy the *Casuarina cunninghamiana* that are the subject of the special permit.

(h) The reasonable costs and expenses incurred by the Department for removing and destroying the plants shall be paid out of the Citrus Inspection Trust Fund and shall be reimbursed by the party to which the immediate final order is issued.

(i) If the party to which the immediate final order has been issued fails to reimburse the state within 60 days, the Department may record a lien on the property. The lien shall be enforced by the Department.

(8) Evaluation of Seedlings.

(a) *Casuarina* Seedlings discovered within 500 feet of a *Casuarina cunninghamiana* windbreak shall be identified by the Department to species level, removed and evaluated by the Department to determine whether hybridization has occurred.

(b) If the Department determines that hybridization has occurred, the Department shall initiate action to determine the invasiveness of the hybrids.

(c) The Department shall report its findings to a reviewing group consisting of the Noxious Weed and Invasive Plant Review Committee, the Department of Environmental Protection and the citrus industry.

(d) If after consulting with the reviewing group the Department determines the hybrids have a high potential to become invasive, this program shall be permanently suspended, all propagation and windbreak special permits shall be rescinded, and *Casuarina cunninghamiana* planted pursuant to special permits shall be destroyed.

(9) Department Monitoring and Response. The Department shall:

(a) Conduct inspections of the windbreak within 30 days of the initial planting and any subsequent plantings, and

(b) Conduct inspections of the windbreak and all areas 500 feet from the windbreak at least annually thereafter.

(c) Conduct any other inspections needed to determine whether the *Casuarina cunninghamiana* has spread beyond the permitted location.

(10) Reevaluation, Extension and Expansion of Pilot Program.

(a) The program shall be evaluated annually by the Department to determine any adverse environmental impacts of the pilot program.

(b) In 2013, the Department shall conduct a comprehensive review and evaluation of the pilot program. The Department shall review and evaluate any adverse

environmental impacts of the pilot program and determine the potential for future adverse environmental impacts from the use of *Casuarina cunninghamiana* as windbreaks around commercial citrus groves, and put its findings in a report.

(c) After the Department has completed its review, the pilot program and report shall be evaluated by a reviewing group consisting of the Noxious Weed and Invasive Plant Review Committee, the Department of Environmental Protection and a representative of the citrus industry who has a *Casuarina cunninghamiana* windbreak.

(d) If the reviewing group determines that there is a low potential for adverse environmental impacts from the program, the Department may extend and expand the use of the windbreaks to other areas of the state. Any such extension or expansion shall be by Department rule.

(e) If the reviewing group determines that additional time is needed to determine the impacts of *Casuarina cunninghamiana* windbreaks, the Department shall allow the program to remain in place but shall not expand the areas to be planted until such time as the evaluation is complete and the Department, in consultation with the reviewing group, determines that there is a low potential for adverse environmental impact.

Specific Authority 570.07 (23), 581.031 (1), (3), (8), 581.091 FS. Law Implemented 570.07 (2), (13), 570.32(5), (6), 581.031 (1), (17), 581.091 FS. History—New \_\_\_\_\_.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles H. Bronson, Commissioner, Department of Agriculture and Consumer Services, The Capitol, 400 South Monroe Street, Tallahassee, FL 32399

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 11, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 21, 2008

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Agricultural Water Policy**

RULE NOS.:	RULE TITLES:
5M-11.001	Purpose
5M-11.002	Approved Best Management Practices
5M-11.003	Presumption of Compliance
5M-11.004	Notice of Intent to Implement
5M-11.005	Record Keeping

PURPOSE AND EFFECT: The purpose of this proposed rule is to adopt agricultural Best Management Practices for Florida cow/calf operations and to provide a mechanism for ranchers to enroll in the program by submitting Notices of Intent to Implement.

SUMMARY: The proposed rule establishes a procedure for submitting a “Notice of Intent” to implement agricultural Best Management Practices, and identifies the conditions that provide a presumption of compliance with state water quality standards for those pollutants addressed by the practices. The rule also provides that records maintained by the producer must be retained for at least 5 years, and are subject to periodic inspection.

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: 403.067(7)(c)2., 570.07(23) FS.

LAW IMPLEMENTED: 403.067(7)(c)2. 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: Bill Bartnick, Environmental Administrator, Office of Agricultural Water Policy, 1203 Governor’s Square Boulevard, Suite 200, Tallahassee, Florida 32301, (850)617-1700 or Fax (850)617-1701

THE FULL TEXT OF THE PROPOSED RULES IS:

5M-11.001 Purpose.

The purpose of this rule is to effect pollutant reduction through the implementation of agricultural Best Management Practices (BMPs) that may be determined to have minimal individual or cumulative adverse impacts to the water resources of the state.

Specific Authority 403.067(7)(c)2., 570.07(23) FS. Law Implemented 403.067(7)(c)2. FS. History—New \_\_\_\_\_.

5M-11.002 Approved Best Management Practices.

The manual titled *Water Quality Best Management Practices for Florida Cow/Calf Operations* (2008 Edition), DACS P-01280, is hereby adopted and incorporated by reference. Cow/calf operations in the Lake Okeechobee Watershed must follow the requirements of Chapter 5M-3, F.A.C. Copies of the manual may be obtained from the University of Florida Cooperative Extension Service county office or from the Florida Department of Agriculture and Consumer Services (FDACS), Office of Agricultural Water Policy, 1203

Governor's Square Boulevard, Suite 200, Tallahassee, FL, 32301 or by visiting <http://www.floridaagwaterpolicy.com/BestManagementPractices.html>.

Specific Authority 403.067(7)(c)2., 570.07(23) FS. Law Implemented 403.067(7)(c)2. FS. History–New \_\_\_\_\_.

5M-11.003 Presumption of Compliance.

Pursuant to Section 403.067(7)(c)3., F.S., implementation, in accordance with adopted rules, of BMPs that have been verified by the Florida Department of Environmental Protection as effective in reducing target pollutants provides a presumption of compliance with state water quality standards and release from the provisions of Section 376.307(5), F.S., for those pollutants addressed by the practices. In order to meet the requirements for presumption of compliance and release from Section 376.307(5), F.S., the producer must:

- (1) Submit a Notice of Intent to Implement, as provided in Rule 5M-11.004, F.A.C., that identifies the applicable BMPs;
- (2) Implement all applicable BMPs in accordance with the timeline requirements in Rule 5M-11.004, F.A.C.; and
- (3) Maintain records to document the implementation and maintenance of the identified BMPs, in accordance with Rule 5M-11.005, F.A.C.

Specific Authority 403.067(7)(c)2., 570.07(23) FS. Law Implemented 403.067(7)(c)2. FS. History–New \_\_\_\_\_.

5M-11.004 Notice of Intent to Implement.

A Notice of Intent to Implement BMPs and the accompanying checklist, both of which are in the Appendix of the manual referenced in Rule 5M-11.002, F.A.C., shall be submitted to the FDACS Office of Agricultural Water Policy, 1203 Governor's Square Boulevard, Suite 200, Tallahassee, Florida 32301.

(1) The Notice of Intent shall include:

- (a) The name of the property owner, the location of the property, and the property tax ID number(s) or other property identification information;
- (b) The acreage on which BMPs will be implemented;
- (c) The name and contact information of an authorized representative;
- (d) The signature of the owner, lease holder, or an authorized agent;
- (e) A BMP checklist with a schedule for implementation, as contained in the manual. The producer shall select the applicable BMPs by following the instructions in the manual. Except as provided in the manual, all applicable Level I BMPs must be implemented as soon as practicable, but no later than 18 months after submittal of the Notice of Intent to Implement; and

(f) If applicable, a copy of the Conservation Plan developed pursuant to the manual or the Conservation Plan otherwise developed that contains practices identified in the Notice of Intent to Implement.

(2) Submittal of the Notice of Intent to Implement enables the producer to receive assistance with BMP implementation.

Specific Authority 403.067(7)(c)2., 570.07(23) FS. Law Implemented 403.067(7)(c)2. FS. History–New \_\_\_\_\_.

5M-11.005 Record Keeping.

All participants must keep records as directed in the manual to document implementation and maintenance of the practices submitted in the Notice of Intent to Implement. Records must be retained for at least 5 years. All documentation is subject to inspection.

Specific Authority 403.067(7)(c)2., 570.07(23) FS. Law Implemented 403.067(7)(c)2. FS. History–New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Richard J. Budell, Director, Office of Agricultural Water Policy

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles H. Bronson, Commissioner, Department of Agriculture and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 26, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 6, 2009

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-6.0970                      RULE TITLE: John M. McKay Scholarship for Students with Disabilities Program

PURPOSE AND EFFECT: The purpose of this rule amendment is to establish a June 1 deadline each year for private schools participating in the McKay Scholarship Program to submit requests to reconcile scholarship payments. This assures that all monetary transactions for each school year are completed within the corresponding fiscal year.

SUMMARY: This amendment will ensure that funds generated through the FEFP for the McKay Scholarship Program will be disseminated within the timeframe of the fiscal year in which the student participated in the program.

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: 1002.39(1) FS.

LAW IMPLEMENTED: 1002.39 FS.

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

DATE AND TIME: March 17, 2009, 8:30 a.m.  
PLACE: Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mike Kooi, Executive Director, Office of Independent Education and Parental Choice, 325 West Gaines Street, Room 522, Tallahassee, Florida 32399; (850)245-0502

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.0970 John M. McKay Scholarship for Students with Disabilities Program.

The John M. McKay Scholarship for Students with Disabilities Program will be implemented as required by Section 1002.39, Florida Statutes, in an effective and equitable manner that will maintain the integrity of the program.

(1) through (4) No change.

(5) Scholarship payments. The following provisions detail information related to scholarship payments including timeframes, eligibility, and Departmental procedures.

(a) through (e) No change.

(f) To ensure proper administration of scholarship funds, all claims by private schools for missed scholarship payments must be made by June 1 of the fiscal year in which the scholarship payment was originally due ~~within one (1) year of the date the payment was originally due.~~

(6) through (9) No change.

Specific Authority 1002.39(13) FS. Law Implemented 1002.39 FS. History--New 1-18-07, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mike Kooi, Executive Director, Office of Independent Education and Parental Choice

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 10, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 23, 2009

**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."

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-204.003  
RULE TITLE: Food Services – Standards of Operation

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to amend the form documenting substitution of food items from DC6-229, Daily Record of Segregation, to DC6-209, Housing Unit Log, and DC6-210, Incident Report. This amendment is made for efficiency.

SUMMARY: The proposed rule changes the form used for documenting food substitutions from DC6-229, Daily Record of Segregation, to DC6-209, Housing Unit Log, and DC6-210, Incident Report.

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: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-204.003 Food Services – Standards of Operation.

(1) No change.

(2) Confinement.

(a) All inmates in confinement shall receive normal institutional meals as are available to the general population, except that if any item on the normal menu or any food utensil might create a security problem in the confinement area, then another item of comparable quality or other appropriate utensils shall be substituted. Substitutions shall be documented on the Housing Unit Log, DC6-209 and Incident Report, DC6-210 ~~Daily Record of Segregation, Form DC6-229.~~ Form DC6-209 ~~is DC6-229~~ ~~has been previously~~ incorporated by reference in Rule 33-601.800 ~~33-602.220~~, F.A.C. Form DC6-210 ~~is incorporated by reference in Rule 33-602.210, F.A.C.~~

(b) through (d) No change.

(3) through (5) No change.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—New 1-18-89, Amended 7-21-97, Formerly 33-30.003, Amended 8-9-00, 11-16-00, 10-2-01, 2-18-02, 7-2-03, 11-1-04, 2-27-05, 10-16-05, 1-17-06, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Charlie Terrell, Director of Field Support Services,  
Institutional Support Services

NAME OF AGENCY HEAD WHO APPROVED THE  
PROPOSED RULE: Walter A. McNeil, Secretary

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: July 21, 2008

#### DEPARTMENT OF CORRECTIONS

RULE NO.: 33-210.102                      RULE TITLE: Legal Documents and Legal Mail

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify what may be included in legal mailings and how such mailings shall be addressed.

SUMMARY: The proposed rule requires the return address of outgoing legal mail to include the inmate's identifying information and the return address of incoming legal mail to identify the sender; requires legal mail to be marked as such; clarifies the acceptable methods of packaging legal mail and provides procedures for the return of undeliverable or unauthorized mail; provides methods for translating the letterhead of legal mail written in a foreign language; clarifies that indigent inmates will be provided envelopes for sending legal mail and will receive postage for mailing complaints of inadequate assistance of counsel to the Florida Bar; and incorporates by reference Form DC2-528, Legal Mail – Unable to Deliver.

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: 20.315, 944.09, 944.11 FS.

LAW IMPLEMENTED: 944.09, 944.11 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: Kendra Lee Jowers, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-210.102 Legal Documents and Legal Mail.

(1) No change.

(2) Legal mail shall be defined as:

(a) Mail to and from municipal, county, state, and federal courts.

(b) through (g) No change.

(3) through (5) No change.

(6) Inmates shall be permitted to receive only legal documents, legal correspondence, written materials of a legal nature (other than publications), and self-addressed stamped envelopes through legal mail. No other items may be received through legal mail.

(a) The following items are not permissible for inclusion in legal mail, but are permissible for inclusion in routine mail, along with other materials listed in subsection 33-210.101(2), F.A.C.:

1. Greeting cards, blank greeting cards, stationery or other blank writing paper or envelopes;

2. through 4. No change.

(b) through (c) No change.

(7) When an inmate is prohibited from receiving any item of legal mail, the inmate and the sender will be notified in writing that the mail has been disapproved stating one of the authorized reasons for disapproval. Form DC2-521, The Unauthorized Mail Return Receipt, Form DC2-521, will be placed in the original envelope with the correspondence and returned to the sender. If unauthorized items are discovered in the mail (other than items of an illegal nature), the unauthorized item and the correspondence will be returned to the sender with Form DC2-521, the Unauthorized Mail Return Receipt, included. Form DC2-521 is incorporated by reference in Rule 33-210.101, F.A.C.

(8) Processing of Legal Mail.

(a) The return address of incoming legal mail shall contain sufficient information to identify the sender as one of the persons or entities identified in subsection (2).

(b) Except as provided in Rule 33-603.103, F.A.C., the address on all incoming legal mail shall contain the inmate's committed name, identification number, institutional name, and address. The inmate's dorm and bunk locations are not required. However, if the addressee can be identified, the mail shall be delivered without delay. When legal mail cannot be delivered because the envelope does not contain enough information for a positive identification of the inmate recipient, the mail will be returned to the sender along with Form DC2-528, Legal Mail – Unable to Deliver. Form DC2-528 is hereby incorporated by reference. A copy of this form is available from the Forms Control Administrator, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is \_\_\_\_\_.



(c) No packaging other than standard envelopes shall be given to inmates. The following types of packaging shall be removed before providing the contents to the inmate: boxes, padded envelopes, envelopes that include metal parts, multilayer packaging, bubble wrap, packing peanuts, or other forms of extra packaging.

(d) The sender of incoming legal mail shall mark the outside of the envelope "legal-confidential," "legal-open only in the presence of the addressee," or similar language which would put the reader on notice that the mail is legal mail of a confidential nature. Mail from courts that is subject to public inspection under Chapter 119, Florida Statutes, need not be marked as legal mail. Incoming mail which does not include a marking on the outside of the envelope requesting that it be treated as confidential legal mail shall be treated as routine mail and shall be opened and examined, and is subject to being read by a designated employee outside the presence of the inmate.

(e) All incoming legal mail will be opened in the presence of the inmate to determine that the correspondence is legal mail and that it contains no unauthorized items. Only the signature and letterhead may be read.

(f) If legal mail is written in a foreign language the signature and letterhead shall be translated to confirm that it is legal mail. If the signature and letterhead indicate that it is legal mail, the mail shall be provided to the inmate. If the letterhead and signature cannot be translated by an employee at the facility, the envelope, letterhead, and signature of the correspondence may be photocopied and sent to another institution or the central office for translation. If the incoming mail is not legal mail, it will be returned to the sender along with a form letter which states that the correspondence is being returned in accordance with subsection (8) of this rule because it was being transmitted under the guise of legal mail. The inmate to whom the mail was addressed shall receive a copy of the form letter.

(g) The return address on all outgoing legal mail must contain the inmate's committed name, identification number, and the institutional name and address spelled out completely. The inmate's dorm and bunk locations are not required. No prefix other than inmate, Mr., Ms., Miss, or Mrs., or any suffix other than Jr., Sr., or Roman numerals such as II or III may be included as part of the committed name in the return address. If the inmate's committed name or identification number is missing, the letter shall be returned to the inmate for proper addressing. If the institutional name or address is incomplete, the institution is authorized to stamp all outgoing legal mail with the complete institutional name and address and shall mail it without delay. All outgoing legal mail will be stamped "mailed from a state correctional institution" by mail room staff.

(h)(b) Inmates shall present all outgoing legal mail unsealed to the mail collection representative to determine, in the presence of the inmate, that the correspondence is legal mail, bears that inmate's return address and signature, and that it contains no unauthorized items. Only the address may be read to determine whether it is properly addressed to a person or entity identified agency listed in subsection (2) of this rule. If the outgoing mail contains unauthorized items or is not legal mail, the inmate shall be subject to disciplinary action. If the outgoing mail is legal mail and it contains no unauthorized items, the mail collection representative shall stamp the document(s) to be mailed and the inmate's copy, if provided by the inmate, "Provided to (name of institution) on (blank to insert date) for mailing." The mail collection representative shall then have the inmate initial the document(s) next to the stamp. For confinement areas, the staff member who picks up the legal mail each day shall stamp the documents, have the inmate place his or her initials next to the stamp, and have the inmate seal the envelope in the staff member's presence. The use of mail drop boxes for outgoing legal mail is prohibited.

(i)(e) Incoming and outgoing legal mail that is properly addressed and otherwise in compliance with applicable rules shall not be held for processing for more than 24 hours of receipt by the mail room, excluding weekends and holidays.

(9) Inmates shall be allowed to keep legal material in their living area subject to storage limitations. The Department of Corrections will not be responsible for lost or stolen or misplaced legal materials. The institution shall provide white paper, envelope(s), and pen for the preparation of legal documents and legal mail for those inmates without necessary funds to purchase their own paper, envelopes, and pen. Inmates shall not utilize hand-made envelopes or packages to send out legal mail. Mail enclosed in such materials will be returned to the inmate without processing. Outgoing packages and envelopes will not bear any artwork, additional lettering, or designs other than the required address and return address.

(10)(a) The institution shall furnish postage for mail to persons or entities identified in subsection (2), courts and attorneys and for pleadings to be served upon each of the parties to a lawsuit and for mailing a complaint to the Florida Bar concerning ineffective assistance of counsel in the inmate's criminal case for those inmates who have insufficient funds to cover the cost of mailing the documents at the time the mail is submitted to the mailroom, but not to exceed payment for the original and two copies except when additional copies are legally required. The inmate shall be responsible for proving that copies in addition to the routine maximum are legally necessary. Submission of unstamped legal mail to the mailroom or mail collection representative by an inmate without sufficient funds shall be deemed to constitute the inmate's request for the institution to provide postage and place a lien on the inmate's account to recover the postage costs when the inmate receives funds.

(b) No change.

(11) through (12) No change.

~~(13) The address on all incoming legal mail should contain the inmate's committed name, identification number, institutional name and address; the inmate's dorm and bunk locations are not required. However, if the addressee can be identified, the mail shall be delivered without delay. When legal mail cannot be delivered because the envelope does not contain enough information for a positive identification of the inmate recipient, the mail will be returned to the sender along with Form DC2-528, Legal Mail - Unable to Deliver. Form DC2-528 is hereby incorporated by reference. A copy of this form is available from the Forms Control Administrator, Office of Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is 9-25-03.~~

~~(14) The return address on all outgoing correspondence must contain the inmate's committed name, identification number, and the institutional name and address spelled out completely. The inmate's dorm and bunk locations are not required. No prefix other than inmate, Mr., Ms., Miss, or Mrs., or any suffix other than Jr., Sr., or Roman numerals such as II or III may be included as part of the committed name in the return address. If the inmate's committed name or identification number is missing, the letter shall be returned to the inmate for proper addressing. If the institutional name or address is incomplete, the institution is authorized to stamp all outgoing legal mail with the complete institutional name and address and shall mail it without delay. All outgoing legal mail will be stamped "mailed from a state correctional institution" by mail room staff.~~

~~(13)(15)(a)~~ Anytime legal mail is received for an inmate who has been transferred within the Department, the institution will return the correspondence within 5 working days to the post office with the forwarding address of the facility where the inmate is presently incarcerated. If additional postage is required to forward the legal mail, regardless of the class, to the transferred inmate's new institutional assignment, the Department will pay the cost of this additional postage as long as the mail contained sufficient postage for delivery to its original destination.

~~(14)(b)~~ Anytime legal mail is received for an inmate who has been released from the Department, it shall be returned to the post office within 5 working days with a forwarding address, if available, and a request will be made to postal authorities to forward the legal mail to the former inmate. If there is no available forwarding address, all legal mail shall be returned to the sender.

~~(15)(16)(a)~~ All incoming legal mail received for an inmate shall be entered on the Incoming Legal And/Or Privileged Mail Log, Form DC2-522. The form shall include the inmate's name, DC number, the date the mail was received by the institution, the full address of the sender, the date the mail was

received by the inmate, the signature of the inmate, and the initials of the mailroom officer who is present when the inmate signs for receipt of the mail. Form DC2-522 is hereby incorporated by reference. Copies of the form are available from the Forms Control Administrator, ~~Office of Research, Planning and Support Services~~, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of the form is 12-4-02.

(b) In the event that the inmate has been released or transferred, in addition to the procedures required by subsection 33-210.102~~(13)(16)~~, F.A.C., Form DC2-522 shall be completed as required in subsection paragraph 33-210.102~~(15)(47)(a)~~, F.A.C., except that mailroom staff shall write "Transferred" or "Released" in the "Date Mail Received By Institution" section; and shall write the date that the mail was forwarded in the "Inmate Signature" section.

Specific Authority 20.315, 944.09, 944.11 FS. Law Implemented 944.09, 944.11 FS. History—New 10-8-76, Amended 4-19-79, 7-2-81, 6-8-82, 9-23-85, Formerly 33-3.05, Amended 10-7-86, 8-20-89, 4-4-91, 9-1-93, 4-28-96, 2-12-97, 5-25-97, 10-7-97, 12-7-97, 2-15-98, Formerly 33-3.005, Amended 12-20-99, Formerly 33-602.402, Amended 5-5-02, 12-4-02, 5-11-03, 8-25-03, 9-20-04, 12-23-07,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
George Sapp, Assistant Secretary of Institutions  
NAME OF AGENCY HEAD WHO APPROVED THE  
PROPOSED RULE: Walter A. McNeil, Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: January 9, 2009  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: January 23, 2009

#### DEPARTMENT OF CORRECTIONS

RULE NO.: 33-501.401  
RULE TITLE: Admissible Reading Material

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the rule, amend the process by which inmates request changes in the publications they receive and types of bindings and covers which are allowed, and amend Form DC5-101, Notice of Rejection or Impoundment of Publications, in order to provide consistency throughout the Department.

SUMMARY: The proposed rule clarifies what constitutes admissible reading material, including the types of covers, bindings, and advertisements that are permissible. Form DC5-101, Notice of Rejection or Impoundment of Publications, is amended to reflect these changes. The proposed rule clarifies the process by which inmates may request changes in the publications they receive and creates a religious publication exception to the limit on inmates' receipt of periodicals.

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: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-501.401 Admissible Reading Material.

(1) The provisions of this section shall apply to all publications, including books, newspapers, magazines, journals and diaries ~~brochures, flyers, and catalogues,~~ calendars and any other printed materials addressed to a specific inmate or found in the personal property of an inmate. Personal correspondence and ~~commercially reproduced~~ photographs are not publications. No photograph will be approved and issued to an inmate as admissible reading material. Policy governing the receipt of photographs by inmates through the mail is established in Rule 33-210.101, F.A.C.

(2) Definitions.

~~(a) General circulation newspaper — a publication issued daily or weekly under the same title that contains current news, editorials, feature articles, and usually advertising.~~

~~(a)(b) Hard cover bound book — a publication with a rigid, pressboard or cardboard cover that is commonly attached to the book through use of end sheets.~~

(c) through (e) renumbered (b) through (d) No change.

~~(e)(f) Non-print media — publications published in formats other than on paper. Examples include microfilm, microfiche, computer disks, CD-ROM disks, DVDs, audio cassettes, and VHS audio tapes.~~

~~(f)(g) Periodical — a publication issued under the same title and published at regular intervals of more than once a year. Examples of periodicals include journals and magazines, and some newspapers and catalogs.~~

~~(g)(h) No change.~~

~~(h)(i) Publication — a document that is offered to the public by sale or by gratuitous distribution. Examples of publications include periodicals and books. Single photographs are not publications.~~

(j) through (k) renumbered (i) through (j) No change.

~~(4) Religious testament — sacred texts, prayer books, and devotional books for the inmate's recorded faith orientation.~~

~~(k)(m) Soft-cover book — a bound publication with a flexible, paper cover, also referred to as a softbound or paperback book.~~

(3) Inmates shall be permitted to receive and possess publications per terms and conditions established in this rule unless the publication is found to be detrimental to the security, order or disciplinary or rehabilitative interests of any institution of the department, or any privately operated institution housing inmates committed to the custody of ~~under contract with~~ the department, or when it is determined that the publication might facilitate criminal activity. Publications shall be rejected when one of the following criteria is met:

(a) through (c) No change.

(d) It is written in code or is otherwise written in a manner that is not reasonably subject to interpretation by staff as to meaning or intent;

(e) through (h) No change.

(i) It depicts sexual conduct as follows:

1. No change;

~~2. Deviate sexual intercourse;~~

3. through 8. renumbered 2. through 7. No change.

(j) No change.

(k) It contains criminal history, offender registration, or other personal information about another inmate or offender, which, in the hands of an inmate, presents a threat to the security, order or rehabilitative objectives of the correctional system or to the safety of any person;

(l) It contains an advertisement promoting any of the following where the advertisement is the focus of, rather than being incidental to, the publication or the advertising is prominent or prevalent throughout the publication.

1. Three-way calling services;

2. Pen pal services;

3. The purchase of products or services with postage stamps; or

4. Conducting a business or profession while incarcerated.

~~(m)(4) No change.~~

~~(4) Advertising. A publication will not be rejected based upon inclusion of an advertisement promoting any of the following if the publication is otherwise admissible and the advertisement is merely incidental to, rather than being the focus of, the publication:~~

~~(a) Three-way calling services;~~

~~(b) Pen pal services;~~

~~(c) The purchase of products or services with postage stamps; or~~

~~(d) Conducting a business while incarcerated.~~

(4)(5)(a) The department shall maintain a list of all rejected publications that shall identify all publications that have been reviewed and rejected by the literature review

committee. The list of reviewed ~~rejected~~ publications shall be updated after every meeting of the literature review committee. All institutions shall keep a current copy of the list of reviewed ~~rejected~~ publications in every institutional mailroom and at a location accessible by inmates.

~~(b) The department shall maintain a list of approved publications that shall identify all publications that have been approved for receipt by inmates after being impounded by institutions and forwarded to the literature review committee for review. All institutions shall keep a current copy of the list of approved publications in every institutional mailroom and at a location accessible by inmates.~~

~~(5)(6)~~ A subscription to a periodical ~~publication~~ cannot be totally rejected by the institution, but each issue of the subscription shall be reviewed separately and impoundment or rejection shall be based on the criteria established in subsection (3).

~~(6)(7)~~ No change.

~~(7)(8)~~ Incoming publications previously rejected by the literature review committee. An incoming publication that has previously been rejected by the department's literature review committee due to inclusion of subject matter held to be inadmissible per the criteria established in subsection (3) shall not be reviewed again unless the publisher presents proof to the literature review committee that it has been revised and in the revision process the material resulting in the original rejection has been removed. When a rejected publication is received at an institution, it shall be impounded and shall not be issued to inmates. The warden or designee shall notify the inmate in writing on Form DC5-101, Notice of Rejection or Impoundment of Publications, within 15 calendar days of receipt that the publication has been rejected by the department's literature review committee and cannot be received. Form DC5-101 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, ~~Office of Research, Planning and Support Services~~, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is 9-5-05. For purposes of this subsection, the warden's "designee" may include the mailroom supervisor. Form DC5-101. A Notice of Rejection or Impoundment of Publications, ~~Form DC5-101~~, shall address only one publication. If a single mailing ~~notice~~ includes more than one rejected publication Form DC5-101, a Notice of Rejection or Impoundment of Publications, ~~Form DC5-101~~ shall be prepared for each.

~~(8)(9)~~ Incoming publications that have not been previously rejected by the literature review committee.

(a) The warden or designee shall impound and not issue to inmates any publication that he ~~or she~~ finds to be inadmissible pursuant to the criteria in subsection (3) within 15 calendar days of receipt of the publication at the institution. If only a portion of a publication meets one of the criteria for rejection established in subsection (3), the entire publication shall be

impounded. For the purposes of approving the impoundment of publications, the warden's "designee" shall be limited to the assistant warden.

(b) The warden or designee shall advise the inmate in writing on Form DC5-101, Notice of Rejection or Impoundment of Publications, of the specific reasons for the impoundment within 15 calendar days of receipt of the publication at the institution and shall provide two copies of the form to the inmate. The warden or designee of the institution that originated the impoundment shall also provide a copy of the completed form to the publisher, mail order distributor, bookstore or sender, and to the literature review committee. The copy of the impoundment notice that is sent to the literature review committee shall also include as attachments a copy of the publication's front cover or title page and a copy of all pages cited on Form DC5-101, Notice of Rejection or Impoundment of Publications, as including inadmissible subject matter. The actual date that Form DC5-101, Notice of Rejection or Impoundment of Publications, is mailed to the publisher, mail order distributor, bookstore or sender shall be documented by date stamp on the copies provided to the publisher or sender, the literature review committee, and the institution's copy. ~~A Notice of Rejection or Impoundment of Publications, Form DC5-101, shall only address one publication. If a single mailing or package includes more than one publication and more than one are determined to be inadmissible, separate Notice of Rejection or Impoundment of Publications, Form DC5-101, shall be prepared for each.~~

(c) The impoundment of a publication by a warden or authorized designee of any correctional facility of the department shall result in that publication being impounded at all correctional facilities until such time as the literature review committee reviews the action. Inmates at other institutions who also receive the impounded publication shall be provided with Form DC5-101, a Notice of Rejection or Impoundment of Publications, ~~Form DC5-101~~, explaining that it has been impounded pending review for admissibility; Form DC5-101, ~~the~~ Notice of Rejection or Impoundment of Publications, ~~Form DC5-101~~, shall also detail the specific reasons why the publication was impounded. For purposes of this subsection, the warden's "designee" may include the mailroom supervisor.

(d) Due to the necessity of securing outside translation assistance, the time frames for review of admissible reading material specified in this section shall not apply to ~~foreign language~~ publications in languages other than English or Spanish.

~~(9)(10)~~ Admissible Reading Material in an Inmate's Property.

(a) The review criteria established in subsection (3) of this rule also apply to publications found in an inmate's personal property. If correctional staff find a publication that has been rejected by the department, the publication shall be impounded and ~~DC~~ Form DC6-220, Inmate Impounded Personal Property

List, shall be completed as required by Rules 33-602.201 and 33-602.203, F.A.C. Form DC6-220 is incorporated by reference in Rule 33-602.201, F.A.C.

(b) If correctional staff believe that a publication found in an inmate's personal property is inadmissible per subsection (3) of this rule, it shall be impounded and ~~DC~~ Form DC6-220, Inmate Impounded Personal Property List, shall be completed as required by Rules 33-602.201 and 33-602.203, F.A.C. The publication shall then be forwarded to the warden or his or her designee for review. The warden or warden's designee shall review the publication within 15 days of impoundment. If the publication is found to be inadmissible, the warden or warden's designee shall prepare Form DC5-101, a Notice of Rejection or Impoundment of Publications, advising Form DC5-101, that ~~advises~~ the inmate of the specific reasons for the impoundment. ~~The Notice of Rejection or Impoundment of Publications, Form DC5-101, shall only address one publication. If more than one publication is determined to be inadmissible, a separate Notice of Rejection or Impoundment of Publications, Form DC5-101, shall be prepared for each.~~ The inmate shall be provided with two copies of the form.

~~(10)(11) Publications Single issues of periodicals and newspapers, any book,~~ and any other printed material addressed to a specific inmate or found in the property of an inmate shall be impounded when circumstances detailed in an individual inmate's criminal conviction, detailed in departmental disciplinary reports, or detailed in prior criminal convictions, indicates it would be a threat to the security, order or rehabilitative objectives of the correctional system or the safety of any person to allow the inmate access to subject matter in that publication.

(a) When a warden or assistant warden believes that an individual should be denied a publication because receipt of same would be contrary to treatment or rehabilitative objectives or might encourage or contribute to the conduct or commission of acts that violate department rules, he ~~or she~~ shall forward the publication to institutional health or mental health services professionals for review and evaluation. If health or mental health services professionals concur that the inmate should be denied access to the publication, the warden or assistant warden shall impound the publication. The warden or assistant warden shall provide the literature review committee with a copy of the opinion prepared by the health or mental health services professional and any other information that justifies denying the inmate the publication.

(b) Publications received through the mail. Within 15 calendar days of receipt of the publication at the institution, the warden or designee shall advise the inmate in writing on Form DC5-101, Notice of Rejection or Impoundment of Publications, of the specific subject matter that is cause for impoundment pursuant to this subsection, to include the page numbers in the publication where this information is found, and the specific security, safety, or rehabilitation concerns that

justify denying the individual inmate access to the publication. The warden or designee shall provide a copy of the completed Form DC5-101, Notice of Rejection or Impoundment of Publications, to the publisher, mail order distributor, bookstore, or sender. The actual date that ~~the~~ Form DC5-101, Notice of Rejection or Impoundment of Publications, is mailed to the publisher, mail order distributor, bookstore, or sender shall be documented by date stamp on the copies provided to the publisher or sender, the literature review committee, and the institution's copy. The inmate also shall be provided two copies of the form. ~~Form DC5-101, Notice of Rejection or Impoundment of Publications, shall only address one publication. If a single mailing or package includes more than one publication and more than one are determined to be inadmissible, a Form DC5-101, Notice of Rejection or Impoundment of Publications, shall be prepared for each.~~

(c) Publications found in an inmate's personal property. Correctional staff shall impound the publication and complete ~~DC~~ Form DC6-220, Inmate Impounded Personal Property List, as required by Rules 33-602.201 and 33-602.203, F.A.C. The publication shall then be forwarded to the warden or his or her designee for review. The warden or warden's designee shall review the publication within 15 days of impoundment. If the warden or designee agrees that the publication should be impounded, he ~~or she~~ shall prepare a Form DC5-101, Notice of Rejection or Impoundment of Publications, identifying the specific subject matter that is cause for impoundment pursuant to this subsection, to include the page numbers in the publication where this information is found, and the specific security, safety, or rehabilitation concerns that justify denying the individual inmate access to the publication. Form DC5-101, Notice of Rejection or Impoundment of Publications, shall only address one publication. ~~If more than one publication is determined to be inadmissible, a Form DC5-101, Notice of Rejection or Impoundment of Publications, shall be prepared for each.~~ The inmate shall be provided with two copies of the form.

(d) No change.

(e) Publications that are impounded pursuant to this subsection shall be handled as provided in subsections ~~(8)(9)~~ and ~~(9)(10)~~ of this rule.

(f) Inmates may appeal impoundment decisions undertaken pursuant to this subsection through use of the inmate grievance procedure as provided in subsection ~~(13)(14)~~ and paragraph ~~(14)(15)(c)~~ of this rule and Chapter 33-103, F.A.C.

1. No change.

2. If the impoundment decision is approved, the institution shall advise the inmate that he ~~or she~~ has 30 days from date of receipt of notice that the grievance appeal has been denied to make arrangements to have the publication picked up by an

approved visitor or sent to a relative or friend or the sender at the inmate's expense. If the publication is not picked up or mailed out within 30 days, the institution shall destroy it.

(g) Impoundment decisions that are approved pursuant to this subsection are individualized in nature and do not have affect on any other inmate. If institution staff believe that a publication is inadmissible per the criteria established in subsection (3) of this rule, and should be denied to all inmates, they shall follow the procedures established in subsections ~~(8)(9)~~ and ~~(9)(10)~~ of this rule.

(h) No change.

~~(11)(12)~~(a) Rejected and impounded publications shall be held at the institution for 30 days. Upon receipt of a Form DC5-101, Notice of Rejection or Impoundment of Publications, an inmate shall have 30 days to make arrangements to have the publication picked up by an approved visitor or sent to a relative or friend or the sender at the inmate's expense. If the publication is not picked up or mailed out within 30 days, the institution shall destroy it.

(b) The 30 day limit shall not include any time that a grievance is pending provided that:

1. No change.

2. In grievances challenging the impoundment or rejection of publications pursuant to the criteria established in subsections (3) and ~~(10)(11)~~ of this rule, the inmate provided the warden with written notice of his or her intent to file a grievance with the office of the secretary as prescribed in paragraph ~~(13)(14)~~(b) of this rule.

(c) No change.

~~(12)(13)~~ No change.

~~(13)(14)~~ Inmates may appeal the impoundment or rejection of reading material through use of the inmate grievance procedure, Chapter 33-103, F.A.C.

(a) No change.

(b) When publications are impounded or rejected pursuant to the criteria established in subsections (3) and ~~(10)(11)~~ of this rule, inmates shall bypass the informal and formal institutional level of review, and file grievances direct to the office of the secretary as prescribed by Rule 33-103.007, F.A.C.

1. through 5. No change.

6. The inmate must provide written notice to the warden on Form DC6-236, Inmate Request, that he ~~or she~~ intends to appeal the impoundment or rejection to the office of the secretary if he ~~or she~~ wishes to have the order to dispose of the publication within 30 days stayed while the grievance is pending. The written notice shall include a statement that the inmate intends to appeal the impoundment or rejection of admissible reading material and must specifically identify the publications on which the appeal is to be based. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.

~~(14)(15)~~ Literature Review Committee.

(a) through (c) No change.

(d) Decisions relating to the review of impounded or rejected publications shall be communicated to all institutions of the department and any all privately operated institutions housing inmates committed to the custody of under contract ~~with~~ the department. When an impoundment decision is overturned, institutions shall issue the publication to all affected inmates as soon as possible. Decisions relating to grievance appeals shall be communicated to the chief of the bureau of inmate grievance appeals or designee who shall than approve or deny the grievance based upon the committee's decision.

(e) If the inmate's grievance appeal is approved or if the literature review committee notifies institutions that the impoundment of a publication has been overturned, the institution shall issue the publication to the inmate. The following guidelines shall be followed:

1. through 2. No change.

3. The stamped Form DC5-101, Notice of Rejection or Impoundment of Publications, shall be presented to the inmate. The inmate shall be required to sign and date the form. The inmate shall be issued the publication only after he ~~or she~~ has signed and dated the form.

4. No change.

~~(15)(16)~~ No change.

~~(16)(17)~~(a) Inmates may subscribe to, purchase, or receive no more than one periodical which is printed and distributed more frequently than daily or weekly general circulation newspaper and four other periodicals which are printed and distributed weekly or less frequently than weekly, except as otherwise provided in Rule 33-601.800, F.A.C. Religious publications as defined in Rule 33-503.001, F.A.C., shall not be counted against these limits.

(b) No inmate shall be allowed to receive or keep more than one copy of any volume, issue or edition of any book, periodical or other publication. For example, an inmate shall ~~will~~ be allowed to keep the January and February 1994 issues of a specific magazine, but shall ~~will~~ not be allowed to keep two copies of the January 1994 issue. No inmate shall be issued admissible reading material if he ~~or she~~ can not store it in his or her personal living area without creating a fire, safety, or sanitation hazard. Inmates shall be limited to no more than 2 single issues of a periodical which is printed and distributed more frequently than weekly daily or weekly newspaper title and 8 single issues of periodicals which are printed and distributed weekly or less frequently than weekly, except as otherwise provided in Rule 33-601.800, F.A.C a periodical.

(c) Inmates shall be allowed to order single issues of periodicals ~~and newspapers~~ from publishers' wholesale or mail-order distributors and bookstores in lieu of purchasing subscriptions; however, the possession limits referenced in paragraph (16)(b) all of the above referenced limits shall still apply.

~~(d)~~~~(e)~~ Inmates subscribe to and purchase periodicals or other reading materials at their own risk and expense. Inmates will not be reimbursed by the Department of Corrections for materials that are rejected or for the expense for mailing rejected items to other persons or entities.

~~(e)~~~~(d)~~ Except as otherwise provided in Rule 33-601.800, F.A.C., inmates shall be limited to the possession of 4 personal books. Religious publications Religious—testaments, correspondence study materials, and law books not available in the institution's law library collection shall not be counted against this limit. Religious testaments include sacred texts, prayer books and devotionals.

~~(f)~~~~(e)~~ Inmates may only receive and possess print media publications. Incoming publications published on non-print media or print media publications that include non-print media that are an integral part of the publication will be rejected and returned to the sender along with an explanation as to why the material is being rejected. However, unsolicited promotional computer diskettes and CD-ROMs that are mailed with a publication periodical issue, e.g., the CD-ROMs promoting America Online's Internet service, will be handled as provided in subsection (25)(26) of this rule.

(f) renumbered (g) No change.

~~(h)~~~~(g)~~ Inmates shall not order publications from publishers or senders on a "bill me later" basis. All publication book or periodical subscription purchases that are initiated by inmates shall include an Inmate Bank Trust Fund Special Withdrawal, Form DC2-304, that covers the complete cost of the purchase, and postage, if necessary, and shall include an envelope that is properly addressed to the publisher or sender. Such requests shall be submitted to the warden or designee for approval. If approved, the warden or designee shall forward the request to the Bureau of Finance and Accounting, Inmate Bank Section, for processing. Any outgoing correspondence that does not comply with these requirements shall be returned to the inmate. Form DC2-304 is incorporated by reference in Rule 33-203.201, F.A.C.

(i) Inmates who subscribe to a periodical shall notify mailroom staff on Form DC6-236, Inmate Request, if they want to discontinue receiving one title in order to receive another. Requests to discontinue receipt of specific periodical titles shall not be approved more often than once every 90 days unless the inmate presents evidence that the subscription has expired and shall not be renewed.

(j) Inmates in maximum management shall not be permitted to receive or possess publications except as provided in Rule 33-601.820, F.A.C.

~~(17)~~~~(18)~~ Bindings and covers.

(a) Bindings.

1. Metal bindings, other than staples are not allowed. Metal bindings include: paperclips, binder clips, and other metal fasteners. Staples are not allowed in the following types

of housing units: death row, administrative or disciplinary confinement, close management, maximum management, and mental health in-patient housing including transitional care units, crisis stabilization units, and correctional mental health institutions.

2. Spiral bindings are not allowed.

(b) Covers.

1. Due to security concerns, inmates at Florida State Prison Main Unit or in death row or close management status in any institution shall not be allowed to receive hard-cover publications bound books. However, if a publication book is unavailable in soft-cover and no alternatives exist to allow access to the publication book, the inmate may receive the publication book only after the hard cover has been removed. The inmate shall make the decision whether to return the publication book to the sender or to receive the admissible portions after the institution has excised the hard-cover, and the inmate may appeal an institution's determination that the hard cover must be excised or returned. The institution shall not take any action to excise the hard-cover or return the publication book to sender until the inmate's appeal is concluded or the time for appeal has passed. Documentation of the inmate agreeing to the removal of the hard-cover shall be obtained prior to removal of the cover. This documentation shall at a minimum be filed in the inmate file. If the inmate does not agree or does not provide documentation that he or she wishes to have the cover removed, the publication shall be returned to the publisher or sender.

2. Hard or soft covers may be made of paper or leather materials and shall not be made of metal.

~~(18)~~~~(19)~~ Books, Pperiodicals or other publications shall be sent directly from the publishers, mail order distributors or bookstores to the inmate unless otherwise authorized by the warden.

~~(19)~~~~(20)~~ Books, Pperiodicals or other publications forwarded to inmates must be sent through the United States Postal Service. Materials received from other sources or without return addresses identifying the sender shall be refused.

~~(20)~~~~(21)~~ The address of all incoming books, periodicals and other publications must contain the inmate's committed name, identification number, and institutional address.

~~(21)~~~~(22)~~ Training materials and correspondence study programs.

(a) Publications and training materials selected for use in authorized programs of the Department, or any in privately operated correctional institutions housing inmates committed to the custody of operated under contract with the Department, PRIDE or the Corrections Medical Authority shall be reviewed by the department head or person designated by the warden to

ensure that the subject matter contained therein is admissible and does not meet any of the criteria for inadmissibility in subsection (3).

(b) Institutions shall permit inmates to enroll in correspondence study programs provided that the subject matter of course materials is not inadmissible pursuant to the criteria stated in subsection (3). The warden shall designate one or more department heads to screen and approve all materials received pursuant to participation in correspondence study programs. Individual items shall be inspected by institution staff upon receipt and shall either be approved and issued to the inmate, or rejected and handled as contraband in accordance with Rules 33-602.201 and 33-602.203, F.A.C.

1. No change.

~~2. Inmates in close management or on death row shall not be permitted to receive hard bound cover correspondence study materials. Soft cover Paperback materials shall not have metal or spiral bindings.~~

~~2.3.~~ All educational correspondence study materials shall be mailed directly from the course provider to the institution's education department via U.S. Postal Service mail.

~~(22)(23)~~ Inmates shall be prohibited from posting or otherwise displaying any pictures or portions of ~~books or~~ publications. Such activity will subject the inmate to disciplinary action and ~~will cause~~ the posted or displayed material ~~shall to~~ be confiscated as contraband.

~~(23)(24)~~ Calendars.

(a) Restrictions.

1. through 3. No change.

~~4. Binding—limited to staple and glue bindings; calendars with metal or spiral bindings shall not be permitted;~~

~~5. Cover, if any—limited to flexible paper (paperback);~~

~~4.6.~~ Can not have any audio or electronic components.

(b) through (d) No change.

~~(24)(25)~~ Blank journals or diaries.

(a) Restrictions.

1. Quantity – see possession limits set forth in paragraph ~~(16)(e) (17)(d)~~;

2. Size – limited to 9" x 12" or smaller;

3. No change;

~~4. Binding—limited to glue bindings; journals with staples or metal or spiral bindings shall not be permitted;~~

~~5. Cover, if any—limited to paper materials; hard bound back or cardboard covers are authorized except where possession of books is otherwise prohibited by rule (paperback);~~

~~4.6.~~ Can not have any audio or electronic components.

(b) through (c) No change.

~~(25)(26)~~ Whenever an otherwise admissible periodical or other publication ~~magazine~~ is received that includes product samples or advertising with product samples attached, the products shall be removed and the publication itself shall be

issued to the inmate recipient. Any inmate who wishes to object to the removal of product samples from his or her publications shall submit a written request on Form DC6-236, Inmate Request, to the warden asking that product samples not be removed. Thereafter, any publication sent to the requestor that contains product samples shall be held by the institution for 30 days or 30 days after exhaustion of grievance appeals. It shall be the inmate's responsibility to arrange for the mailing of the entire publication out of the institution at the inmate's expense. Any publication not mailed out within the 30 days ~~shall~~ will be destroyed.

Specific Authority 944.09, 944.11 FS. Law Implemented 944.11 FS. History—New 10-8-76, Amended 3-3-81, 9-24-81, Formerly 33-3.12, Amended 6-9-87, 3-11-91, 12-17-91, 3-30-94, 11-2-94, 5-10-98, 10-20-98, Formerly 33-3.012, Amended 3-21-00, 8-10-00, 10-13-02, 7-2-03, 12-30-04, 9-5-05, 8-1-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Allen Overstreet, Consultant Manager, Operations and Management

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter A McNeil, Secretary

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 24, 2008

## DEPARTMENT OF CORRECTIONS

RULE NO.:

RULE TITLE:

33-504.101

Probation and Restitution Centers

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to: substantially reword and reorganize the rule for clarity; provide for residential and non-residential services; describe the process for placement, criteria for ineligibility, responsibilities of department employees and contract providers, requirements for program completion, and conditions under which offenders are discharged from programs; provide minimum standards that must be required by probation and restitution centers.

SUMMARY: The proposed rule amends the definition of probation and restitution centers (PRCs) to include both residential and non-residential services; clarifies eligibility requirements and methods of referral to PRCs; names the Bureau of Substance Abuse Program Services as the entity responsible for contract management of PRCs; sets forth the responsibilities of contracted providers and offenders assigned to PRCs and establishes program completion requirements; establishes criteria for discharge from the program.

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: 944.026, 944.09 FS.

LAW IMPLEMENTED: 921.187, 944.026, 948.03, 958.04 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: Kendra Lee Jowers, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 33-504.101 follows. See Florida Administrative Code for present text.)

33-504.101 Probation and Restitution Centers.

(1) General. Probation and restitution centers (PRCs) are community-based facilities that offer residential and non-residential services to offenders within a structured environment to assist the offenders with the development of skills needed to comply with conditions of supervision and to achieve successful transition and re-entry into the community.

(2) Referral and Placement. Offenders are assigned to PRCs in the following ways:

(a) Court ordered or releasing authority ordered residential placement or non-residential participation in specific programs at the PRC as a condition of supervision. Offenders are referred to the PRC by the Correctional Probation Officer in a violation of probation report or pre-sentence investigation as a sentencing option or as a possible alternative to a recommendation of imprisonment when it is determined that a more structured supervision, programming and control is needed.

(b) Referral by Department of Corrections staff for inmates who are being released from Department custody without supervision to follow and who have the need for additional transitional services to aid in community re-entry. The released inmate's participation is voluntary.

(3) Eligibility. The following offenders shall be ineligible for assignment to a PRC:

(a) Convicted of or currently charged with a capitol or life felony;

(b) Conviction for sexual battery pursuant to Section 794.011, F.S.;

(c) Currently has a mental or physical health condition that requires services not available at the PRC; or

(d) Physically unable to work.

(4) Responsibilities.

(a) The Bureau of Substance Abuse Program Services shall be responsible for the contract management of PRCs.

(b) The contracted community-based providers shall be responsible for the management of the PRC and the care and monitoring of offenders assigned to the PRC. Contracted providers shall notify the offender's supervising correctional probation officer of any violations by the offender.

1. The PRC provider shall provide payment receipts to each offender for payments received. The PRC provider shall have a written accounting policy and procedure.

2. Center rules governing conduct, program rules and regulations and disciplinary actions for prohibited conduct shall be clearly posted in each center. Program orientation shall include review of center rules.

(e) Supervision of offenders shall continue to be the responsibility of the assigned correctional probation officers.

(f) Transportation shall be the responsibility of the offender. Transportation shall be coordinated by the offender and the center staff as necessary.

(5) Standard Requirements. All PRCs shall require the following:

(a) Payment of Subsistence fees – PRC offenders who reside at the facility and who are employed shall pay a subsistence fee at the rate specified by the Department in writing with the service provider. The rate shall not exceed a \$25.00 daily rate and shall utilize a scale based on the amount earned by the offender.

(b) Drug screening and payment for drug screening – offenders shall submit to drug testing and shall provide payment for the cost of such testing.

(c) Employment on a full time basis or part time employment with a supplemental plan such as school or vocational training, or participation in a substance abuse or other Department-approved program.

(d) Participation in assigned programs, to include budgeting and banking of income and management of financial obligations.

(e) Adherence to curfew (by residents) as set by individual PRC regulations.

(f) Payment of court ordered financial obligations, to include restitution, court costs, and cost of supervision.

(6) Program Completion Requirements.

(a) Subsistence paid in full and current with all other court ordered financial obligations.

(b) Employment on a full time basis or part time employment with a supplemental plan such as school or vocational training, or program participation.

(c) Residential living plan that has been approved by the center staff and the supervising probation officer.

(d) Restitution plan, if applicable.

(e) Service of required period of time.

(7) Discharge from Program.

(a) Offenders' failure to comply with program policies, rules, and regulations shall result in an unsuccessful discharge.

(b) Offenders shall be successfully discharged upon completion of all program requirements and completion of the period of time ordered by the court or releasing authority.

(c) Offenders shall be administratively discharged from the program due to court actions or medical reasons or transfer to another facility based upon the offender's needs.

Specific Authority 944.026, 921.187, 948.03, 958.04 FS. Law Implemented 944.026, 921.187, 948.03, 958.04 FS. History--New 10-26-92, Amended 9-4-95, Formerly 33-24.020, Amended 12-31-00,\_\_\_\_\_.

**NAME OF PERSON ORIGINATING PROPOSED RULE:**

Pam Denmark, Deputy Assistant Secretary of Re-Entry

**NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:** Walter A McNeil, Secretary

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** January 5, 2009

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** January 23, 2009

**DEPARTMENT OF CORRECTIONS**

**RULE NO.:** 33-601.101  
**RULE TITLE:** Incentive Gain Time

**PURPOSE AND EFFECT:** The purpose and effect of the proposed rule is to decrease the time period during which an inmate is ineligible to earn gain time following the month in which a disciplinary infraction occurred and to allow inmates to earn incentive gain time while out to court.

**SUMMARY:** The proposed amendment to Rule 33-601.101, F.A.C., reduces the amount of time an inmate is ineligible to earn gain time as follows: when the final action on an inmate's disciplinary report is less than or equal to 30 days of confinement or loss of gain time, the period during which the inmate is ineligible to receive gain time is reduced from three months to one month following the month in which the disciplinary infraction occurred; when the final action on an inmate's disciplinary report is more than 30 days of confinement or loss of gain time, the amount of time during which the inmate is ineligible to receive gain time is reduced from six months to two months following the month in which the disciplinary infraction occurred. The proposed amendment also removes the restriction on inmates' ability to earn gain time while out to court.

**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:** 944.09, 944.275, 944.281 FS.

**LAW IMPLEMENTED:** 944.09, 944.275, 944.281, 944.801(3)(i)5. FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

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

33-601.101 Incentive Gain Time.

(1) through (5) No change.

(6) Inmates in disciplinary confinement status are not eligible for a work/program rating even if assigned to work or programs while in disciplinary confinement. Inmates in disciplinary confinement are eligible for a security rating award which can be modified by the correctional probation officer in accordance with paragraph 33-601.101(3)(b), F.A.C.

(a) Disciplinary or court action. An inmate is not eligible to receive incentive gain time for the month in which there is an infraction of the rules of the Department or the laws of the State for which he is found guilty. Additionally, those inmates on escape status and detained by other agencies may not be awarded incentive gain time for the period of time out of custody even though lodged in another confinement facility. Any inmate who is found guilty of a disciplinary report on or after April 21, 1996 and who is serving a sentence imposed for an offense committed on or after October 1, 1995 shall be eligible to earn incentive gain time as follows:

1. For disciplinary reports in which the final approved action is not confinement or loss of gain time or where the final recommended action is probation, pursuant to paragraph 33-601.308(3)(b), F.A.C., the inmate shall be eligible to earn incentive gain time the month following the month in which the disciplinary infraction occurred. However, if the inmate violates the probation and the original penalty meets the requirements of subparagraphs 2. and 3. below, the inmate is then subject to the limitations on earning incentive gain time as noted.

2. For disciplinary reports in which the final approved action is less than or equal to 30 days confinement or less than or equal to 30 days loss of gain time, the inmate shall not be eligible to earn incentive gain time for one ~~three~~ months following the month in which the disciplinary infraction occurred. The one ~~three~~ month period of ineligibility shall not begin to run until the inmate is in the department's custody and would be otherwise eligible to earn gain time but for the disciplinary action or new offense.

3. For disciplinary reports in which the final approved action is greater than 30 days confinement or greater than 30 days loss of gain time, or where the inmate was convicted of an offense occurring while committed to the Department of Corrections, the inmate shall not be eligible to earn incentive gain time for two ~~six~~ months following the month in which the

disciplinary infraction or offense occurred. The two ~~six~~ month period of ineligibility shall not begin to run until the inmate is in the department's custody and would be otherwise eligible to earn gain time but for the disciplinary action or new offense.

4. The period of ineligibility referenced in subparagraphs 2. and 3. shall be suspended if the inmate leaves the custody of the department before completion of the period of ineligibility. The period of ineligibility will resume upon the inmate's return to department custody and will continue to run until its completion.

5. The failure to serve the confinement imposed does not alter the ineligibility of the inmate to earn incentive gain time as noted in subparagraphs 2. and 3.

6. The ineligibility of the inmate to earn gain time as noted in subparagraphs 2. and 3. remains in effect when, due to unavailability of gain time, unearned gain time is designated as the final approved action.

(b) Inmates who are out of the department's custody during the month on escape, ~~out to court status~~, or on furlough shall not be eligible to receive incentive gain time for that period of the month.

(c) through (8) No change.

Specific Authority 944.09, 944.275, 944.281 FS. Law Implemented 944.09, 944.275, 944.281, 944.801(3)(i)5. FS. History—New 2-26-80, Amended 1-12-83, 1-31-85, 10-7-85, Formerly 33-11.065, Amended 4-28-87, 7-12-89, 7-17-90, 10-16-90, 10-14-91, 2-17-93, 4-17-94, 7-17-94, 4-21-96, 6-1-97, 10-7-97, 3-11-98, 5-12-98, 7-9-98, 9-17-98, Formerly 33-11.065, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp, Assistant Secretary of Institutions  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter A McNeil, Secretary  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 24, 2008  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 16, 2009

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-601.105  
 RULE TITLE: Restoration of Forfeited Gain Time  
 PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to update the list of release mechanisms to include probation and community control and to clarify the conditions under which inmates are ineligible for restoration on subsequent release violations.

SUMMARY: The proposed amendment to Rule 33-601.105, F.A.C., adds language allowing restoration of forfeited gain time for inmates whose probation or community control status has been revoked and clarifies that inmates who have had forfeited gain time restored are ineligible for subsequent restoration while serving the sentence for the same offense under which gain time was previously revoked.

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: 944.09, 944.275 FS.

LAW IMPLEMENTED: 944.09, 944.275, 944.28 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: Kendra Lee Jowers, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.105 Restoration of Forfeited Gain Time.

(1) Restoration of gain time as a positive management tool. Gain time that has been forfeited under the current commitment as a result of disciplinary action or revocation of parole, probation, community control, provisional release, supervised community release, conditional medical release, control release, or conditional release shall be subject to restoration when the restoration would produce the same or greater benefits as those derived from the forfeiture in the first place. Only those inmates whose adjustment and performance since their last disciplinary report or revocation of parole, provisional release, supervised community release, conditional medical release, control release, or conditional release has exceeded that which is required to comply with all the behavioral objectives are eligible for consideration. The restoration shall only be considered when the inmate has clearly performed positively over a period of time and it appears the inmate will continue this positive adjustment without further violating the rules of the department or the laws of the state and the inmate is serving that portion of the sentence which, but for the forfeiture of gain time, would have been completed.

(2)(~~4~~) Eligibility.

(a) No change.

(b) Restoration of gain time forfeited by violation of the conditions of parole, probation, community control, provisional release, supervised community release, conditional medical release, control release, or conditional release may be considered only when there have been no new convictions for offenses that occurred during the period of release.

1. There must be a minimum of one year from the effective date of the parole revocation probation revocation, community control revocation, or violation of the conditions of provisional release, supervised community release, conditional medical release, control release, or conditional release;

2. The inmate must be discipline free (formal reports) since return as a parole, probation, community control, provisional release, supervised community release, conditional medical release, control release, or conditional release violator;

3. The inmate’s adjustment and performance must exceed that which is required to comply with all behavioral objectives since return as a parole, probation, community control, provisional release, supervised community release, conditional medical release, control release, or conditional release violator;

4. No change.

5. Any inmate who receives restoration of gain time forfeited due to parole, probation, community control, provisional release, supervised community release, conditional medical release, control release, or conditional release violation will not be eligible for restoration on any subsequent parole, probation, community control, provisional release, supervised community release, conditional medical release, control release, or conditional release violation while serving the sentence for the same offense commitment;

6. No change.

~~(3)(2)~~ How processed. Restoration of gain time will be considered only when the inmate has met the criteria specified in subsection ~~(2)(4)~~ of this rule. There is no entitlement for consideration based upon an inmate’s request. The final approving authority for restoration of forfeited gain time will be the Deputy Assistant Secretary of Institutions – Program. The institution where the inmate is assigned will be notified and the facility staff will notify the inmate of the decision.

Specific Authority 944.09, 944.275 FS. Law Implemented 944.09, 944.275, 944.28 FS. History–New 11-27-84, Formerly 33-11.15, Amended 10-12-89, 8-29-91, 10-13-93, Formerly 33-11.015, Amended 8-30-01, 4-30-02, 4-10-08, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
George Sapp, Assistant Secretary of Institutions  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter A McNeil, Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 27, 2008  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 16, 2009

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-601.820  
RULE TITLE: Maximum Management

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the circumstances under which an inmate may be confined to maximum management and the conditions under which a maximum management inmate’s status, conditions of confinement, and privileges may change.

SUMMARY: The proposed rule eliminates the Maximum Management Review Team, defines “Institutional Classification Team” for the purpose of Maximum Management status decisions, and clarifies the circumstances under which an inmate may be classified as Maximum Management status. The proposed rule clarifies the intake, placement, and review process for inmates who have been referred for Maximum Management and adds language allowing for period reinstatement of recreation and canteen privileges.

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: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.820 Maximum Management.

(1) Definitions.

(a) For the purpose of this rule, the Institutional Classification Team (ICT) – the ICT is the team consisting of the Warden, Assistant Warden, Classification Supervisor, and Chief of Security that is responsible for making inmate status decisions and for making other recommendations to the State Classification Office (SCO), Regional Director, and Warden.

~~(b)(\*)~~ Maximum Management – refers to a temporary status for an inmate who, through a recent incident or series of recent incidents, has been identified as being an extreme security risk to the Department and requires an immediate level of control beyond that available in confinement, close management, or death row. The Secretary ~~has shall~~ designated

Florida State Prison (FSP) as the only ~~which~~ institutions are authorized to house maximum management inmates, based upon the needs of the Department.

~~(b) Maximum Management Review Team—refers to the committee in Central Office that has approval authority for placement in maximum management and the modification of conditions and restrictions imposed at the time an inmate is initially placed in maximum management. The Maximum Management Review Team shall consist of the following staff or those acting in that capacity:~~

- ~~1. Deputy Assistant Secretary of Institutions—Operations (Chairperson);~~
- ~~2. Chief, Bureau of Classification and Central Records;~~
- ~~3. Chief, Bureau of Security Operations; and~~
- ~~4. Deputy Director of Health Services (Clinical).~~

~~(2) Maximum Management Placement Criteria. An inmate shall have, at a minimum, met the criteria for placement in Close Management I or death row and participated in a recent incident or series of recent incidents in which the inmate has which demonstrate:~~

~~(a) Escaped from or attempted to escape from a secure perimeter. The inmate's ability to effect an escape from a secure environment;~~

~~(b) Demonstrated a The inmate's demonstrated willingness to use deadly force in a correctional setting;~~

~~(c) Been involved in a dangerous act targeting staff or an assault against staff, including sexual assault. The inmate's involvement in dangerous acts which could lead to a person's injury or death, or insurrection; or~~

~~(d) Been involved in a life-threatening inmate-on-inmate assault requiring that the victim receive emergency outside medical treatment. Other management problems that require an immediate level of control which exceeds that available in close management or death row.~~

~~(3) Initial Placement in Maximum Management Housing.~~

~~(a) An inmate may only be referred for initial placement in maximum management housing at Florida State Prison. If an inmate located at any other facility commits an offense that appears to meet the criteria for maximum management placement outlined in subsection (2) of this rule, the institutional classification officer, senior classification officer, classification supervisor, or ICT at the facility shall enter into the Offender Based Information System (OBIS) a Pending Close Management Evaluation transfer request to FSP if the inmate is not already in close management. If the inmate is already in close management or death row, the institutional classification officer, senior classification officer, classification supervisor, or ICT of the facility shall enter into OBIS a request for the type of transfer to FSP that reflects the inmate's current CM level or death row status. The Warden or Regional Director is required to send an e-mail to Central Office requesting transfer approval and the immediate scheduling of a direct transport to FSP indicating the inmate's current status~~

~~and including the request for maximum management placement. A description of the inmate's behavior that warrants review for maximum management placement must be included. Whenever an inmate has met at least one of the conditions above, the Shift Supervisor shall recommend immediate placement in maximum management on Form DC6-101, Referral for Maximum Management. Form DC6-101 is hereby incorporated by reference. A copy of this form is available from the Forms Control Administrator, Office of Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is April 13, 2006.~~

~~(b) Whenever an inmate housed at FSP or an inmate transferred to FSP pursuant to paragraph (3)(a) has met at least one of the conditions listed in paragraph (2)(a), the Shift Supervisor shall place the inmate in maximum management housing. Immediately after placement, the Shift Supervisor at FSP shall enter in OBIS a referral for maximum management detailing the information and circumstances requiring maximum management placement. The Warden or Duty Warden shall review the Referral for Maximum Management, Form DC6-101, and document his or her decision. Approval from the Warden or Duty Warden is required prior to placement of the inmate in maximum management pending completion of the hearing process in subsection (5).~~

~~(c) Within 24 hours after an inmate is placed in maximum management housing, the Warden or Duty Warden shall review the Shift Supervisor's referral for maximum management and document a decision as to whether it is necessary to keep the inmate in maximum management housing pending completion of the hearing process in subsection (4). If the Warden or Duty warden determines that it is unnecessary to keep the inmate in maximum management housing pending completion of the hearing process, the inmate shall be placed in administrative confinement and the procedure for placement in close management outlined in Rule 33-601.800, F.A.C., shall be followed if the inmate is not already in close management. If the inmate was already in close management or death row status, the inmate shall be returned to that status. If the inmate's recent behavior warrants consideration of an upward modification of his close management level, that action shall take place after his return to close management in accordance with Rule 33-601.800, F.A.C. If the Warden or Duty Warden determines that maximum management placement is appropriate, the inmate will immediately be given a written notice including the reason for the placement referral and informing the inmate that a hearing to review the placement will be held no sooner than 24 hours from the delivery of the notice. The Shift Supervisor who recommended placing an inmate in maximum management shall ensure delivery of the Referral for Maximum Management to the inmate prior of being relieved of duty. The Referral for Maximum management shall inform the inmate of the reason for the placement and that a hearing will be held no sooner than 24~~

hours from the delivery of the notice to review the recommendation for placement in maximum management housing. The inmate may waive the 24 hour waiting period or his or her appearance at the hearing by signing the 24 Hour/Refusal to Appear Waiver, Form DC6-104. Form DC6-104 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is April 13, 2006.

(d) The Classification Supervisor shall docket the inmate's hearing before the ICT Institutional Classification Team for consideration of considering placement in maximum management status in accordance with subsection 33-601.820(3), F.A.C.

(4) Initial Placement Hearing and Decision Process.

(a) The ICT shall conduct a hearing with the inmate to determine whether placement in maximum management is appropriate.

(b) The inmate shall be present for the hearing unless:

1. The inmate waives his right to appear by signing the 24 Hour/Refusal to Appear Waiver, Form DC6-104; or

2. The inmate's behavior jeopardizes the security or safety of the institution or the hearing as determined by the ICT chairperson.

3. If the inmate did not attend the hearing, the reasons the inmate did not appear at the hearing shall be included in the ICT recommendation entered in OBIS.

(c) If the ICT chairperson determines the need for staff assistance based upon language barriers or other existing barriers, the chairperson shall appoint a staff assistant.

(d) The chairperson shall offer the inmate the opportunity to make a verbal statement or present a written statement.

(e) The ICT chairperson shall have authority to postpone the hearing to gather further information or order an investigation regarding any pertinent issues. If the hearing is postponed, the reasons for postponement shall be entered in OBIS.

(f) The ICT shall recommend approval or disapproval of the recommendation for placement in maximum management. The ICT's recommendation and the basis for the recommendations shall be entered in OBIS.

(g) The ICT's recommendation shall be forwarded to the Warden for review. The Warden's recommendation for approval or disapproval of maximum management placement conditions and the basis for the recommendations shall be entered in OBIS.

(h) The Warden's recommendations shall be forwarded to the Regional Director for final review. The Regional Director's decision to approve or disapprove maximum management placement and the basis for the decision shall be entered in OBIS. If the Regional Director disapproves the placement, the inmate shall immediately be removed from the maximum

management cell and reclassified to his original status or placed in administrative confinement pending close management referral.

(i) The Classification Supervisor at FSP shall ensure that Form DC6-229, Daily Record of Special Housing, is documented with any status changes approved by the Regional Director. The Classification Supervisor shall also ensure that the inmate is informed verbally and in writing of the Regional Director's decision. Form DC6-229 is incorporated by reference in Rule 33-601.800, F.A.C.

(5)(4) Initial Conditions of Placement in Maximum Management. Inmates shall be subject to the following conditions upon initial placement in maximum management:

(a) The inmate shall be provided clothing and bedding. If the inmate's behavior requires, the Shift Supervisor may authorize the removal of clothing or bedding or that the solid door be closed for security reasons either upon initial placement or at any time during maximum management status. The Shift Supervisor shall notify the Warden. If in agreement with the action, the Warden shall notify the Regional Director. If the Regional Director agrees with the action, the Deputy Assistant Secretary of Institutions — Operations will be contacted for final approval no later than the first work day following the Shift Supervisor's action. If an inmate's clothing is removed, a modesty garment shall be immediately given to the inmate. If the inmate chooses not to wear the garment, the garment shall be left in the cell and this action shall be documented on Form DC6-229, Daily Record of Special Housing. Form DC6-229 is incorporated by reference in Rule 33-601.800, F.A.C. Under no circumstances shall an inmate be left without a means to cover him or herself.

(b) Reading materials — possession limited to a bible, religious testament, or other reading material specifically related to the inmate's faith only;

(c) Out-of-doors recreation — limited to two hours once every 30 days for the first 60 days and two hours twice every thirty days thereafter or until the inmate's exercise privileges have been reinstated pursuant to subsection (7);

(d) Meals shall be served on paper or styrofoam products only;

(d)(e) Possession of legal materials shall be permitted, and excess legal materials shall be stored pursuant to subsection 33-602.201(6), F.A.C.;

(e)(f) Legal Visits shall be permitted; and

(f)(g) Routine bank transactions or canteen purchases shall not be allowed, with the exception of stamp, paper, security pen, and envelope purchases for mail legal work, and inmate requests and grievances.

(5) Initial Placement Hearing and Decision Process.

(a) The Institutional Classification Team (ICT) shall conduct a hearing with the inmate to determine whether placement in maximum management is appropriate.

(b) The inmate shall be present for the hearing, unless:

1. The inmate waives his right to appear by signing the 24 Hour/Refusal to Appear Waiver, Form DC6-104; or

2. The inmate's behavior jeopardizes the security or safety of the institution or the hearing as determined by the Institutional Classification Team chairperson.

3. If the inmate did not attend the hearing, the reasons the inmate did not appear at the hearing shall be included in the ICT recommendation entered on Form DC6-171, Report of Maximum Management. Form DC6-171 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is October 30, 2006.

(e) If the Institutional Classification Team chairperson determines the need for staff assistance based upon language barriers or other existing barriers, the chairperson shall appoint a staff assistant.

(d) The chairperson shall offer the inmate the opportunity to make a verbal statement or present a written statement.

(e) The Institutional Classification Team chairperson shall have authority to postpone the hearing to gather further information or order an investigation regarding any pertinent issues. If the hearing is postponed, the reasons for postponement shall be included in the ICT recommendation entered on the Report of Maximum Management, Form DC6-171.

(f) The Institutional Classification Team shall recommend approval or disapproval of the recommendation for placement in maximum management and modification of the initial conditions of placement as listed in subsection (4), if changes were made. The initial conditions of placement are intended to be short-term and should be modified when the inmate's adjustment to maximum management and the inmate's level of threat to the security of the institution indicate that modification is appropriate. These conditions can only be modified to the level permitted for Close Management I inmates. The Institutional Classification Team's recommendations and the basis for the recommendations shall be documented on the Report of Maximum Management, Form DC6-171.

(g) The Institutional Classification Team's recommendations shall be forwarded to the Warden for review. The Warden's recommendation for approval or disapproval of maximum management placement and any modifications of the initial conditions and the basis for the recommendations shall be documented on the Report of Maximum Management, DC6-171.

(h) The Warden's recommendations shall be forwarded to the Regional Director for review. The Regional Director's recommendation for approval or disapproval of maximum management placement and any modifications of the initial

conditions and the basis for recommendations shall be documented on the Report of Maximum Management, Form DC6-171.

(i) The Regional Director's recommendations shall be forwarded to the Maximum Management Review Team for review and final approval or disapproval of the maximum management placement and any modifications of the initial conditions. The Maximum Management Review Team's decisions shall be documented on the Report of Maximum Management, Form DC6-171.

(j) If the Maximum Management Review Team disapproves the maximum management placement, the inmate shall immediately be reclassified to his original status and removed from the maximum management cell.

(k) The Classification Supervisor at the maximum management facility shall ensure that Form DC6-229, Daily Record of Special Housing, is documented with any status or condition changes approved by the Maximum Management Review Team. The Classification Supervisor shall also ensure that the inmate is informed verbally and in writing of the Maximum Management Review Team's decision. Form DC6-229 is incorporated by reference in Rule 33-601.800, F.A.C.

(l) The Institutional Classification Team at the maximum management facility is responsible for ensuring that staff adhere to any time frames approved in reference to inmate conditions.

(m) An inmate shall not be released from maximum management status or be subjected to modifications of initial placement conditions until the actions are approved by the Maximum Management Review Team except as allowed in paragraph (4)(a) above.

(6) Review of Maximum Management Status and Conditions.

(a) The ICT Institutional Classification Team shall review the inmate's maximum management status, the conditions set forth in subsection (4) above, and previously modified conditions weekly for the first sixty days from the date of placement, and at least monthly thereafter.

1. Weekly reviews by the ICT Institutional Classification Team during the first sixty days of maximum management status and monthly thereafter shall be documented on Form DC6-229, Daily Record of Special Housing.

2. If the ICT Institutional Classification Team recommends the inmate's release from maximum management or a modification of the inmate's conditions during the first sixty days, the ICT Institutional Classification Team shall enter also document its recommendation in OBIS on the Report of Maximum Management, Form DC6-171.

3. All reviews conducted at least monthly by the ICT Institutional Classification Team after the first sixty days of maximum management status shall be entered in OBIS

~~documented on the Report of Maximum Management, Form DC6-171. This documentation shall include any recommendations for modifications of the inmate's conditions.~~

4. The ICT shall enter in OBIS an inmate's guilty findings on any disciplinary reports and all recommendations for modification of the inmate's conditions.

~~(b) All ICT Institutional Classification Team reviews entered in OBIS ~~documented on the Report of Maximum Management, Form DC6-171,~~ shall be reviewed by the Warden. The Warden shall document his or her reason for approval, disapproval, or modification of the ICT Institutional Classification Team recommendations in OBIS on the Report of Maximum Management, Form DC6-171.~~

~~(c) The Warden's recommendations for approval, disapproval, or modification of the inmate's status or conditions shall be reviewed by the Regional Director. The Regional Director shall document approval, disapproval, or modification of the Warden's recommendation in OBIS on the Report of Maximum Management, Form DC6-171.~~

~~(d) If the Regional Director approves the inmate for release from maximum management status, the inmate shall be placed in close management or death row housing. The decision to release the inmate from maximum management status shall be entered in OBIS continuation of maximum management status, no further review of the placement or modification of conditions is required. An inmate shall not be subjected to modification of conditions until the modifications are approved by the Regional Director, except as allowed in paragraph (4)(a) above.~~

~~(e) If the Regional Director recommends release from maximum management status, the recommendation shall be forwarded for review and final decision to the Deputy Assistant Secretary of Institutions — Operations. The Deputy Assistant Secretary of Institutions — Operations shall document approval, disapproval, or modification of the Regional Director's recommendations on the Report of Maximum Management, Form DC6-171.~~

~~(f)(g) The Classification Supervisor at the maximum management facility shall ensure that Form DC6-229, Daily Record of Special Housing, is documented with any status or condition changes approved by the Regional Director or Deputy Assistant Secretary of Institutions — Operations. The Classification Supervisor at the maximum management facility shall ensure the inmate is immediately removed from maximum management housing if approved by the Regional Director and returned to close management or death row housing.~~

~~(f)(g) The ICT at the maximum management facility shall ensure that staff adhere to any time frames approved in reference to inmate conditions.~~

~~(h) An inmate shall not be released from maximum management status until that action is approved by the Deputy Assistant Secretary of Institutions — Operations.~~

(7) Periodic Modification of Conditions.

(a) If after the following time frames the Regional Director determines an inmate has displayed satisfactory adjustment to maximum management based on the severity of any guilty findings on disciplinary reports created since the inmate's initial placement on maximum management status and that reinstatement of privileges is appropriate, privileges shall be reinstated as follows:

1. After six consecutive months on maximum management and with the approval of the Regional Director, the following privileges shall be reinstated:

a. Recreation privileges up to one two-hour session per week; and

b. Property privileges to the extent that the inmate may possess two periodicals and may check out books from the library.

2. After nine consecutive months on maximum management and with the approval of the ICT, the following privileges shall be reinstated:

a. Recreation privileges up to two-hour sessions per week; and

b. Canteen privileges limited to one order per week. The inmate is further limited to five non-food items and five food items. In making this determination, with the exception of stamps, security pens, and notebook paper, it is the number of items counted rather than the type of item. With respect to stamps, security pens, and notebook paper, twenty-five stamps or fewer shall count as one item, three security pens or fewer shall count as one item, and two packages or fewer of notebook paper will count as one item.

3. After 12 consecutive months on maximum management and with approval of the ICT, the following privileges shall be reinstated:

a. Recreation privileges up to three two-hour sessions per week; and

b. Ability to purchase a 'walkman'-type radio, headphones, and batteries or to be issued these items from the inmate's stored property.

(b) If an inmate whose privileges have been reinstated is subsequently found guilty on a disciplinary report, the ICT shall review the report and make a determination as to whether and to what extent privileges shall be revoked.

(c) Any recommendations by the ICT and/or Warden and Regional Director decisions to modify conditions shall be entered in OBIS during weekly or monthly reviews of the inmate's maximum management status. The Classification Supervisor at FSP shall ensure that Form DC6-229, Daily Record of Special Housing, is documented with any status or condition changes approved by the Regional Director.

~~(8)(7) On-Site Review of Maximum Management.~~

(a) If an inmate remains in maximum management status for 90 days, the Regional Director or designee shall conduct an on-site review of the inmate's maximum management status



and conditions ~~in conjunction with the monthly review of the Warden's recommendations.~~ This on-site review shall take place after every 90 day period of continued maximum management status. The Regional Director's designee shall be a Regional Assistant Warden, Regional Classification Administrator, or State Classification Officer.

(b) The ~~ICT Institutional Classification Team~~ shall participate in the review of the inmate's adjustment with the Regional Director or his or her designee.

(c) The Regional Director's decisions made following this on-site review will be entered in OBIS as directed in subsection (7) above ~~documented on the Report of Maximum Management, Form DC6-174.~~

~~(9)(8)~~ Security Requirements.

(a) All security requirements outlined in Rule 33-601.800, F.A.C., for close management inmates are applicable for all maximum management inmates.

(b) Additionally, the following security precautions shall be followed for maximum management inmates:

1. The inmate shall remove all clothing to allow for a strip search and pass the clothing to the officers for thorough search before being restrained and exiting the cell. The inmate shall remain under constant visual surveillance during the process.

2. A maximum management inmate shall exit the cell only in handcuffs behind the back with handcuff cover and in the presence of a minimum of two officers.

3. Once out of the cell, the inmate shall be placed in leg irons and escorted by two correctional officers at all times.

4. The cell shall be thoroughly searched each time the inmate exits the cell for any reason, but no less frequently than three times each week.

5. When escorting a maximum management inmate past other maximum management inmate cells, the cells will have the solid security door and cuff/food port closed and secured.

6. Under no circumstances will any two maximum management inmates be out of the cells under escort in the same area at the same time.

7. A maximum management inmate shall submit to a visual strip search and clothing search each time the inmate is returned to the cell from any escort.

(10) Other Conditions of Confinement.

(a) Religious services shall be delivered by institutional chaplaincy staff or approved volunteers only.

(b) Inmates in maximum management shall be required to conduct legal business by correspondence rather than a personal visit to the law library, when possible. If access to the law library is required, a secure cell in the law library shall be used to prevent direct contact with other inmates including law clerks.

(c) Medication shall be dispensed and administered in accordance with Health Services protocols for confinement.

(d) Inmates who are housed in maximum management will have mental health and medical care services to the same extent as all close management inmates. Monitoring of inmates will be as described in Rule 33-601.800, F.A.C.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History--New 12-7-00, Amended 11-23-03, 4-1-04, 4-13-06, 10-30-06, 4-27-08,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp, Assistant Secretary of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter A. McNeil, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 15, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 30, 2009

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.: 40D-2.041  
 RULE TITLE: Permits Required

PURPOSE AND EFFECT: The District proposes to make further refinements in the definitions of General and Small General Water Use Permits (WUPs) set forth in Rule 40D-2.041, F.A.C., which was recently amended. General WUPs are issued for combined annual average daily water demands of less than 500,000 gallons per day (gpd) but greater than or equal to 100,000 gpd. Recent amendments elevated certain water demands of less than 100,000 gpd (formerly categorized as Small General WUPs) to the General WUP category, which amendments included defining all permits with surface water withdrawals less than 100,000 gpd as a General WUP. The proposed amendments will clarify that for permits authorizing surface water withdrawals, only those for which the primary source is a surface water and the combined annual average daily water demand is at least 50,000 gpd will be categorized as General Permits. The General WUP category is also amended to include permits with annual average water demands of less than 100,000 gpd when the maximum daily withdrawal quantity equals or exceeds 3,000,000 gpd for crop protection or other use unless at least one permitted withdrawal facility is located within the Dover-Plant City area of Hillsborough County. In that specific area, WUPs authorizing less than 100,000 gpd will be elevated to the General WUP category if the maximum daily withdrawal quantity for crop protection or other use equals or exceeds 1,000,000 gpd. This is to due to the concentration of agricultural water use in that specific area, primarily for strawberries, which require significant crop protection withdrawals during the winter growing season. The effect of these amendments is to limit the Small General WUP category to those combined annual

average water demands of less than 100,000 gpd that require only minimal staff evaluation, due to little-to-no impact upon the water resources.

SUMMARY: Rule 40D-2.041, F.A.C., is amended to revise the definition of a General Water Use Permit when the combined annual average daily demand is less than 100,000 gpd. A permit authorizing a surface water withdrawal will be categorized as a general permit only if the primary withdrawal source is a surface water and only if the combined annual average daily water demand is at least 50,000 gpd. Amendments also provide that a general WUP will be issued for combined annual average daily water demands of less than 100,000 gpd if the maximum daily withdrawal quantity equals or exceeds 3 million gpd for crop protection or other use unless located within the Dover-Plant City area of Hillsborough County, in which case the permit will be issued as a General WUP if the maximum daily withdrawal quantity is 1 million gpd or more.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Costs (SERC) has been prepared. The proposed revisions to District Rule 40D-2.041, F.A.C., that reclassify formerly Small General permits as General permits based upon maximum daily withdrawal amounts are anticipated to result in some additional regulatory costs to affected permittees. Holders of General permits authorizing surface water withdrawals that would be reclassified as Small General permits would have reduced regulatory costs.

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, 373.149, 373.171, 373.216, 373.249 FS.

LAW IMPLEMENTED: 373.219, 373.223, 373.224, 373.226 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 A. 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-2.041 Permits Required.

(1) No change.

(2) Water Use Permit categories are based on the combined annual average daily water demand, defined as the total reasonable-beneficial water quantity necessary for the proposed water use, to be obtained during one year from ground water, surface water, alternative water supply, imported

water or any other water source, divided by 365 days and expressed in gallons per day (gpd). The District issues the following categories of Water Use Permits:

(a) Individual. No change.

(b) General. Water Use Permits for the following are issued by District staff as General Water Use Permits, except as provided in Chapter 4, Section 4.3 A.1.a.ii.(4) of the Basis of Review:

1. A combined annual average daily water demand less than 500,000 gpd but greater than or equal to 100,000 gpd; or

2. A combined annual average daily water demand less than 100,000 gpd when:

a. The drought annual average is 100,000 gpd or more in the Southern Water Use Caution Area;

b. Withdrawal is for mining or dewatering;

c. The primary withdrawal source is a surface water and the combined annual average daily water demand is at least 50,000 gpd; ~~or~~

d. The withdrawals are required by the permit to be metered and withdrawal quantities reported to the District, or-

e. The maximum daily withdrawal quantity equals or exceeds 3,000,000 gpd for crop protection or other use unless at least one permitted withdrawal facility is located within the Dover-Plant City area, in which case the maximum daily withdrawal quantity equals or exceeds 1,000,000 gpd for crop protection or other use.

(c) No change.

(3) through (4) No change.

Specific Authority 373.044, 373.113, 373.118, 373.149, 373.171, 373.216, 373.249 FS. Law Implemented 373.219, 373.223, 373.224, 373.226 FS. History—Readopted 10-5-74, Amended 12-31-74, 10-24-76, 9-4-77, 10-16-78, Formerly 16J-2.04(1), (2), (4), (5), Amended 9-1-84, 11-4-84, 10-1-89, 2-10-93, 4-11-94, 1-1-07, 12-30-08,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha A. 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: October 28, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 13, 2009

**DEPARTMENT OF MANAGEMENT SERVICES**

**Agency for Workforce Innovation**

RULE NO.: 60BB-8.410  
 RULE TITLE: Voluntary Prekindergarten Education Program Substitute Instructors

PURPOSE AND EFFECT: The purpose of the proposed rulemaking is to establish the required qualifications of substitute instructors for the Voluntary Prekindergarten Education (VPK) Program and to define the circumstances and time limits for which a VPK provider may assign a substitute instructor to a VPK classroom.

SUMMARY: The proposed rulemaking addresses the qualifications of substitute instructors for the school-year and summer VPK program types and establishes the circumstances and time limits for which a VPK provider may assign a substitute instructor to a VPK classroom.

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: 411.01(4)(d)8., 411.01(4)(e), Florida Statutes.

LAW IMPLEMENTED: 411.01(4)(d)8., 411.01(4)(j), Florida Statutes.

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

DATE AND TIME: March 11, 2009, 3:00 p.m. – 5:00 p.m.  
 PLACE: TCC Capitol Center, 300 W. Pensacola Street, Tallahassee, FL 32312

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kristin R. Harden, Assistant General Counsel, Agency for Workforce Innovation, Office of General Counsel, 107 East Madison Street, M.S.C. #110, Tallahassee, Florida 32399-4128, (850)245-7150

THE FULL TEXT OF THE PROPOSED RULE IS:

60BB-8.410 Voluntary Prekindergarten Education Program Substitute Instructors.

(1) As used in this rule, the term “credentialed instructor” means a prekindergarten instructor who has the credentials required under Sections 1002.55(3)(c), 1002.55(4), or 1002.61(4), F.S.

(2) Qualifications. Voluntary Prekindergarten (VPK) substitute instructors must be of good moral character and be screened using the level 2 screening requirements in Section 435.04, F.S. before employment as a private VPK substitute instructor. In addition, a private VPK substitute instructor must meet the following requirements:

(a) Has successfully completed one or more of the following before employment as a VPK substitute instructor:

1. In a school year VPK program class:

a. An associate’s or higher degree in any field of study;

b. A 40-clock-hour introductory course in child care for child care personnel of a child care facility which is approved by the Department of Children and Family Services under Section 402.305(2)(d)1., F.S.;

c. A 40-clock-hour introductory course in group child care for an operator of a large family child care home which is approved by the Department of Children and Family Services under Section 402.3131(3), F.S.; or

d. A 30-clock-hour introductory course in child care for an operator of a family day care home which is approved by the Department of Children and Family Services under Section 402.313(4), F.S.

e. A school district’s requirements to be employed as a substitute teacher as adopted by each school district under Section 1012.35, Florida Statutes.

2. In a summer VPK program class:

a. An associate’s or higher degree in any field of study;

b. A child development associate (CDA) credential issued by the National Credentialing Program of the Council for Professional Recognition; or

c. A credential approved by the Department of Children and Family Services as being equivalent to or greater than the national CDA.

(b) Has met the qualifications of a credentialed instructor.

(3) Circumstances. A VPK provider may assign a substitute instructor when a credentialed instructor is absent from the provider’s premises. A substitute instructor may not be assigned when a credentialed instructor remains on the provider’s premises in order to offer instruction in a classroom other than the one to which the credentialed instructor is assigned.

(4) Time limitation. Substitute instructors may not be assigned to substitute for an absent credentialed instructor in excess of 30 percent of the program hours. A new credentialed instructor must be assigned to replace the absent instructor in the event the absence of the credentialed instructor will exceed 30 percent of the program hours.

(a) A VPK provider shall maintain a record of the number of hours a substitute instructor has been assigned to each VPK classroom.

(b) Records created under paragraph (4)(a) shall be maintained by the VPK provider for a minimum of 1 year and shall be made available for inspection to the VPK provider’s early learning coalition or the Agency during normal hours of operation, and shall submit a copy of the documentation to the coalition upon request.

(5) Before the close of business on the day a substitute instructor is assigned, a VPK provider must provide the following information to its coalition in a manner established by the coalition:

(a) The name of the substitute instructor;

(b) The VPK class to which the substitute instructor is assigned;

(c) Documentation demonstrating that the substitute instructor has a current level 2 background screening and applicable credentials; and

If a particular substitute instructor is assigned to the same VPK classroom on consecutive business days, a VPK provider is not required to resubmit the information on each of the consecutive business days.

(6) Nothing in this rule shall be considered to supersede employment requirements for instructional personnel in public schools which are more stringent than the requirements of this rule. This exception shall not be construed to permit employment of substitute instructors for time periods greater than those enumerated in this rule.

Specific Authority 1002.55(3)(e), 1002.61(6), 1002.63(7), 1002.79(2) FS. Law Implemented 1002.55(3)(e), 1002.61(6), 1002.63(7) FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Kristin R. Harden

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Barbara Griffin

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 11, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 12, 2008, Vol. No. 34/50

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE NO.: 61G15-18.011      RULE TITLE: Definitions

PURPOSE AND EFFECT: Purpose and effect is to amplify and clarify the meaning of “degree of control necessary for the Engineer of Record.”

SUMMARY: The meaning of “degree of control necessary for the Engineer of Record” is amplified and clarified.

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: 471.008, 471.013(1)(a)1., 2. FS.

LAW IMPLEMENTED: 471.003(2)(f), 471.005(7), 471.005(6), 471.013(1)(a)1., 2., 471.023(1), 471.025(3), 471.033(1)(j) 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: Carrie Flynn, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-18.011 Definitions.

As used in Chapter 471, F.S., and in these rules where the context will permit the following terms have the following meanings:

(1) “Responsible Charge” shall mean that degree of control an engineer is required to maintain over engineering decisions made personally or by others over which the engineer exercises supervisory direction and control authority. The engineer in responsible charge is the Engineer of Record as defined in subsection 61G15-30.002(1), F.A.C.

(a) The degree of control necessary for the Engineer of Record shall be such that the engineer:

1. through 2. No change.

3. Approves the inclusion of standard engineering design details into the engineering work. Standard engineering design details include details mandated or directed to be contained in engineering documents by governmental agencies (such as the Florida Department of Transportation); and details contained in engineering design manuals and catalogues that are generally accepted as authoritative in the engineering profession. In order to approve the inclusion of such details the Engineer of Record must conduct such reasonable analysis of the content of the standard detail(s) as is necessary in the sound professional judgment of the Engineer of Record to be assured that the inclusion of such detail(s) into the engineering work is acceptable engineering practice.

(b) through (d) No change.

(2) through (6) No change.

Specific Authority 471.008, 471.013(1)(a)1., 2. FS. Law Implemented 471.003(2)(f), 471.005(7), 471.005(6), 471.013(1)(a)1., 2., 471.023(1), 471.025(3), 471.033(1)(j) FS. History—New 6-23-80, Amended 12-19-82, 11-22-83, Formerly 21H-18.11, Amended 1-16-91, 4-4-93, Formerly 21H-18.011, Amended 12-22-99, 4-19-01, 10-16-02, 9-15-04, 6-5-08, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Professional Engineers

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 3, 2008  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 30, 2009

**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 HEALTH**

**Board of Medicine**

RULE NO.: 64B8-31.005  
RULE TITLE: Anesthesiologist Assistant Protocols and Performance

PURPOSE AND EFFECT: The proposed rule amendment is intended to permit an anesthesiologist to supervise up to four anesthesiologist assistants.

SUMMARY: The proposed rule amendment permits an anesthesiologist to supervise up to four anesthesiologist assistants.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting: Larry McPherson, Jr., 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: 458.309, 458.3475 FS.

LAW IMPLEMENTED: 458.331(1)(m), 458.3475 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-31.005 Anesthesiologist Assistant Protocols and Performance.

(1) through (2) No change.

(3) The supervising anesthesiologist shall delegate only tasks and procedures to the anesthesiologist assistant which are within the supervising physician's scope of practice. The anesthesiologist assistant may work in any setting that is within the scope of practice of the supervising anesthesiologist's practice. The supervising anesthesiologist may supervise up to four (4) anesthesiologist assistants.

(4) through (5) No change.

Specific Authority 458.309, 458.3475 FS. Law Implemented 458.331(1)(m), 458.3475 FS. History--New 8-2-05, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Anesthesiologist Assistant Committee

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 2, 2009

**DEPARTMENT OF HEALTH**

**Board of Nursing**

RULE NO.: 64B9-2.015  
RULE TITLE: Standards of Nursing Education

PURPOSE AND EFFECT: The purpose of the rule amendment is to conform the rule to the statutory requirements.

SUMMARY: The rule is conformed to the statutory requirements.

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: 464.006, 464.019(2) FS.

LAW IMPLEMENTED: 464.019 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rick Garcia, Executive Director, Board of Nursing, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B9-2.015 Standards of Nursing Education.

(1) through (11) No change.

(12) Program Evaluation.

(a) The minimal acceptable level of performance as required by the Board on the National Council of State Boards of Nursing licensing examination for graduates of a nursing education program during the fiscal year of the Department shall be 10% below the national ~~or state average, whichever is lowest~~, as published by the contract testing service of the National Council of State Boards of Nursing.

(b) through (c) No change.

Specific Authority 464.006, 464.019(2) FS. Law Implemented 464.019 FS. History--New 1-28-02, Amended 10-19-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Nursing

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 5, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 30, 2009

**DEPARTMENT OF HEALTH**

**Board of Nursing Home Administrators**

RULE NO.:                   RULE TITLE:

64B10-11.003               Reexamination

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify and adopt the Application for Nursing Home Administrators Reexamination form.

SUMMARY: The rule amendment will modify and adopt the Application for Nursing Home Administrators Reexamination form.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

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: 456.017(2), 468.1685(1) FS.

LAW IMPLEMENTED: 456.017(2) 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: Joe Baker, Jr., Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-11.003 Reexamination.

(1) No change.

(2) An applicant must pass both parts of the examination within one year from first failure; otherwise, the applicant must retake both parts of the examination and pay the full fees. The application shall be made on the Application for Nursing Home Administrators Re-Examination form DH-MQA 1129 (revised 8/08, hereby adopted and incorporated by reference) and can be obtained from the Board of Nursing Home Administrators' website at <http://www.doh.state.fl.us/mqa/nurshome/index.html>.

Specific Authority 456.017(2), 468.1685(1) FS. Law Implemented 456.017(2) FS. History--New 12-26-79, Amended 3-1-82, 6-14-82, Formerly 21Z-11.03, Amended 3-5-89, 8-19-92, Formerly 21Z-11.003, 61G12-11.003, Amended 6-2-96, Formerly 59T-11.003, Amended 5-15-00, 11-6-02, 2-15-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Nursing Home Administrators

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Nursing Home Administrators

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 24, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 31, 2008

**DEPARTMENT OF HEALTH**

**Board of Nursing Home Administrators**

RULE NO.:                   RULE TITLE:

64B10-11.011               Provisional License

PURPOSE AND EFFECT: The Board proposes the rule amendment to revise the Application for Provisional License form.

SUMMARY: The rule amendment will revise the Application for Provisional License form.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

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: 468.1685(1), 468.1735 FS.

LAW IMPLEMENTED: 468.1735 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: Joe Baker, Jr., Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-11.011 Provisional License.

(1) An application for a provisional license must fully explain the circumstances surrounding the unexpected vacancy, include proof of the applicant's designation as next in command, and be accompanied by the appropriate fees. The application shall be made on the Application for Provisional License form DH-MQA-NHA015 (revised 8/08 ~~2/2008~~ hereby adopted and incorporated by reference) and can be obtained from the Board of Nursing Home Administrators' website at <http://www.doh.state.fl.us/mqa/nurshome/index.html>.

(2) through (5) No change.

Specific Authority 468.1685(1), 468.1735 FS. Law Implemented 468.1735 FS. History–New 12-6-79, Amended 8-17-81, Formerly 21Z-11.11, Amended 4-22-87, Formerly 21Z-11.011, 61G12-11.011, Amended 7-21-97, Formerly 59T-11.011, Amended 10-30-00, 8-30-05, 11-9-06, 8-13-08,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Nursing Home Administrators

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Nursing Home Administrators

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 24, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 31, 2008

**DEPARTMENT OF HEALTH**

**Board of Nursing Home Administrators**

RULE NO.: 64B10-11.013  
RULE TITLE: Temporary License

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify when temporary licenses expire.

SUMMARY: The rule amendment will clarify when temporary licenses expire.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

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: 468.1685(1),(2) FS.

LAW IMPLEMENTED: 468.1705 (4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-11.013 Temporary License.

The determination of eligibility for temporary licensure shall be made by a committee appointed by the Chairman, and shall be ratified by the Board at its next meeting. This temporary license shall expire upon notification to the applicant of the applicant’s certified laws and rules examination results 90 days after its issuance or upon receipt of a failed examination score.

Specific Authority 468.1685(1), (2) FS. Law Implemented 468.1705(4) FS. History–New 4-22-87, Amended 12-3-90, Formerly 21Z-11.013, 61G12-11.013, 59T-11.013, Amended 10-12-97, 2-14-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Nursing Home Administrators

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Nursing Home Administrators

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 24, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 31, 2008

**DEPARTMENT OF HEALTH**

**Board of Orthotists and Prosthetists**

RULE NO.: 64B14-4.003  
RULE TITLE: Documentation of Eligibility for Licensure

PURPOSE AND EFFECT: The purpose and effect is to incorporate application form.

SUMMARY: The application form is incorporated.

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: 468.802 FS.

LAW IMPLEMENTED: 456.013(1), (7), 468.803 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: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-4.003 Documentation of Eligibility for Licensure.

(1) In order to establish eligibility for licensure as an orthotist or prosthetist under Section 468.803(3)(a) or (b), F.S., the applicant must submit an Application for Licensure, form DH-MQA 1132, 8/08, which is available from the Board office or at the Board’s website, <http://www.doh.state.fl.us/mqa/OrthPros/index.html>, and provide:

- (a) through (d) No change.
- (2) through (5) No change.

Specific Authority 468.802 FS. Law Implemented 456.013(1), (7), 468.803 FS. History–New 12-10-98, Amended 11-11-02, 11-1-05, 9-21-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Orthotists and Prosthetists  
NAME OF AGENCY HEAD WHO APPROVED THE  
PROPOSED RULE: Board of Orthotists and Prosthetists  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: November 7, 2008  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: January 30, 2009

**DEPARTMENT OF HEALTH**

**Board of Osteopathic Medicine**

RULE NO.: 64B15-7.005  
RULE TITLE: Anesthesiologist Assistant Protocols and Performance

PURPOSE AND EFFECT: The proposed rule amendment is intended to permit an anesthesiologist to supervise up to four anesthesiologist assistants.

SUMMARY: The proposed rule amendment permits an anesthesiologist to supervise up to four anesthesiologist assistants.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting: Kaye Howerton, 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: 459.005, 459.023 FS.

LAW IMPLEMENTED: 459.015(1)(o), 459.023 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: Kaye Howerton, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-7.005 Anesthesiologist Assistant Protocols and Performance.

(1) through (2) No change.

(3) The supervising anesthesiologist shall delegate only tasks and procedures to the anesthesiologist assistant which are within the supervising physician's scope of practice. The anesthesiologist assistant may work in any setting that is within the scope of practice of the supervising anesthesiologist's practice. The supervising anesthesiologist may supervise up to four (4) anesthesiologist assistants.

(4) through (5) No change.

Specific Authority 459.005, 459.023 FS. Law Implemented 459.015(1)(o), 459.023 FS. History–New 8-2-05, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Anesthesiologist Assistant Committee  
NAME OF AGENCY HEAD WHO APPROVED THE  
PROPOSED RULE: Board of Osteopathic Medicine  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: November 14, 2008  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: January 2, 2009

**DEPARTMENT OF HEALTH**

**School Psychology**

RULE NO.: 64B21-500.002  
RULE TITLE: Application Form Required for Licensure

PURPOSE AND EFFECT: To update and modify questions asked of the applicant in the licensure application.

SUMMARY: This rule updates the application questions effective January 2009 and advises where the application document may be found.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost was prepared and documents that proposed changes to the form have no effect on the costs related to the application.

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: 490.015 FS.

LAW IMPLEMENTED: 490.005(2), 490.006 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: Allen Hall, Executive Director, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B21-500.002 Application Form Required for Licensure.

Any person desiring a license to practice school psychology either through endorsement or by examination shall apply to the Department of Health. The application shall be made on incorporated by reference form DH-MQA 1067, (2/09) Application for School Psychology Licensure, which is ~~hereby adopted and incorporated by reference, revised 05/02, and~~ can be obtained from the Department of Health, 4052 Bald Cypress Way, #Bin C05, Tallahassee, Florida 32399-3255 or at <http://www.doh.state.fl.us/mqa/schoolpsych>.



Specific Authority 490.015 FS. Law Implemented 490.005(2), 490.006 FS. History–New 4-13-82, Amended 2-11-85, Formerly 21U-500.02, Amended 6-21-92, Formerly 21U-500.002, 61E9-500.002, Amended 11-13-02,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Allen Hall

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ana M. Viamonte Ros, M.D. M.P.H., State Surgeon General

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 4, 2009

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

**DEPARTMENT OF HEALTH**

**Council of Licensed Midwifery**

RULE NO.: 64B24-2.001 RULE TITLE: Licensure to Practice Midwifery

PURPOSE AND EFFECT: To update and modify questions asked of the applicant in the licensure application.

SUMMARY: This rule updates the application questions effective January 2009 and advises where the application document may be found.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost was prepared and documents that proposed changes to the form have no effect on the costs related to the application.

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: 456.004(5), 467.005 FS. LAW IMPLEMENTED: 381.0034, 456.013, 467.011, 467.0125 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: Kaye Howerton, Executive Director, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B24-2.001 Licensure to Practice Midwifery.

(1) Persons desiring to be licensed as a midwife shall make application to the department and remit all applicable fees as required by Chapter 64B24-3, F.A.C. The application shall be made on incorporated by reference Form DH-MQA 1051, (2/09) Application for Midwifery Licensure, ~~incorporated herein by reference and revised 8/02~~, which can be obtained from the Council of Licensed Midwifery,

Department of Health, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256 or at <http://www.doh.state.fl.us/mqa/midwifery>. If incomplete, the application and fees shall expire 1 year from the date on which the application is initially received by the department. After a period of 1 year a new application with required fees must be submitted.

(2) through (4) No change.

Specific Authority 456.004(5), 467.005 FS. Law Implemented 381.0034, 456.013, 467.011, 467.0125 FS. History–New 1-26-94, Formerly 61E8-2.001, 59DD-2.001, Amended 10-29-02, 12-26-06, 2-7-08,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Kaye Howerton

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ana M. Viamonte Ros, M.D. M.P.H., State Surgeon General

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 4, 2009

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

**DEPARTMENT OF HEALTH**

**Division of Disease Control**

RULE NO.: 64D-4.002 RULE TITLE: Definitions

PURPOSE, EFFECT AND SUMMARY: This rule chapter is amended to update the effective date of the federal poverty level (FPL) from February 2008 to January 2009, to comply with the most current federal poverty level standards. The U.S. Department of Health and Human Services updates the federal poverty level annually which is used for eligibility purpose for the HIV/AIDS Patient Care Programs to better serve low-income persons living with HIV disease.

SPECIFIC AUTHORITY: 381.0011(13) FS. LAW IMPLEMENTED: 381.001(1), 381.003(1)(c), 381.0011(5) 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: Joseph P. May, Program Administrator, Department of Health, Division of Disease Control, Bureau of HIV/AIDS, Patient Care, 2585 Merchants Row Boulevard, 3rd Floor, Room 345, Tallahassee, Florida 32399-1715

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:

64D-4.002 Definitions.

For the purpose of this rule chapter, the words and phrases listed below are defined in the following manner:

(1) through (8) No change.

(9) "Federal Poverty Level" (FPL) means the poverty income levels (effective ~~January 2009~~ ~~February 2008~~) as published by the U.S. Department of Health and Human Services (HHS), Federal Office of Management and Budget (OMB), which is incorporated by reference. The federal poverty guidelines are located on the Department of Health, Bureau of HIV/AIDS website, [http://www.doh.state.fl.us/disease\\_ctr/aids/care/EligibilityAdRule.html](http://www.doh.state.fl.us/disease_ctr/aids/care/EligibilityAdRule.html) and the U.S. Department of Health and Human Services website at <http://aspe.hhs.gov/poverty/09poverty.shtml> or can be obtained at any Florida county health department.

(10) through (15) No change.

This rule will become effective March 30, 2009.

Specific Authority 381.0011(13) FS. Law Implemented 381.001(1), 381.003(1)(c), 381.0011(5) FS. History--New 1-23-07, Amended 8-31-07, 3-21-08, 10-27-08, 3-30-09.

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of State Fire Marshal**

RULE NO.: 69A-3.012  
 RULE TITLE: Standards of the National Fire Protection Association and Other Standards Adopted

PURPOSE AND EFFECT: To comply with Section 633.027, Florida Statutes (2008), that requires the owner of any commercial, industrial or multiunit residential structure of three units or more constructed of light-frame trusses, to install a symbol adopted by rule of the State Fire Marshal on a location near the main entry of the structure.

SUMMARY: The proposed rule establishes the dimensions, color, and location of a symbol to be applied to every commercial, industrial and multiunit residential structure of three units or more constructed of light-frame trusses.

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

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

SPECIFIC AUTHORITY: 633.01(1), 633.022, 633.0215 FS.

LAW IMPLEMENTED: 633.01, 633.022, 633.0215 FS.

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

DATE AND TIME: Tuesday, March 17, 2009, 10:00 a.m.

PLACE: Auditorium, Florida State Fire College, 11655 N. W. Gainesville Rd., Ocala, Florida 34482

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jim Goodloe, Chief, Bureau of Fire Prevention, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0329, phone (850)413-3620 Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Belinda Chukes at (850)413-3619.

THE FULL TEXT OF THE PROPOSED RULE IS:

69A-3.012 Standards of the National Fire Protection Association and Other Standards Adopted.

(1) through (5) No change.

(6) Notice required for buildings with light-frame truss-type construction. Purpose: The purpose of this rule is to require the placement of an identifying symbol on buildings constructed with a light weight truss component in a manner sufficient to warn persons conducting fire control and other emergency operations of the existence of light-frame truss-type construction in the structure.

(a) Definitions:

1. "Light-frame truss-type construction" means a type of construction whose primary structural elements are formed by a system of repetitive wood or light gauge steel framing members.

2. "Approved Symbol" means a Maltese Cross measuring 6 inches horizontally and 6 inches vertically and is of a bright red reflective color and is designed in accordance with Figure 1.

3. Townhouse means a single-family dwelling unit constructed in a group of three or more attached units with property lines separating each unit in which each unit extends from foundation to roof and with open space on at least two sides.

(b) Any commercial, industrial, or multiunit residential structure of three units or more, (excluding townhouses) that uses horizontal or vertical light-frame truss-type construction in any portion thereof, shall be marked with a sign displaying an approved symbol designed in accordance with Figure 1. Each approved symbol shall include within the center circle one of the following designations:

1. Structures with light-weight truss roofs shall be marked with the letter "R".

2. Structures with light-weight truss floor systems shall be marked with the letter "F".

3. Structures with light-weight truss floor and roof systems shall be marked with the letters "R/F."

(c) The approved symbol shall be marked within 24 inches to the left of the main entry door and:

1. May be permanently attached to the face of the building on a contrasting background, or

2. May be mounted on a contrasting base material which is then permanently mounted on the face of the building.

(d) The distance above the grade, walking surface or the finished floor, to the bottom of the symbol shall be not less than 4 feet (48 in).

(e) The distance above the grade, walking surface or the finished floor, to the top of the symbol shall be not more than 6 feet (72 in).

(7) In single tenant structures with multiple main entry doors, such as big box retail stores, department stores and grocery stores, the authority having jurisdiction may require that other main entry doors of the structure be marked with an approved symbol.

(8) In Multiple tenant structures and covered mall buildings with multiple main entry doors, the authority having jurisdiction may require that other main entry doors be marked with an approved symbol. In such structures, approved symbols shall be marked on one side and spaced not closer than 100 feet or at each end of the structure when such structure is less than 100 feet in length.

(9) The owner of each new structure required to comply with this section shall mark the structure with the approved symbol prior to receiving a certificate of occupancy.

(10) The owner of each existing structure required to comply with this section shall mark the structure with the approved symbol within 90 days of the effective date of this rule amendment.

(11) Where there is disagreement between the owner of the structure and the authority having jurisdiction as to the presence of light-weight floor or roof systems within the building, the owner shall be granted not more than 45 days to provide written verification of his position from a licensed engineer or licensed architect. Failure to provide the written verification within the allotted time shall require such owner to comply with the rule as though light-weight floor or roof systems are present within the building.



Light-Weight “Roof” only



Light-Weight “Floor” only



Light-Weight “Floor & Roof”

Figure 1:

Specific Authority 633.01(1), 633.022, 633.0215 FS. Law Implemented 633.01, 633.022, 633.0215 FS. History—New 5-14-86, Amended 2-12-87, 4-8-90, 10-30-91, 4-3-95, 11-27-01, Formerly 4A-3.012, Amended 8-7-05, 5-18-08,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Jim Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Honorable Alex Sink, Chief Financial Officer, State of Florida, and Agency Head, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 15, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 26, 2008

## DEPARTMENT OF FINANCIAL SERVICES

### Division of State Fire Marshal

RULE NO.: 69A-60.008  
RULE TITLE: Notice Required for Buildings with Light-frame Truss-type Construction

PURPOSE AND EFFECT: To comply with Section 633.027, Florida Statutes (2008), that requires the owner of any commercial, industrial or multiunit residential structure of three units or more constructed of light-frame trusses, to install a symbol adopted by rule of the State Fire Marshal on a location near the main entry of the structure.

SUMMARY: The proposed rule establishes the dimensions, color, and location of a symbol to be applied to every commercial, industrial and multiunit residential structure of three units or more constructed of light-frame trusses.

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

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

SPECIFIC AUTHORITY: 633.01(1), 633.022, 633.0215 FS.

LAW IMPLEMENTED: 633.01, 633.022, 633.0215 FS.

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

DATE AND TIME: Tuesday, March 17, 2009, 10:00 a.m.

PLACE: Auditorium, Florida State Fire College, 11655 N.W. Gainesville Rd., Ocala, Florida 34482

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jim Goodloe, Chief, Bureau of Fire Prevention, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0329, phone (850)413-3620

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Belinda Chukes at (850)413-3619.

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

#### 69A-60.008 Notice Required for Buildings with Light-frame Truss-type Construction.

(1) Purpose: The purpose of this rule is to require the placement of an identifying symbol on buildings constructed with a light weight truss component in a manner sufficient to warn persons conducting fire control and other emergency operations of the existence of light-frame truss-type construction in the structure.

#### (2) Definitions.

(a) "Light-frame truss-type construction" means a type of construction whose primary structural elements are formed by a system of repetitive wood or light gauge steel framing members.

(b) "Approved Symbol" means a Maltese Cross measuring 6 inches horizontally and 6 inches vertically and is of a bright red reflective color and is designed in accordance with Figure 1.

(c) Townhouse means a single-family dwelling unit constructed in a group of three or more attached units with property lines separating each unit in which each unit extends from foundation to roof and with open space on at least two sides.

(3) Any commercial, industrial, or multiunit residential structure of three units or more, (excluding townhouses) that uses horizontal or vertical light-frame truss-type construction in any portion thereof, shall be marked with a sign displaying an approved symbol designed in accordance with Figure 1. Each approved symbol shall include within the center circle one of the following designations:

(a) Structures with light-weight truss roofs shall be marked with the letter "R".

(b) Structures with light-weight truss floor systems shall be marked with the letter "F".

(c) Structures with light-weight truss floor and roof systems shall be marked with the letters "R/F."

(4) The approved symbol shall be marked within 24 inches to the left of the main entry door and:

(a) May be permanently attached to the face of the building on a contrasting background, or

(b) May be mounted on a contrasting base material which is then permanently mounted on the face of the building.

(5) The distance above the grade, walking surface or the finished floor, to the bottom of the symbol shall be not less than 4 feet (48 in).

(6) The distance above the grade, walking surface or the finished floor, to the top of the symbol shall be not more than 6 feet (72 in).

(7) In single tenant structures with multiple main entry doors, such as big box retail stores, department stores and grocery stores, the authority having jurisdiction may require that other main entry doors of the structure be marked with an approved symbol.

(8) In Multiple tenant structures and covered mall buildings with multiple main entry doors, the authority having jurisdiction may require that other main entry doors be marked with an approved symbol. In such structures, approved symbols shall be marked on one side and spaced not closer than 100 feet or at each end of the structure when such structure is less than 100 feet in length.

(9) The owner of each new structure required to comply with this section shall mark the structure with the approved symbol prior to receiving a certificate of occupancy.

(10) The owner of each existing structure required to comply with this section shall mark the structure with the approved symbol within 90 days of the effective date of this rule amendment.

(11) Where there is disagreement between the owner of the structure and the authority having jurisdiction as to the presence of light-weight floor or roof systems within the building, the owner shall be granted not more than 45 days to provide written verification of his position from a licensed engineer or licensed architect. Failure to provide the written verification within the allotted time shall require such owner to comply with the rule as though light-weight floor or roof systems are present within the building.



Light-Weight "Floor" only



Light-Weight "Floor & Roof"

Specific Authority 633.01(1), 633.022, 633.0215 FS. Law Implemented 633.01, 633.022, 633.0215 FS. History–New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jim Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Honorable Alex Sink, Chief Financial Officer, State of Florida, and Agency Head, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 9, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 26, 2008

Figure 1:



Light-Weight "Roof" only