

custodian's delegate may, in lieu of a physical inventory, obtain a certified statement from the other custodian's delegate attesting to the existence and condition of the property.

(6) Reconciliation of Inventory to Property Records – Upon completion of a physical inventory:

(a) The data listed on the inventory forms shall be compared with the individual property records. Noted differences such as location, condition, and custodian's delegate shall be investigated and corrected as appropriate or, alternatively, the item shall be relocated to its assigned location and custodian or custodian's delegate shown in the individual property record.

(b) Items not located during the inventory process shall be promptly reported to the custodian or the custodian's designee (who shall be an individual other than the custodian's delegate responsible for the unaccounted for property) and the custodian shall cause a thorough investigation to be made. If the investigation determines that the item was stolen, the individual property record shall be so noted and a report filed with the appropriate law enforcement agency describing the missing item and the circumstances surrounding its disappearance.

(7) Unaccounted for Property – For items identified as unaccounted for, recording the items as dispositions or otherwise removing the items from the property records shall be subject to approval of the State's Chief Financial Officer as provided in Section 17.04, F.S., and Rule 69I-21.002, F.A.C.

Specific Authority 273.02 FS. Law Implemented 273.02 FS. History–New \_\_\_\_\_.

69I-72.007 Capitalization of Property.

For statewide financial reporting purposes, all tangible personal property with a value or cost of \$1,000 or more and having a projected useful life of one year or more must be capitalized. Any hardback book with a value or cost of \$25 or more and having a useful life of one year or more that is circulated to students or the general public, and any hardback book with a value or cost of \$250 or more that is not circulated must be capitalized.

Specific Authority 273.025 FS. Law Implemented 273.025 FS. History–New \_\_\_\_\_.

Section II  
Proposed Rules

**DEPARTMENT OF TRANSPORTATION**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
14-28.0011	Definitions
14-28.0012	Forms
14-28.002	Public Use of Rest Areas and Welcome Centers
14-28.003	Procedures for Use of Rest Areas and Wayside Parks for Non-Profit Organizations to Assemble for Safety Purposes
14-28.005	Solicitation Within Rest Areas and Welcome Centers
14-28.006	Notification
14-28.007	Solicitation Restrictions
14-28.008	Suspension or Revocation of a Solicitation Permit

**PURPOSE AND EFFECT:** This rule chapter is being amended and restructured, including repealing six of the existing rules. The repeal of rules is part of the Department's overall goal to review existing rules and to repeal any rules that are considered to be obsolete or unnecessary. The remaining two rules are simplified. The rule chapter title also is amended.

**SUMMARY:** Six of the existing rules are being repealed and the remaining two rules are simplified. The rule chapter title also is amended.

**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:** 334.044(2), 337.405, 337.406, 496.425 FS.

**LAW IMPLEMENTED:** 316.130, 334.044(13), (28), 335.02(1), 337.405, 337.406, 496.425 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:** James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

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

REST AREAS AND WELCOME CENTERS  
PUBLIC USE OF REST AREAS, WAYSIDE  
PARKS, AND SOLICITATION  
ON STATE HIGHWAY FACILITIES

14-28.0011 Definitions.

Specific Authority 334.044(2) FS. Law Implemented 316.130, 335.02(1), 337.406(1), 496.404 FS. History—New 10-25-89, Amended 7-6-93, Repealed.

14-28.0012 Forms.

Specific Authority 120.53(1)(b), 120.60, 334.044(2) FS. Law Implemented 120.53(1)(b), 120.60, 334.044(2), 335.02(1), 337.406(1), 496.425 FS. History—New 10-25-89, Amended 7-6-93, Repealed.

14-28.002 Public Use of Rest Areas and Welcome Centers/Wayside Park Regulations.

Rest areas and welcome centers ~~wayside parks~~ are provided as safety rest stops for travelers to use on a first come, first served basis. Persons using rest areas and welcome centers ~~wayside parks~~ shall comply with the following requirements:

- (1) Group functions are prohibited.
- (2) Camping is prohibited.
- (3) The use of alcoholic beverages and drugs is prohibited.
- (4) Parking for periods greater than three hours is prohibited. This does not apply to solicitations ~~participants~~ permitted under Rules ~~14-28.003 and~~ 14-28.005, F.A.C.
- (5) All vehicles must be parked in the proper manner at locations designated by the Florida Department of Transportation (Department).
- (6) Animals must be kept on leash or in other appropriate restraining devices, e.g. cages, and shall not be taken into any shelters or other buildings. This provision is not applicable to animals used by ~~the blind or other handicapped~~ persons with disabilities.
- (7) No person shall disturb or injure birds, nests, eggs, squirrels, or any other animals within the area.
- (8) No person shall pick any flowers, foliage, fruit; or cut, break, dig up, or in any way mutilate or injure any tree, shrub, plant, grass turf, railing seat, fence, structure or anything within the area; or cut, carve, write, paint or paste on any tree, stone, fence, wall, building, monument or other object therein, any bill, advertisement or inscription whatsoever.
- (9) No person shall dig up or remove any dirt, stones, rocks or other objects; make any excavation, quarry any stones or lay or set off any blast or cause or assist in doing any of these activities within the area.
- (10) Fires shall be made only in fire places or grills provided for this purpose and any person building a fire will be responsible for completely extinguishing the fire before leaving the area.
- (11) No article or object shall be offered for sale within the area, ~~except as authorized by law.~~

(12) Bottles, broken glass, ashes, waste paper or other rubbish shall be left only at such places provided for disposal by the Department.

(13) ~~No person, except permitted non-profit organizations, shall hook up his or her vehicle to Department electrical and water outlets. All costs of making these hook-ups shall be at the permittee's expense. The permittee will be responsible for the safety of all connections, hoses, wires, etc. Hazardous situations may be identified by the Department and must be corrected by the permittee immediately. Failure to do so shall result in revocation of the permit. The permittee will be responsible for obtaining all local government permits and health department approvals, which will be posted where they can be seen easily. All damages to Department property shall be repaired at the permittee's expense.~~

Specific Authority 334.044(2), 337.405, 337.406 FS. Law Implemented 334.044(13), 335.02(1), 337.405, 337.406(1) FS. History—New 9-2-82, Formerly 14-28.02, Amended 10-25-89, 8-28-91, 7-6-93, \_\_\_\_\_.

14-28.003 Procedures for Use of Rest Areas and Wayside Parks for Non-Profit Organizations to Assemble for Safety Purposes.

Specific Authority 334.044(2), 335.16(1) FS. Law Implemented 334.044 (28), 335.16(1), 337.406(1) FS. History—New 9-2-82, Formerly 14-28.03, Amended 10-25-89, 8-28-91, 7-6-93, Repealed.

14-28.005 Solicitation Within Rest Areas and Welcome Centers Permits.

(1) Only ~~non-profit~~ organizations registered with the Department of Agriculture and Consumer Services, pursuant to Chapter 496, F.S., and holding a valid consumer certificate of exemption issued by the Department of Revenue may apply for a solicitation permit to solicit funds which have secured ~~may solicit~~ within approved rest areas and welcome centers ~~the Department public access facilities. Permits for solicitation within the Department public access facilities are issued by the Department and permits for solicitation on state roads are issued by the appropriate Local Governmental Entity.~~

(2) ~~Non profit organizations which have secured a solicitation permit, Form Number 850-040-70, 01/93, from the Department may solicit at approved interstate rest areas, Welcome Center rest areas, turnpike service plazas, and other approved Department public access facilities.~~

(a) ~~A non-profit~~ The organization must obtain a separate solicitation permit from each Department District within the ~~whose boundaries of the intended solicitation it will solicit or from the Maintenance Office of Florida's Turnpike for solicitation on Florida's Turnpike System.~~

(3)(b) Permit Applications for Solicitation at a Department Rest Area or Welcome Center, Form Number 850-040-70, 06-07 01/93, and Indemnification Agreement, Form 850-040-72, 06/07, incorporated herein, may be obtained

from any of the Department's District or Area Maintenance Offices(s) or the Maintenance Office of Florida's Turnpike. A The completed application shall may then be submitted by the permittee to the appropriate District or Area Maintenance Office(s). The District Maintenance Engineer or designee will be responsible for approval or denial of the permit.

~~(4)~~(e) The permit application shall include:

~~1. The name, mailing address, and telephone number of the organization applying for the permit.~~

~~2. A description of the proposed activities.~~

~~(a)3. A copy of the Consumer's Certificate of Exemption issued to the applicant by the Florida Department of Revenue.~~

~~4. An indemnification agreement, Form Number 850-040-72, 01/93, stating that in consideration of receiving a permit, the applicant agrees to indemnify, defend, save, and hold harmless the Department from all claims, demands, liabilities, and suits of any nature arising out of or because of any activities or actions taken by the permittee.~~

~~(b)5. Proof of registration with A copy of the letter of compliance or exemption issued by the Florida Department of Agriculture, Division of Consumer Services. This will apply to all non-profit organizations except religious or educational institutions, state agencies, or other government entities and political contributions solicited in accordance with the election laws of this state.~~

~~(c) An executed Indemnification Agreement, Form 850-040-72.~~

~~(d) Within 15 days of any change in the information submitted in the permit application, the applicant shall provide the Department with the corrected information.~~

~~(e) A solicitation permit shall be valid only in the Department District in which it is issued for one year from the date of its issuance, and a copy of the approved permit shall be kept on file in the District Maintenance Office for this period of time.~~

~~(f) Time frames associated with the approval, denial, suspension, or revocation of a solicitation permit shall be in accordance with Chapter 120, F.S.~~

~~(3) Non-profit organizations, which have secured approval of the appropriate local government authority may solicit at the approved location on the state road. Permits for solicitation on state roads located within city limits should be obtained from and issued by the city. Permits for solicitation on state roads located outside city limits should be obtained from and issued by the county in which the state road is located. Permits for solicitation on expressways should be obtained from and issued by the expressway authority and any local governmental entity with jurisdiction.~~

(5) The Maintenance Engineer or designee having jurisdiction over the facility will designate an area within the premises for the permittee's use, and specify any other

restrictions in the permit, such as the number of persons and the hours permitted, according to the available space, hours of operation, and security of the location.

(6) In the event more than one organization wishes to solicit during the same period at the same site, the first complete application received by the Department will be the first considered for approval.

(7) The permittee shall comply with the provisions of Section 496.425, F.S., and the restrictions specified in the permit.

(8) All permittees shall also comply with the following:

(a) Solicitation shall not be conducted on any area paved for vehicular travel or within any area of construction.

(b) Solicitation shall not be conducted in or around any area reserved for a particular use, such as a parking area, restroom facility, sidewalk, dining area, vending machine area, stairwells, doors of public circulation, and foyers.

(c) No advertising of the organization will be allowed on the roadway. Only one sign, no larger than 3' x 5', displaying the organization's name and the permit will be allowed in the designated area. The sign shall clearly contain the following language: "Those soliciting are not employed or endorsed by the State of Florida."

(d) No solicitor may be under the age of 18 years.

(e) Solicitors shall comply with all applicable laws and no organization or solicitor may:

1. Knowingly solicit from on duty state employees, on duty employees of a state contractor, or employees of authorized business on the premises.

2. Harass any person, including demanding, threatening, or intimidating conduct, or persist after solicitation has been declined.

3. Hamper or impede the conduct of any authorized business.

4. Request a minimum contribution or specify an amount of contribution.

5. Offer food or drink at a site where food or drinks are made available under the auspices of the State.

6. Obstruct, delay, or interfere with or distract from the free movement of either pedestrians or vehicular traffic, or

7. Create a safety or operation problem for the Department, or a danger to the public health, safety, and welfare.

(9) The permittee shall submit a Notification and Request for Facility Use, Form Number 850-040-71, 06/07, incorporated herein, to the appropriate District or Area Maintenance Office at least three days prior to undertaking any solicitation and no more than 60 days prior to an event. Each event may not exceed one week. A copy of Form 850-040-71 may be obtained from any of the Department's District or Area Maintenance Office(s).

(10) The permittee shall maintain its registration pursuant to Chapter 496, F.S., and the exemption by the Department of Revenue during the permit period, and shall immediately inform the Department of any change in status. The permit becomes invalid at the time the permittee is no longer a qualified entity under Section 496.425, F.S. The Department has the authority to suspend or revoke a permit for any violation of this rule chapter in accordance with Section 496.425, F.S.

Specific Authority ~~120.53(1)(a),(b), 120.60, 334.044(2), 337.406, 496.425~~ FS. Law Implemented 316.130, 334.044(13), (28), 335.02(1), 337.406(1), 496.425 FS. History–New 10-25-89, Amended 7-6-93, \_\_\_\_\_.

14-28.006 Notification.

Specific Authority 120.53(1)(a), 334.044(2) FS. Law Implemented 316.130, 334.044(28), 335.02(1), 337.406(1), 496.425 FS. History–New 10-25-89, Amended 5-23-90, 7-6-93, Repealed \_\_\_\_\_.

14-28.007 Solicitation Restrictions.

Specific Authority 334.044(2) FS. Law Implemented 316.130, 335.02(1), 337.406(11), 496.425 FS. History–New 10-25-89, Amended 7-6-93, Repealed \_\_\_\_\_.

14-28.008 Suspension or Revocation of a Solicitation Permit.

Specific Authority 120.60, 334.044(2) FS. Law Implemented 120.60, 316.130, 335.02(1), 337.406(1), 496.415, 496.416, 496.417, 496.425 FS. History–New 10-25-89, Amended 7-6-93, 1-17-99, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dale Cook, Traffic Services Manager, State Maintenance Office

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kevin Thibault, Assistant Secretary for Engineering and Operations, for Stephanie C. Kopelousos, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 12, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 24, 2007

**DEPARTMENT OF TRANSPORTATION**

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
14-63	Building Moving Permit Regulations
RULE NOS.:	RULE TITLES:
14-63.001	Scope
14-63.0011	Definitions
14-63.002	General Requirements for Building Movement Permit Issuance
14-63.0021	Single Move Permits
14-63.003	Single Move Permit Size Limitations

14-63.004	Movement Restrictions for All Permits
14-63.005	Special Permits
14-63.0051	Annual Permits for Factory-Built School Buildings
14-63.006	Fees
14-63.007	Bond Requirements
14-63.008	Traffic Control
14-63.0091	Application Procedure and Notice to Others
14-63.0101	Liability and Insurance
14-63.011	Non-Compliance

PURPOSE AND EFFECT: This is an amendment to Rule Chapter 14-63, F.A.C., including repeal of nine rules and other amendments to clarify the rules. The repeal of rules is part of the Department’s overall goal to review existing rules and to repeal any rules that are considered to be obsolete or unnecessary. A revised Permit to Move Building Over State Roads, Form 850-040-90, is incorporated by reference.

SUMMARY: Rule Chapter 14-63, F.A.C., is being amended to clarify the regulations relating to building moving permits and to repeal rules within the chapter. A revised Permit to Move Building Over State Roads, Form 850-040-90, is incorporated by reference.

SPECIFIC AUTHORITY: 316.550 FS.

LAW IMPLEMENTED: 334.03, 316.550 FS.

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

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

14-63.001 Scope.

Specific Authority 334.044(2), 316.550 FS. Law Implemented 316.550 FS. History–New 9-1-71, Amended 7-9-75, Formerly 14-63.01, Amended 1-3-90, Repealed \_\_\_\_\_.

14-63.0011 Definitions.

Specific Authority ~~334.044(2)~~, 316.550 FS. Law Implemented 316.550 FS. History–New 1-3-90, Amended 7-1-92, Repealed \_\_\_\_\_.

14-63.002 General Requirements Authorization for Building Movement Permit Issuance.

(1) Each ~~The Department~~ District Maintenance Office is authorized to issue building movement permits for allowing the movement of houses and other similar buildings traveling upon state roads, other than limited access facilities, highways. These permits are issued only under certain conditions which are intended to ensure safety and reduce to a minimum any inconvenience to the highway user. The approval of all building movement permits is the responsibility of the District Office in its the dDistrict in which the movement occurs. For purposes of this rule, "building" means a fixed structure normally attached to a foundation with walls and roof, and does not include mobile homes, modular buildings, and manufactured housing. If the proposed housemoving route involves occurs in more than one district, then each affected Ddistrict Maintenance Ooffice will be responsible to review and issue a permit for the portion of the route that lies within its their boundaries. If the proposed move involves only crossing a state road highway, a permit will not be required, but the-The mover is required to notify the District Area Maintenance Office, within whose boundaries the crossing takes place, at least 24 hours in advance of the proposed move.

(2) Building Movement Restrictions.

(a) Movement is prohibited under the following conditions:

1. During periods of heavy traffic, normally "rush hour" traffic, between 7:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m., Monday through Friday.

2. During weekends and nighttime, unless approved by the appropriate law enforcement agencies, local government, and the Department. Nighttime means that period of time which begins one hour before sunset and ends one hour after sunrise.

(b) Building movement is prohibited on any portion of limited access facilities. Building movement is permitted on roads passing over or under limited access facilities.

(c) Building movements are subject to additional restrictions, for reasons of public health, safety, and welfare.

(3) Fees. Payment of the permit fee shall be required at the time of the building movement permit application. An application submitted without payment of the permit fee will be deemed incomplete and returned to the applicant. The following fee charges apply to all permits:

(a) A fee of \$25.00 will be charged for issuance of each single move permit.

(b) A fee of \$50.00 will be charged for issuance of each special permit.

(c) Fees will not be charged for factory-built school buildings and other public buildings when moved by a governmental entity or its contracted mover.

(4) Security Instrument. A permittee moving a building in excess of 14 feet wide shall be required to provide a security instrument in the amount of \$10,000.00 to cover repair damage

to state facilities resulting from the move. The security instrument may be a letter of credit or bond as described in Section 334.187, F.S., and must be submitted to the affected District Maintenance Office. All bonds shall be made payable to the Department and shall be submitted to the Department prior to approval of the permit.

(5) Liability and Insurance. The permittee is required to name the Department as an additional insured and submit a certificate of insurance, with the permit application, in the amount of not less than \$100,000 bodily injury or death per person for any number of persons in any one occurrence, \$300,000 for property damage or a combined coverage of not less than \$300,000. The certificate of insurance shall be submitted to and kept on file in the appropriate District Maintenance Office(s).

(6) Traffic Control. All building movements must be accompanied by escort vehicles in the front and rear. The escort vehicles must comply with the requirements specified in Rule 14-26.012, F.A.C.

(a) The building movement must pull over to the side at turnouts or median crossovers to allow traffic to pass as directed by law enforcement to facilitate public safety.

(b) During building movement, a minimum of three adult personnel (including the driver and escort personnel) shall be in attendance at all times.

(c) Clean, high visibility, red/orange warning flags at least 18 inches square shall be displayed on the corners and at all protrusions of the building movement at all times.

(d) Enroute, during any delays, breakdowns, accidents, or other times when the building is immobile, the building shall be identified with warning lights as described above. A minimum of one light for each 15 feet of perimeter is required.

(7) Application Procedure and Notice. Applicants shall obtain a Permit to Move Building Over State Roads, Form 850-040-90, Rev. 06/07, incorporated herein by reference, from any District Maintenance Office or area maintenance office. If the proposed route occurs in more than one district, then the applicant will need to mail or hand deliver a completed form to each affected District Maintenance Office. Applicants shall complete all appropriate sections of the form and obtain review and approval by the nearest Florida Highway Patrol Office with route and escort recommendations.

(a) Applicants shall contact all utilities (e.g., traffic signals, electric power lines, sewer, gas, communication lines, cable television), railroad companies, and all local governments whose facilities will be affected by the move, and address any concerns. In addition, it is the responsibility of the permittee to notify these utilities at least 24 hours in advance of the proposed move. The permittee shall notify the railroad companies at least 24 hours in advance of any move over at-grade rail crossings.

(b) The Application will be reviewed for completeness, accuracy, and compliance with these rules prior to approval.

(c) All Applications for special permits and routes crossing bridges will be reviewed by the Departmental District Structures and Facilities Engineer prior to approval.

(d) Requests for time extension must be made by the permittee through the issuing office. The request must be made not less than 48 hours prior to the expiration date of the original permit. Not more than three time extensions will be granted for each permit.

Specific Authority ~~334.044(2)~~, 316.550 FS. Law Implemented 316.550 FS. History–New 9-1-71, Formerly 14-63.02, Amended 1-3-90, 7-1-92, \_\_\_\_\_.

14-63.0021 Single Move Permits.

The Department will review Each Application will be reviewed regarding the proposed route, as indicated on a map provided by the applicant, and the building moving arrangements. The following factors shall be considered ~~when reviewing the application~~:

(1) Bridge or roadway structure widths, clearances, condition of roadway and bridges and their load carrying capacity.

(2) ~~The applicant's load plan, including spacing and size of beams, and spacing and size of wheels and tires will be considered.~~ The load, in pounds, must be shown on each set of wheels in the load plan. Load plan means a sketch or drawing showing details and dimensions of the building to be moved, including the means of movement. Overall dimensions and weight distribution must be included in the plan. ~~A load plan is required if any of the following conditions are exceeded:~~

(a) ~~The weight shall not exceed on any four tire axle exceeds 22,000 pounds or 605 pounds per inch of tire tread width on two tires.~~

(b) Maximum overall building width shall not exceed 30 feet, six inches, excluding the building movement unit, eaves, and beams.

(c) Maximum overall building length shall not exceed 65 feet, excluding the building movement unit, eaves, and beams.

(d) When loaded, buildings shall be no more than 25 feet in height, as measured from ground level to the highest point of the load.

(e) Dimensions in excess of paragraph (b), (c), or (d) above shall require special permits.

~~(b) The gross weight of tractor-trailer, hauling unit and house exceeds:~~

- ~~1. \*122,000 pounds on seven axles;~~
- ~~2. \*132,000 pounds on eight axles;~~
- ~~3. \*142,000 pounds on nine axles;~~
- ~~4. \*172,000 pounds on ten axles;~~
- ~~5. \*192,000 pounds on thirteen axles with 38 feet minimum longitudinal distance required from center of fifth axle to center of sixth axle.~~

~~\*A minimum of 51 feet longitudinal distance is required from center of the steering axle on the tractor to center of the external rear axle on the hauling unit. Axles that are located across the bridge deck transverse to the longitude line will be considered as separate groupings. Maximum weight per axle is 22,000 pounds. Maximum weight per three axle group is 60,000 pounds. Maximum weight per four axle group is 66,000 pounds.~~

(3) Sufficiency of Adequate shoulder widths and conditions to handle the route traffic.

(4) Sufficiency of parking areas to allow accumulated traffic to pass.

(5) The potential disruption to traffic and traffic conditions during the time of the move.

(6) The history of other moves on the route.

~~(7) Safety considerations.~~

(7)(8) Any Other factors relevant to public safety or the protection of public transportation facilities related to the specific request.

Specific Authority 316.550, ~~334.044(2)~~ FS. Law Implemented 316.550 FS. History–New 1-3-90, Amended 7-1-92, \_\_\_\_\_.

14-63.003 Single Move Permit Size Limitations.

Specific Authority 334.044(2), 316.550 FS. Law Implemented 316.550 FS. History–New 9-1-71, Formerly 14-63.03, Amended 1-3-90, 7-1-92, Repealed \_\_\_\_\_.

14-63.004 Movement Restrictions for All Permits.

Specific Authority ~~334.044(2)~~, 316.550 FS. Law Implemented 316.550 FS. History–New 9-1-71, Formerly 14-63.04, Amended 1-3-90, 7-1-92, Repealed \_\_\_\_\_.

14-63.005 Special Permits.

(1) Special permits are required used for buildings movements exceeding the dimension requirements of single move permits Rule 14-63.003. Special permits will be granted on a case-by-case basis by the Department.

(2) The following criteria will be used in evaluating a request for a special permit:

(a) Applicants will furnish written explanation as to why the building move cannot conform to the criteria for a single move permit.

(b) Applicants will state what specific steps have been taken to comply with the size limitations.

(c) The route of the building movement will accommodate the move without risk of damage or compromise of safety.

~~(d) Applicants will furnish a load plan showing all axle spacing, wheels, dimensions, and weights shall be furnished when the requirements of Rule Section 14-63.0021(2) are exceeded.~~

(e) Applicants will furnish dDocumentation shall be required showing concurrence with the move by the affected local government counties, municipalities, and utilities.

Specific Authority ~~334.044(2)~~, 316.550 FS. Law Implemented 316.550 FS. History—New 9-1-71, Formerly 14-63.05, Amended 1-3-90, 7-1-92, \_\_\_\_\_.

14-63.0051 Annual Permits for Factory-Built School Portable Classroom Buildings.

(1) Annual ~~Permits~~ may be issued at any time for the transport of a factory-built school portable classroom buildings as defined in Section 553.415, F.S. meeting the size limitations of a single building move permit 14-63.003(1), (2), and (3), owned by a County School Board when a building movement is made from a construction site to a school site or from one school site ~~to another with school board equipment and forces or by a housemover subcontracted by a county school board or its contracted mover.~~

(2) Annual Permit holders must notify all affected Area Maintenance Offices of the origin, route, and destination of movement not less than 24 hours in advance of each move. The Department must approve the date and time of the building movement or the move ~~it~~ must be rescheduled.

Specific Authority 316.550, ~~334.044(2)~~ FS. Law Implemented 316.550 FS. History—New 1-3-90, Amended 7-1-92, \_\_\_\_\_.

14-63.006 Fees.

Specific Authority ~~334.044(2)~~, 316.550 FS. Law Implemented 316.550 FS. History—New 9-1-71, Formerly 14-63.06, Amended 1-3-90, 7-1-92, Repealed.

14-63.007 Bond Requirements.

Specific Authority 334.044(2), 316.550 FS. Law Implemented 316.550, 316.560 FS. History—New 9-1-71, Formerly 14-63.07, Amended 1-3-90, 7-1-92, Repealed.

14-63.008 Traffic Control.

Specific Authority 334.044(2), 316.550 FS. Law Implemented 316.550 FS. History—New 9-1-71, Formerly 14-63.08, Amended 1-3-90, 7-1-92, Repealed.

14-63.0091 Application Procedure and Notice to Others.

Specific Authority 316.550, 334.044(2) FS. Law Implemented 316.550 FS. History—New 1-3-90, Amended 7-1-92, 7-19-94, Repealed.

14-63.0101 Liability and Insurance.

Specific Authority 316.550, 334.044(2) FS. Law Implemented 316.550, 316.560 FS. History—New 1-3-90, Amended 7-1-92, Repealed.

14-63.011 Non-Compliance.

(1) Suspension, revocation, or denial of permit. The ~~Department District Secretary, or designee~~, for good cause, will deny, revoke, or suspend any permit for a specified period of time up to 12 months. Good cause includes, ~~but is not limited to:~~

(a) Failure by the permittee or ~~its~~ his agents to comply with the ~~requirements~~ regulations of this rule chapter or the requirements of Chapter 316, F.S.

(b) A determination ~~by the Department~~ that the permittee has submitted a misleading permit application or information.

(c) Failure by the permittee or ~~its~~ his agents to comply with the terms of the permit.

(d) Travel by the permittee on other than approved routes.

(e) Instances in which the permittee or its agent has previously undertaken a move without obtaining the necessary permit.

(f) Other reasons of health, safety, or welfare.

(2) Penalties.

(a) In addition to a suspension, revocation, or denial of a current permit for cause as set forth in Subsection (1), in any 12 month period, the Department, for good cause, as defined in Subsection (1), will deny issuance of future permits for periods of time as follows:

<u>VIOLATION OF PRIOR PERMIT</u>	<u>PERMIT DENIAL PERIOD</u>
<u>First</u>	<u>30 Days</u>
<u>Second</u>	<u>180 Days</u>
<u>Thrd</u>	<u>12 Months</u>

<u>VIOLATION OF PRIOR PERMIT</u>	<u>PERMIT DENIAL PERIOD</u>
<u>First</u>	<u>30 Days</u>
<u>Second</u>	<u>180 Days</u>
<u>Third</u>	<u>12 Months</u>

However, the Department ~~will~~ may not refuse to issue a permit because of an alleged violation(s) until a final order is entered or the permittee does not request an administrative hearing the Department's action has become final pursuant to subsection (3).

(b) Any person who fails to obtain a permit or violates the provisions of a permit issued under this rule chapter shall pay a penalty. ~~All penalties collected under this rule chapter shall be credited to the State Transportation Fund. Under the provisions of Rule Chapter 14A-1, F.A.C., any person aggrieved by the imposition of a civil penalty pursuant to this rule chapter may appeal to the Commercial Motor Vehicle Review Board. The Commercial Motor Vehicle Review Board may modify, cancel, revoke, or sustain such penalty.~~

(c) Penalties shall be imposed on overdimensional loads or vehicles building movements as follows:

<u>TYPE OF VIOLATION</u>	<u>PENALTY</u>
<u>Operating without a permit.</u>	<u>Ten times the cost of the permit not to exceed \$500</u>
<u>Violating the terms or conditions of a current permit.</u>	<u>\$250 per violation, up to a maximum of \$1,000</u>
<u>Modifying the terms or conditions of a current permit.</u>	<u>Ten times the cost of the permit not to exceed \$500.</u>

TYPE OF VIOLATION	PENALTY
1. Operating without a permit.	Ten times the cost of the permit not to exceed \$500.00.
2. Violating the terms or conditions of a current permit.	\$250.00.
3. Modifying the terms or conditions of a current permit.	Ten times the cost of the permit not to exceed \$500.00.

~~(3) Notice of the Department's intended action will be provided in accordance with Rule 28-106.111, F.A.C. The Department's action will become final unless a timely petition for a hearing is filed in accordance with Rules 28-106.104, 28-106.201, and 28-106.301, F.A.C. In order to be timely, the petition must be filed with the Department's Clerk of Agency Proceedings within 21 days after receipt of the Department's notice, in accordance with Rule 28-106.111, F.A.C.~~

~~Specific Authority 316.550, 334.044(2) FS. Law Implemented 120.569, 120.57, 120.60, 316.550 FS. History—New 9-1-71, Formerly 14-63.11, Amended 1-3-90, 7-1-92, 6-24-99, \_\_\_\_\_.~~

NAME OF PERSON ORIGINATING PROPOSED RULE: Dale Cook, Traffic Services Manager, State Maintenance Office

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kevin Thibault, Assistant Secretary for Engineering and Operations, for Stephanie C. Kopelousos, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 12, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 24, 2007

**DEPARTMENT OF TRANSPORTATION**

RULE NOS.:	RULE TITLES:
14-88.001	Purpose
14-88.002	Definitions
14-88.003	Toll Facilities Revolving Trust Fund Application Requirements
14-88.0041	Submission and Award
14-88.005	Administration of Trust Funds and Applicant Projects

PURPOSE AND EFFECT: Four of the five existing rules are being repealed and the one remaining rule is being amended. Repeal of these rules is part of the Department's overall goal to review existing rules and to repeal any rules that are considered to be obsolete or unnecessary. The remaining rule is simplified. SUMMARY: The rule chapter is being simplified by repealing four of the five existing rules.

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: 338.251 FS.

LAW IMPLEMENTED: 334.30, 343.82, 348.0004, 338.251 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: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULES IS:

14-88.001 Purpose.

~~Specific Authority 20.23, 334.044(2), 338.251(11) FS. Law Implemented 338.251 FS. History—New 1-8-86, Amended 9-22-92, Repealed \_\_\_\_\_.~~

14-88.002 Definitions.

~~Specific Authority 20.23, 334.044(2), 338.251(11) FS. Law Implemented 338.251 FS. History—New 1-8-86, Amended 9-22-92, Repealed \_\_\_\_\_.~~

14-88.003 Toll Facilities Revolving Trust Fund Application Requirements of Applicant Applications.

~~(1) A county, a municipality, an expressway or a bridge authority pursuant to Chapter 348, F.S., a private entity pursuant to Section 334.30(7), F.S., and the Turnpike Enterprise, may apply for loans from the Toll Facilities Revolving Trust Fund for a revenue producing road project such as a toll road, bridge facility, or related toll facility work. Section 338.251(2), Florida Statutes, requires that needed material and information shall be "documented to the Department of Transportation" before trust fund monies can be advanced/awarded to implement an applicant project. When required documentation is provided in an application, the Department will consider the application for an award of trust fund monies. However, this does not obligate the Department of Transportation to advance/award trust funds to any local governmental entity.~~

~~(2) A complete An applicant application shall include the following information:~~

~~(a) Entity Applicant name, mailing address, and street address.~~

~~(b) Contact person, title, phone number, and e-mail address.~~



~~(c)(b)~~ Project Application title and type(s) of activity(ies) proposed as defined in this Rule Chapter.

~~(d)(e)~~ A sStatement of needs(s) that shall includes a clear presentation and of documentation of the conditions and problems that exist, and which the proposed applicant project activities will help to resolve. This information that should demonstrates how that requested applicant project activities will help resolve the directly affect documented problems.

~~(e)(d)~~ Project objective(s) that specifies the detailed results required for the type(s) of activity(ies), defined in Rule 14-88.001, F.A.C. A clear, concise and complete enumeration of expected results/products to be delivered by the applicant project is required.

~~(f)(e)~~ A dDetailed project budget and commitment schedule composed of a two year budget proposal that contains detailed lists (by fiscal quarter) of proposed trust funded activity and sub-activity expenditures that are consistent with the project schedule. For allowable activities, Contingency costs may be allowable but shall be itemized and presented for consideration must be itemized.

~~(g)(f)~~ A dDetailed project schedule consistent with the project objective(s) and budget. The project schedule is a procedural plan, a detailed program of actions, that specifies what will be done by whom, when, and where for each activity requested (by fiscal quarter) for the life of the project.

~~(h)(g)~~ A cCertification letter from the applicable Metropolitan Planning Organization's (MPO) chairperson stating MPO supporting for the candidate project, and indicating that the a candidate project is consistent ("compatible with" and "furthers" as defined in this Rule Chapter) with its the adopted MPO comprehensive transportation plan.

~~(i)(h)~~ Documentation indicating how the candidate project is consistent (as defined in this Rule Chapter) with the adopted Florida Transportation Plan (FTP).

~~(2)(f)~~ Applications for engineering design activities below the 60% completion stage, final environmental impact studies/actions, financial advisory services, or advanced right of way activities (excluding purchase) shall also include provide the information specified in paragraphs 14-88.003(2)(a) through (h), F.A.C. and the following:

~~(a)1-~~ Final preliminary engineering studies and reports as defined by this Rule Chapter or a status report on the studies progress.

~~(b)2-~~ Final traffic and revenue study providing projected traffic levels and needed toll revenues studies as defined by this Rule Chapter or a status report on the study's studies progress by traffic and revenue forecasting consultants who have at least five years of professional experience analyzing revenue producing projects that leads to successfule issue of bonds.

~~(c)3-~~ An approved "environmental class of action determination" as specified in the FDOT "Project Development and Environment Manual: Part I" or dDocumentation (specified in the manual) shall be required that indicates the "class of action determination" process has been followed and is complete.

~~(d)4-~~ A multi-year dDevelopment schedule listing of all source and use of funds for all project phases with projected costs for each phase by fiscal year, listing separately for the applicant and candidate projects. This should include all fund contributions in cash or in kind for projected project costs. The schedule shall depict the financing sourees, projected fund amounts in each for all project phases (each listed separately) and the projected dates (fiscal year) the expenditures will would be made. Pledges and donations of land shall be included and shown as in kind contributions, and pledges of local funds to pay for debt service shall be clearly specified.

~~(e)5-~~ A schedule of all (100%) engineering design activities with the estimated time frames for each activity to be accomplished.

~~(3)(f)~~ Applicant Applications for final engineering design activities beyond the 60% completion stage of all engineering design plans shall also include provide the information required in paragraphs 14-88.003(2)(a) through (i), F.A.C., and the following:

~~(a)1-~~ A schedule of remaining engineering design activities with the estimated time frames for each to be accomplished.

~~(b)2-~~ An acceptable plan to the Department to finance total candidate project costs to include the reimbursement of outstanding Trust fFund advances, and a current and complete source and use of funds schedule.

~~(c)3-~~ Documentation that the project is financially feasible in that "pledged revenues will support debt service."<sup>2</sup>

~~(d)4-~~ "Letters of intent"<sup>2</sup> from applicable county(ies) or municipality(ies) where the candidate project will would be constructed expressing the extent to which they are willing to pledge financial support for the candidate project and the source of the financial backing.

~~(4)(k)~~ Applications for the purchase of advance right of way property shall also provide the following:

~~(a)1-~~ Documentation that required right of way map(s) as defined in this Rule Chapter have been completed;

~~(b)2-~~ An approved final environmental impact document, or documentation from the appropriate Florida Department of Transportation District Environmental Office indicating that "all"<sup>2</sup> required actions required in the FDOT "Project Development and Environment Manual" have been taken and are complete;

~~(c)3-~~ Substantive documentation from an appraiser who is qualified to perform appraisals for the Department FDOT (as provided in Rule 14-95.003, F.A.C.) that the value of the property will shall substantially appreciate prior to

construction of the candidate project and that savings will likely ~~shall~~ result from the advance purchase of the property. The term "substantive" is intended to elicit information from qualified appraisers that will explain and support reasons for judging that a property will appreciate and savings will result. Statements without supporting information shall not be acceptable. Acceptance of the documentation by the appropriate District Office of Right of Way shall be required for acceptance;

(d)4. Negotiated contract(s) for the purchase of the right of way ~~shall that~~ includes the stipulation "the contract is subject to funding by the Department of Transportation or Legislature of Florida," ~~or~~ Property appraisals of the right of way (as defined in paragraph 14-95.002(2)(b), F.A.C.) shall be performed by an appraiser who is qualified to perform appraisals for the Department FDOT (as provided in Rule 14-95.003, F.A.C.). Acceptance by the appropriate District Office of Right of Way shall be required for acceptance of the negotiated contract(s) and ~~or~~ of the property appraisals;

(5)3. ~~To be considered for funding under the provisions of this Rule Chapter,~~ Applications must be submitted to:

Office of Financial Development Secretary of Transportation

Florida Department of Transportation

605 Suwannee Street, MS 7

Tallahassee, Florida 32399-0450

Attention: Office of Management and Budget

Applications may be submitted at any time during a fiscal year. However, applications shall be submitted at least 90 days prior to the end of the fiscal year to be considered from available fiscal year funds.

(6) A written agreement must be executed by the Department and the borrower when fund advances are awarded. The agreement shall contain uniform standard conditions and special conditions that include programmatic or financial requirements which must be satisfied by a borrower before an advance of funds can be executed. Standard conditions shall also contain the following:

(a) Trust fund dollar amounts to be advanced;

(b) Procedures for transfer of funds to the borrower;

(c) Consultant selection and management requirements;

(d) Fund expenditure and restriction requirements;

(e) Programmatic and financial reporting and audit requirements;

(f) Fund repayment requirements; and

(g) Draw-down amounts based on projected financial needs specified in approved project budget.

(7) At the time of initial bond issuance the borrower shall provide written notice to the Office of Financial Development whether the borrower elects to repay advances from initial bond proceeds or on the basis of repayment schedules. When a repayment schedule option is selected a schedule, in the form

of a resolution from the borrower, shall accompany the notification. When repayment is to be made of the initial bond issue proceeds, provision shall be made for such repayment in the bond resolution and shall be repayable in full upon sale of the bonds. When bonds are not issued, repayment shall remain a requirement. In such cases, a repayment schedule in the form of a resolution from the borrower shall be furnished to the Department no later than 90 days prior to the end of the sixth year from the date of the agreement.

(8) District Secretaries of applicable districts shall actively participate in the approval of scope of work proposals and products by consultants.

(9) The borrower shall be authorized to obligate and expend trust funds and interest earnings on the basis of approved project budgets but are not authorized to use funds for administrative, audit, legal, and contingency costs, or for those items prohibited by Rule 69I-40.103, F.A.C., except that legal costs may be advanced for the right of way acquisition process. No authority is granted to obligate or expend funds, or initiate or conduct activities, that would result in the obligation of trust funds for items or activities that have not been authorized in approved project budgets, schedules or objectives. Any unauthorized expenditure of funds plus interest shall be immediately paid to the Department in accordance with a schedule approved by the Department. Amended project budgets, schedules and objectives can be requested by the borrower at any time after the execution of an agreement but approval shall be limited to achieving the objectives and activities first approved in the affected agreements.

(10) The borrower shall structure and manage consultant contracts in phases to provide for the termination and payment for work to date if a project is determined non-feasible.

(11) Upon termination of projects, unspent trust fund advances including interest earned shall be immediately remitted to the Department by the borrower. The returned proceeds shall be counted toward the repayment of the loan.

(12) The borrower shall immediately remit to the Office of Financial Development all remaining trust funds and interest earned upon completion of work approved in the agreement.

(13) Any funds including interest not committed after one year from the date of an award shall be remitted to the Office of Financial Development. A balance of proceeds can be retained sufficient to liquidate executed contracts financed by funds approved in the agreement.

(14) If a project is determined to be financially non-feasible by the Department or a borrower, further obligation of awarded project funds shall be terminated by the borrower until it is documented to and approved by the Department that it is in the best interest of the Department and the State of Florida to continue with the project.

(15) The Department is the trustee of the fund. As such, it is responsible for and shall safeguard advances from improper use or fiscal irresponsibility, and enforce the repayment of advances with interests using all legal means appropriate. In this regard, the following shall be implemented.

(a) The borrower shall provide to the Office of Financial Development progress reports on program and financial activities that occur each quarter following the execution of the agreement. Examples of program information include: program accomplishments (specific actions taken to implement approved objectives/activities and percent of accomplishments for each -0 to 100%-), problems delaying implementation, and revised project schedules if activities are not conforming to approved project schedules. Examples of financial information include: beginning fund balances, list and purpose of expenditures for each approved activity, ending fund balances for each approved activity, interest earned to date, the interest percentage rate being earned, and the amount and percent of funds being contributed to the applicant project from other sources.

(b) Program records and financial records of projects shall be maintained by the borrower separate and apart from other projects and non-project records and accounts to prevent commingling and assure a clear audit trail of all activities.

Specific Authority ~~20.23, 334.044(2), 338.251(4)~~ FS. Law Implemented ~~334.30, 343.82, 348.0004, 338.251~~ FS. History–New 1-8-86, Amended 9-22-92, \_\_\_\_\_.

14-88.0041 Submission and Award.

Specific Authority 20.23, 334.044(2), 338.251(11) FS. Law Implemented 338.251 FS. History–New 9-22-92, Repealed \_\_\_\_\_.

14-88.005 Administration of Trust Funds and Applicant Projects.

Specific Authority 20.23, 334.044(2), 338.251(11) FS. Law Implemented 338.251 FS. History–New 1-8-86, Amended 9-22-92, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Amy Causseaux, Toll Finance Manager, Office of Financial Development

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kevin Thibault, Assistant Secretary for Engineering and Operations, for Stephanie C. Kopelousos, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 5, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 24, 2007

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

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

**STATE BOARD OF ADMINISTRATION**

RULE NO.: 19-15.001  
RULE TITLE: Insurance Capital Build-Up Incentive Program

PURPOSE AND EFFECT: This rule is promulgated to implement Section 215.5595, Florida Statutes.

SUMMARY: The Rule is amended to reflect a new revision date for Form SBA 15-3, Quarterly Net Written Premium Report, which is incorporated into Rule 19-15.001, F.A.C., Insurance Capital Build-Up Incentive Program. The amendment to the form requests participants to provide an explanation with their quarterly filing when surplus falls below the surplus required by Section 215.5595, F.S. This addition to the Quarterly Net Written Premium Report streamlines the processes involved in administering the program and is beneficial both to the participant and to the administrator.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The regulatory costs minimal.

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: 215.5595(6) FS.

LAW IMPLEMENTED: 215.5595(2), (3), (4), (5), (6), (7) FS. IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Donna Sirmons, (850)413-1349. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jack E. Nicholson, Senior FHCF Officer of the Florida Hurricane Catastrophe Fund, (850)413-1340

THE FULL TEXT OF THE PROPOSED RULE IS:

19-15.001 Insurance Capital Build-Up Incentive Program. (1) through (5)(h) No change.

(i) The Insurer must commit to meeting the Minimum Writing Ratio of Net Written Premium for the term of the Surplus Note and must submit quarterly filings to the Office and the Board. The quarterly filings shall be on Form SBA 15-3, rev. 10/07 09/07, which is hereby adopted and incorporated by reference into this rule. This Form is available on the Board’s website, www.sbafla.com, under “Insurance Capital Build-Up Incentive Program”.

(j) through (9)(a)1. No change.

2. Failure to submit quarterly filings of Form SBA 15-3, rev. 10/07 09/07, to the Office.

3. through (c) No change.

Specific Authority 215.5595 FS. Law Implemented 215.5595(2), (2)(c), (d), (e), (g) FS. History–New 2-22-07, Amended 6-3-07, 8-13-07,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jack E. Nicholson, Senior FHCF Officer, Florida Hurricane Catastrophe Fund, State Board of Administration of Florida

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: The Trustees of the State Board of Administration of Florida

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 19, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 7, 2007, Vol. 33, No. 36

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid Postsecondary Education Expense Board**

RULE NO.: RULE TITLE:

19B-4.001 Application

PURPOSE AND EFFECT: To update the Florida Prepaid College Plan and Florida College Investment Plan New Account Application form and the Master Covenant form by reference.

SUMMARY: This rule change is being made to update the Florida Prepaid College Plan and Florida College Investment Plan New Account application form and Master Covenant form.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98 FS.

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

DATE AND TIME: October 15, 2007, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-4.001 Application.

(1) No change.

(2) The Florida Prepaid College Plan and Florida College Investment Plan New Account Application, Form No. FPCB 20076-10, is hereby incorporated by reference and may be obtained from the Board by calling (800)552-GRAD (4723) (prompt 1). The Florida Prepaid College Plan Program Master Covenant, Form No. FPCB 20076-02, is hereby incorporated by reference and may be obtained from the Board by calling (800)552-GRAD (4723) (prompt 1).

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.98 FS. History–New 3-29-89, Amended 2-6-90, 3-19-92, Formerly 4G-4.001, Amended 12-5-93, 5-31-95, 6-20-96, 10-20-96, 12-16-97, 2-18-99, 6-6-99, 2-8-00, 5-21-00, 1-3-01, 10-9-01, 11-27-02, 10-1-03, 1-29-04, 12-28-04, 6-2-05, 12-20-05, 1-1-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 13, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 10, 2007

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid Postsecondary Education Expense Board**

RULE NO.: RULE TITLE:

19B-16.002 Application for Participation in the Program

PURPOSE AND EFFECT: To update the New Account Application effective date and form number.

SUMMARY: This rule change is being made to update the Florida College Savings Program application.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.981 FS.

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

DATE AND TIME: October 15, 2007, 2:00 p.m.  
PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

- 19B-16.002 Application for Participation in the Program.
- (1) No change.
- (2) The Florida Prepaid College Plan and Florida College Investment Plan New Account Application, Form No. FPCB 2007-10, is hereby incorporated by reference. The form may be obtained from the Board by calling (800)552-GRAD (4723) (prompt 1).
- (3) No change.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981 FS. History—New 11-27-02, Amended 1-29-04, 12-28-04, 6-2-05, 12-20-05, 1-1-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 13, 2007  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 24, 2007

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NOS.:	RULE TITLES:
40D-1.6105	Limiting Conditions
40D-1.659	Forms and Instructions

PURPOSE AND EFFECT: The amendments incorporate application forms to be used in applying for a water use permit for water withdrawals within the Southern Water Use Caution Area (“SWUCA”). Permitting requirements within the Southern Water Use Caution Area are supplemental to the District-wide water use permitting requirements and require different information at the application stage. The proposed forms facilitate applicants in providing the information required by the SWUCA rules. The amendments also correct form names and punctuation and changes the name of the form used to transfer water use permits.

SUMMARY: The proposed amendments incorporate into the District's rules new forms to be used by applicants for water use permits in the Southern Water Use Caution Area. These forms are the Supplemental Form – Southern Water Use Caution Area, Form No. LEG-R.007.00 (09/07), the Alternative Water Supply Supplemental Form – Southern Water Use Caution Area, Form No. LEG-R.009.00 (09/07), the Net Benefit Supplemental Form – Southern Water Use Caution Area, Form No. LEG-R.010.00 (09/07), the Southern Water Use Caution Area Ground Water Replacement Credit Application, Form No. LEG-R.011.00 (09/07) and the Public Supply Supplemental Form – Southern Water Use Caution Area, Form No. LEG-R.012.00 (09/07). The proposed amendments also incorporate revisions to the form used to transfer water use permits and correct typographical errors in the titles of previously adopted forms.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.149, 373.171 FS.

LAW IMPLEMENTED: 373.219, 373.413, 373.416 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: Karen A. Lloyd, Assistant Deputy Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-1.6105 Limiting Conditions.

- (1) No change.
- (2) A permit may be assigned to a subsequent owner subject to all terms and conditions contained in such permit upon notification in writing to the Board of such assignment, provided ownership, lease, or other control of all such lands is conveyed to the assignee and further provided that the assignee, by accepting such assignment, does assume responsibility for complying with all such terms and conditions. To assign a permit, a subsequent owner must submit a Notification and Request for Transfer of Environmental Resource Permit, Form No. 04-10R-022 (7/01) or an Application to a Notification and Request for Transfer of a Water Use Permit, Form No. LEG-R002.032 (\_\_\_\_10/05), as appropriate, that includes the signature of the permittee(s) or a copy of the legally recorded deed(s) to all of the land covered by the permit. Copies of these forms may be obtained from the District.

(3) No change.

Specific Authority 373.044, 373.113, 373.149, 373.171 FS. Law Implemented 373.219, 373.413, 373.416 FS. History—Readopted 10-5-74, Formerly 16J-0.12, Amended 2-10-03, Formerly 40D-0.381, Amended 12-16-97, 8-25-02, 10-19-05.

40D-1.659 Forms and Instructions.

The following forms and instructions have been approved by the Governing Board and are incorporated by reference into this chapter. Copies of these forms may be obtained from the District.

GROUND WATER

(1) APPLICATION FOR WATER WELL CONTRACTOR'S LICENSE, FORM NO. LEG-R003.00 (10/05).

(2) APPLICATION FOR RENEWAL OF A WATER WELL CONTRACTOR'S LICENSE, FORM NO. LEG-R004.01 ( ).

(3) PROPOSED WELL CONSTRUCTION LOCATION AND DESIGN FORM, FORM NO. LEG-R.006.00 (2/07).

(4) STATE OF FLORIDA PERMIT APPLICATION TO CONSTRUCT, REPAIR, MODIFY OR ABANDON A WELL, FORM NO. 41.10-410(1) REV. 9/04.

(5) WELL COMPLETION REPORT, FORM NO. LEG-R005.00 (10/05).

(6) WELL GROUTING/ABANDONMENT FORM, FORM NO. 41.10-410 (6/01).

(7) WELL VERIFICATION FOR ALL NON-DOMESTIC WELLS LOCATED IN THE MOST IMPACTED AREA OF THE EASTERN TAMPA BAY WATER USE CAUTION AREA, FORM NO. 42.10-005 (10/95).

(8) GENERAL WATER USE PERMIT APPLICATION USE FOR QUANTITIES LESS THAN 100,000 GALLONS PER DAY, FORM NO. WUP-1 FORM 46.20-001 (12/98).

(9) GENERAL WATER USE PERMIT APPLICATION USE FOR QUANTITIES OF 100,000 TO 499,999 GALLONS PER DAY, FORM NO. WUP-2 FORM 46.20-002 (12/98).

(10) INDIVIDUAL WATER USE PERMIT APPLICATION USE FOR QUANTITIES OF 500,000 GALLONS PER DAY OR GREATER, FORM NO. WUP-3 FORM 46.20-003 (12/98).

(11) WATER USE PERMIT APPLICATION SUPPLEMENTAL FORM – AGRICULTURE, FORM NO. WUP-4 FORM 46.20-004 (09/07/12/98).

(12) WATER USE PERMIT APPLICATION SUPPLEMENTAL FORM – INDUSTRIAL OR COMMERCIAL, FORM NO. WUP-5 FORM 46.20-005 (12/98).

(13) WATER USE PERMIT APPLICATION SUPPLEMENTAL FORM – MINING AND DEWATERING, FORM NO. WUP-6 FORM 46.20-006 (12/98).

(14) WATER USE PERMIT APPLICATION SUPPLEMENTAL FORM – PUBLIC SUPPLY, FORM NO. WUP-7 FORM 46.20-007 (12/98)

(15) WATER USE PERMIT APPLICATION SUPPLEMENTAL FORM – RECREATION OR AESTHETIC, FORM NO. WUP-8 FORM 46.20-008 (12/98).

(16) MODIFICATION SHORT FORM, FORM NO. 42.00-034 (3/00).

(17) AGRICULTURAL WATER USE FORM – SEASONAL REPORT, FORM NO. WUP-14.1 (1/93).

(18) AGRICULTURAL WATER USE FORM – ANNUAL REPORT, FORM NO. WUP-15 (1/93).

(19) AGRICULTURAL WATER ALLOTMENT FORM, FORM NO. WUP-16 (8/90).

(20) APPLICATION TO NOTIFICATION AND REQUEST FOR TRANSFER OF A WATER USE PERMIT, FORM NO. LEG-R002.032 (09/07 10/05).

(21) SUPPLEMENTAL FORM – SOUTHERN WATER USE CAUTION AREA, FORM NO. LEG-R.007.00 (09/07).

(22) ALTERNATIVE WATER SUPPLY SUPPLEMENTAL FORM – SOUTHERN WATER USE CAUTION AREA, FORM NO. LEG-R.009.00 (09/07).

(23) NET BENEFIT SUPPLEMENTAL FORM – SOUTHERN WATER USE CAUTION AREA, FORM NO. LEG-R.010.00 (09/07).

(24) SOUTHERN WATER USE CAUTION AREA GROUND WATER REPLACEMENT CREDIT APPLICATION, FORM NO. LEG-R.011.00 (09/07).

(25) PUBLIC SUPPLY SUPPLEMENTAL FORM – SOUTHERN WATER USE CAUTION AREA, FORM NO. LEG-R.012.00 (09/07).

SURFACE WATER

(1) through (14) No change.

Specific Authority 373.044, 373.113, 373.149, 373.171 FS. Law Implemented 373.116, 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.339, 373.413, 373.414, 373.416, 373.419, 373.421 FS. History—New 12-31-74, Amended 10-24-76, Formerly 16J-0.40, 40D-1.901, Amended 12-22-94, 5-10-95, 10-19-95, 5-26-96, 7-23-96, 2-16-99, 7-12-99, 7-15-99, 12-2-99, 5-31-00, 9-3-00, 10-26-00, 6-26-01, 11-4-01, 6-12-02, 8-25-02, 2-26-03, 9-14-03, 9-30-04, 2-1-05, 6-5-05, 10-19-05, 2-6-07.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen A. Lloyd, Assistant Deputy Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 26, 2007

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

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NOS.:	RULE TITLES:
40D-2.091	Publications Incorporated by Reference
40D-2.101	Content of Application
40D-2.351	Transfer of Permits

**PURPOSE AND EFFECT:** The amendments delete a form no longer needed and change the name of the form used to request a transfer of a water use permit. The amendments also add a reference to the District rule where water use permit application forms can be found and explain which application and supplemental form to use when applying for a water use permit for water withdrawals within the Southern Water Use Caution Area (“SWUCA”).

**SUMMARY:** The proposed amendments remove from Chapter 40D-2, F.A.C., the incorporation and listing of forms to be used by water use permit applicants and directs them to Rule 40D-1.659, F.A.C., for the listing, which simultaneously with this rulemaking is being amended to incorporate new forms for use by applicants in the Southern Water Use Caution Area. The amendments add explanation for applicants within the Southern Water Use Caution Area as to which application forms to use of those listed in Rule 40D-1.659, F.A.C. The amendments also delete the Alternative Source Form 48.10.009 (10/01) WUP 9 because it is a form no longer used by the District and changes the name of the form used to transfer water use 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:** 373.044, 373.113, 373.118, 373.171 FS.

**LAW IMPLEMENTED:** 373.036, 373.0361, 373.042, 373.0421, 373.0831, 373.116, 373.117, 373.118, 373.149, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.229, 373.239, 373.243 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:** Karen A. Lloyd, Assistant Deputy Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

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

40D-2.091 Publications Incorporated by Reference.

The following publications are hereby incorporated by reference into this Chapter, and are available from the District upon request:

(1) Part B, “Basis of Review for Water Use Permit Applications” (~~\_\_\_\_\_ 8/07~~) and Part D, “Requirements for the Estimation of Permanent and Temporal Service Area populations in the Southern Water Use Caution Area (1/07), of the Water Use Permitting Manual;

~~(2) “Standby Alternative Source” Form 48.10.009 (10/01) WUP 9;~~

(3) through (6) renumbered (2) through (5) No change.

Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.036, 373.0361, 373.042, 373.0421, 373.0831, 373.116, 373.117, 373.118, 373.149, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.229, 373.239, 373.243 FS. History—New 10-1-89, Amended 11-15-90, 2-10-93, 3-30-93, 7-29-93, 4-11-94, 7-15-98, 7-28-98, 7-22-99, 12-2-99, 8-3-00, 9-3-00, 4-18-01, 4-14-02, 9-26-02, 1-1-03, 2-1-05, 10-19-05, 1-1-07, 8-23-07, \_\_\_\_\_.

**40D-2.101 Content of Application.**

In order to obtain a Water Use Permit, an applicant shall file with the District the appropriate form entitled “Water Use Permit Application” including the appropriate supplemental forms. The Application shall include the following information:

(1) No change.

(2) Information required on the appropriate Water Use Permit Application and supplemental forms listed in Rule 40D-1.659, F.A.C., GROUND WATER (8)-(15), (21)-(25) numbered WUP 1 through WUP 16.

(3) through (7) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.216, 373.229 FS. History—Readopted 10-5-74, Amended 10-24-76, 1-6-82, 2-14-82, 10-1-89, 10-23-89, 2-10-93, 1-1-03. Formerly 16J-2.06, Amended 10-1-89, 10-23-89, 2-10-93, 7-15-99, 1-1-03, 1-1-07, \_\_\_\_\_.

**40D-2.351 Transfer of Permits.**

(1) Notwithstanding the provisions of Rule 40D-1.6105, F.A.C., persons who wish to continue an existing, permitted water use and who have acquired ownership or legal control of permitted water withdrawal facilities or the land on which the facilities are located must apply to transfer the permit to themselves within 45 days of acquiring ownership or legal control of such water withdrawal facilities or such land. The applicant shall request such transfer using the “Application to a Notification and Request for Transfer of a Water Use Permit”, Form No. LEG-R002.032 (09/07 10/05). The District will transfer the permit provided all aspects of the permit except for ownership remain the same. All terms and conditions of the permit shall become binding on the transferee.

(2) through (4) No change.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.219 FS. History--New 10-1-89, Amended 2-10-93, 3-30-93, 2-1-05, 10-19-05, \_\_\_\_\_.

The following provisions are incorporated into District rules by reference in 40D-2.091, F.A.C.:

BASIS OF REVIEW FOR WATER USE PERMIT APPLICATIONS  
CHAPTER 1

1.4 APPLICATION FORMS

Permit Applicants ~~shall~~ ~~should~~ submit the Water Use Individual Permit Application Form appropriate to the annual average quantities requested, as provided in subsections 40D-1.659(8), (9), and (10), F.A.C. Applicants for 100,000 gpd or more annual average quantities shall also submit and the Water Use Permit Application Information Supplemental Form applicable to their water use type, as provided in subsections 40D-1.659(11) through (15), F.A.C., or the General Permit Application Applicants for a Letter Modification to their water use permit shall submit or the Modification Short Form, referenced in subsection 40D-1.659(16), F.A.C.; as appropriate. Information supplements include the following:

1. ~~Agriculture, Form WUP-4~~
2. ~~Industrial or Commercial, Form WUP-5~~
3. ~~Mining or Dewatering, Form WUP-6~~
4. ~~Public Supply, Form WUP-7~~
5. ~~Recreation or Aesthetic, Form WUP-8~~
6. ~~Standby Alternative Source, Form 48.10-009 Form WUP-9, (10/01)~~
7. ~~Irrigation Water Use Form Annual Crops Form 46.20-010 WUP-10 (10/01);~~
8. ~~Irrigation Water Use Annual Recreational/Aesthetic/Golf Form 46.20-009 WUP-11 (10/01);~~
9. ~~Irrigation Water Use Summer & Fall Seasonal, 46.20-011 WUP-13 (10/01), and~~
10. ~~Irrigation Water Use Winter & Spring Seasonal, 46.20-012 Form WUP-12 (10/01)~~

These forms may be obtained from any District Service Office, or from the District website.

~~No.'s 6-10: New 1-1-03, Amended \_\_\_\_\_.~~

1.4.1 SWUCA APPLICATION FORMS

All Permit Applicants in the SWUCA shall submit the "Supplemental Form – Southern Water Use Caution Area", Form No. LEG-R.007.00 (09/07), in addition to the appropriate application and supplemental form(s) described in section 1.4. above. Applicants for public supply quantities of 100,000 gallons per day or more, including water imported wholesale, shall submit the "Public Supply Supplemental Form – Southern Water Use Caution Area", Form No. LEG-R.012.00 (09/07). Permit Applicants in the SWUCA shall also submit the following application and supplemental forms as

appropriate for their situation and intended water use type as described in Chapters 3 and 4 of Part B of this Basis of Review for Water Use Permit Applications" (\_\_\_\_), of the Water Use Permitting Manual:

1. "Alternative Water Supply Supplemental Form – Southern Water Use Caution Area", Form No. LEG-R.009.00 (09/07);
2. "Net Benefit Supplemental Form – Southern Water Use Caution Area", Form No. LEG-R.010.00 (09/07); and
3. "Southern Water Use Caution Area Ground Water Replacement Credit Application", Form No. LEG-R.011.00 (09/07).

New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Karen A. Lloyd, Assistant Deputy Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 26, 2007

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

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.: 40D-2.302  
RULE TITLE: Reservations from Use

PURPOSE AND EFFECT: The amendment will establish a reservation of water from the Morris Bridge Sink in Hillsborough County, Florida to be used to as necessary to contribute to achieving or maintaining the minimum flows for the Lower Hillsborough River.

SUMMARY: The amendments establish a reservation of water from the Morris Bridge Sink not to exceed 3.9 million gallons of water on any given day to be used to contribute to achieving or maintaining the Minimum Flows for the Lower Hillsborough River.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.0421, 373.223(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: Karen A. Lloyd, Assistant Deputy Counsel, 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-2.302 Reservations from Use.

(1) All available water from the Morris Bridge Sink but not greater than 3.9 million gallons of water on any given day is reserved to be used to contribute to achieving or maintaining the Minimum Flows for the Lower Hillsborough River set forth in Rule 40D-8.041, F.A.C. The Morris Bridge Sink is located in Section 5, Township 28S, Range 20E, approximately 0.6 miles south of the Hillsborough River and 0.5 miles north of Cow House Creek in Hillsborough County, Florida.

(2) The Governing Board anticipates reserving from use water necessary to recover to, and protect, the Minimum Flows and Levels established for the Southern Water Use Caution Area as set forth in Chapter 40D-8, F.A.C. These reservations will be adopted through future rulemaking on a case-by-case basis, to address water that is developed through water resource development projects designed to achieve and maintain Minimum Flows and Levels. Adopted reservations will be incorporated into this Rule 40D-2.302, F.A.C.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.0421, 373.223(4) FS. History—New 1-1-07, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen A. Lloyd, Assistant Deputy Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 28, 2007

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

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.: 40D-8.041  
 RULE TITLE: Minimum Flows

PURPOSE AND EFFECT: The amendments establish minimum flows pursuant to Section 373.042, F.S., for the Lower Hillsborough River, Sulphur Springs and the Tampa Bypass Canal, all located in Hillsborough County, Florida. These water bodies are listed on the District’s minimum flow and levels priority list for establishment of minimum flows. These minimum flows will be used in the District’s permitting and resource management and development programs.

SUMMARY: The amendments establish minimum flows for the Lower Hillsborough River ranging from 20-24 cubic feet per second depending on the time of year and climatic conditions. The amendments establish minimum flows for Sulphur Springs ranging from 10-18 cubic feet per second depending on the time of year, water level elevations in the Hillsborough River Reservoir and tide stages. The amendments also establish a minimum flow of 0 cubic feet per second for the Tampa Bypass Canal at Structure 160.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.042, 373.0421 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: Karen A. Lloyd, Assistant Deputy Counsel, 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-8.041 Minimum Flows.

(1) Minimum Flows for the Lower Hillsborough River.

(a) No change.

(b) The Minimum Flows for the Lower Hillsborough River are based on extending a salinity range less than 5 ppt from the Hillsborough River Dam toward Sulphur Springs. The Minimum Flows for the Lower Hillsborough River are 20 cubic feet per second (“cfs”) freshwater equivalent from July 1 through March 31 and 24 cfs fresh water equivalent from April 1 through June 30 at the base of the dam as adjusted based on a proportionate amount that flow at the United States Geological Survey Gauge No. 01203000 near Zephyrhills, Florida (“Gauge”) is below 58 cfs. The adjustment is that for each one cfs that Hillsborough River flow at the Gauge is below 58 cfs, when 20 cfs freshwater equivalent is otherwise required, the Minimum Flow is adjusted by reducing it by 0.35 cfs; when 24 cfs freshwater equivalent is otherwise required, the Minimum Flow is adjusted by reducing it by 0.40 cfs. For purposes of this paragraph 40D-8.041(1)(b), F.A.C., freshwater equivalent means water that has a salinity concentration of 0.0 ppt for modeling purposes. Effective August 7, 2000 the Minimum Flow for the Lower Hillsborough River shall be at the rate of flow of ten cubic feet per second (cfs) at the base of the dam as measured at the Rowlett Park Drive bridge gauging station.

Through December 31, 2007, the City shall be required to supply this Minimum Flow from the Reservoir when the surface water elevation is above 22.5 feet NGVD at USGS Gauge 02304500. Because the storage of water within the Reservoir is critical to the public health, safety, and welfare of those dependent on the City potable water supply, this flow requirement may be met by diverting flow from sources other than the City's Reservoir. The City shall provide this flow from sources other than the City's Reservoir, when the surface water elevation is below 22.5 feet NGVD at USGS Gauge 02304500 and it is feasible to provide the flow without compromising public health, safety or welfare. This Minimum Flow has been determined based on the loss of historical hydrologic functions, the existing changes and structural alterations in and along the river and its watershed pursuant to subsection 373.0421(1), F.S., and the dependence of viable ecological communities downstream of the dam on flows from the Hillsborough River and Sulphur Springs. Following completion of the District and City study described in paragraph 40D-80.073(4)(d), F.A.C., the Minimum Flow shall be re-established, as necessary, based on the results of the study.

(2) Minimum Flow for Sulphur Springs – The Minimum Flow for Sulphur Springs is based on minimization of salinity incursions into the Upper Sulphur Springs Run (“Upper Run”) from the Lower Hillsborough River (“LHR”) and to moderate temperature levels within the manatee protection zone of the LHR.

(a) As of October 1, 2012, the City of Tampa shall maintain a Minimum Flow for Sulphur Springs of:

1. 18 cfs, as measured at the United States Geological Survey Sulphur Springs Gauge No. 02306000 at Sulphur Springs, Florida, or;

2. 13 cfs when water levels in the Hillsborough River reservoir fall below 19 feet NGVD; and

3. 10 cfs during low tide stages in the LHR, provided that salinity incursions from the LHR into the upper spring run do not occur. Salinity incursions shall be defined as when salinity values in the upper spring run as measured at the United States Geological Survey Gauge Sulphur Springs Run at Sulphur Springs, Florida (#023060003) are greater than 1 ppt than the concurrent salinity value in the spring pool as measured at the United States Geological Survey Gauge Sulphur Springs Run at Sulphur Springs, Florida (#023060000) for a period of greater than 1 hour.

(b) Notwithstanding paragraph 40D-8.041(2)(a), F.A.C., above, and beginning the effective date of this rule, when spring flow is available, a Minimum Flow of 18 cfs shall be required if the temperature of either surface or bottom waters in the LHR near the Spring Run's outlet is below 15°C.

(c) The City of Tampa may propose to the District modifications to the weirs and gates located within the upper and lower spring run that affect the flow rates and salinity

levels in the Upper Run and the LHR. The District shall evaluate the modifications to determine whether the flow resulting from the operating capabilities of the modifications and modeling simulations of the resulting salinity incursions into the Upper Spring Run achieve the salinity goal of the Minimum Flow for Sulphur Springs. If the District determines that flows different from the Minimum Flows ("Different Flows") will achieve the salinity goal and otherwise protect the resources of the Upper Spring Run, the District, upon request by the City, will recommend to the Governing Board revision of the Minimum Flow to reflect the Different Flow.

Pursuant to the District priority schedule for establishment of minimum flows and levels required by Section 373.042, F.S., the District will establish a Minimum Flow for Sulphur Springs by December 31, 2001.

(3) The Minimum Flow for the Tampa Bypass Canal at structure 160 shall be 0 cfs.

(3) through (5) renumbered (4) through (6) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.036, 373.0361, ~~373.0395~~, 373.042, 373.0421 FS. History–Readopted 10-5-74, Amended 12-31-74, Formerly 16J-0.15, 40D-1.601, Amended 10-1-84, 8-7-00, 2-6-06, 1-1-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen A. Lloyd, Assistant Deputy Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 28, 2007

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

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.:	RULE TITLE:
40D-80.073	Regulatory Portion of Recovery Strategy for Pasco, Northern Hillsborough and Pinellas Counties

PURPOSE AND EFFECT: The amendments will establish a recovery strategy to achieve the minimum flows for the Lower Hillsborough River. The minimum flows for the Lower Hillsborough River are proposed to be adopted simultaneously with this rulemaking. The existing flows of Lower Hillsborough River are below the proposed minimum flows. Pursuant to subsection 373.0421(2), F.S., the District must implement a recovery strategy for a water body that is below the applicable minimum flow. The amendments outline the timetable and projects to be implemented by the City of Tampa to achieve the minimum flows by October 1, 2017.

SUMMARY: The amendments provide that the minimum flows established for the Lower Hillsborough River in Chapter 40D-8, F.A.C., simultaneously with this rulemaking, will be achieved by October 1, 2017 through various recovery projects undertaken by the City of Tampa and the District. The projects will augment the flows at the base of the Hillsborough River dam. The projects include using water from Sulphur Springs, Blue Sink, the Tampa Bypass Canal and Morris Bridge Sink. Projects are subject to feasibility analyses and, if implemented, monitoring to determine the effects on the river and river flow. The Governing Board will receive period.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.171, 373.0421 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: Karen A. Lloyd, Assistant Deputy Counsel, 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-80.073 Regulatory Portion of Recovery Strategy for Pasco, Northern Hillsborough and Pinellas Counties.

(1) through (3) No change.

(4) Hillsborough River Strategy.

~~(a) Beginning [effective date of rule] August 3, 2000, the Minimum Flow for the Lower Hillsborough River shall be as provided in subsection 40D-8.041(1), F.A.C., to be achieved on the time schedule as set forth below at the rate of flow of 10 cubic feet per second (cfs). The District and the City of Tampa (City) shall provide measurement of the delivery of water to the base of the dam relative to their respective elements as described below. The City shall report this information to the District monthly on the 15th day of the following month. In addition, the City shall submit a quarterly written report of all activities and all progress towards timely completion of its elements of the recovery strategy. Such reports will be submitted to the District within 15 calendar days after each calendar year quarter. The Minimum Flow shall be measured at the net downstream flow at the Rowlett Park Drive bridge gauging station.~~

(a) The District and the City have entered into the Joint Funding Agreement Between The Southwest Florida Water Management District and The City of Tampa For Implementation of Recovery Projects To Meet Minimum Flows of the Lower Hillsborough River (the "Agreement"). The Agreement and subsection 40D-80.073(4), F.A.C., constitutes the District's recovery strategy for the Lower Hillsborough River required by Section 373.0421(2), F.S., and shall not compromise public health, safety and welfare.

(b) The schedule to achieve the Minimum Flows for the Lower Hillsborough River is as follows:

1. Sulphur Springs – Beginning on [effective date of rule] Through December 31, 2007, the City shall be required to provide 10 cubic feet per second (cfs) of water to the base of the City's dam 6.5 million gallons each day provided such use will not compromise public health, safety and welfare 10-cfs. Minimum Flow from the Reservoir when the surface water elevation is above 22.5 ft. NGVD at USGS Gauge 02304500. The City shall provide this flow from sources other than the City's Reservoir when the surface water elevation is below 22.5 ft. NGVD at USGS Gauge 02304500 and it is feasible to provide the flow without compromising the public health, safety and welfare of the City. Once the City has determined that flow from another source or sources is feasible pursuant to paragraph 40D-80.073(4)(b), F.A.C., below and the evaluation of the source(s) pursuant to paragraph 40D-80.073(4)(c), F.A.C., is complete, such flow shall be supplied when necessary to maintain the Minimum Flow.

2. Tampa Bypass Canal Diversions – By January 1, 2008, provided that any permit that may be required is approved, the District shall divert up to 7.1 million gallons of water on any given day from the District's Tampa Bypass Canal ("TBC") to the Hillsborough River at the District's Structure 161. The District shall then deliver water from the Hillsborough River immediately above the City's dam to the base of the City's dam to help meet the minimum flow requirements of the Lower Hillsborough River. Such diversions shall not occur if public health, safety and welfare will be compromised.

a. The District shall complete a comprehensive analysis of these diversions within 90 days of the first year of operation to identify and subsequently make any mechanical or efficiency adjustments that may be necessary. The District shall use its best efforts to expedite obtaining any permit that may be needed to undertake these actions.

b. By October 1, 2013, provided that the transmission pipeline has been constructed and is operational, all of the water diverted from the TBC middle pool under this provision to help meet the minimum flow shall be provided to the Lower Hillsborough River per provision subparagraph 40D-80.073(4)(b)7., F.A.C.

c. These diversions shall be prioritized as follows:

(i) Priority Source One – Diversions From the TBC Middle Pool When the TBC Middle Pool is Above 12.0 feet NGVD (1929 or its 1988 equivalent), and There is Flow of at Least 11 cfs Over the District’s Structure 162 – On days when the TBC middle pool is above 12.0 feet NGVD (1929 or its 1988 equivalent), as measured by the downstream gauge at the District’s Structure 161, and there is flow of at least 11 cfs over the District’s Structure 162, the District shall divert water from the TBC middle pool to the Hillsborough River.

A. The District shall then deliver 75 percent of any water diverted from the TBC to the Hillsborough River under this provision to the Lower Hillsborough River. Delivery of 75 percent of the water diverted from the TBC addresses concerns about potential losses due to subsurface leakage, evaporation and transpiration. This delivery shall be from the Hillsborough River just above the City’s dam to the base of the City’s dam, and shall supplement diversions from Sulphur Springs, Blue Sink and Morris Bridge Sink, as they are implemented, and as described in subparagraphs 40D-80.073(4)(b)1., 3., 6. and 8., F.A.C.

B. The TBC middle pool diversions will be limited to the quantity needed to achieve the minimum flow requirements of the Lower Hillsborough River set forth in subsection 40D-8.041(1), F.A.C., but will not exceed 7.1 million gallons on any given day.

C. Such diversions shall cease from the TBC middle pool if the elevation difference between the TBC middle and lower pools exceeds 7.0 feet.

D. On days when flow over the Hillsborough River Dam naturally exceeds 20 cfs during the months of July through March or 24 cfs during the months of April through June and when diversions from the TBC middle pool are not needed to replenish the supply from Storage Projects described in paragraphs 40D-80.073(4)(c) and (d), F.A.C., diversions from the TBC middle pool shall not occur, and any flows in the TBC lower pool above elevation 9.0 feet NGVD (1929 or its 1988 equivalent), shall be available for water supply.

E. Prior to October 1, 2013, and during the months of March through June, on days when some water is needed from the TBC middle pool to help meet the minimum flow for the Lower Hillsborough River, all available water from the TBC middle pool not needed to be diverted in accordance with SWFWMD Water Use Permit No. 20006675 but not exceeding 7.1 million gallons on any given day will be diverted to the Hillsborough River. Water delivered to the Hillsborough River in excess of that needed to help meet the minimum flow of the Lower Hillsborough River shall remain in the Hillsborough River above the dam. Keeping this water in the Hillsborough River above the dam will reduce the time and quantities of supplemental flow needed to help meet the minimum flow requirements.

F. During the months of July through February, on days when water is needed from the TBC middle pool to help meet the minimum flow of the Lower Hillsborough River, only that amount of water needed to help meet the minimum flow but not in excess of 7.1 million gallons on any given day shall be diverted from the TBC middle pool to the Hillsborough River, and any water in the TBC middle and lower pools above elevations 12.0 and 9.0 feet NGVD (1929 or its 1988 equivalent), respectively, shall be available for water supply.

(ii). Priority Source Two – Diversions When the TBC Middle Pool is above 12.0 feet NGVD (1929 or its 1988 equivalent), and the Flow Over the District’s Structure 162 is Less Than 11 cfs – On days when the TBC middle pool is above 12.0 feet NGVD (1929 or its 1988 equivalent), as measured by the downstream gauge at the District’s Structure 161, and the flow over the District’s Structure 162 is less than 11 cfs, the District shall divert water from the TBC middle pool to the Hillsborough River.

A. The District shall then deliver 75 percent of any water diverted from the TBC middle pool to the Hillsborough River under this provision to the Lower Hillsborough River. Delivery of 75 percent of the water diverted from the TBC addresses concerns about potential losses due to subsurface leakage, evaporation and transpiration. This delivery shall be from the Hillsborough River just above the City’s dam to immediately below the City’s dam, and shall supplement diversions from Sulphur Springs, Blue Sink and Morris Bridge Sink, as they are implemented, and as described in subparagraphs 40D-80.073(4)(b)1., 3., 6. and 8., F.A.C.

B. The TBC middle pool diversions will be limited to the quantity needed to achieve the minimum flow requirements of the Lower Hillsborough River, but will not exceed 7.1 million gallons on any given day.

I. On days such diversions occur, the District will divert from the TBC lower pool to the TBC middle pool quantity equivalent to that diverted by the District from the TBC middle pool to the Hillsborough River.

II. Such diversions shall cease from both the TBC middle and lower pool when the stage of the TBC lower pool reaches 6.0 feet NGVD (1929 or its 1988 equivalent), as measured by the gauge at the District’s Structure 160, or the elevation difference between the TBC middle and lower pools exceeds 7.0 feet.

C. Once the stage in the TBC lower pool is below 8.7 feet NGVD (1929 or its 1988 equivalent), withdrawals from this priority source to help meet the minimum flow for the lower Hillsborough River are considered withdrawals from the storage of the TBC lower pool. When the stage in the TBC lower pool is below 8.7 feet NGVD (1929 or its 1988 equivalent), the following restrictions apply:

I. At no time shall withdrawals from the lower pool to help meet the minimum flow for the lower Hillsborough River cause the stage in the lower pool to go below 6.0 feet NGVD

(1929 or its 1988 equivalent), or cause the elevation difference between the TBC middle and lower pools to exceed 7.0 feet, as measured on either side of the District's Structure 162.

II. If supplemental flows are required to help meet the lower Hillsborough River minimum flow from this Priority Source, once withdrawals begin from storage they will continue until the TBC lower pool reaches an elevation of 6.0 feet NGVD (1929 or its 1988 equivalent). At such time as either of the conditions set forth in sub-sub-sub-subparagraphs 40D-80.073(4)(b)2.(ii)C.I., F.A.C., above, are met, the District shall cease withdrawals from the TBC lower pool. The District shall only reinitiate withdrawals from the TBC lower pool when its elevation equals or exceeds 9.0 feet NGVD (1929 or its 1988 equivalent), for 20 consecutive days, which is defined as the TBC lower pool replenishment.

III. The total withdrawn from storage on any one day shall not exceed 7.1 million gallons on any given day.

IV. Withdrawals from storage will be limited to the quantity needed to help achieve the minimum flow requirements of the Lower Hillsborough River after utilizing the quantity diverted from all other sources, as they are implemented, and as described in paragraphs 40D-80.073(4)(b), (c) and (d), F.A.C.

(iii) Priority Source Three – Diversions When TBC Middle Pool Elevations are Between 10.0 and 12.0 Feet NGVD (1929 or its 1988 equivalent) – The District will make all reasonable efforts to obtain authorization from the United States Army Corps of Engineers to allow the withdrawals of up to 7.1 million gallons on any given day from the TBC middle pool to aid in the Lower Hillsborough River minimum flow requirements when the TBC middle pool is below 12.0 feet and above 10.0 feet NGVD (1929 or its 1988 equivalent).

A. These diversions will only occur when the stage of the TBC lower pool has reached 6.0 feet NGVD (1929 or its 1988 equivalent), or the TBC lower pool is in a state of replenishment as described in sub-sub-sub-subparagraphs 40D-80.073(4)(b)2.(ii)C.II., F.A.C. These diversions will be limited to the quantity needed to help achieve the minimum flow requirements of the Lower Hillsborough River after utilizing the quantity diverted from all other sources, as they are implemented, and as described in paragraphs 40D-80.073(4)(b), (c) and (d), F.A.C., but will not exceed 7.1 million gallons on any given day.

B. These diversions shall cease if the elevation difference between the Hillsborough River and TBC middle pool exceeds 9.5 feet, if approved by the United States Army Corps of Engineers, as measured on either side of the District's Structure 161, or if the elevation difference between the TBC middle and lower pools exceeds 7.0 feet, as measured on either side of the District's Structure 162.

C. Diversions associated with this provision will not occur until the water transmission pipeline as set forth in subparagraph 40D-80.073(4)(b)7., F.A.C., is completed or by

October 1, 2013, whichever is sooner. Once the stage in the TBC middle pool is below 12.0 feet NGVD (1929 or its 1988 equivalent), withdrawals to help meet the minimum flow for the Lower Hillsborough River are considered withdrawals from the storage of the TBC middle pool. When the stage is below 12.0 feet NGVD (1929 or its 1988 equivalent), the following restrictions apply:

I. At no time shall withdrawals from the TBC middle pool to help meet the minimum flow for the Lower Hillsborough River cause the stage in the middle pool to go below 10.0 feet NGVD (1929 or 1988 equivalent), or cause the elevation difference between the TBC middle pool and Hillsborough River to exceed 9.5 feet, as measured on either side of the District's Structure 161, or cause the elevation difference between the TBC middle and lower pools to exceed 7.0 feet, as measured on either side of the District's Structure 162.

II. If supplemental flows are required to help meet the Lower Hillsborough River minimum flow from this Priority Source, once withdrawals begin from storage they will continue until the TBC middle pool reaches an elevation of 10.0 feet NGVD (1929 or its 1988 equivalent). At such time as either of the conditions set forth in sub-sub-sub-subparagraphs 40D-80.073(4)(b)2.(iii)C.I., F.A.C., above, are met, the District shall cease withdrawals from the TBC middle pool. The District shall only reinitiate withdrawals from the TBC middle pool when its elevation equals or exceeds 12.0 feet NGVD (1929 or its 1988 equivalent), for 20 consecutive days, which is defined as the TBC Pool Replenishment, and there is less than 11 cfs of flow over the District's Structure 162.

III. The total withdrawn from storage on any one day shall not exceed 7.1 million gallons.

IV. Withdrawals from storage will be limited to the quantity needed to help achieve the minimum flow requirements of the Lower Hillsborough River after utilizing the quantity diverted from all other sources, as they are implemented, and as described in paragraphs 40D-80.073(4)(b), (c) and (d), F.A.C.

### 3. Sulphur Springs Project.

a. By October 1, 2009, and as specified in the Agreement, the City shall complete the modification of the lower weir to provide to the base of the dam all available flow from Sulphur Springs not needed to maintain the minimum flow for manatees as set forth in paragraph 40D-8.041(2)(b), F.A.C.

b. By October 1, 2010, the City shall complete the construction of the upper gates and the pump station to provide to the base of the dam all available flow from Sulphur Springs not needed to maintain the minimum flow for manatees as set forth in paragraph 40D-8.041(2)(b), F.A.C.

c. By October 1, 2012, and as specified in the Agreement, the City is to provide to the base of the dam all available flow, from Sulphur Springs not needed to maintain the minimum flow for Sulphur Springs as set forth in paragraph 40D-8.041(2)(a), F.A.C.

(i) These diversions shall not exceed 11.6 million gallons on any given day.

(ii) The City is authorized to use any remaining quantities at Sulphur Springs for water supply purposes consistent with SWFWMD Water Use Permit No. 20002062.

d. Additionally, beginning on October 1, 2010, on days when the minimum flow requirements are being adjusted for the Lower Hillsborough River, as described in paragraph 40D-8.041(1)(b), F.A.C., and there is flow at Sulphur Springs in excess of the quantity needed to help meet the adjusted flow as described in paragraph 40D-8.041(1)(b), F.A.C., and the minimum flow requirements in paragraph 40D-8.041(2)(b), F.A.C., and the City is not using such flow to augment the Hillsborough River above the dam, the City shall move such quantity to the base of the City's dam up to the unadjusted quantities described in paragraph 40D-8.041(1)(b), F.A.C.

4. Blue Sink Analysis – By October 1, 2010, and as specified in the Agreement, the City in cooperation with the District shall complete a thorough cost/benefit analysis to divert all available flow from Blue Sink in north Tampa to a location to help meet the minimum flow or to the base of the City's dam.

5. Transmission Pipeline Evaluation – By October 1, 2010, and as specified in the Agreement, the City shall complete a thorough design development evaluation to construct a water transmission pipeline from the TBC middle pool to the City's David L. Tippin Water Treatment Facility, including a spur to just below the City's dam.

6. Blue Sink Project – By October 1, 2011, and as specified in the Agreement, the City will provide all available flow from Blue Sink project to help meet the minimum flow provided that all required permits are approved, and it is determined that the project is feasible. Once developed, all water from this source shall be used to the extent that flow is available to help meet the minimum flow for the Lower Hillsborough River.

7. Transmission Pipeline Project – By October 1, 2013, and as specified in the Agreement, the City shall complete the water transmission pipeline described in 40D-80.073(4)(b)5., F.A.C., and move the water the District will move as specified in subparagraphs 40D-80.073(4)(b)2. and 8., F.A.C., to the Lower Hillsborough River directly below the dam as needed to help meet the minimum flow or to transport water in accordance with SWFWMD Water Use Permit No. 20006675.

a. This transmission line will eliminate all adjustment for losses described in subparagraphs 40D-80.073(4)(b)2. and 8., F.A.C.

b. Additionally, the City will provide an additional flow of 1.9 million gallons each day to the base of the dam from the TBC middle pool provided that water is being transported in accordance with SWFWMD Water Use Permit No. 20006675.

This additional 1.9 million gallons each day is anticipated to be part of the water savings associated with this transmission pipeline.

c. Once the pipeline is completed, the 1.9 million gallons each day of additional flow provided by the City as part of the water savings associated with the pipeline will be used in preference to all other sources except Sulphur Springs and Blue Sink to the help meet the minimum flow for the Lower Hillsborough River.

d. In the event that this pipeline is not substantially completed by October 1, 2013, or that the City did not provide the District with a minimum ninety (90) days notice prior to October 1, 2013, of the delay of completion of the pipe due to circumstances beyond its control, then, the City will be responsible for delivering the flows the District was previously obligated to divert from the TBC middle pool to the Hillsborough River and then to immediately below the City's dam under subparagraphs 40D-80.073(4)(b)2. and 8., F.A.C.; except that the District shall continue to be responsible to pump water from the TBC lower pool to the middle pool as described in subparagraphs 40D-80.073(4)(b)2.b., F.A.C., and from Morris Bridge Sink to the TBC middle pool as described in subparagraph 40D-80.073(4)(b)8., F.A.C.

e. The City shall also provide the 1.9 million gallons each day if needed to help meet the flow described in this provision, from some other permissible source and is obligated to do so pursuant to sub-subparagraph d. above.

#### 8. Morris Bridge Sink Project.

a. By October 1, 2012, or earlier, and upon completion of the project, provided that any permit that may be required is approved, the District shall divert up to 3.9 million gallons of water on any given day from the Morris Bridge Sink to the TBC middle pool.

(i) The Morris Bridge Sink diversions will be limited to the quantity needed to achieve the minimum flow requirements of the Lower Hillsborough River, after utilizing the quantity diverted from Sulphur Springs, Blue Sink and the 1.9 million gallons of water savings each day anticipated from the transmission pipeline, as they are implemented, and as described in subparagraphs 40D-80.073(4)(b)1., 3., 6. and 7., F.A.C.

(ii) However, on days when TBW does not draw the TBC lower pool down to 9.0 feet NGVD (1929 or its 1988 equivalent) for water supply purposes, and supplemental flow is needed for the Lower Hillsborough River minimum flow requirements beyond water that can be delivered from Sulphur Springs, Blue Sink and the 1.9 million gallons of water savings each day anticipated from the transmission pipeline described in subparagraphs 40D-80.073(4)(b)1., 3., 6. and 7., F.A.C., the District shall divert up to 7.1 million gallons on any given day from the TBC lower pool to the TBC middle pool prior to diverting flows from the Morris Bridge Sink to the TBC middle pool.

(iii) The District shall cease to divert water from the TBC lower pool under this provision once the elevation of the TBC lower pool reaches 9.0 feet NGVD (1929 or its 1988 equivalent).

b. Prior to the completion of the pipeline described in subparagraph 40D-80.073(4)(b)7., F.A.C., the District shall transfer any water delivered to the TBC middle pool from the Morris Bridge Sink or the TBC lower pool under this provision to the Hillsborough River near the District's Structure 161.

(i) These deliveries shall be made on the same day the District delivers water from the Morris Bridge Sink or the TBC lower pool.

(ii) The District shall then deliver 75 percent of any water diverted to the Hillsborough River under this provision to the Lower Hillsborough River. This delivery shall be from the Hillsborough River just above the City's dam to immediately below the City's dam.

(iii) The deliveries of the water from the Morris Bridge Sink to the TBC middle pool then on to the Hillsborough River are in addition to any other diversions from the TBC middle pool to the Hillsborough River described in subparagraphs 40D-80.073(4)(b)2. and 8., F.A.C.

c. Once the City completes the water transmission pipeline described in subparagraphs 40D-80.073(4)(b)5. and 7., F.A.C., or as may be otherwise responsible for delivering the flows the District was previously obligated to divert pursuant to subparagraph 40D-80.073(4)(b)7., F.A.C., the City shall move any water the District delivers to the TBC middle pool from Morris Bridge Sink or the TBC lower pool under this provision to the Lower Hillsborough River directly below the dam. Such delivery by the City will occur on the same day the District delivers the water from the Morris Bridge Sink or the TBC lower pool to the TBC middle pool.

d. At no time shall withdrawals from the TBC under this provision cause:

i. The elevation difference between the TBC middle pool and Hillsborough River to exceed 9.5 feet as measured on either side of the District's Structure 161; or

ii. The elevation difference between the TBC middle and lower pools to exceed 7.0 feet as measured on either side of the District's Structure 162.

9. Beginning October 1, 2017, the City shall be required to meet the minimum flows at the base of the dam as set forth in subsection 40D-8.041(1), F.A.C.

(c) The City and the District shall, as specified in the Agreement, cooperate in the evaluation of options for storage of water ("Storage Projects") such as aquifer storage and recovery (ASR), and additional source options (e.g., diversions from Morris Bridge Sink greater than those described in subparagraph 40D-80.073(4)(b)8., F.A.C.), in sufficient permitable quantities, that upon discharge to the base of the

dam, together with the other sources of flow described in paragraph 40D-80.073(4)(b), F.A.C., will meet the minimum flows beginning October 1, 2017, or earlier.

(d) The City may propose for District approval additional source or storage projects that when completed may be used in lieu of all or part of one or more sources described in subparagraphs 40D-80.073(4)(b)2.-8., F.A.C.

(e) Any District sponsored project, which shall include evaluation of up to 3.9 million gallons per day of additional quantities other than those identified in subparagraph 40D-80.073(4)(b)8., F.A.C., from the Morris Bridge Sink, shall be implemented by the District no later than October 1, 2017, provided that it is deemed feasible by the District, to eliminate or reduce the need to divert water from the TBC middle and lower pool storage as described in subparagraph 40D-80.073(4)(b)2., F.A.C. Such projects shall be implemented only after receiving any required permits.

(f) Each spring, beginning in 2008, the District shall review the recovery strategy to assess the progress of implementation of the recovery strategy and report that progress to the Governing Board. This annual review and report shall include identification of the Storage Projects or other additional sources options that will be operational by October 1, 2017. If and when developed, Storage Projects or other additional source options to supply supplemental flows to meet the minimum flow will be used in preference to removal of water from storage in either the middle or lower pools of the TBC as described in paragraph 40D-80.073(4)(b), F.A.C.

(g) The City and the District shall continue the existing monitoring and analysis of the water resources within the Lower Hillsborough River and the District shall provide this information to the Governing Board as part of the its annual review and report described in paragraph (4)(d), above.

(h) In 2013, and for each five year period through 2023, the District shall evaluate the hydrology, dissolved oxygen, salinity, temperature, pH and biologic results achieved from implementation of the recovery strategy for the prior five years, including the duration, frequency and impacts of the adjusted minimum flow as described in paragraph 40D-8.041(1)(b), F.A.C. As part of the evaluation the District will assess the recording systems used to monitor these parameters. The District shall also monitor and evaluate the effect the Recovery Strategy is having on water levels in the Hillsborough River above the City's dam to at least Fletcher Avenue. The District will evaluate all projects described in this Recovery Strategy relative to their potential to cause unacceptable adverse impacts prior to their implementation.

(i) In conjunction with recovery of the Lower Hillsborough River and to enhance restoration of McKay Bay and Palm River estuary, the District intends to undertake a wetland restoration project adjacent to McKay Bay. The City agrees to contribute to the project by providing up to 7.1 million gallons on any given day of reclaimed water, as needed

for the project. Within five years of completion of this wetland project, and for two subsequent five year periods thereafter, the District shall review the hydrologic, dissolved oxygen, salinity, temperature, pH and biologic results achieved from the implementation of the restoration project and other similar District projects that may occur.

2. Beginning January 1, 2008 through December 31, 2009, the City shall meet the Minimum Flow unless flow is not feasible from the other source(s) as set forth in paragraph 40D-80.073(4)(b), F.A.C., below. If flow from these other source(s) is not feasible, and if the provision of water for Minimum Flow from the City's drinking water supply would compromise the public health, safety, and welfare, the City shall not be required to meet the Minimum Flow until the City can obtain sufficient replacement water or January 1, 2010, whichever occurs first.

3. Beginning January 1, 2010, the City shall meet the Minimum Flow.

(b) By December 31, 2003, the City, with District consideration of financial participation, shall complete a study of the economic and technical feasibility of meeting the Minimum Flow for the Lower Hillsborough River from sources other than the City's Reservoir, including but not limited to Blue Sink, Curiosity Creek watershed, and the Howard F. Curren Advanced Wastewater Treatment Plant. The City shall submit to the District a written report each December 31 through December 31, 2003, on the sources investigated, the results of the investigation, and the City's determination as to the feasibility of each of the sources.

(c) Until the completion of the study under paragraph 40D-80.073(4)(d), F.A.C., the City's implementation of the use of any source other than the City's Reservoir or Sulphur Springs is subject to a coordinated evaluation with the District to determine that its quality is at least equivalent to the water being used from Sulphur Springs. After the study specified in paragraph 40D-80.073(4)(d), F.A.C., below, is completed, the District shall use the findings of that study to evaluate the alternate sources, for providing the required Minimum Flow.

(d) On or before August 3, 2000, the District and the City shall commence a work plan and the subsequent study of the biological communities below the dam, taking into account loss of historical hydrologic functions, water quality, water quantity, and existing changes and structural alterations, to reevaluate the Minimum Flow requirement to maintain the existing biological communities in the Lower Hillsborough River. The study will provide recommendations to enhance or improve the biologic communities below the dam in the Lower Hillsborough River. The study shall include a range of sufficient releases of up to at least 30 cfs of freshwater (less than or equal to 0.5 parts per thousand of salinity) to examine the effects on the biological communities in the Lower Hillsborough River. The study shall be completed by December 31, 2005. If the study demonstrates the need for

revisions to the Minimum Flow for the Lower Hillsborough River established in paragraph 40D-8.041(2), F.A.C. the District shall initiate rulemaking within one year of study completion to adopt a revised Minimum Flow considering this study and the study results on the Minimum Flow requirement shall be binding on the City and the District in any rulemaking proceeding on the revised Minimum Flow.

(5) through (7) No change.

(8) 2010 Evaluation of Recovery Strategy.

This recovery strategy is in keeping with the District's legislative mandate pursuant to Sections 373.036, 373.0361, 373.0421, 373.0831, 373.1962 and 373.1963, F.S., to resolve the water supply and water resource impact concerns of the Northern Tampa Bay Area in a cooperative manner with the water suppliers and interested parties. The portion of the District's recovery strategy embodied within this Rule 40D-80.073, F.A.C., is the first regulatory phase of a long-term approach toward eventual attainment of the mMinimum fFlows and lLevels established in Chapter 40D-8, F.A.C., for priority waters in the Northern Tampa Bay Area. Except as to subsection 40D-80.073(4), F.A.C., this phase of the recovery strategy is through the year 2010 based on the current knowledge of the state of the water resources of the Area, the technology for water supply development including alternative sources and conservation and existing and future reasonable-beneficial uses. In addition, it is possible that this phase will achieve recovery to the mMinimum fFlows and lLevels but it is impossible to determine whether this will occur given that it is unknown which recovery management mechanisms will be utilized by water use permittees. Except as to the Lower Hillsborough River, Sulphur Springs and the Tampa Bypass Canal, the District will evaluate the state of knowledge of these matters in 2010, including analysis of all information and reports submitted pursuant to paragraph 40D-80.073(3)(c), F.A.C., data collected and analyzed and relationships determined pursuant to subsection 40D-8.011(5), F.A.C., regarding the mMinimum fFlows and lLevels for the priority waters in the area (The "MFLs") and the Central System Facilities permit(s). Based on that analysis and evaluation, on or before December 31, 2010, except as to the Lower Hillsborough River, Sulphur Springs and the Tampa Bypass Canal, the District will initiate rulemaking to 1) revise the MFLs (the "New MFLs"), as necessary; 2) adopt rules to implement the existing or the New MFLs (The "Implementation Rules"); and 3) revise this Rule 40D-80.073, F.A.C., to incorporate a second phase to this Recovery Strategy ("Recovery Strategy Rules"), as necessary, consistent with Section 373.0421(2), F.S. In the event that the District determines that it is not necessary to initiate rulemaking to adopt New MFLs, and a substantially affected person is granted an administrative hearing to challenge the



Implementation Rules or the Recovery Strategy Rules, and the MFL Rules, the District will not object to a motion to consolidate the hearings.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.036, 373.0361, ~~373.0395~~, 373.171, 373.0421 FS. History--New 8-3-00, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen A. Lloyd, Assistant Deputy Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 28, 2007

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

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE NOS.:	RULE TITLES:
40E-21.521	Phase I Moderate Water Shortage
40E-21.531	Phase II Severe Water Shortage
40E-21.541	Phase III Extreme Water Shortage
40E-21.551	Phase IV Critical Water Shortage

PURPOSE AND EFFECT: To address management of available water supplies in the Lake Okeechobee Region during drought conditions.

SUMMARY: The proposed rule amendments will limit the allocations to agricultural users in the Lake Okeechobee Region during drought conditions by shifting to a phased, percentage cut-back method similar to other water use classes.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.042, 373.0421, 373.175, 373.246 FS.

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

DATE AND TIME: November 15, 2007, beginning at 9:00 a.m.

PLACE: Key Largo Marriott, 103800 Overseas Highway, Key Largo, FL 33037

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Clerk of the South Florida Water Management District, (561)682-2087, or 1(800)432-2045, ext. 2087. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Peter J. Kwiatkowski, P.G., South Florida Water Management District, P. O. Box 24680, West Palm Beach, FL 33416-4680, 1(800)432-2045, ext. 2547 or (561)682-2547, email: pkwiat@sfwmd.gov or Elizabeth D. Ross, Senior Specialist Attorney, South Florida Water Management District, P. O. Box 24680, West Palm Beach, FL 33416-4680, 1(800)432-2045, ext. 6257 or (561)682-6257, email: bross@sfwmd.gov. For procedural issues contact Jan Sluth, Paralegal, South Florida Water Management District, P. O. Box 24680, West Palm Beach, FL 33416-4680, 1(800)432-2045, ext 6299 or (561)682-6299, email: jsluth@sfwmd.gov

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-21.521 Phase I Moderate Water Shortage.

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

(f) Diversion and Impoundment into Non-District Facilities. Water used for diversion and impoundment into non-District facilities shall be voluntarily reduced; however, the diversion of surface water from sources in the Lake Okeechobee Region as depicted on Figure 21-4 and described in subsection 40E-21.691(3), F.A.C., shall be subject to the restrictions described in subparagraph (2)(a)6., below.

(2) Agriculture.

(a) Agricultural Use:

1. through 5. No change.

6. The District's allocation determination for agricultural irrigation within the entire Lake Okeechobee Region as depicted on Figure 21-4 will be based on 15% cutbacks to the calculated 1 in 10 supplemental crop demands calculated on a weekly basis. The entire Lake Okeechobee Region supplemental crop demands will be distributed among the sub-basins depicted in Figure 21-4 based on a grouping of crop types, irrigation methods (e.g. flood irrigated crops versus micro irrigated crops), the associated acreage totals as identified in the individual water use permits combined with the associated 1 in 10 evapotranspiration demands of the crops. An additional amount of water from Lake Okeechobee will be added to the weekly allocation as necessary to account for conveyance losses that occur through seepage and free surface evaporation from the Central and Southern Florida Flood Control System Project canals. The share of the entire Lake Okeechobee Region irrigation allocation available to each

~~sub-basin may be further adjusted to prioritize water deliveries among crops, as long as the sum of the sub-basin allocations does not exceed the weekly allocation for the entire Lake Okeechobee Region and that equity among users and sub-basins is assured. Such adjustments shall be based upon irrigation efficiency, potential for economic loss, and acreage irrigated as opposed to non-irrigated acreage. Withdrawals by each permitted user within the Lake Okeechobee Region as described in subsection 40E-21.691(3), F.A.C., shall be limited to an amount that represents each user's share of their sub-basin weekly allocation based on their permitted crop type and irrigated acreage the total allocation for agricultural irrigation made by the District from Lake Okeechobee (Lake) for that month and in that basin. The District shall provide the users with the data necessary to calculate their weekly allotment of water. The District's allocation determination for agricultural irrigation within the Lake Okeechobee Region will be based on its evaluation of the supply capabilities of the source class, the supply capabilities of other source classes available in the area, the needs of agriculture and other users in the area, and the District's overall management strategy for handling the uncertainties of future climatological events. The share of the total agricultural irrigation allocation available to each user will be based on any prioritization among crops the District establishes based on irrigation efficiency, economic loss and equity considerations, and the acreage and quantity of withdrawals for which the user has been permitted. The District's allocation determination for agricultural irrigation within the Lake Okeechobee Region will be based on the supply capacity of Lake Okeechobee assuming a June 1st lake stage of 10.5 feet NGVD.~~

- (b) through (e) No change.
- (3) through (4) No change.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.042, 373.0421, 373.175, 373.246 FS. History--New 5-31-82, Amended 1-26-86, 2-14-91, 9-10-01, \_\_\_\_\_.

40E-21.531 Phase II Severe Water Shortage.

- (1)(a) through (e) No change.
- (f) Diversion and Impoundment into Non-District Facilities.

~~± Water used for diversion and impoundment into non-District facilities shall be voluntarily reduced; however, the diversion of surface water from sources in the Lake Okeechobee Region as depicted on Figure 21-4 and described in subsection 40E-21.691(3), F.A.C., shall be subject to the restrictions described in subparagraph (2)(a)6., below.~~

- (2) Agriculture.
  - (a) Agricultural Use.
    - 1. through 5. No change.

~~6. The District's allocation determination for agricultural irrigation within the entire Lake Okeechobee Region as depicted on Figure 21-4 will be based on 30% cutbacks to the~~

~~calculated 1 in 10 supplemental crop demands calculated on a weekly basis. The entire Lake Okeechobee Region supplemental crop demands will be distributed among the sub-basins depicted in Figure 21-4 based on a grouping of crop types, irrigation methods (e.g. flood irrigated crops versus micro irrigated crops), the associated acreage totals as identified in the individual water use permits combined with the associated 1 in 10 evapotranspiration demands of the crops. An additional amount of water from Lake Okeechobee will be added to the weekly allocation as necessary to account for conveyance losses that occur through seepage and free surface evaporation from the Central and Southern Florida Flood Control System Project canals. The share of the entire Lake Okeechobee Region irrigation allocation available to each sub-basin may be further adjusted to prioritize water deliveries among crops, as long as the sum of the sub-basin allocations does not exceed the weekly allocation for the entire Lake Okeechobee Region and that equity among users and sub-basins is assured. Such adjustments shall be based upon irrigation efficiency, potential for economic loss, and acreage irrigated as opposed to non-irrigated acreage. Withdrawals by each permitted user within the Lake Okeechobee Region as described in subsection 40E-21.691(3), F.A.C., shall be limited to an amount that represents each user's share of their sub-basin weekly allocation based on their permitted crop type and irrigated acreage the total allocation for agricultural irrigation made by the District from Lake Okeechobee (Lake) for that month and in that basin. The District shall provide the users with the data necessary to calculate their weekly allotment of water. The District's allocation determination for agricultural irrigation within the Lake Okeechobee Region will be based on its evaluation of the supply capabilities of the source class, the supply capabilities of other source classes available in the area, the needs of agriculture and other users in the area, and the District's overall management strategy for handling the uncertainties of future climatological events. The share of the total agricultural irrigation allocation available to each user will be based on any prioritization among crops the District establishes based on irrigation efficiency, economic loss and equity considerations, and the acreage and quantity of withdrawals for which the user has been permitted. The District's allocation determination for agricultural irrigation within the Lake Okeechobee Region will be based on the supply capacity of Lake Okeechobee assuming a June 1st lake stage of 10.5 feet NGVD.~~

- (b) through (e) No change.
- (3) through (4) No change.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.042, 373.0421, 373.175, 373.246 FS. History--New 5-31-82, Amended 1-26-86, 2-14-91, 9-10-01, \_\_\_\_\_.

40E-21.541 Phase III Extreme Water Shortage.

- (1)(a) through (e) No change.

(f) Diversion and Impoundment into Non-District Facilities.

4. Water used for diversion and impoundment into non-District facilities shall be voluntarily reduced; however, the diversion of surface water from sources in the Lake Okeechobee Region as depicted on Figure 21-4 and described in subsection 40E-21.691(3), F.A.C., shall be subject to the restrictions described in subparagraph (2)(a)6., below.

(2) Agriculture.

(a) Agricultural Use.

1. through 4. No change.

5. The District's allocation determination for agricultural irrigation within the entire Lake Okeechobee Region as depicted on Figure 21-4 will be based on 45% cutbacks to the calculated 1 in 10 supplemental crop demands calculated on a weekly basis. The entire Lake Okeechobee Region supplemental crop demands will be distributed among the sub-basins depicted in Figure 21-4 based on a grouping of crop types, irrigation methods (e.g. flood irrigated crops versus micro irrigated crops), the associated acreage totals as identified in the individual water use permits combined with the associated 1 in 10 evapotranspiration demands of the crops. An additional amount of water from Lake Okeechobee will be added to the weekly allocation as necessary to account for conveyance losses that occur through seepage and free surface evaporation from the Central and Southern Florida Flood Control System Project canals. The share of the entire Lake Okeechobee Region irrigation allocation available to each sub-basin may be further adjusted to prioritize water deliveries among crops, as long as the sum of the sub-basin allocations does not exceed the weekly allocation for the entire Lake Okeechobee Region and that equity among users and sub-basins is assured. Such adjustments shall be based upon irrigation efficiency, potential for economic loss, and acreage irrigated as opposed to non-irrigated acreage. Withdrawals by each user within the Lake Okeechobee Region as described in subsection 40E-21.691(3), F.A.C., from each source class in each month shall be limited to an amount that represents each user's share of their sub-basin weekly allocation based on their permitted crop type and irrigated acreage the total allocation for agricultural irrigation made by the District from that source for that month and in that basin. The District shall provide the users with the data necessary to calculate their weekly allotment of water. The District's allocation determination for agricultural irrigation will be based on its evaluation of the supply capabilities of the source class, the supply capabilities of other source classes available in the area, the needs of agriculture and all other users in the area, and the District's overall management strategy for handling the uncertainties of future climatological events. The share of the total agricultural irrigation allocation available to each user will be based on any prioritization among crops the District establishes based on irrigation efficiency, economic loss and equity considerations

and the acreage and quantity of withdrawals for which the user has been permitted. The District's allocation determination for agricultural irrigation within the Lake Okeechobee Region, as described in subsection 40E-21.691(3), F.A.C., will be based on the supply capacity of Lake Okeechobee as defined by the establishment of a temporary reference elevation.

a. ~~The short and long term harm to the water resources and economy associated with further reduction in Lake stage;~~

b. ~~The harm to the crops, and associated economic impacts, projected to result from the reduction or elimination of water supply; and~~

e. ~~The projected drought duration.~~

~~The day to day operational decisions associated with implementing the temporary revised reference elevation shall be delegated to staff in the Phase III water shortage order. The governing board will be updated on a monthly basis at a governing board or other public meeting of past and projected changes to the temporary revised reference elevation.~~

6.(b) through (e) No change.

(3) through (4) No change.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.042, 373.0421, 373.175, 373.246 FS. History—New 5-31-82, Amended 1-26-86, 2-14-91, 9-10-01, \_\_\_\_\_.

40E-21.551 Phase IV Critical Water Shortage.

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

(f) Diversion and Impoundment into Non-District Facilities.

4. Water used for diversion and impoundment into non-District facilities shall be voluntarily reduced; however, the diversion of surface water from sources in the Lake Okeechobee Region as depicted on Figure 21-4 and described in subsection 40E-21.691(3), F.A.C., shall be subject to the restrictions described in subparagraph (2)(a)6., below.

(2) Agriculture.

(a) Agricultural Use.

1. through 4. No change.

5. The District's allocation determination for agricultural irrigation within the entire Lake Okeechobee Region as depicted on Figure 21-4 will be based on 60% cutbacks to the calculated 1 in 10 supplemental crop demands calculated on a weekly basis. The entire Lake Okeechobee Region supplemental crop demands will be distributed among the sub-basins depicted in Figure 21-4 based on a grouping of crop types, irrigation methods (e.g. flood irrigated crops versus micro irrigated crops), the associated acreage totals as identified in the individual water use permits combined with the associated 1 in 10 evapotranspiration demands of the crops. An additional amount of water from Lake Okeechobee will be added to the weekly allocation as necessary to account for conveyance losses that occur through seepage and free surface evaporation from the Central and Southern Florida Flood Control System Project canals. The share of the entire Lake

~~Okeechobee Region irrigation allocation available to each sub-basin may be further adjusted to prioritize water deliveries among crops, as long as the sum of the sub-basin allocations does not exceed the weekly allocation for the entire Lake Okeechobee Region and that equity among users and sub-basins is assured. Such adjustments shall be based upon irrigation efficiency, potential for economic loss, and acreage irrigated as opposed to non-irrigated acreage. Withdrawals by each user within the Lake Okeechobee Region as described in subsection 40E-21.691(3), F.A.C., from each source class in each month shall be limited to an amount that represents each user's share of their sub-basin weekly allocation based on their permitted crop type and irrigated acreage the total allocation for agricultural irrigation made by the District from that source for that month and in that basin. The District shall provide the users with the data necessary to calculate their weekly allotment of water. The District's allocation determination for agricultural irrigation will be based on its evaluation of the supply capabilities of the source class, the supply capabilities of other source classes available in the area, the needs of agriculture and all other users in the area, and the District's~~

~~overall management strategy for handling the uncertainties of future climatological events. The share of the total agricultural irrigation allocation available to each user will be based on any prioritization among crops the District establishes based on economic loss and equity considerations and the acreage and quantity of withdrawals for which the user has been permitted.~~

6.(b) through (e) No change.

(3) through (4) No change.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History—New 5-31-82, Amended 1-26-86, 2-14-91, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Peter J. Kwiatkowski, P.G.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 13, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

# Lake Okeechobee Region Sub-Basin Boundaries

- A: NORTHEAST LAKE SHORE
- B: ST. LUCIE (C-44)
- C: WPB CANAL & I-8
- D: E. BEACH & E. SHORE WCD
- E: N. NEW RIVER & HILLSBORO
- F: MIAMI CANAL BASIN
- G: C-21 & S-236 BASINS
- H: CALOOSAHATCHEE (C-43)
- I: NORTHWEST LAKE SHORE
- J: NORTH LAKE SHORE

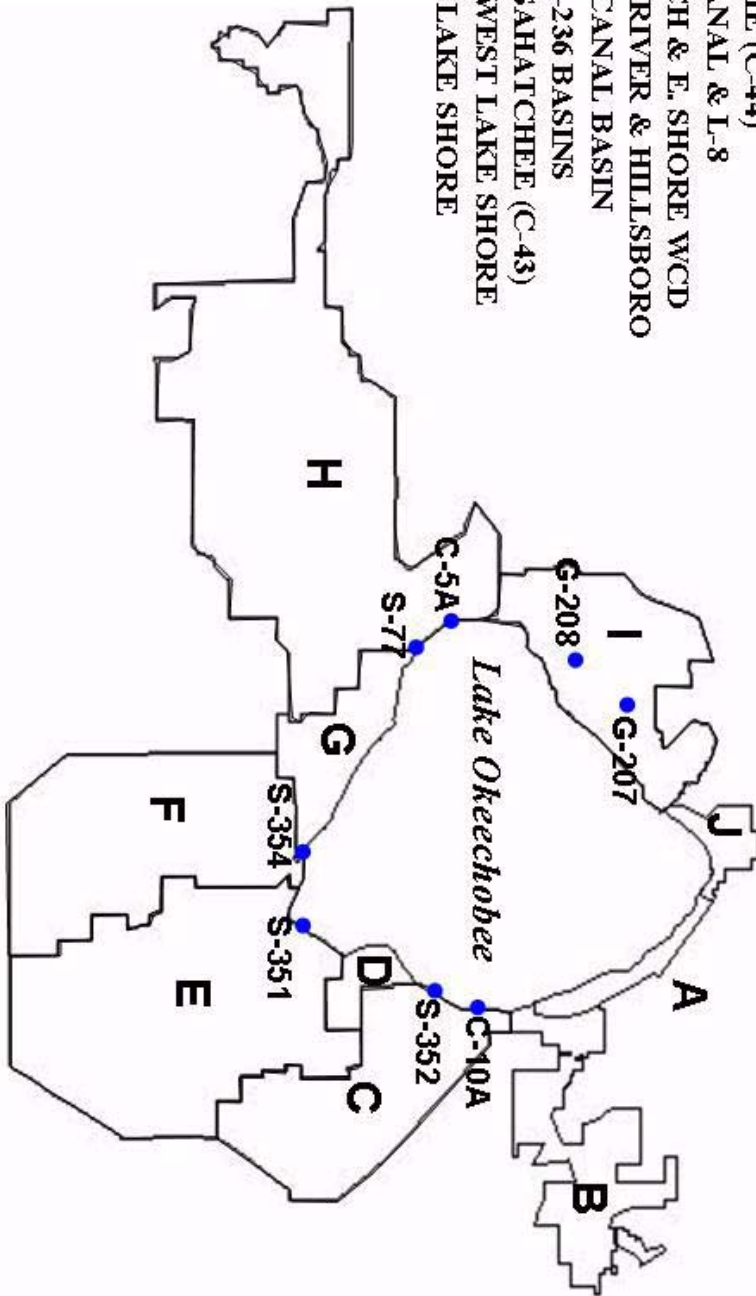


Figure 21-4

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Health Facility and Agency Licensing**

RULE NO.: 59A-3.2085  
 RULE TITLE: Department and Services

PURPOSE AND EFFECT: The Agency proposes to amend Rule 59A-3.2085, Florida Administrative Code, consistent with provisions of Section 408.0361, Florida Statutes. This section includes standards for adult diagnostic cardiac catheterization services in hospitals, and provides for adoption of rules to establish a licensure process for hospital-based adult cardiovascular programs in Florida hospitals and to adopt standards for those programs.

SUMMARY: The proposed amendments to this rule establish standards for licensure of adult cardiovascular programs in Florida hospitals.

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: 408.0361(1) FS.

LAW IMPLEMENTED: 408.0361 FS.

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

DATE AND TIME: October 26, 2007, 1:00 p.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room A, Tallahassee, FL 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Tara E. Ehlers by e-mail at ehlerst@ahca.myflorida.com or by phone at (850)922-0791. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jeffrey Gregg, Bureau of Health Facility Regulation, 2727 Mahan Drive, Tallahassee, Florida, or call (850)922-0791

THE FULL TEXT OF THE PROPOSED RULE IS:

59A-3.2085 Department and Services.  
 (1) through (12) No change.

(13) Adult ~~Inpatient~~ Diagnostic Cardiac Catheterization Program. All licensed hospitals that establish adult diagnostic cardiac catheterization laboratory services under Section 408.0361, F.S., shall operate in compliance with the guidelines

of the American College of Cardiology/American Heart Association regarding the operation of diagnostic cardiac catheterization laboratories. Hospitals are considered to be in compliance with American College of Cardiology/American Heart Association guidelines when they adhere to standards regarding staffing, physician training and experience, operating procedures, equipment, physical plant and patient selection criteria. The applicable guideline, herein incorporated by reference, is the American College of Cardiology/Society for Cardiac Angiography and Interventions Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards: Bashore et al, ACC/SCA&I Clinical Expert Consensus Document on Catheterization Laboratory Standards, JACC Vol. 37, No. 8, June 2001: 2170-214. Aspects of the guideline related to pediatric services or outpatient cardiac catheterization in freestanding non-hospital settings are not applicable to this rule. All licensed hospitals that establish an Adult Inpatient Diagnostic Cardiac Catheterization Program after July 1, 1997 pursuant to an exemption granted under Section 408.036(3)(n), F.S., shall comply with the provisions of the ACC/AHA Guidelines for Cardiac Catheterization and Cardiac Catheterization Laboratories JACC Volume 18, Number 5 of November 1, 1991, which establish the standards for Cardiac Catheterization and Cardiac Catheterization Laboratories, and which is hereby incorporated by reference, except as modified herein.

All such ~~exempted~~ licensed hospitals shall have a department, service or other similarly titled unit which shall be organized, directed and staffed, and integrated with other units and departments of the hospitals in a manner designed to assure the provision of quality patient care.

1.3. “Diagnostic Cardiac Catheterization” means a procedure requiring the passage of a catheter into one or more cardiac chambers of the left and right heart, with or without coronary arteriograms, for the purpose of diagnosing congenital or acquired cardiovascular diseases, or for determining measurement of blood pressure flow; and also includes the selective catheterization of the coronary ostia with injection of contrast medium into the coronary arteries.

(a) Definitions. The following definitions shall apply specifically to all adult ~~inpatient~~ diagnostic cardiac catheterization programs, as described in this subsection 59A-3.2085(13), F.A.C.:

1. “ACC/AHA” means the American College of Cardiology/American Heart Association.

2. “JACC” means the Journal of the American College of Cardiology.

2.4. “Adult ~~Inpatient~~” means a person fifteen years of age or older ~~who has been admitted for bed occupancy for the purposes of receiving inpatient hospital services.~~

5. “Annual Program Volume” means the total number of inpatient and outpatient admissions to the adult cardiac catheterization program, for the purpose of diagnostic cardiac

catheterization, for a 12-month period. A single admission is equivalent to one patient visit to the cardiac catheterization program. Each patient visit shall be counted in determining the actual program volume regardless of whether the patient is an inpatient or outpatient at the hospital performing the procedure, or has been admitted as an inpatient or outpatient at another facility.

~~3.(b)~~ Therapeutic Procedures. An adult diagnostic cardiac catheterization program established pursuant to ~~an exemption granted under Section 408.0361, 408.036(3)(n)~~, F.S., shall not provide therapeutic services, such as ~~balloon angioplasty percutaneous coronary intervention or stent insertion~~, intended to treat an identified condition or the administering of intra-coronary drugs, such as thrombolytic agents.

4.(e) Diagnostic Procedures. Procedures performed in the adult diagnostic cardiac catheterization laboratory shall include, for example, the following:

- ~~a.1.~~ Left heart catheterization with coronary angiography and left ventriculography
- ~~b.2.~~ Right heart catheterization
- ~~c.3.~~ Hemodynamic monitoring line insertion
- ~~d.4.~~ Aortogram
- ~~e.5.~~ Emergency temporary pacemaker insertion
- ~~6.~~ Transesophageal electric pacing
- ~~f.7.~~ Myocardial biopsy
- ~~g.8.~~ Diagnostic trans-septal procedures
- ~~h.9.~~ Intra-coronary ultrasound (ICUS)
- ~~i.10.~~ Fluoroscopy
- ~~j.11.~~ Hemodynamic stress testing

~~(d) Annual Program Volume. The minimum program volume for an adult diagnostic cardiac catheterization service shall be either 300 admissions during the 12-month period commencing 18 months after a program becomes operational, or 150 admissions by at least one physician who performed diagnostic cardiac catheterizations during that period, with a second physician with at least 100 admissions for adult diagnostic cardiac catheterization during the same period. The program volume standard shall be met during each subsequent 12-month period. An annual report of compliance with this requirement shall be forwarded to the Agency's Certificate of Need Office.~~

~~(b)(e)~~ Support Equipment. A crash cart containing the necessary medication and equipment for ventilatory support shall be located in each cardiac catheterization procedure room. A listing of all crash cart contents shall be readily available. At the beginning of each shift, the crash cart shall be checked for intact lock; the defibrillator and corresponding equipment shall be checked for function and operational capacity. A log shall be maintained indicating review.

(c) Radiographic Cardiac Imaging Systems. A quality improvement program for radiographic imaging systems shall include measures of image quality, dynamic range and

modulation transfer function. Documentation indicating the manner in which this requirement will be met shall be available for the Agency's review.

~~(d)(f)~~ Physical Plant Requirements. Section 419.2.1.2, Florida Building Code, subsection 59A 3.081(53), F.A.C., contains the physical plant requirements for the adult diagnostic ~~inpatient~~ cardiac catheterization program.

~~(e)(g)~~ Personnel Requirements. There shall be an adequate number of trained personnel available. At a minimum, a team involved in cardiac catheterization shall consist of a physician, one registered nurse, and one technician.

(f) Quality Improvement Program. A quality improvement program for the adult diagnostic cardiac catheterization program laboratory shall include an assessment of proficiency in diagnostic coronary procedures, as described in the American College of Cardiology/American Heart Association Guidelines. Essential data elements for the quality improvement program include the individual physician procedural volume and major complication rate; the institutional procedural complication rate; relevant clinical and demographic information about patients; verification of data accuracy; and procedures for patient, physician and staff confidentiality. Documentation indicating the manner in which this requirement will be met shall be available for the Agency's review.

~~(g)(h)~~ Emergency Services. Cardiac catheterization programs in a hospital not performing open heart surgery shall have a written protocol for the transfer of emergency patients to a hospital providing open heart surgery, which is within thirty minutes travel time by emergency vehicle under average travel conditions.

1. All providers of adult diagnostic cardiac catheterization program services in a hospital not licensed as a Level II adult cardiovascular services provider shall have written transfer agreements developed specifically for diagnostic cardiac catheterization patients with one or more hospitals that operate a Level II adult cardiovascular services program. Written agreements must be in place to ensure safe and efficient emergency transfer of a patient within 60 minutes. Transfer time is defined as the number of minutes between the recognition of an emergency as noted in the hospital's internal log and the patient's arrival at the receiving hospital. Transfer and transport agreements must be reviewed and tested at least every 3 months, with appropriate documentation maintained, including the hospital's internal log or emergency medical services data. Each program shall be capable of providing immediate endocardial catheter pacemaking in case of cardiac arrest and pressure recording for monitoring and evaluating valvular disease, or heart failure. Documentation indicating the manner in which this requirement will be met shall be available for the Agency's review.

2. Patients at high risk for diagnostic catheterization complications shall be referred for diagnostic catheterization services to hospitals licensed as a Level II adult cardiovascular services provider. For example, patients actively infarcting should be defined as high risk and be immediately transported to a hospital where on-site open-heart surgery is available. Hospitals not licensed as a Level II adult cardiovascular services provider must have documented patient selection and exclusion criteria and provision for identification of emergency situations requiring transfer to a hospital with a Level II adult cardiovascular services program. Documentation indicating the manner in which this requirement will be met shall be available for the Agency's review.

3. Each adult diagnostic cardiac catheterization program shall have the capability to rapid mobilization of its team 23 hours a day, 7 days a week. Documentation indicating the manner in which this requirement will be met shall be available for the Agency's review.

(h) Policy and Procedure Manual for Medicaid and Charity Care.

1. Each provider of adult diagnostic cardiac catheterization services shall maintain a policy and procedure manual, available for review by the Agency, which documents a plan to provide services to Medicaid and charity care patients.

2. At a minimum, the policy and procedure manual shall document specific outreach programs directed at Medicaid and charity care patients for adult diagnostic cardiac catheterization services.

(i) Enforcement. Enforcement of these rules shall follow procedures established in Rule 59A-3.253, F.A.C. Each diagnostic catheterization program shall provide a minimum of 2 percent of its admissions to charity and Medicaid patients each year. An annual report of compliance with this requirement shall be forwarded to the Agency's Certificate of Need Office.

(j) In case of conflict between the provisions of this rule and the guidelines of the American College of Cardiology, the provisions of this part shall prevail.

(16) Level I Adult Cardiovascular Services.

(a) Licensure.

1. A hospital seeking a license for a Level I adult cardiovascular services program shall submit an application on a form provided by the Agency (See Form 1: Level I Adult Cardiovascular Services License Application Attestation; AHCA Form, Section 18(a) of this rule \_\_\_\_\_), signed by the chief executive officer of the hospital, attesting that, for the most recent 12-month period, the hospital has provided a minimum of 300 adult inpatient and outpatient diagnostic cardiac catheterizations or, for the most recent 12-month period, has discharged or transferred at least 300 inpatients with the principal diagnosis of ischemic heart disease (defined by ICD-9-CM codes 410.0 through 414.9).

a. Reportable cardiac catheterization procedures are defined as single sessions with a patient in the hospital's cardiac catheterization procedure room(s), irrespective of the number of specific procedures performed during the session.

b. Reportable cardiac catheterization procedures shall be limited to those provided and billed for by the Level I licensure applicant and shall not include procedures performed at the hospital by physicians who have entered into block leases or joint venture agreements with the applicant.

2. The request shall attest to the hospital's intent and ability to comply with the *American College of Cardiology/Society for Cardiac Angiography and Interventions Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards: Bashore et al, ACC/SCA&I Clinical Expert Consensus Document on Catheterization Laboratory Standards, JACC Vol. 37, No. 8, June 2001: 2170-214*; and the *ACC/AHA/SCAI 2005 Guideline Update for Percutaneous Coronary Intervention A Report of the American College of Cardiology/American Heart Association Task Force on Practice Guidelines (ACC/AHA/SCAI Writing Committee to Update the 2001 Guidelines for Percutaneous Coronary Intervention)*; including guidelines for staffing, physician training and experience, operating procedures, equipment and physical plant criteria.

3. The request shall attest to the hospital's intent and ability to comply with physical plant requirements regarding cardiac catheterization laboratories and operating rooms found Section 419.2.1.2, Florida Building Code.

4. The request shall also include copies of one or more written transfer agreements with hospitals that operate a Level II adult cardiovascular services program, including written transport protocols to ensure safe and efficient transfer of an emergency patient within 60 minutes. Transfer time is defined as the number of minutes between the recognition of an emergency as noted in the hospital's internal log and the patient's arrival at the receiving hospital.

5. All providers of Level I adult cardiovascular services programs shall operate in compliance with subsection 59A-3.2085(13), F.A.C., and the guidelines of the American College of Cardiology/American Heart Association regarding the operation of adult diagnostic cardiac catheterization laboratories and the provision of percutaneous coronary intervention.

6. The applicable guidelines, herein incorporated by reference, are the *American College of Cardiology/Society for Cardiac Angiography and Interventions Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards: Bashore et al, ACC/SCA&I Clinical Expert Consensus Document on Catheterization Laboratory Standards, JACC Vol. 37, No. 8, June 2001: 2170-214*; and the *ACC/AHA/SCAI 2005 Guideline Update for Percutaneous Coronary Intervention A Report of the American College of*



Cardiology/American Heart Association Task Force on Practice Guidelines (ACC/AHA/SCAI Writing Committee to Update the 2001 Guidelines for Percutaneous Coronary Intervention). Aspects of the guideline related to pediatric services or outpatient cardiac catheterization in freestanding non-hospital settings are not applicable to this rule. Aspects of the guideline related to the provision of elective percutaneous coronary intervention only in hospitals authorized to provide open heart surgery are not applicable to this rule.

7. Hospitals are considered to be in compliance with American College of Cardiology/American Heart Association guidelines when they adhere to standards regarding staffing, physician training and experience, operating procedures, equipment and physical plant criteria. Hospitals must also document an ongoing quality improvement plan to ensure that the cardiac catheterization program and the percutaneous coronary intervention program meet or exceed national quality and outcome benchmarks reported by the American College of Cardiology-National Cardiovascular Data Registry.

8. Level I adult cardiovascular service providers shall report to the American College of Cardiology-National Cardiovascular Data Registry in accordance with the timetables and procedures established by the Registry. All data shall be reported using the specific data elements, definitions and transmission format as set forth by the American College of Cardiology-National Cardiovascular Data Registry.

a. Each hospital licensed to provide Level I adult cardiovascular services shall execute the required agreements with the American College of Cardiology-National Cardiovascular Data Registry to participate in the data registry.

b. Each hospital licensed to provide Level I adult cardiovascular services shall stay current with the payment of all fees necessary to continue participation in the American College of Cardiology-National Cardiovascular Data Registry.

c. Each hospital licensed to provide Level I adult cardiovascular services shall release the data reported by the American College of Cardiology-National Cardiovascular Data Registry to the Agency for Health Care Administration.

d. Each hospital licensed to provide Level I adult cardiovascular services shall use the American College of Cardiology-National Cardiovascular Data Registry data sets and use software approved by the American College of Cardiology for data reporting.

e. Each hospital licensed to provide Level I adult cardiovascular services shall ensure that software formats are established and maintained in a manner that meets American College of Cardiology-National Cardiovascular Data Registry transmission specifications and encryption requirements. If necessary, each hospital shall contract with a vendor approved by the American College of Cardiology-National Cardiovascular Data Registry for software and hardware required for data collection and reporting.

f. To the extent required by the American College of Cardiology-National Cardiovascular Data Registry, each hospital licensed to provide Level I adult cardiovascular services shall implement procedures to transmit data via a secure website or other means necessary to protect patient privacy.

g. Each hospital licensed to provide Level I adult cardiovascular services shall ensure that all appropriate data is submitted on every patient that receives medical care and is eligible for inclusion in the American College of Cardiology-National Cardiovascular Data Registry.

h. Each hospital licensed to provide Level I adult cardiovascular services shall maintain an updated and current institutional profile with the American College of Cardiology-National Cardiovascular Data Registry.

i. Each hospital licensed to provide Level I adult cardiovascular services shall ensure that data collection and reporting will only be performed by trained, competent staff and that such staff shall adhere to the American College of Cardiology-National Cardiovascular Data Registry standards.

j. Each hospital licensed to provide Level I adult cardiovascular services shall submit corrections to any data submitted to the American College of Cardiology-National Cardiovascular Data Registry as discovered by the hospital or by the American College of Cardiology-National Cardiovascular Data Registry. Such corrections shall be submitted within thirty days of discovery of the need for a correction or within such other time frame as set forth by the American College of Cardiology-National Cardiovascular Data Registry. Data submitted must be at a level that the American College of Cardiology-National Cardiovascular Data Registry will include the data in national benchmark reporting.

k. Each hospital licensed to provide Level I adult cardiovascular services shall designate an American College of Cardiology-National Cardiovascular Data Registry site manager that will serve as a primary contact between the hospital, the American College of Cardiology-National Cardiovascular Data Registry and the Agency with regard to data reporting. The identity of each site manager shall be provided to the Hospital and Outpatient Services Unit at the Agency for Health Care Administration in Tallahassee.

l. By submitting data to the American College of Cardiology-National Cardiovascular Data Registry in the manner set forth herein, each hospital shall be deemed to have certified that the data submitted for each time period is accurate, complete and verifiable.

9. Notwithstanding American College of Cardiology/American Heart Association guidelines to the contrary, all providers of Level I adult cardiovascular services programs may provide emergency and elective percutaneous coronary intervention procedures. Aspects of the guidelines

related to pediatric services or outpatient cardiac catheterization in freestanding non-hospital settings are not applicable to this rule.

10. Hospitals with Level I adult cardiovascular services programs are prohibited from providing the following procedures:

a. Any therapeutic procedure requiring transeptal puncture, or

b. Any lead extraction for a pacemaker, biventricular pacer or implanted cardioverter defibrillator.

11. Hospitals with Level I adult cardiovascular services programs must renew their licenses at the time of the hospital licensure renewal, providing the information in two through five above. Failure to renew the hospital's license or failure to update the information in two through five above shall cause the license to expire.

(b) Staffing.

1. Each cardiologist shall be an experienced physician who has performed a minimum of 75 interventional cardiology procedures, exclusive of fellowship training and within the previous 12 months from the date of the Level I adult cardiovascular licensure application or renewal application.

2. Physicians with less than 12 months experience shall fulfill applicable American College of Cardiology/American Heart Association training requirements prior to being allowed to perform emergency percutaneous coronary interventions in a hospital that is not licensed for a Level II adult cardiovascular services program.

3. The nursing and technical catheterization laboratory staff shall be experienced in handling acutely ill patients requiring intervention or balloon pump. Each member of the nursing and technical catheterization laboratory staff shall have at least 500 hours of previous experience in dedicated cardiac interventional laboratories at a hospital with a Level II adult cardiovascular services program. They shall be skilled in all aspects of interventional cardiology equipment, and must participate in a 24-hour-per-day, 365 day-per-year call schedule.

4. The hospital shall ensure that a member of the cardiac care nursing staff who is adept in hemodynamic monitoring and Intra-aortic Balloon Pump (IABP) management shall be in the hospital at all times.

(c) Emergency Services.

1. A hospital provider of Level I adult cardiovascular services program must ensure it has systems in place for the emergent transfer of patients with intra-aortic balloon pump support to one or more hospitals licensed to operate a Level II adult cardiovascular services program. Formalized written transfer agreements developed specifically for emergency PCI patients must be developed with a hospital that operates a Level II adult cardiovascular services program. Written transport protocols must be in place to ensure safe and efficient transfer of a patient within 60 minutes. Transfer time is defined

as the number of minutes between the recognition of an emergency as noted in the hospital's internal log and the patient's arrival at the receiving hospital. Transfer and transport agreements must be reviewed and tested at least every 3 months, with appropriate documentation maintained.

(d) Policy and Procedure Manual for Medicaid and Charity Care.

1. Each provider of Level I adult cardiovascular services shall maintain a policy and procedure manual, available for review by the Agency, which documents a plan to provide services to Medicaid and charity care patients.

2. At a minimum, the policy and procedure manual shall document specific outreach programs directed at Medicaid and charity care patients for Level I adult cardiovascular services.

(e) Physical Plant Requirements.

Section 419.2.1.2, Florida Building Code, contains the physical plant requirements for adult cardiac catheterization laboratories operated by a licensed hospital.

(f) Enforcement.

1. Enforcement of these rules shall follow procedures established in Rule 59A-3.253, F.A.C.

2. Unless in the view of the Agency there is a threat to the health, safety or welfare of patients, Level I adult cardiovascular services programs that fail to meet provisions of this rule shall be given 15 days to develop a plan of correction that must be accepted by the Agency.

3. Failure of the hospital with a Level I adult cardiovascular services program to make improvements specified in the plan of correction shall result in the revocation of the program license. The hospital may offer evidence of mitigation and such evidence could result in a lesser sanction.

(g) In case of conflict between the provisions of this rule and the guidelines of the American College of Cardiology, the provisions of this part shall prevail.

(17) Level II Adult Cardiovascular Services.

(a) Licensure.

1. A hospital seeking a license for a Level II adult cardiovascular services program shall submit an application on a form provided by the Agency (See Form 2: Level II Adult Cardiovascular Services License Application Attestation; AHCA Form \_\_\_\_\_, Section 18(b) of this rule \_\_\_\_\_) to the Agency, signed by the chief executive officer of the hospital, attesting that, for the most recent 12-month period, the hospital has provided a minimum of a minimum of 1,100 adult inpatient and outpatient cardiac catheterizations, of which at least 400 must be therapeutic cardiac catheterizations, or, for the most recent 12-month period, has discharged at least 800 patients with the principal diagnosis of ischemic heart disease (defined by ICD-9-CM codes 410.0 through 414.9).

a. Reportable cardiac catheterization procedures shall be limited to those provided and billed for by the Level II licensure applicant and shall not include procedures performed at the hospital by physicians who have entered into block leases or joint venture agreements with the applicant.

2. The request shall attest to the hospital's intent and ability to comply with applicable American College of Cardiology/American Heart Association guidelines including guidelines for staffing, physician training and experience, operating procedures, equipment and physical plant.

3. The request shall attest to the hospital's intent and ability to comply with physical plant requirements regarding cardiac catheterization laboratories and operating rooms found Section 419.2.1.2, Florida Building Code.

4. All providers of Level II adult cardiovascular services programs shall operate in compliance with subsections 59A-3.2085(13) and 59A-3.2085(16), F.A.C. and the applicable guidelines of the American College of Cardiology/American Heart Association regarding the operation of diagnostic cardiac catheterization laboratories, the provision of percutaneous coronary intervention and the provision of coronary artery bypass graft surgery.

a. The applicable guidelines, herein incorporated by reference, are the *American College of Cardiology/Society for Cardiac Angiography and Interventions Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards; Bashore et al, ACC/SCA&I Clinical Expert Consensus Document on Catheterization Laboratory Standards, JACC Vol. 37, No. 8, June 2001: 2170-214; and*

b. *ACC/AHA/SCAI 2005 Guideline Update for Percutaneous Coronary Intervention A Report of the American College of Cardiology/American Heart Association Task Force on Practice Guidelines (ACC/AHA/SCAI Writing Committee to Update the 2001 Guidelines for Percutaneous Coronary Intervention; and*

c. *ACC/AHA 2004 Guideline Update for Coronary Artery Bypass Graft Surgery: A Report of the American College of Cardiology/American Heart Association Task Force on Practice Guidelines (Committee to Update the 1999 Guidelines for Coronary Artery Bypass Graft Surgery) Developed in Collaboration With the American Association for Thoracic Surgery and the Society of Thoracic Surgeons.*

d. Aspects of the guidelines related to pediatric services or outpatient cardiac catheterization in freestanding non-hospital settings are not applicable to this rule.

5. Hospitals are considered to be in compliance with American College of Cardiology/American Heart Association guidelines when they adhere to standards regarding staffing, physician training and experience, operating procedures, equipment and physical plant criteria. Hospitals must also document an ongoing quality improvement plan to ensure that the cardiac catheterization program, the percutaneous coronary intervention program and the cardiac surgical program meet or

exceed national quality and outcome benchmarks reported by the American College of Cardiology-National Cardiovascular Data Registry and the Society of Thoracic Surgeons.

6. In addition to the requirements set forth in subsection (16)(a)7. of this rule, each hospital licensed to provide Level II adult cardiovascular services programs shall participate in the Society of Thoracic Surgeons National Database.

a. Each hospital licensed to provide Level II adult cardiovascular services shall report to the Society of Thoracic Surgeons National Database in accordance with the timetables and procedures established by the Database. All data shall be reported using the specific data elements, definitions and transmission format as set forth by the Society of Thoracic Surgeons.

b. Each hospital licensed to provide Level II adult cardiovascular services shall stay current with the payment of all fees necessary to continue participation in the Society of Thoracic Surgeons data registry.

c. Each hospital licensed to provide Level II adult cardiovascular services shall release the data reported by the Society of Thoracic Surgeons National Database to the Agency.

d. Each hospital licensed to provide Level II adult cardiovascular services shall use the most current version of the Society of Thoracic Surgeons National Database and use software approved by the Society of Thoracic Surgeons for data reporting.

e. Each hospital licensed to provide Level II adult cardiovascular services shall ensure that software formats are established and maintained in a manner that meets Society of Thoracic Surgeons transmission specifications and encryption requirements. If necessary, each hospital shall contract with a vendor approved by the Society of Thoracic Surgeons National Database for software and hardware required for data collection and reporting.

f. To the extent required by the Society of Thoracic Surgeons National Database, each hospital licensed to provide Level II adult cardiovascular services shall implement procedures to transmit data via a secure website or other means necessary to protect patient privacy.

g. Each hospital licensed to provide Level II adult cardiovascular services shall ensure that all appropriate data is submitted on every patient who receives medical care and is eligible for inclusion in the Society of Thoracic Surgeons National Database.

h. Each hospital licensed to provide Level II adult cardiovascular services shall maintain an updated and current institutional profile with the Society of Thoracic Surgeons National Database.

i. Each hospital licensed to provide Level II adult cardiovascular services shall ensure that data collection and reporting will only be performed by trained, competent staff and that such staff shall adhere to Society of Thoracic Surgeons National Database standards.

j. Each hospital licensed to provide Level II adult cardiovascular services shall submit corrections to any data submitted to the Society of Thoracic Surgeons National Database as discovered by the hospital or by the Society of Thoracic Surgeons National Database. Such corrections shall be submitted within thirty days of discovery of the need for a correction or within such other time frame as set forth by the Society of Thoracic Surgeons National Database. Data submitted must be at a level that the Society of Thoracic Surgeons National Database will include the data in national benchmark reporting.

k. Each hospital licensed to provide Level II adult cardiovascular services shall designate a Society of Thoracic Surgeons National Database site manager that will serve as a primary contact between the hospital, the Society of Thoracic Surgeons National Database and the Agency with regard to data reporting. The identity of each site manager shall be provided to the Hospital and Outpatient Services Unit at the Agency for Health Care Administration in Tallahassee.

j. By submitting data to the Society of Thoracic Surgeons National Database and the American College of Cardiology-National Cardiovascular Data Registry in the manner set forth herein, each hospital shall be deemed to have certified that the data submitted for each time period is accurate, complete and verifiable.

7. Hospitals with Level II adult cardiovascular services programs must renew their licenses at the time of the hospital licensure renewal, providing the information in two through four above. Failure to renew the hospital's license or failure to update the information in one through four above shall cause the license to expire.

(b) Staffing.

1. Each cardiac surgeon shall be Board certified.

a. New surgeons shall be Board certified within 4 years after completion of their fellowship.

b. Experienced surgeons with greater than 10 years experience shall document that their training and experience preceded the availability of Board certification.

2. Each cardiologist shall be an experienced physician who has performed a minimum of 75 interventional cardiology procedures, exclusive of fellowship training and within the previous 12 months from the date of the Level II adult cardiovascular licensure application or renewal application.

3. The nursing and technical catheterization laboratory staff shall be experienced in handling acutely ill patients requiring intervention or balloon pump. Each member of the nursing and technical catheterization laboratory staff shall have at least 500 hours of previous experience in dedicated cardiac

interventional laboratories at a hospital with a Level II adult cardiovascular services program. They shall be skilled in all aspects of interventional cardiology equipment, and must participate in a 24-hour-per-day, 365 day-per-year call schedule.

4. The hospital shall ensure that a member of the cardiac care nursing staff who is adept in hemodynamic monitoring and Intra-aortic Balloon Pump (IABP) management shall be in the hospital at all times.

(c) Policy and Procedure Manual for Medicaid and Charity Care.

1. Each provider of adult Level II adult cardiovascular services shall maintain a policy and procedure manual, available for review by the Agency, which documents a plan to provide services to Medicaid and charity care patients.

2. At a minimum, the policy and procedure manual shall document specific outreach programs directed at Medicaid and charity care patients for Level II adult cardiovascular services.

(d) Physical Plant Requirements.

Section 419.2.1.2, Florida Building Code, contains the physical plant requirements for adult cardiac catheterization laboratories and operating rooms for cardiac surgery operated by a licensed hospital.

(e) Enforcement.

1. Enforcement of these rules shall follow procedures established in Rule 59A-3.253, F.A.C.

2. Unless in the view of the Agency there is a threat to the health, safety or welfare of patients, Level II adult cardiovascular services programs that fail to meet provisions of this rule shall be given 15 days to develop a plan of correction that must be accepted by the Agency.

3. Failure of the hospital with a Level II adult cardiovascular services program to make improvements specified in the plan of correction shall result in the revocation of the program license. The hospital may offer evidence of mitigation and such evidence could result in a lesser sanction.

(f) In case of conflict between the provisions of this rule and the guidelines of the American College of Cardiology, the provisions of this part shall prevail.

(18) Forms.

(a) Form 1: Level I Adult Cardiovascular Services License Application. AHCA Form \_\_\_\_\_.

Attestation

AHCA Facility Number:

Facility Name:

Facility/Premise Address:

12-month Reporting Period:

Volume:

Total number of adult cardiac catheterization patients/sessions:

Inpatient Sessions:

Outpatient Sessions:

Or

Total number of inpatient discharges or transfers with principal diagnosis of ischemic heart disease (ICD-9-CM codes 410.0 through 414.9)

Inpatient Discharges:

Inpatient Transfers:

I, the undersigned, upon oath and affirmation of belief and personal knowledge, attest that the above named hospital volume are true, accurate, and complete.

I, the undersigned, upon oath and affirmation of belief and personal knowledge, attest that the above named hospital will fully comply, where applicable, with the guidelines of the American College of Cardiology/American Heart Association guidelines for staffing, physician training and experience, operating procedures, equipment and physical plant criteria to ensure quality patient care and safety, except where they are in conflict with Florida law.

I, the undersigned, upon oath and affirmation of belief and personal knowledge, attest that the above named hospital will fully comply with the physical plant requirements regarding cardiac catheterization laboratories and operating rooms found in Section 419.2.1.2, Florida Building Code as applicable.

I, the undersigned, upon oath and affirmation of belief and personal knowledge, attest that the above named hospital has a formalized, written transfer agreement with a hospital that has a Level II adult cardiovascular program, including a written transport agreement(s) to ensure safe and efficient transfer of a patient within 60 minutes.

I, the undersigned, upon oath and affirmation of belief and personal knowledge, attest that the above named hospital will participate in the American College of Cardiology National Cardiovascular Data Registry.

I, the undersigned, upon oath and affirmation of belief and personal knowledge, attest that the above named hospital has a formalized plan to provide services to Medicaid and charity care patients in need of Level I adult cardiovascular services.

I, \_\_\_\_\_, hereby swear or affirm that the statements in this attestation are true and correct.

Signature of Chief Executive Officer \_\_\_\_\_ Date \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_,

by \_\_\_\_\_.

This individual is personally known to me or produced the following identification: \_\_\_\_\_

Notary Public

NOTARY SEAL:

(b) Form 2: Level II Adult Cardiovascular Services License Application. AHCA Form \_\_\_\_\_.

Attestation

AHCA Facility Number: \_\_\_\_\_

Facility Name: \_\_\_\_\_

Facility/Premise Address: \_\_\_\_\_

12-month Reporting Period: \_\_\_\_\_

Volume: \_\_\_\_\_

Total number of adult cardiac catheterization patients/sessions: \_\_\_\_\_

Inpatient Sessions:

Outpatient Sessions:

Or

Total number of inpatient discharges or transfers with principal diagnosis of ischemic heart disease (ICD-9-CM codes 410.0 through 414.9)

Inpatient Discharges:

Inpatient Transfers:

I, the undersigned, upon oath and affirmation of belief and personal knowledge, attest that the above named hospital volume are true, accurate, and complete.

I, the undersigned, upon oath and affirmation of belief and personal knowledge, attest that the above named hospital will fully comply with the guidelines of the American College of Cardiology/American Heart Association guidelines for staffing, physician training and experience, operating procedures, equipment and physical plant criteria to ensure patient quality and safety.

I, the undersigned, upon oath and affirmation of belief and personal knowledge, attest that the above named hospital will fully comply with the physical plant requirements regarding cardiac catheterization laboratories and operating rooms found in Section 419.2.1.2, Florida Building Code as applicable.

I, the undersigned, upon oath and affirmation of belief and personal knowledge, attest that the above name hospital will participate in the American College of Cardiology National Cardiovascular Data Registry and the Society of Thoracic Surgeons National Database.

I, the undersigned, upon oath and affirmation of belief and personal knowledge, attest that the above name hospital/facility has a formalized plan to provide services to Medicaid and charity care patients in need of Level II adult cardiovascular services.

I, \_\_\_\_\_, hereby swear or affirm that the statements in this attestation are true and correct.

Signature of Chief Executive Officer \_\_\_\_\_ Date \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_, by \_\_\_\_\_.

This individual is personally known to me or produced the following identification: \_\_\_\_\_

Notary Public

NOTARY SEAL:

Specific Authority 395.1055, 395.3038, 395.401, 408.036, 408.0361(1) FS. Law Implemented 395.001, 395.1055, 395.1065, 395.3038, 395.401, 408.036, 408.0361, 957.05 FS. History—New 4-17-97, Amended 3-29-98, 8-23-99, 3-23-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Jeffrey Gregg, Bureau of Health Facility Regulation, 2727 Mahan Drive, Tallahassee, Florida, or call (850)922-0791

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Elizabeth Dudek, Deputy Secretary, Division of Health Quality Assurance, Agency for Health Care Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 19, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 20, 2007

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE NO.:	RULE TITLE:
59G-6.020	Payment Methodology for Inpatient Hospital Services

PURPOSE AND EFFECT: The purpose of the proposed rule is to incorporate changes to the Florida Title XIX Inpatient Hospital Reimbursement Plan (the Plan) payment methodology, effective July 1, 2007. In compliance with Senate Bill 2800, 2007-08 General Appropriations Act, Specific Appropriations 206, 211, 212, 244, and 245, the Florida Title XIX Inpatient Hospital Reimbursement Plan will be amended as follows:

1. Effective July 1, 2007, inpatient reimbursement ceilings will be eliminated for hospitals whose charity care and Medicaid days, as a percentage of total adjusted hospital days, equal or exceed 11 percent. For any public hospital that does not qualify for the elimination of the inpatient ceilings under this provision of the 2007-08 General Appropriations Act or any other proviso listed, the public hospital shall be exempt from the inpatient reimbursement ceilings contingent on the public hospital or local governmental entity providing the required state match. The Agency shall use the average of the 2001, 2002, and 2003 audited disproportionate share (DSH) data available as of March 1, 2007. In the event the Agency does not have the prescribed three years of audited DSH data for a hospital, the Agency shall use the average of the audited DSH data for 2001, 2002, and 2003 that are available.
2. Effective July 1, 2007, the inpatient reimbursement ceilings for hospitals that have a minimum of ten licensed Level II Neonatal Intensive Care Beds and are located in Trauma Services Area 2 will be eliminated.
3. Effective July 1, 2007, the inpatient hospital reimbursement ceilings for hospitals whose Medicaid days as a percentage of total hospital days exceed 7.3 percent, and are designated or provisional trauma centers will be eliminated. This provision shall apply to all hospitals that are designated or provisional

trauma centers on July 1, 2007 and any hospitals that become a designated or provisional trauma center during State Fiscal Year 2007-2008. The Agency shall use the average of the 2001, 2002 and 2003 audited DSH data available as of March 1, 2007. In the event the Agency does not have the prescribed three years of audited DSH data for a hospital, the Agency shall use the average of the audited DSH data for 2001, 2002 and 2003 that are available.

4. Effective July 1, 2007, the inpatient reimbursement ceilings will be eliminated for teaching, specialty, Community Hospital Education Program hospitals and Level III Neonatal Intensive Care Units that have a minimum of three of the following designated tertiary services as regulated under the Certificate of Need Program: pediatric bone marrow transplantation, pediatric open heart surgery, pediatric cardiac catheterization and pediatric heart transplantation.

5. Effective July 1, 2007 and ending June 30, 2008, the Medicaid Trend Adjustment shall be removed for all hospitals whose Medicaid and charity care days as a percentage to total adjusted days equals or exceeds 30 percent and have more than 10,000 Medicaid days, or a hospital or hospital system that established a provider service network during the prior state fiscal year. The aggregate Medicaid Trend Adjustment shall be reduced by \$25,352,420. The Agency shall use the average of the 2001, 2002 and 2003 audited DSH data available as of March 1, 2007.

6. The Agency shall use the average of the 2001, 2002, and 2003 audited disproportionate share data to determine each hospital's Medicaid days and charity care days for the 2007-2008 State Fiscal Year. For State Fiscal Year 2006-07, the Agency used the average of the 2000, 2001, and 2002 audited disproportionate share data to determine each hospital's Medicaid days and charity care days.

7. For State Fiscal Year 2007-2008, the Disproportionate Share (DSH) program has been appropriated funding as follows:  
 \$148,382,079 is provided for payments to public hospitals;  
 \$48,000,000 is provided for payments to defined statutory teaching hospitals;  
 \$12,000,000 is provided for payments to the family practice teaching hospitals;  
 \$60,998,691 is provided for Mental Health DSH;  
 \$2,444,444 is provided for Specialty DSH; and  
 \$12,718,187 is provided for Rural DSH.

8. Provider Service Network (PSN) – is defined in Section 409.912, F.S., as a network established or organized and operated by a health care provider, or group of affiliated health care providers, which provides a substantial proportion of the health care items and services under a contract directly through the provider or affiliated group of providers.

SUMMARY: The proposed rule change to rule number 59G-6.020 incorporates revisions to the Florida Title XIX Inpatient Hospital Reimbursement Plan. The rule seeks to

amend the Title XIX Inpatient Hospital Reimbursement Plan to be in compliance with Senate Bill 2800, the 2007-08 General Appropriations Act, effective July 1, 2007.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

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

DATE AND TIME: October 25, 2007, 9:00 a.m. – 10:00 a.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room D, Tallahassee, Florida 32308

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: Edwin Stephens, (850)414-2759. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Edwin Stephens, Medicaid Program Analysis, 2727 Mahan Drive, Mail Stop 21, Tallahassee, Florida 32308, (850)414-2759 or stephene@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.020 Payment Methodology for Inpatient Hospital Services.

Reimbursement to participating inpatient hospitals for services provided shall be in accord with the Florida Title XIX Inpatient Hospital Reimbursement Plan, Version ~~XXXI XXX~~, Effective Date ~~December 11, 2006~~ and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Office of the Deputy Secretary for Medicaid, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Mail Stop 8, Tallahassee, Florida 32308.

Specific Authority 409.919 FS. Law Implemented 409.908, 409.9117 FS. History—New 10-31-85, Formerly 10C-7.391, Amended 10-1-86, 1-10-89, 11-19-89, 3-26-90, 8-14-90, 9-30-90, 9-16-91, 4-6-92, 11-30-92, 6-30-93, Formerly 10C-7.0391, Amended 4-10-94, 8-15-94, 1-11-95, 5-13-96, 7-1-96, 12-2-96, 11-30-97, 9-16-98, 11-10-99, 9-20-00, 3-31-02, 1-8-03, 7-3-03, 2-1-04, 2-16-04, 2-17-04, 8-10-04, 10-12-04, 4-19-06, 12-11-06, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Edwin Stephens

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: August 31, 2007

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 7, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 6, 2007

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE NO.:	RULE TITLE:
59G-6.030	Payment Methodology for Outpatient Hospital Services

PURPOSE AND EFFECT: The purpose and effect of the proposed rule are to incorporate changes to the Florida Title XIX Outpatient Hospital Reimbursement plan (the Plan) payment methodology effective July 1, 2007 in accordance with the 2007-08 General Appropriations Act, Senate Bill 2800, Specific Appropriation 216.

- Effective July 1, 2007, the outpatient reimbursement ceilings will be eliminated for hospitals whose charity care and Medicaid days as a percentage of total adjusted hospital days equals or exceeds 11 percent. For any public hospital that does not qualify for the elimination of the outpatient ceilings under this provision of proviso or any other proviso listed, the public hospital shall be exempt from the outpatient reimbursement ceilings contingent on the public hospital or local governmental entity providing the required state match. The Agency shall use the average of the 2001, 2002, and 2003 audited DSH data available as of March 1, 2007. In the event the Agency does not have the prescribed three years of audited DSH data for a hospital, the Agency shall use the average of the audited DSH data for 2001, 2002, and 2003 that are available.
- Effective July 1, 2007, the outpatient reimbursement ceilings will be eliminated for hospitals that have a minimum of ten licensed Level II Neonatal Intensive Care Beds and are located in Trauma Services Area 2.
- Effective July 1, 2007, the outpatient reimbursement ceilings will be eliminated for hospitals whose Medicaid days, as a percentage of total hospital days, exceed 7.3 percent, and are designated or provisional trauma centers. This provision shall apply to all hospitals that are designated or provisional trauma centers on July 1, 2007, or become a designated or provisional trauma center during State Fiscal Year 2007-2008. The Agency shall use the average of the 2001, 2002, and 2003 audited DSH data available as of March 1, 2007. In the event the Agency does not have the prescribed three years of audited DSH data for a hospital, the Agency shall use the average of the audited DSH data for 2001, 2002, and 2003 that are available.

4. Effective July 1, 2007, the Medicaid outpatient rate reductions will be reinstated for all hospitals whose Medicaid charity care days as a percentage to total adjusted days equals or exceeds 30 percent and have more than 10,000 Medicaid days or hospital system that established a Provider Service Network during the prior state fiscal year. The Agency shall use the average of the 2001, 2002, and 2003 audited DSH data available as of March 1, 2007.

5. Addition of the phrase “available to AHCA as of each April 15 and October 15” to Section V.B 1. of the Title XIX Outpatient Hospital Reimbursement Plan.

SUMMARY: The proposed rule change to Rule 59G-6.030, F.A.C., incorporates revisions to the Florida Title XIX Outpatient Hospital Reimbursement Plan. The rule seeks to amend the Title XIX Outpatient Hospital Reimbursement Plan to be in compliance with Senate Bill 2800, the 2007-08 General Appropriations Act, effective July 1, 2007.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

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

DATE AND TIME: October 25, 2007, 10:00 a.m. – 11:00 a.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room D, Tallahassee, Florida 32308

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: Edwin Stephens, (850)414-2759. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Edwin Stephens, Medicaid Program Analysis, 2727 Mahan Drive, Mail Stop 21, Tallahassee, Florida 32308, (850)414-2759 or stephene@ahca.myflorida.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.030 Payment Methodology for Outpatient Hospital Services

Reimbursement to participating outpatient hospitals for services provided shall be in accordance with the Florida Title XIX Outpatient Hospital Reimbursement Plan, Version ~~XVIXV~~ Effective date: \_\_\_\_\_ ~~December 11, 2006~~ and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Office of the Deputy Secretary for Medicaid, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Mail Stop 8, Tallahassee, Florida 32308.

Specific Authority 409.919 FS. Law Implemented 409.908 FS History--New 10-31-85, Amended 12-31-85, Formerly 10C-7.401, Amended 10-1-86, 3-26-90, 9-30-90, 10-13-91, 7-1-93, Formerly 10C-7.0401, Amended 4-10-94, 9-18-96, 9-6-99, 9-20-00, 12-6-01, 11-10-02, 2-16-04, 10-12-04, 7-4-05, 4-19-06, 12-11-06, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Edwin Stephens

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Phil Williams

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 7, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 6, 2007

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Landscape Architecture**

RULE NO.:	RULE TITLE:
61G10-15.005	Responsible Supervision Control Over Landscape Architectural Practices in the Landscape Architect’s Office

PURPOSE AND EFFECT: The Board proposes to amend the rule to clarify instances of where one Landscape Architect qualifies multiple business entities.

SUMMARY: The rule amendment clarifies instances for a Landscape Architect qualifying multiple business entities.

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: 481.306 FS.

LAW IMPLEMENTED: 481.321(3), (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: Juanita Chastain, Executive Director, Board of Landscape Architecture, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G10-15.005 Responsible Supervision Control Over Landscape Architectural Practices in the Landscape Architect's Office.

(1) through (4) No change.

(5) All firms should notify the Board of Landscape Architecture of the location of all marketing offices and the individuals who will be assigned to such office within sixty (60) days of such an assignment. All firms shall notify the Board office of the location of all full service offices and the name of the landscape architect assigned to serve within the office. The Board must be notified of any change of the landscape architect to be assigned to each office. ~~The same landscape architect cannot be assigned to a main office and a branch office at the same time.~~

Specific Authority 481.306 FS. Law Implemented 481.321(3), (5) FS. History--New 11-17-92, Formerly 21K-15.005, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Landscape Architecture

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 31, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2007

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Building Code Administrators and Inspectors Board**

RULE NO.: RULE TITLE:

61G19-6.016 Voluntary Certification Categories

PURPOSE AND EFFECT: The proposed rule amendment updates and provides modifications to the voluntary certification category of roofing Inspector and One and Two Family Dwelling Plans Examiner.

SUMMARY: The proposed rule amendment modifies and updates the voluntary certification category of roofing Inspector and One and Two Family Dwelling Plans Examiner.

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: 468.606, 468.609(10) FS.

LAW IMPLEMENTED: 468.609 (10) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Board of Cosmetology, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G19-6.016 Voluntary Certification Categories.

The following voluntary certification categories are created.

(1) through (2) No change.

(3) Roofing Inspector. Roofing Inspector means a person who is qualified to inspect residential and commercial roofs. In order to obtain this voluntary certification the Board will require either: four (4) years of roofing experience with passage of the standardized roofing inspectors' examination as approved by the board; state certification as a roofing contractor ~~in order to qualify~~ or a state certified general contractor ~~who was certified prior to 1974~~ ~~1973~~.

(4) through (5) No change.

(6) One and Two Family Dwelling Plans Examiner. One and Two Family Dwelling Plans Examiner means a person who is qualified to determine that the plans submitted for the purpose of obtaining building and other permits, for one and two family dwellings and accessory structures, comply with the building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other applicable building codes. In order to obtain this voluntary certification, the applicant must hold standard certification as one and two family dwelling inspector; must have passed the State principles and practices examination; hold a standard certificate as a plans examiner (any category); and hold a Southern Building Code Congress International, Inc. (SBCCI) or International Code Council (ICC) certification as a Coastal Construction Inspector.

Specific Authority 468.606, 468.609(10) FS. Law Implemented 468.609(10) FS. History--New 7-5-95, Amended 7-7-96, 8-6-97, 6-25-98, 12-28-00, 2-28-02, 4-7-03, 9-3-03, 3-7-06, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Building Code Administrators and Inspectors Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Building Code Administrators and Inspectors Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 23, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 20, 2007

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Accountancy**

RULE NO.: 61H1-24.001  
 RULE TITLE: Advertising

PURPOSE AND EFFECT: The Board proposes the rule amendment to update the language to include requirements for advertising using a website, email or other electronic communication.

SUMMARY: The updated text for the rule will include requirements for advertising using a website, email or other electronic communication.

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: 473.304, 473.323 FS.

LAW IMPLEMENTED: 473.323(1)(f) 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: Veloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-24.001 Advertising.  
 (1) through (f) No change.

~~(g) A licensee may state or imply that the licensee has received any bona fide formal recognition or attainment in conjunction with the CPA licensure designation so long as contained within the advertisement and in the immediate proximity of the CPA licensure designation is found a statement that the CPA licensure designation is regulated by the State of Florida. In addition, the advertisement must use a mark, such as an asterisk, to tie the CPA designation to the statement. In the event that a licensee uses the term "specialty" or "specialist" or any other term tending to indicate an advanced standing in any aspect of the practice of public accountancy, in any advertisement or offering to the public, the advertisement must state that the use of the term is a self-designation and is not sanctioned by the state or federal government. This requirement shall not apply to any statement indicating the licensee has received any bona fide formal recognition or attainment; or~~

(h) Represents that professional services can or will be competently performed for a stated fee when this is not the case, or makes representations with respect to fees for professional services that do not disclose all variables affecting the fees that will in fact be charged; or

(2)(a)1. through 14. No change.

15. Website, e-mail, or any other electronic communication.

(b) No change.

Specific Authority 473.304, 473.323 FS. Law Implemented 473.323(1)(f) FS. History--New 12-4-79, Amended 2-3-81, 12-29-83, Formerly 21A-24.01, Amended 5-20-91, Formerly 21A-24.001, Amended 2-12-95, 5-7-96, 10-8-97,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 7, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 27, 2007

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Accountancy**

RULE NO.: 61H1-29.003  
 RULE TITLE: Experience for Licensure by Endorsement

PURPOSE AND EFFECT: The Board proposes the rule amendment to remove the requirements of Rules 61H1-27.001, 61H1-27.002, and 61H1-28.007, F.A.C., for licensure by endorsement.

SUMMARY: The requirements for applicants for licensure by endorsement to comply with Rules 61H1-27.001, 61H1-27.002 and 61H1-28.007, F.A.C. will be removed from the rule.

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: 473.304, 473.306, 473.308 FS.

LAW IMPLEMENTED: 455.217(7), 473.308 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: Veloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-29.003 Experience for Licensure by Endorsement.

~~(1) Applicants for licensure by endorsement shall meet the requirements of Rules 61H1-27.001, 61H1-27.002, and 61H1-28.007, F.A.C.~~

~~(1)(2)~~ Any applicant seeking licensure by endorsement under Section 473.308(3)(a), F.S., and having not been licensed in another state, shall have completed continuing education meeting the requirements of Rule 61H1-33.003, F.A.C., for the two (2) years immediately preceding the filing of the application.

~~(2)(3)~~ Any applicant seeking licensure by endorsement under Section 473.308(3)(b), F.S., and having been licensed in another state, shall have completed whatever continuing education is required by that state to maintain an active license to practice public accounting in that state, so long as such requirements are equivalent to those required by Rule 61H1-33.003, F.A.C., for the two (2) years immediately preceding the filing of the application.

~~(3)(4)~~ Any applicant seeking licensure by endorsement under Section 473.308(4), F.S., must have experience that includes at least five years experience in the practice of public accounting while licensed as a Certified Public Accountant or Chartered Accountant in the practice of public accounting or as an auditor or accountant in a unit of federal, state, or local government provided that the position held meets the activity and supervision requirements set forth in Section 473.308(4), F.S.

~~(4)(5)~~ College courses used to meet education requirements of Rules 61H1-27.001 and 61H1-27.002, F.A.C., cannot also be used to meet the initial continuing professional education requirements of subsection ~~(1)(2)~~ or ~~(2)(3)~~ above.

Specific Authority 473.304, 473.306, 473.308 FS. Law Implemented 455.217(7), 473.308 FS. History—New 4-24-88, Amended 6-12-88, Formerly 21A-29.003, Amended 2-12-98, 5-19-03, 1-31-05, 2-22-07,

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Accountancy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 7, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 3, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.:  
61H1-33.001

RULE TITLE:  
Certified Public Accountants  
Required to Comply with this  
Chapter

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to provide instruction concerning the Laws and Rules Examination.

SUMMARY: The updated deadlines for submission of the Laws and Rules Examination will be provided.

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: 473.304, 473.312, 473.313 FS.

LAW IMPLEMENTED: 473.311, 473.312, 473.313 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: Veloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-33.001 Certified Public Accountants Required to Comply with this Chapter.

(1) Each certified public accountant who is licensed to practice public accounting in Florida shall be required to reestablish his professional knowledge and competency in conformity with this rule by the completion of continuing professional education programs and passing the examination on Chapters 455 and 473, F.S., and related administrative rules approved by the Board. A grade of at least 80 is a passing grade. Each certified public accountant shall, on or before December 31, prior to biennial license renewal, complete on-line or mail his completed answers to the examination on Chapters 455 and 473, F.S., and related administrative rules to the Department of Business and Professional Regulation, or its designee.

(2) Each Florida certified public accountant who received an original Florida certification after December 31, 1978, shall commence his reestablishment period on the date indicated on his Florida certificate. The initial designated reestablishment period for such licensee shall end on the third June 30th

following the date indicated on his Florida certificate. Each succeeding reestablishment period shall begin on July 1, and end on June 30, two years thereafter.

(3) The scan sheet for the Laws and Rules Examination must be postmarked or completed on-line by or on December 31. No Laws and Rules Examination scan sheet will be accepted if it is postmarked or completed on-line after December 31.

~~(4)(3)~~ See Rule 61H1-37.001, F.A.C., for reinstatement of suspended certified public accountants and Rule 61H1-33.006, F.A.C., for inactive licensees who desire to become active licensees, which rules relate to continuing professional education requirements.

Specific Authority 473.304, 473.312, 473.313 FS. Law Implemented 473.311, 473.312, 473.313 FS. History--New 12-4-79, Amended 2-3-81, 12-19-82, Formerly 21A-33.01, Amended 4-8-86, Formerly 21A-33.001, Amended 5-24-07,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Accountancy  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 7, 2007  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 3, 2007

**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 Clinical Laboratory Personnel**  
 RULE NO.: 64B3-5.004                      RULE TITLE: Technician  
 PURPOSE AND EFFECT: The purpose of the rule amendment is to clarify and define the requirements for licensure as a technician. Also, the reference to "one hour of Board approved HIV/AIDS continuing education" is being deleted because that requirement is already set forth in Rule 64B3-11.005, F.A.C.

SUMMARY: The proposed rule clarifies the requirements for obtaining a technician's licensure in the specialties of Andrology, Embryology, and Molecular Pathology.

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: 483.805(4), 483.811(2), 483.823 FS.

LAW IMPLEMENTED: 381.0034, 483.800, 483.809, 483.811(2), 483.815, 483.823 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 Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin # C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-5.004 Technician.

(1) General Qualifications. Degrees or semester hours of academic credit required in this section shall be obtained at a regionally accredited college or university, or by foreign education equated pursuant to subsection 64B3-6.002(6), F.A.C. In order to be licensed as a laboratory technician, which includes the categories of microbiology, serology/immunology, chemistry, hematology, immunochemistry, histology, molecular pathology, andrology and embryology, an applicant shall have ~~one hour of Board approved HIV/AIDS continuing education~~, a Board approved 2-hour course relating to the prevention of medical errors, which shall include root-cause analysis, error reduction and prevention, and patient safety.

(2) No change.

(3) In addition, at least one of the following requirements must be met for specific areas of licensure. In some cases there are multiple options for meeting the requirement.

Specialty	Option	Education	Training/Experience	Examination
(a) through (b) No change.				
(c) Andrology, Embryology	1		Approved clinical/medical laboratory training program	MLI(AAB) for specialty sought

	2	<u>Bachelors Degree</u>	<u>Six months of pertinent clinical laboratory experience</u> <u>Five years of pertinent clinical laboratory experience</u>	<u>MLT(AAB) for specialty sought</u>
	3	<u>Bachelors Degree</u> <u>Associate Degree</u>	<u>Five years of pertinent clinical laboratory experience</u> <u>Six months of pertinent clinical laboratory experience</u>	<u>MLT(AAB) for specialty sought</u>
(d) Molecular Pathology	1	High school diploma or high school equivalent	Licensed clinical laboratory technologist or technician in any specialty area	<u>MLT(AAB) Molecular Diagnostics Examination</u>

Specific Authority 483.805(4), 483.811(2), 483.823 FS. Law Implemented 381.0034, 483.800, 483.809, 483.811(2), 483.815, 483.823 FS. History—New 12-6-94, Amended 7-12-95, 12-4-95, Formerly 590-5.004, Amended 5-26-98, 9-20-98, 1-11-99, 8-31-99, 9-27-00, 12-26-00, 4-29-02, 10-29-02, 2-11-03, 4-20-04, 2-23-06, 5-25-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Clinical Laboratory Personnel  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 2, 2007  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 25, 2007

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE NO.: 64B8-31.012  
RULE TITLE: Fees Regarding Anesthesiologist Assistants

PURPOSE AND EFFECT: The proposed rule amendment is intended to set forth a fee for requesting a change in licensure status.

SUMMARY: The proposed rule amendment sets forth a fee of \$100 for processing a change of status fee at any time other than at the time of licensure renewal.

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: 456.036(5), (7), 458.309, 458.3475 FS.

LAW IMPLEMENTED: 456.036(5), (7), 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:

64B8-31.012 Fees Regarding Anesthesiologist Assistants.  
The following fees are prescribed by the Board:  
(1) through (8) No change.  
(9) The fee for processing any changes in the licensure status other than the biennial renewal period shall be \$100.

Specific Authority 456.036(5), (7), 458.309, 458.3475 FS. Law Implemented 456.036(4), (5), (7), 458.3475 FS. History—New 8-2-05, Amended 6-7-07,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Anesthesiologist Assistant Committee  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 11, 2007  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2007

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-41.001
RULE TITLE: Fees

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify the language concerning the fee for a delinquent license.

SUMMARY: The rule amendment will clarify the language concerning the fee for a delinquent license.

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: 456.036(3), (13), 468.507, 468.508 FS.

LAW IMPLEMENTED: 456.013, 456.036(4)(b), 456.065, 468.508 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan Love, Executive Director, Dietetics and Nutrition Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

- 64B8-41.001 Fees.
(1) through (8) No change.
(9) A fee of \$100.00 shall be paid to remove a license from delinquent status delinquent state licensee shall pay a delinquency fee of \$100.00 when the licensee applies for inactive status or for reactivation.
(10) through (11) No change.

Specific Authority 456.036(3), (13), 468.507, 468.508 FS. Law Implemented 456.013, 456.036(4)(b), 456.065, 468.508 FS. History-New 4-9-89, Amended 8-28-90, 11-9-90, Formerly 21M-47.001, Amended 9-21-93, 11-4-93, 1-3-94, Formerly 61F6-47.001, Amended 12-28-94, 5-2-95, Formerly 59R-41.001, Amended 11-24-97, 6-22-99, 8-19-99, 9-26-01, 7-22-02, 8-18-02, 2-20-06, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dietetics and Nutrition Council
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 10, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 27, 2007

DEPARTMENT OF HEALTH

Board of Nursing

RULE NO.: 64B9-3.002
RULE TITLE: Qualifications for Examination

PURPOSE AND EFFECT: The purpose of the rule amendment is to delete the discretionary requirement that civil rights be restored before a nursing license can be granted.

SUMMARY: The discretionary requirement that civil rights be restored before a nursing license can be granted is deleted.

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 FS.

LAW IMPLEMENTED: 456.013, 464.008 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:

64B9-3.002 Qualifications for Examination.

(1) An applicant seeking certification to take the licensure examination shall submit, on forms provided by the Department, evidence that he or she meets the qualifications prescribed by the Nurse Practice Act, Chapter 464, F.S. Such evidence shall consist of:

- (a) through (e) No change.
(f) Prior to application for examination, convicted felons must obtain a restoration of their civil rights or they are ineligible to sit for the examination.
(2) through (5) No change.

Specific Authority 464.006 FS. Law Implemented 456.013, 464.008 FS. History-New 4-27-80, Amended 3-16-81, 8-2-81, 7-11-83, Formerly 21O-8.21, Amended 3-3-87, 12-8-87, 6-8-88, Formerly 21O-8.021, Amended 1-30-94, Formerly 61F7-3.002, Amended 9-25-96, Formerly 59S-3.002, Amended 7-27-98, 4-19-00, 5-8-01, 9-23-03, 1-29-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Nursing
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 2, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 7, 2007

**DEPARTMENT OF HEALTH**

**Board of Nursing**

RULE NO.: 64B9-4.010  
 RULE TITLE: Standards for Protocols

PURPOSE AND EFFECT: The purpose of the 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: 458.348(2), 464.006 FS.

LAW IMPLEMENTED: 458.348(2), 464.012 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:

64B9-4.010 Standards for Protocols.

(1) through (2) No change.

(3) The original of the protocol and the original of the notice shall be filed with the Department within 30 days of renewal of the practitioner's license yearly, and a copy of the protocol and a copy of the notice required by Section 458.348(1), F.S., shall be kept at the site of practice of each party to the protocol. Any alterations to the protocol or amendments should be signed by the ARNP and a Florida-licensed medical doctor, osteopathic physician, or dentist and filed with the Department within 30 days of the alteration to be kept in the Department for filing purposes only. After the termination of the relationship between the ARNP and the supervising professional, each party is responsible for insuring that a copy of the protocol is maintained for future reference for a period of four years.

Specific Authority 458.348(2), 464.006 FS. Law Implemented 458.348(2), 464.012 FS. History—New 4-4-82, Amended 3-13-84, Formerly 21O-16.02, Amended 5-25-88, Formerly 21O-16.002, 61F7-4.010, 59S-4.010, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 2, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 7, 2007

**DEPARTMENT OF HEALTH**

**Board of Nursing**

RULE NO.: 64B9-4.015  
 RULE TITLE: Approved Certification Bodies for Certified Nurse Specialists

PURPOSE AND EFFECT: The purpose of this new rule is to implement the provisions of Section 464.0115, adopted by the legislature in 2007.

SUMMARY: The provisions of Section 464.0115, F.S., adopted by the legislature in 2007, are implemented.

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: 464.0115 FS.

LAW IMPLEMENTED: 464.0115 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:

64B9-4.015 Approved Certification Bodies for Certified Nurse Specialists.

The following nationally recognized certifying bodies are approved to meet the licensure requirements of Section 464.0115(1), F.S.:

(1) Oncology Nursing Certification Corporation.

(2) American Association of Critical-Care Nurses (AACN).

(3) American Nurses Credentialing Center (ANCC).

Specific Authority 464.0115 FS. Law Implemented 464.0115 FS. History—New.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 2, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 7, 2007

**DEPARTMENT OF HEALTH**

**Board of Osteopathic Medicine**

RULE NO.: 64B15-7.012  
 RULE TITLE: Fees Regarding Anesthesiologist Assistants

PURPOSE AND EFFECT: The proposed rule amendment is intended to set forth a fee for requesting a change in licensure status.

SUMMARY: The proposed rule amendment sets forth a fee of \$100 for processing a change of status fee at any time other than at the time of licensure renewal.

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: 456.036(5), (7), 458.309, 458.3475, 459.005, 459.023 FS.

LAW IMPLEMENTED: 456.036(5), (7), 458.3475, 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: Pamela King, 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:

64B15-7.012 Fees Regarding Anesthesiologist Assistants.

The following fees are prescribed by the Board:

(1) through (8) No change.

(9) The fee for processing any changes in the licensure status other than the biennial renewal period shall be \$100.

Specific Authority 456.036(5), (7), ~~458.309, 458.3475, 459.005, 459.023~~ FS. Law Implemented 456.036(4), (5), (7), ~~458.3475, 459.023~~ FS. History–New 8-2-05, Amended 6-7-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Anesthesiologist Assistant Committee

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 10, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2007

**DEPARTMENT OF HEALTH**

**Board of Osteopathic Medicine**

RULE NO.: 64B15-12.003  
 RULE TITLE: Applications for Licensure

PURPOSE AND EFFECT: The purpose and effect of this rule development is to incorporate amendments to the new application.

SUMMARY: Amendments to the new application are 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: 456.031(4), 456.033(7), 459.005, 459.0055(1)(i) FS.

LAW IMPLEMENTED: 456.031(2), 456.033(6), 459.0055, 459.006, 459.007 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela King, 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:

64B15-12.003 Applications for Licensure.

(1) Applications for licensure by examination must include a completed application form and appropriate fee as set forth in Section 459.0055, F.S., and subsection 64B15-10.001(1), F.A.C. The instructions and application form, DH-MQA 1029, ~~9/06, 6/00, effective 9-26-00~~, entitled “Board of Osteopathic Medicine Application for Licensure Section II: Application Form Initial Licensure Application” is hereby incorporated by reference, and may be obtained from the Board office. Such application and fee shall expire one year from the date on which the application is initially received by the Board. After a period of one year a new application and fee must be submitted.

(2) through (3) No change.

Specific Authority 456.031(4), 456.033(7), 459.005, 459.0055(1)(i) FS. Law Implemented 456.031(2), 456.033(6), 459.0055, 459.006, 459.007 FS. History–New 6-4-91, Formerly 21R-12.003, 61F9-12.003, Amended 10-15-95, Formerly 59W-12.003, Amended 9-26-00, 3-9-03, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Osteopathic Medicine

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



DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 18, 2007  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 29, 2007

**DEPARTMENT OF HEALTH**

**Board of Psychology**

RULE NO.: 64B19-18.004  
 RULE TITLE: Use of Test Instruments

PURPOSE AND EFFECT: The Board proposes the rule amendment to enlarge the conditions under which a licensed psychologist may sign an evaluation or assessment based on the use of test instruments.

SUMMARY: A licensed psychologist may sign an evaluation or assessment as a member of a multidisciplinary diagnostic team.

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: 490.004(4) FS.

LAW IMPLEMENTED: 490.003(4), 490.009(1)(r), (s), (v), (w) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan Love, Executive Director, Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-18.004 Use of Test Instruments.

(1) through (4) No change.

(5) It shall be a violation of this rule for a psychologist to sign any evaluation or assessment unless the psychologist has had an active role in the evaluation or assessment of the subject as required by subsection (4) of this rule. A psychologist may not sign any evaluation or assessment that is signed by any other person unless the psychologist is signing as a supervisor, in conjunction with an evaluation or assessment performed by an psychological intern, psychological trainee or psychological resident, or as a member of a multidisciplinary diagnostic team.

(6) No change.

Specific Authority 490.004(4) FS. Law Implemented 490.003(4), 490.009(1)(r), (s), (v), (w) FS. History--New 6-14-94, Formerly 61F13-20.004, Amended 5-19-97, Formerly 54AA-18.004, Amended 3-25-02,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Psychology  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Psychology  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 27, 2007  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2007

**DEPARTMENT OF HEALTH**

**Division of Environmental Health**

RULE NOS.:	RULE TITLES:
64E-2.023	Trauma Center Requirements
64E-2.024	Process for the Approval of Trauma Centers
64E-2.025	Extension of Application Period
64E-2.026	Certificate of Approval
64E-2.027	Process for Renewal of Trauma Centers
64E-2.028	Site Visits and Approval
64E-2.029	Application by Hospital Denied Approval

PURPOSE AND EFFECT: To revise the Florida Trauma Center Standards – DH Pamphlet 150-9, pursuant to the December 2006 revisions to the American College of Surgeons Guidelines, and applicable rules.

SUMMARY: The proposed rule revisions change the date of the Trauma Center Standards – DH Pamphlet 150-9 and forms from December 2004 to December 2007. The date of trauma center compliance of the revised standards is changed from July 1, 2000 to January 1, 2009. A copy of the revisions to DH Pamphlet 150-9 can be found on the following website: <http://www.doh.state.fl.us/demo/Trauma/notices.htm> under “Notices and Upcoming Events.”

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: 395.405 FS.

LAW IMPLEMENTED: 395.401, 395.4015, 395.402, 395.4025, 395.404, 395.4045, 395.405 FS.

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

DATE AND TIME: Monday, October 29, 2007, 1:00 p.m. – 3:00 p.m. EDT

PLACE: Department of Health, Division of Emergency Medical Operations, Capital Circle Office Complex, 4025 Esplanade Way, Conference Room 301, Tallahassee, FL 32399-1738; Conference Call Number: (888)808-6959, Conference Code: 2354440

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: Janet Collins (850)245-4444, Ext. 2775. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Susan McDevitt, Office of Trauma, Department of Health, 4052 Bald Cypress Way, Bin C-18, Tallahassee, Florida 32399-1738, (850)245-4440, ext. 2760; Email: susan\_mcdevitt@doh.state.fl.us; Fax: (850)488-2512

THE FULL TEXT OF THE PROPOSED RULE IS:

64E-2.023 Trauma Center Requirements.

(1) The standards for Level I, Level II and Pediatric trauma centers are published in DH Pamphlet (DHP) 150-9, December 2007 ~~2004~~, which is incorporated by reference and available from the department. Trauma centers must be in full compliance with these standards by January 1, 2009 ~~July 1, 2000~~.

(2) To be a Level I trauma center, a hospital shall be a state licensed general hospital and shall:

(a) Meet and maintain after receiving provisional status and during the 7 year approval period the standards for a Level I trauma center as provided in DHP 150-9, December 2007 ~~2004~~;

(b) through (d) No change.

(3) To be a Level II trauma center, a hospital shall:

(a) Meet and maintain after receiving provisional status and during the 7 year approval period the standards for a Level II trauma center, as provided in DHP 150-9, December 2007 ~~2004~~;

(b) through (d) No change.

(4) To be a pediatric trauma center, a hospital shall:

(a) Meet and maintain after receiving provisional status and during the 7 year approval period the standards for a pediatric trauma center, as provided in DHP 150-9, December 2007 ~~2004~~;

(b) through (d) No change.

(5) The standards published in DHP 150-9, December 2007 ~~2004~~, are subject to revision at any time through rule promulgation. Any hospital that has been granted Provisional trauma center status or has been granted a 7 year Certificate of

Approval as a trauma center shall comply with all revisions to the standards published in DHP 150-9, beginning on the date the amended rule becomes effective.

Specific Authority 395.405 FS. Law Implemented 395.401, 395.4015, 395.402, 395.4025, 395.404, 395.4045, 395.405 FS. History—New 8-3-88, Amended 12-10-92, 12-10-95, Formerly 10D-66.108, Amended 8-4-98, 2-20-00, 6-3-02, 6-9-05, \_\_\_\_\_.

64E-2.024 Process for the Approval of Trauma Centers.

(1) through Table VII – Process for Approval of Trauma Centers No change.

(a) The department shall accept a letter of intent, DH Form 1840, December 2007 ~~2004~~, “Trauma Center Letter of Intent”, which is incorporated by reference and available from the department, postmarked no earlier than September 1 and no later than midnight, October 1, from any acute care general or pediatric hospital. The letter of intent is non-binding, but preserves the hospital’s right to submit an application by the required due date if an available position, as provided in Rule 64E-2.022, F.A.C., exists in the hospital’s TSA. If the hospital does not submit an application by April 1 of the following year, the hospital’s letter of intent is void;

(b) By October 15, the department shall send to those hospitals submitting a letter of intent an application package which will include, as a minimum, instructions for submitting information to the department for selection as a trauma center, DHP 150-9, December 2007 ~~2004~~, Trauma Center Standards, which is incorporated by reference in Rule 64E-2.023, F.A.C., and the requested application(s);

(c) No change.

1. To apply for approval as a Level I Trauma Center, applicants must submit all forms contained in the Level I Trauma Center Application Manual, December 2007 ~~2004~~. The manual and the forms contained therein are incorporated by reference and available from the department. The manual contains the following forms: DH Form 2032, December 2007 ~~2004~~, General Information for Level I Trauma Center Application; DH Form 2032-A, December 2007 ~~2004~~, Level I Trauma Center Approval Standards Summary Chart; DH Form 2032-B, December 2007 ~~2004~~, Application for Level I Trauma Center Approval Letter of Certification; DH Form 2032-C, December 2007 ~~2004~~, Level I Trauma Center Surgical Specialties Certifications; DH Form 2032-D, December 2007 ~~2004~~, Level I Trauma Center Non-Surgical Specialties Certifications; DH Form 2032-E, December 2007 ~~2004~~, Level I Trauma Center General Surgeons Commitment Statement; DH Form 2032-F, December 2007 ~~2004~~, Level I Trauma Center General Surgeons Available for Trauma Surgical Call; DH Form 2032-G, December 2007 ~~2004~~, Level I Trauma Center Neurosurgeons Available for Trauma Surgical Call; DH Form 2032-H, December 2007 ~~2004~~, Level I Trauma Center Neurological, Pediatric Trauma and Neurological, and Neuroradiology Statements; DH Form 2032-I, December 2007 ~~2004~~, Level I Trauma Center Surgical Specialists On Call and

Promptly Available; DH Form 2032-J, December ~~2007~~ ~~2004~~, Level I Trauma Center Emergency Department Physicians; DH Form 2032-K, December ~~2007~~ ~~2004~~, Level I Trauma Center Anesthesiologists Available for Trauma Call; DH Form 2032-L, December ~~2007~~ ~~2004~~, Level I Trauma Center C.R.N.A.s Available for Trauma Call; and DH Form 2032-M, December ~~2007~~ ~~2004~~, Level I Trauma Center Non-Surgical Specialists On Call and Promptly Available.

2. To apply for approval as a Level II Trauma Center, applicants must submit all forms contained in the Level II Trauma Center Application Manual, December ~~2007~~ ~~2004~~. The manual and the forms contained therein are incorporated by reference and available from the department. The manual contains the following forms: DH Form 2043, December ~~2007~~ ~~2004~~, General Information for Level II Trauma Center Application; DH Form 2043-A, December ~~2007~~ ~~2004~~, Level II Trauma Center Approval Standards Summary Chart; DH Form 2043-B, December ~~2007~~ ~~2004~~, Application for Level II Trauma Center Approval Letter of Certification; DH Form 2043-C, December ~~2007~~ ~~2004~~, Level II Trauma Center Surgical Specialties Certifications; DH Form 2043-D, December ~~2007~~ ~~2004~~, Level II Trauma Center Non-Surgical Specialties Certifications; DH Form 2043-E, December ~~2007~~ ~~2004~~, Level II Trauma Center General Surgeons Commitment Statement; DH Form 2043-F, December ~~2007~~ ~~2004~~, Level II Trauma Center General Surgeons Available for Trauma Surgical Call; DH Form 2043-G, December ~~2007~~ ~~2004~~, Level II Trauma Center Neurosurgeons Available for Trauma Surgical Call; DH Form 2043-H, December ~~2007~~ ~~2004~~, Level II Trauma Center Neurological, Pediatric Trauma and Neurological, and Neuroradiology Statements; DH Form 2043-I, December ~~2007~~ ~~2004~~, Level II Trauma Center Surgical Specialists On Call and Promptly Available; DH Form 2043-J, December ~~2007~~ ~~2004~~, Level II Trauma Center Emergency Department Physicians; DH Form 2043-K, December ~~2007~~ ~~2004~~, Level II Trauma Center Anesthesiologists Available for Trauma Call; DH Form 2043-L, December ~~2007~~ ~~2004~~, Level II Trauma Center C.R.N.A.s Available for Trauma Call; and DH Form 2043-M, December ~~2007~~ ~~2004~~, Level II Trauma Center Non-Surgical Specialists On Call and Promptly Available.

3. To apply for approval as a Pediatric Trauma Center, applicants must submit all forms contained in the Pediatric Trauma Center Application Manual, December ~~2007~~ ~~2004~~. The manual and the forms contained therein are incorporated by reference and available from the department. The manual contains the following forms: DH Form 1721, December ~~2007~~ ~~2004~~, General Information for Pediatric Trauma Center Application; DH Form 1721-A, December ~~2007~~ ~~2004~~, Pediatric Trauma Center Approval Standards Summary Chart; DH Form 1721-B, December ~~2007~~ ~~2004~~, Application for Pediatric Trauma Center Letter of Certification; DH Form 1721-C, December ~~2007~~ ~~2004~~, Pediatric Trauma Center Surgical Specialties Certifications; DH Form 1721-D, December ~~2007~~ ~~2004~~, Pediatric Trauma Center Non-Surgical

Specialties Certifications; DH Form 1721-E, December ~~2007~~ ~~2004~~, Pediatric Center General Surgeons Commitment Statement; DH Form 1721-F, December ~~2007~~ ~~2004~~, Pediatric Trauma Center General Surgeons Available for Trauma Surgical Call; DH Form 1721-G, December ~~2007~~ ~~2004~~, Pediatric Trauma Center Neurosurgeons Available for Trauma Surgical Call; DH Form 1721-H, December ~~2007~~ ~~2004~~, Pediatric Trauma Center Neurological, Pediatric Trauma and Neurological, and Neuroradiology Statements; DH Form 1721-I, December ~~2007~~ ~~2004~~, Pediatric Trauma Center Surgical Specialists On Call and Promptly Available; DH Form 1721-J, December ~~2007~~ ~~2004~~, Pediatric Trauma Center Emergency Department Physicians; DH Form 1721-K, December ~~2007~~ ~~2004~~, Pediatric Trauma Center Anesthesiologists Available for Trauma Call; DH Form 1721-L, December ~~2007~~ ~~2004~~, Pediatric Trauma Center C.R.N.A.s Available for Trauma Call; and DH Form 1721-M, December ~~2007~~ ~~2004~~, Pediatric Trauma Center Non-Surgical Specialists On Call and Promptly Available.

(d) After considering the results of the local or regional trauma agency’s recommendations, the department shall, by April 15, conduct a provisional review to determine completeness of the application and the hospital’s compliance with the standards of critical elements for provisional status. The standards of critical elements for provisional review for Level I and Level II trauma center applications are specified in DHP 150-9, December ~~2007~~ ~~2004~~, as follows:

Level I

STANDARD

I. through XVIII.; No change

XIX. Trauma Research: B<sub>2</sub>:-

XX. Disaster Planning and Management.

Level II

STANDARD

I. through XVII. Outreach Programs: B, C, and E; No change

XVIII. Quality Management: A through H<sub>2</sub>:-

XIX. Disaster Planning and Management.

Pediatric

STANDARD

I. Administrative: A, E, and F; through XVIII. Quality Management: A through H. No change.

XIX. Trauma Research: B<sub>2</sub>:-

XX. Disaster Planning and Management.

(e) through (m) No change.

Specific Authority 395.405 FS. Law Implemented 395.1031, 395.401, 395.4015, 395.402, 395.4025, 395.404, 395.4045, 395.405 FS. History—New 8-3-88, Amended 12-10-92, 12-10-95, Formerly 10D-66.109, Amended 8-4-98, 2-20-00, 6-3-02, 6-9-05,\_\_\_\_\_.

64E-2.025 Extension of Application Period.

(1) No change.

(2) To be considered for an extension, a hospital must submit an application in accordance with the requirements in Rule 64E-2.024, F.A.C., together with a request for extension. The request for extension must contain the following:

(a) The specific date the hospital desires to have the department begin the provisional review of the hospital's application;

(b) A reference to each standard, or specific part of a standard, in DHP 150-9, December 2007 ~~2004~~, Trauma Center Standards, which is incorporated by reference in Rule 64E-2.023, F.A.C., that the hospital is unable to meet;

(c) through (14) No change.

Specific Authority 395.405 FS. Law Implemented 395.401, 395.4015, 395.402, 395.4025, 395.404, 395.4045, 395.405 FS. History--New 12-10-92, Amended 12-10-95, Formerly 10D-66.1095, Amended 8-4-98, 2-20-00, 6-3-02, 6-9-05, \_\_\_\_\_.

#### 64E-2.026 Certificate of Approval.

Each hospital approved as a trauma center shall be issued a DH Form 2032-Z, December 2007 ~~2004~~, Level I Trauma Center Certificate of Approval, DH Form 2043-Z, December 2007 ~~2004~~, Level II Trauma Center Certificate of Approval, or DH Form 1721-Z, December 2007 ~~2004~~, Pediatric Trauma Center Certificate of Approval, which are incorporated by reference and available from the department. The certificates shall include:

- (1) The date effective and the date of termination;
- (2) The hospital's name; and
- (3) The approved trauma center level.

Specific Authority 395.4025, 395.405 FS. Law Implemented 395.401, 395.4015, 395.402, 395.4025, 395.404, 395.4045, 395.405 FS. History--New 8-3-88, Amended 12-10-92, Formerly 10D-66.110, Amended 2-20-00, 4-15-01, 6-9-05, \_\_\_\_\_.

#### 64E-2.027 Process for Renewal of Trauma Centers.

(1) At least 14 months prior to the expiration of the trauma center's certification, the department shall send, to each trauma center that is eligible to renew, a blank DH Form 2032R, December 2007 ~~2004~~, Trauma Center Application to Renew, which is incorporated by reference and available from the department, in accordance with the provisions of this section. Within 15 calendar days after receipt, the trauma center choosing to renew its certification shall submit to the department the completed DH Form 2032R, December 2007 ~~2004~~.

(2) All renewing trauma centers shall receive an on-site survey after the department's receipt of the completed DH Form 2032R, December 2007 ~~2004~~. The department shall notify each trauma center of the results of the site survey within 30 working days from completion of the site survey. If the trauma center desires to provide additional information regarding the results of the site survey to the department to be considered, the information must be provided in writing and be received by the department within 30 calendar days of the

hospital's receipt of the department's notice. If the trauma center elects not to respond to the department's notice within 30 calendar days, the department shall make the final determination of approval or denial based solely on information collected during the applicant's site survey.

(3) through (4) No change.

Specific Authority 395.4025, 395.405 FS. Law Implemented 395.401, 395.402, 395.4025, 395.404, 395.4045, 395.405 FS. History--New 8-3-88, Amended 12-10-92, 1-23-96, Formerly 10D-66.111, Amended 3-15-98, 2-20-00, 6-9-05, \_\_\_\_\_.

#### 64E-2.028 Site Visits and Approval.

(1) Each Provisional trauma center shall receive an on-site evaluation to determine whether the hospital is in substantial compliance with standards published in DHP 150-9, December 2007 ~~2004~~, Trauma Center Standards, which is incorporated by reference in Rule 64E-2.023, F.A.C., and to determine the quality of trauma care provided by the hospital.

(2) through (3) No change.

(4) The reviewers shall assess each applicant hospital's compliance with the standards published in DHP 150-9, December 2007 ~~2004~~, by means of direct observation, review of call schedules, and review of patient charts. Reviewers also shall assess the quality of trauma patient care and trauma patient management by reviewing facility trauma mortality data, by reviewing patient charts and by reviewing trauma case summaries and minutes of trauma quality management committee meetings pursuant to Standard XVIII of DHP 150-9, December 2007 ~~2004~~.

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

(c) Patient charts to be reviewed shall be selected by the department from cases meeting the criteria listed in Standard XVIII B.2., published in DHP 150-9, December 2007 ~~2004~~. A minimum of 75 cases shall be selected for review in each facility. If the cases total less than 75, then all cases are subject to review.

(d) through (e) No change.

(6) The reviewers shall rate a Provisional trauma center which they have reviewed as either acceptable, acceptable with corrections, or unacceptable. The rating shall be based on each facility's substantial compliance with the standards published in DHP 150-9, December 2007 ~~2004~~, and upon the performance of each Provisional trauma center in providing acceptable trauma patient care and trauma patient management which resulted in acceptable patient outcomes.

(7) through (12) No change.

Specific Authority 395.4025, 395.405 FS. Law Implemented 395.401, 395.4015, 395.402, 395.4025, 395.404, 395.4045, 395.405 FS. History--New 8-3-88, Amended 12-10-92, 10-2-94, 12-10-95, Formerly 10D-66.112, Amended 8-4-98, 2-20-00, 6-3-02, 6-9-05, \_\_\_\_\_.

64E-2.029 Application by Hospital Denied Approval.

Any hospital that was not approved as a trauma center based on the application of criteria in Rule 64E-2.028, F.A.C., may submit a completed Letter of Intent DH Form 1840, December 2007 2004, postmarked no earlier than September 1 and no later than midnight October 1 of the following year.

Specific Authority 395.4025, 395.405 FS. Law Implemented 395.401, 395.4015, 395.402, 395.4025, 395.404, 395.4045, 395.405 FS. History--New 8-3-88, Amended 12-10-92, 12-10-95, Formerly 10D-66.113, Amended 2-20-00, 6-9-05,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Susan McDevitt, Director, Office of Trauma

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jennifer Bencie Fairburn, M.D., M.S.A., Director, Division of Emergency Medical Operations

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 19, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 28, 2007

FLORIDA HOUSING FINANCE CORPORATION

RULE NO.: 67-53.005 RULE TITLE: Compliance Monitoring for Housing Developed With SHIP Local Housing Distribution Funds

PURPOSE AND EFFECT: The Board proposes to repeal the rule. Compliance monitoring requirements in this rule will be included into the Chapter 67-37, Florida Administrative Code.

SUMMARY: The rule will be repealed. Rule 67-53.005, Florida Administrative Code, Compliance Monitoring for Housing Developed With SHIP Local Housing Distribution Funds.

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: 420.9072(9) FS.

LAW IMPLEMENTED: 420.907, 420.9075(3) (e) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robert Dearduff, SHIP Administrator, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

67-53.005 Compliance Monitoring for Housing Developed With SHIP Local Housing Distribution Funds.

Specific Authority 420.9072(9) FS. Law Implemented 420.907, 420.9075(3)(e) FS. History--New 2-9-94, Amended 12-28-94, 1-6-98, Formerly 9I-37.015, Amended 12-26-99, 9-22-03, Formerly 67-37.015, Repealed\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Darlene Raker

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rob Dearduff

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 27, 2007

FLORIDA HOUSING FINANCE CORPORATION

RULE NOS.:	RULE TITLES:
67-58.001	Purpose and Intent
67-58.002	Definitions
67-58.003	Application and Selection Procedures for Projects
67-58.004	Applicant Administrative Appeal Procedures
67-58.005	Fees
67-58.006	General Program Procedures and Restrictions
67-58.010	Total Project Cost
67-58.015	Supplemental Loans for Green Building
67-58.020	Credit Underwriting and Loan Procedures
67-58.030	Terms and Conditions of Loans
67-58.040	Sale or Transfer of a Project
67-58.050	Construction Disbursements
67-58.060	Loan Servicing
67-58.070	Credit Underwriting
67-58.080	Terms of the Loans to Applicants
67-58.090	Disbursement of Funds, Draw Requests, and Construction Loan Servicing
67-58.100	Terms of the Loan to Eligible Persons
67-58.110	Permanent Loan Servicing – Annual Review

PURPOSE AND EFFECT: The purpose of this rule chapter is to establish the procedures by which the Corporation shall administer the application process, determine loan amounts and service loans pursuant to Section 420.5095, F.S.

SUMMARY: The purpose of this rule chapter is to establish the procedures by which the Corporation shall administer the application process, determine loan amounts and service loans pursuant to Section 420.5095, F.S.

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

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

SPECIFIC AUTHORITY: 420.5095 FS.

LAW IMPLEMENTED: 420.5095 FS.

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

DATE AND TIME: Monday, October 22, 2006, 10:00 a.m. – 11:00 a.m.

PLACE: Florida Housing Finance Corporation, Seltzer Conference Room, 6th Floor, 227 North Bronough Street, Tallahassee, FL 32301

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Bridget Warring at (850)488-4197. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Bridget Warring, Florida Housing Finance Corporation, Seltzer Conference Room, 6th Floor, 227 North Bronough Street, Tallahassee, FL 32301

THE FULL TEXT OF THE PROPOSED RULES IS:

PART I ADMINISTRATION

67-58.001 Purpose and Intent.

The purpose of this rule chapter is to establish the procedures by which the Corporation shall administer the Application process, credit underwriting and loan servicing of the Community Workforce Housing Innovation Pilot Program (CWHIP) pursuant to Section 420.5095, F.S. Chapter 2006-69, Section 27, Laws of Florida (LOF).

Specific Authority 420.5095 FS, Ch. 2006-69, s. 27, LOF. Law Implemented 420.5095 FS, Ch. 2006-69, s. 27, LOF. History–New 12-17-06, Amended \_\_\_\_\_.

67-58.002 Definitions.

(1) “Accessory Dwelling Unit” means an ancillary or secondary living unit, that has a separate kitchen, bathroom, and sleeping area, existing either within the same structure, or on the same lot, as the primary dwelling unit.

(2) “Address” means the address assigned by the United States Postal Service and must include address number, street name, city, state and zip code. If address has not yet been assigned, include, at a minimum, street name and closest designated intersection, city, state and zip code.

(3) “Affiliate” means any person that, (i) directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Applicant,

(ii) serves as an officer or director of the Applicant or of any Affiliate of the Applicant, or (iii) is the spouse, parent, child, sibling, or relative by marriage of a person described in (i) or (ii) above.

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

(5) “AMI” or “Area Median Income” means the median income for an area, with adjustments made for household size, as determined by the United States Department of Housing and Urban Development (HUD).

~~(6)~~(2) “Applicant” means an entity any Public-Private Partnership seeking a loan from Florida Housing for the New Construction or Rehabilitation of housing under CWHIP which is a member of the Public-Private Partnership and has been designated by the Public-Private Partnership having financial responsibility which will execute all loan documents and will have the authority at closing to encumber the Project.

~~(7)~~(3) “Application” means the forms and exhibits created by the Corporation for the purpose of providing the means to apply for CWHIP funding. A completed Application may include additional supporting documentation, response to the Request for Proposals to Provide Affordable Rental and Homeownership Community Workforce Housing for Essential Services Personnel (RFP 2006-05) and the documents submitted by the Applicant to Florida Housing requesting CWHIP funds.

(8) “Application Deadline” means 5:00 p.m., Eastern Time, on the final day of the Application Period.

(9) “Application Period” means a period during which Applications shall be accepted and with a deadline no less than thirty days from the beginning of the Application Deadline.

~~(4)~~ “Area Median Income” or “AMI” means the median income for an area, with adjustments made for household size, as determined by the United States Department of Housing and Urban Development (HUD).

~~(10)~~(5) “Area(s) of Critical State Concern” means the Florida Keys area of critical state concern, pursuant to Section 420.5095, F.S. Ch. 2006-69, s. 27, LOF.

(6) through (7) renumbered (11) through (12) No change.

(13) “Calendar Days” means the seven (7) days of the week, means calendar days, unless otherwise specified.

~~(14)~~(8) “Compliance Period” means a period of time that the Project shall conform to all set-aside requirements as described further in this the rule chapter and agreed to by the Applicant in the Application.

(15) “Contributions” means land, cash or other valuable consideration contributed to the Project.

~~(9)~~ “Corporation” or “Florida Housing” means the Florida Housing Finance Corporation as defined in Section 420.503, F.S.

~~(16)~~(10) No change.

~~(17)(14)~~ “CWHIP” or “CWHIP Program” means the Community Workforce Housing Innovation Pilot Program as defined in Section 420.5095, F.S. Ch. 2006-69, s. 27, LOF.

(12) through (14) renumbered (18) through (20) No change.

~~(21)(15)~~ “Eligible Persons” mean persons or families qualified under this ~~Rule~~ Chapter to live in Workforce Housing whose total annual household income does not exceed 140 percent AMI, adjusted for household size, or 150 percent AMI, adjusted for household size, in Areas of Critical State Concern.

~~(22)(16)~~ No change.

(23) “FHFC” or “Florida Housing” or “Corporation” means the Florida Housing Finance Corporation, a public corporation and public body corporate and politic created by Section 420.504, Fla. Stat.

(24) “Financial Beneficiary” means any Developer and its principals or Principals of the Applicant entity who receives or will receive a financial benefit as outlined in paragraphs (a) and (b) below and as further described in subsection 67-58.003(3), F.A.C.:

(a) 3 percent or more of Total Project Cost if Total Project Cost is \$5 million or less; or

(b) 3 percent of the first \$5 million and 1 percent of any costs over \$5 million if Total Project Cost is greater than \$5 million.

(25) “General Contractor” means a person or entity duly licensed in the state of Florida with the requisite skills, experience and credit worthiness to successfully provide units required in the Application.

(26) “High Cost” means counties where the disparity between AMI and median sales prices for a single family home are more than the disparity between the state of Florida’s AMI and median sales price for a single family home.

(27) “High Growth” means counties where population growth as a percentage rate of increase is more than the state of Florida’s population growth as a percentage rate increase.

(28) “Innovation” means utilization of construction, design, financing, development, land use, or regulatory practices which have not previously been in common use, using existing practices in innovative ways, such as green building, storm-resistant construction, or other elements that reduce long-term costs relating to maintenance, utilities, or insurance.

(29) “Lease Purchase Unit” means where the primary purpose is the eventual purchase of the housing unit by an Eligible Person within 36 months from the initial execution of a lease agreement or within 36 months of the applicable fiscal year, whichever occurs first.

(30) “LURA” or “Land Use Restriction Agreement” means an agreement which sets forth the set-aside requirements and other Project requirements under a Corporation program.

(31) “New Construction” means units that are yet to be built or that are in the early stages of building where at the most the foundation for the unit has been completed but there has been no vertical construction started as of the issuance of the CWHIP loan commitment and otherwise meet the requirements of CWHIP.

~~(32)(17)~~ “Principal” means any member of the Private-Public Partnership an Applicant, any general partner of any member of the Private-Public Partnership an Applicant, and any officer, director, or any shareholder of any member of the Private-Public Partnership Applicant or shareholder of any general partner of a member of the Private-Public Partnership an Applicant.

~~(33)(18)~~ “Project” or “Property” consistent with Section 420.503(32), F.S., means any work or improvement located or to be located in any one county in the state, including real property, buildings, and any other real and personal property, designed and intended for the primary purpose of providing decent, safe, and sanitary residential housing for persons or families, whether New Construction or the acquisition and the remodeling, improvement, or Rehabilitation, or reconstruction of existing structures, together with such related non-housing facilities as the Corporation determines to be necessary, convenient, or desirable.

(34) “Project Cost” means the total of all costs incurred in the completion of a Project excluding developer fee and total land cost as shown in the Project Cost line item on the Project Cost pro forma within the Application.

~~(35)(19)~~ “Public-Private Partnership” means any form of business relationship entity that includes substantial involvement of at least one county, one municipality, or one public sector entity, such as a school district or other unit of local government in which the Project is to be located, and at least one private sector for-profit or not-for-profit business or charitable entity, and may be any form of business relationship entity, including a joint venture or contractual agreement.

(36) “Received” as it relates to delivery of a document by a specified deadline means, unless otherwise indicated, delivery by hand, U.S. Postal Service or other courier service, in the office of the Corporation no later than 5:00 p.m., Eastern Time, on the deadline date.

~~(37)(20)~~ “Rehabilitation” means the alteration, improvement or modification of an existing structure, bringing the units up to state building code with a minimum expenditure of restricted as follows:

(a) For rental units, a minimum of \$20,000 per unit and must be brought up to the state building code;

(b) For homeownership units, a minimum of 25 percent of the before rehabilitation current appraised value and must be brought up to the state building code.

~~(38)(21)~~ No change.

(22) “Request for Proposal” or “RFP” means, for the purposes of this rule, RFP 2006-05.

~~(23)~~ “Response” means the written submission by an Applicant for RFP 2006-05.

~~(39)~~ “Scattered Sites” for a single rental Project means a Project consisting of real property in the same county (i) any part of which is not contiguous (“non-contiguous parts”) or (ii) any part of which is divided by a street or easement (“divided parts”) and (iii) it is readily apparent from the proximity of the non-contiguous parts or the divided parts of the real property, chain of title, or other information available to the Corporation that the non-contiguous parts or the divided parts of the real property are part of a common or related scheme of the Project. For a homeownership Project, “Scattered Sites” means a Project of five (5) or more housing units developed on sites that are more than 2,000 feet apart and there are not more than four (4) housing units on any one site.

~~(40)~~~~(24)~~ “Total Project Development Cost” means the total of all residential costs incurred in the completion of a Project, all of which shall be subject to the review and approval by the Credit Underwriter and the Corporation, as further detailed in Rule 67-58.010, F.A.C.

~~(41)~~~~(25)~~ “Website” means the Florida Housing Finance Corporation’s website, the Universal Resource Locator (URL) of which is <http://www.floridahousing.org/> for the CWHIP program — <http://www.floridahousing.org/home/developers/WorkforceHousing->

~~(42)~~~~(26)~~ “Workforce Housing” means housing affordable to Eligible natural Ppersons or families whose total annual household income does not exceed 140 percent AMI, adjusted for household size, or 150 percent AMI, adjusted for household size, in Areas of Critical State Concern designated under Section 380.05, Florida Statutes (F.S.), for which the Legislature has declared its intent to provide affordable housing, and areas that were designated as Areas of Critical State Concern for at least 20 consecutive years prior to removal of the designation. For purposes of this rule, Workforce Housing includes affordable housing as defined in Section 420.0004 420.004, F.S.

Specific Authority 420.5095 FS, Ch. 2006-69, s. 27, LOF. Law Implemented 420.5095 FS, Ch. 2006-69, s. 27, LOF. History—New 12-17-06, Amended \_\_\_\_\_.

67-58.003 Application and Selection Procedures for Projects.

(1) When submitting an Application, Applicants must utilize the Community Workforce Innovation Pilot Program (CWHIP) Application in effect at the Application Deadline.

(a) The CWHIP Application package (“CWHIP-816 (11/26/07)”) is adopted and incorporated by reference herein, and consists of the forms and instructions obtained from the Corporation, for a fee, at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329 or available, without charge, on the Corporation’s Website under the Workforce

Housing link labeled 2007 CWHIP, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the CWHIP Program.

(b) All Applications must be complete, legible and timely when submitted, except as described below. Corporation staff may not assist any Applicant or party to the Public-Private Partnership by copying, collating, or adding documents to an Application nor shall any Applicant or party to the Public-Private Partnership be permitted to use the Corporation’s facilities or equipment for purposes of compiling or completing an Application.

(2) Failure to submit an Application completed in accordance with the Application instructions and these rules will result in the failure to meet threshold, rejection of the Application, a score less than the maximum available, or a combination of these results in accordance with the instructions in the Application and this rule chapter.

(3) Each submitted Application shall be evaluated and preliminarily scored using the factors specified in the Application Package and these rules. Preliminary scores shall be transmitted to all Applicants. This will include all threshold items identified by the Corporation to be addressed by the Applicant, which may include financial obligations for which the Applicant or party to the Public-Private Partnership, or Principal, Affiliate or Financial Beneficiary of an Applicant or party to the Public-Private Partnership, or a Developer is in arrears to the Corporation or any agent or assignee of the Corporation as of the Application Deadline.

(4) Within 14 Calendar Days of the date the notice set forth in subsection (3) above is sent by overnight delivery by the Corporation, each Applicant shall be allowed to cure its Application by submitting additional Documents, revised pages and such other information as the Applicant deems appropriate to address the issues raised pursuant to subsection (3) above that could result in failure of threshold of the Application or a score less than the maximum available. A new form, page or exhibit provided to the Corporation during this period shall be considered a replacement of that form, page or exhibit if such form, page or exhibit was previously submitted in the Applicant’s Application. Pages of the Application that are not revised or otherwise changed may not be resubmitted, except that Documents executed by third parties must be submitted in their entirety, including all attachments and exhibits referenced therein, even if only a portion of the original Document was revised. Where revised or additional information submitted by the Applicant creates an inconsistency with another item in that Application, the Applicant shall also be required in its submittal to make such other changes as necessary to keep the Application consistent as revised. The Applicant shall submit an original and three copies of all additional Documents and revisions. Only revisions, changes and other information Received by the deadline set forth herein will be considered. Any subsequent



revision submitted prior to the deadline shall include a written request from the Applicant for withdrawal of any previously submitted revision(s).

(5) Following the receipt and review by the Corporation of the Documents described in subsection (4) above, the Corporation shall then prepare final scores. In determining such final scores, no Application shall be rejected or receive a point reduction as a result of any issues not previously identified in the notice described in subsection (3) above. However, inconsistencies created by the Applicant as a result of information provided pursuant to subsection (4) above will still be justification for rejection or reduction of points, as appropriate. Notwithstanding the foregoing, any deficiencies in the mandatory elements set forth in subsection (9) below can be identified at any time prior to sending the final scores to Applicants and will result in rejection of the Application. The Corporation shall then transmit final scores to all Applicants.

(6) Applications shall be limited to one submission per subject property. Two or more Applications that have one or more of the same Financial Beneficiaries, will be considered submissions for the same Project if any of the following is true: (i) any part of any of the property sites is contiguous with any part of any of the other property sites, or (ii) any of the property sites are divided by a street or easement, or (iii) it is readily apparent from the Applications, proximity, chain of title, or other information available to the Corporation that the properties are part of a common or related scheme of Project. If two or more Applications are considered to be submissions for the same Project, the Corporation will reject all such Applications except the Application with the highest (worst) lottery number. The Application with the lowest lottery number will still be rejected even if the Applicant withdraws the Application with the highest (worst) lottery number.

(7) If the Board determines that any Applicant or any Affiliate of an Applicant:

(a) Has engaged in fraudulent actions;

(b) Has materially misrepresented information to the Corporation regarding any past or present Application or Project;

(c) Has been convicted of fraud, theft or misappropriation of funds;

(d) Has been excluded from federal or Florida procurement programs; or

(e) Has been convicted of a felony;

And that such action substantially increases the likelihood that the Applicant will not be able to produce quality affordable housing, the Applicant and any of the Applicant's Affiliates will be ineligible for funding or allocation in any program administered by the Corporation for a period of up to two years, which will begin from the date the Board makes such determination. Such determination shall be either pursuant to a

proceeding conducted pursuant to Sections 120.569 and 120.57, F.S., or as a result of a finding by a court of competent jurisdiction.

(8) The Corporation shall reject an Application if, following the submission of the additional Documents, revised pages and other information as the Applicant deems appropriate as described in subsection (4) above:

(a) The Project is inconsistent with the purposes of the CWHIP Program or does not conform to the Application requirements specified in this rule chapter;

(b) The Applicant fails to achieve the threshold requirements as detailed in these rules, the Application, and Application instructions;

(c) The Applicant fails to file all applicable Application pages and exhibits which are provided by the Corporation and adopted under this rule chapter or as provided for in the CWHIP Application instructions;

(d) The Applicant fails to satisfy any arrearages as described in subsection (3) above.

(9) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

(a) Parties of the Public-Private Partnership; notwithstanding the foregoing, the parties of the Public-Private Partnership may be changed only by approval of the Board after the Applicant has been invited to enter credit underwriting;

(b) Identity of each Developer, including all co-Developers; notwithstanding the foregoing, the identity of the Developer(s) may be changed only by approval of the Board after the Applicant has been invited to enter credit underwriting;

(c) Site for the Project;

(d) Project Category;

(e) Total number of units; notwithstanding the foregoing, the total number of units may be changed only by approval of the Board after the Applicant has been invited to enter credit underwriting;

(f) Funding Request amount; notwithstanding the foregoing, requested amounts can be changed only if reduced by the Applicant to reflect the maximum request amount allowed in those instances where an Applicant requested more than its request limit;

(g) Submission of one original hard copy with the required number of photocopies of the Application by the Application Deadline;

(h) Payment of the required Application fee by the Application Deadline;

(i) The Application labeled "Original Hard Copy" must include a properly completed Certification Statement reflecting an original signature; and

(j) Attempts at improving the Applicant's Innovation score by providing additional Innovation strategies as explained in Part III. C. 1., Part III. C. 2., and Part III. C. 4. of the Application instructions. Documents that illustrate or explain, but do not modify or add to the Innovation strategies provided as described in Part III. C. 1., Part III. C. 2., and Part III. C. 4. of the Application instructions can be cured.

All other items may be submitted as cures pursuant to subsection (4) above.

With regard to paragraphs (a), (b) and (e) above, the Board shall consider the facts and circumstances of each Applicant's request and any credit underwriting report, if available, prior to determining whether to grant the requested change.

(10) A Project will be withdrawn from funding and any outstanding commitments for funds will be rescinded if, at any time, the Board determines that the Applicant's Project or Project team is no longer the Project or Project team described in the Application, and the changes made are prejudicial to the Project or to the market to be served by the Project.

(11) If an Applicant or any party to the Public-Private Partnership or any Principal, Affiliate or Financial Beneficiary of an Applicant, any party to the Public-Private Partnership, or a Developer has any existing Projects participating in any Corporation programs that remain in non-compliance with Section 42 of the IRC or applicable loan documents, and any applicable cure period granted for correcting such non-compliance has ended as of the time of submission of the Application or at the time of issuance of a credit underwriting report, the requested allocation will, upon a determination by the Board that such non-compliance substantially increases the likelihood that such Applicant will not be able to produce quality affordable housing, be denied and the Applicant, the party to the Public-Private Partnership and the Affiliates of the Applicant, the party to the Public-Private Partnership or Developer will be prohibited from new participation in any of the Corporation's programs for the subsequent cycle and continuing until such time as all of their existing Projects participating in any Corporation programs are in compliance.

(12) When two or more Applications receive the same numerical score, the Applications will be ranked as outlined in the Application instructions.

(13) At no time during the Application, scoring and appeal process may Applicants, parties to the Public-Private Partnership or their representatives contact Board members concerning their own Project or any other Applicant's Project. At no time from the Application Deadline until the issuance of the final scores as set forth in subsection (9) above, may Applicants, parties to the Public-Private Partnership or their representatives verbally contact Corporation staff concerning their own Application or any other Applicant's Application. If

an Applicant, party to the Public-Private Partnership or their representatives contact a Board member in violation of this section, the Board shall, upon a determination that such contact was deliberate, disqualify such Applicant's Application.

(14) Applicants may withdraw an Application from consideration only by submitting a written notice of withdrawal to the Corporation Clerk. Applicants may not rescind any notice of withdrawal that was submitted to the Corporation Clerk. For ranking purposes, the Corporation shall disregard any withdrawal that is submitted after 5:00 p.m., Eastern Time, 14 Calendar Days prior to the date the Board is scheduled to convene to consider approval of the final ranking of the Applications and such Application shall be included in the ranking as if no notice of withdrawal had been submitted. After the Board has approved the final ranking, any notice of withdrawal submitted during the time period prohibited above and before the Board approves the final ranking, shall be deemed withdrawn immediately after Board approval of the final ranking.

(15) The name of the Project provided in the Application may not be changed or altered after submission of the Application during the history of the Project with the Corporation unless the change is requested in writing and approved in writing by the Corporation.

Specific Authority Section 420.5095 FS. Law Implemented Section 420.5095 FS. History--New \_\_\_\_\_.

#### 67-58.004 Applicant Administrative Appeal Procedures.

(1) At the conclusion of the review and scoring process established by this rule chapter, each Applicant will be provided with the final ranking scores and a notice of rights, which shall constitute the point of entry to contest any issue related to Applications for the CWHIP Program.

(2) Each Applicant that wishes to contest the final scores must file a petition with the Corporation within 21 Calendar Days after the date the Applicant receives its notice of rights. The petition must conform to subsection 28-106.201(2) or 28-106.301(2), and subsection 67-52.002(3), F.A.C., and specify in detail each issue and score sought to be challenged. If the petition does not raise a disputed issue of material fact, the challenge will be conducted pursuant to Section 120.57(2), F.S. If the petition raises one or more disputed issues of material fact, a formal administrative hearing will be conducted pursuant to Section 120.57(1), F.S. At the conclusion of any administrative hearing, a recommended order shall be entered by the designated hearing officer or administrative law judge which will then be considered by the Board.

(3) Any Applicant who wishes to challenge the findings and conclusions of the recommended order entered pursuant to a Section 120.57(2), F.S., proceeding in which it is a party shall be allowed the opportunity to submit written arguments to the Board. Any written argument should be typed and

double-spaced with margins no less than one inch in either Times New Roman 14-point or Courier New 12-point font and may not exceed five (5) pages, not including caption and certificate of service. Written arguments must be filed with Florida Housing Finance Corporation's Clerk at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, no later than 5:00 p.m., Eastern Time, no later than five (5) Calendar Days from the date of issuance of the recommended order. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. Parties will be permitted to make oral presentations to the Board regarding recommended orders only in response to questions from the Board.

(4) Any person whose substantial interest will be affected by the proceedings may petition for leave to intervene in a proceeding conducted under Section 120.57(2), F.S. Except for good cause shown, petitions for leave to intervene must be filed at least 15 Calendar Days before the final hearing unless otherwise provided by law. The petition shall conform to Rule 28-106.205, F.A.C. The parties may, within seven (7) Calendar Days of service of the petition, file a response in opposition. The hearing officer may impose terms and conditions on the intervenor to limit prejudice to other parties.

(5) Projects will be funded in the order ranked, except that funding sufficient to fund Projects which file scoring challenges under this rule will be withheld until the conclusion of all litigation and appeal proceedings conducted pursuant to Sections 120.569, 120.57, and 120.68, F.S.

Specific Authority 420.5095 FS. Law Implemented 420.5095 FS. History-New\_\_\_\_\_.

67-58.005 Fees.

(1) The Applicant shall be responsible for the payment of any required credit underwriting, legal, and loan servicing fees for the term of the loan and compliance monitoring fees for the term of the Affordability Period.

(2) The Applicant shall be responsible for the payment of any necessary extension fees, as further described in subsections 67-58.020(6) and 67-58.020(26) 67-58.020(25) and 67-58.070(6) and 67-58.070(23) 67-58.070(22), F.A.C.

Specific Authority 420.5095 FS. Ch. 2006-69, s. 27, LOF. Law Implemented 420.5095 FS. Ch. 2006-69, s. 27, LOF. History-New 12-17-06, Amended\_\_\_\_\_.

67-58.006 General Program Procedures and Restrictions.

(1) Loans shall be in an amount not to exceed 50 percent of the Total Project Cost attributable to the units set aside for Workforce Housing, or the minimum amount required to make the Project economically feasible, whichever is less, as determined by the Credit Underwriter.

(2) An Applicant is not eligible to apply for or receive CWHIP Program funding if any of the following pertain to the proposed Project:

(a) The proposed Project is utilizing State Apartment Incentive Loan (SAIL) or HOME Rental funding from the Corporation.

(b) The Applicant has accepted a preliminary commitment of CWHIP funding from a prior cycle for the proposed Project unless the Applicant has provided written notice to the Corporation prior to the Application Deadline for the current cycle that it is withdrawing its acceptance and returning its funding.

(3) A Project is only eligible to receive CWHIP funds if it is New Construction or Rehabilitation.

Specific Authority 420.5095 FS. Law Implemented 420.5095 FS. History-New\_\_\_\_\_.

67-58.010 Total Project Cost Miscellaneous Criteria.

The Total Project Development Cost includes the following:

(1) through (4) No change.

(5) The cost of studies, surveys, plans, permits, insurance, interest, financing, tax and assessment costs, and other operating and carrying costs during New Ceonstruction; or Rrehabilitation; or reconstruction of the Project.

(6) The cost of the New Ceonstruction, Rrehabilitation, and equipping of the Project.

(7) through (8) No change.

(9) Allowances for working capital, contingency reserves, and reserves for any anticipated operating deficits during the first two (2) years after completion of the Project.

(10) The cost of such other items, including relocation costs, indemnity and surety bonds, insurance premiums, trustees fees and expenses, depositories, and agent's fees for the Corporation's bonds, for the New Ceonstruction or Rehabilitation of the Project.

Specific Authority 420.5095 FS. Ch. 2006-69, s. 27, LOF. Law Implemented 20.5095 FS. Ch. 2006-69, s. 27, LOF. History-New 12-17-06, Amended\_\_\_\_\_.

67-58.015 Supplemental Loans for Green Building.

A supplemental loan is available to Applicants who commit to the requirements contained in Part III. C.3. of the Application instructions. The supplemental loan is forgiven on a per set-aside unit basis as the certification is received for each set-aside unit. If certification is not obtained, the pro-rata supplemental loan amount attributed to that set-aside unit that did not receive certification becomes due and payable immediately with a penalty of 18 percent of the pro-rata amount.

Specific Authority 420.5095 FS. Law Implemented 420.5095 FS. History-New\_\_\_\_\_.

## PART II MULTIFAMILY RENTAL PROJECTS

## 67-58.020 Credit Underwriting and Loan Procedures.

The credit underwriting review shall include a comprehensive analysis of the Applicant; the real estate; the economic viability of the Project; the ability of the Applicant and the ~~Project development~~ team to proceed; the evidence of need for Workforce Housing in order to determine that the Project meets the CWHIP Program requirements; and the determination of a recommended CWHIP loan amount.

(1) through (2) No change.

(3) A response to the invitation to enter credit underwriting must be received by the Corporation and the Credit Underwriter no later than seven (7) Calendar Days after the date of the letter of invitation.

(4) If the invitation to enter credit underwriting is accepted:

(a) The Applicant shall submit the credit underwriting fee to the Credit Underwriter within 30 ~~15~~ Calendar Days of the date of the letter of invitation.

(b) No change.

(5) through (6) No change.

(7) The Credit Underwriter shall verify all information in the Application, including information relative to the Applicant, Developer, General Contractor, and other members of the ~~Project development~~ team.

(8) through (10) No change.

(11) A full or self-contained appraisal per the Uniform Standards of Professional Appraisal Practice and a ~~separate~~ market study shall be ordered by the Credit Underwriter, at the Applicant's expense, from an appraiser qualified for the geographic area and product type not later than completion of credit underwriting. The Credit Underwriter shall review the appraisal to properly evaluate the proposed Project's financial feasibility. Appraisals which have been ordered and submitted by a third party lender which meet the above requirements and are acceptable to the Credit Underwriter may be used instead of the appraisal referenced above. ~~The market study must be completed by a disinterested party who is approved by the Credit Underwriter.~~ The Credit Underwriter shall review and consider the market study, the Project's financial impact on development in the area previously funded by the Corporation, and other documentation when making its recommendation. The Credit Underwriter shall also review the appraisal and other market documentation to determine if the market exists to support both the demographic and income restriction set-asides committed to within the Application.

(12) The debt service coverage for the CWHIP loan and all superior mortgages is as follows:

(a) A minimum of 1.00 when the CWHIP loan meets the criteria of paragraph 67-58.030(3)(a), F.A.C.;

(b) through (c) No change.

(13) No change.

(14) In addition to operating expenses, the Credit Underwriter must include an estimate for replacement reserves and operating expense reserves deemed appropriate by the Credit Underwriter when calculating the final net operating income available to service the debt. A minimum replacement reserve amount of \$250 ~~\$200~~ per unit per year must be used for all rental Projects; however, the amount may be increased based on a physical needs assessment. An Applicant may choose to fund a portion of the replacement reserves at closing. The amount cannot exceed 50 percent of the required replacement reserves for two (2) years and must be placed in escrow at closing.

(15) The Credit Underwriter may request additional information, but at a minimum the following will be required during the underwriting process:

(a) For the Applicant, general partner(s), and guarantors, audited financial statements or financial statements for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications compiled or reviewed by a licensed Certified Public Accountant in accordance with the Statement on Standards for Accounting and Review Services (SSARS). If audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant are not available, unaudited financial statements prepared within the last 90 days and the two (2) most recent years tax returns reviewed by the Credit Underwriter in accordance with Part III, Sections 604 through 607, of the Fannie Mae Multifamily Delegated Underwriting and Servicing (DUS) Guide, effective November 6, 2003, which is adopted and incorporated by reference and available on the Corporation's Website. If the entities are newly formed (less than 18 months in existence as of the date that credit underwriting information is requested), a copy of any and all tax returns with related supporting notes and schedules.

(b) For the General Contractor:

1. Verification that the General Contractor has the requisite knowledge and experience to complete the proposed Project;

2. Narrative regarding experience with residential construction; and

3. Audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. The audited or compiled statements may be waived if a payment and performance bond equal to 100 percent of the total construction cost is issued in the name of the General Contractor by a company rated at least "A-" by AMBest & Co.

(16) The Credit Underwriter shall consider the following when determining the need for construction completion guarantees:

(a) No change.

(b) Developer and General Contractor's history in successfully completing Projects of comparable in size and scope;

(c) Problems encountered previously with Developer or General Contractor; and

(d) Exposure of Corporation funds compared to Total Project Development Cost;

At a minimum, the Credit Underwriter shall require a personal guarantee for completion of construction from the principal individual or the corporate general partner of the borrowing entity. In addition, a letter of credit or payment and performance bond will be required if the Credit Underwriter determines after evaluation of paragraphs (a)-(d) in this subsection that additional surety is needed.

(17) The Developer fee shall be limited to 16 percent of the Project Total Development Cost exclusive of the land cost. A Developer fee on the building acquisition cost shall be limited to 12 percent of the cost of the building exclusive of the land cost.

(18) The General Contractor's fee shall be limited to a maximum of 14 percent of the actual construction cost.

(19) The General Contractor must meet the following conditions:

(a) Employ a Project superintendent and charge the costs of such employment to the general requirements line item of the General Contractor's budget;

(b) Charge the costs of the Project construction trailer, if needed, and other overhead to the general requirements line item of the General Contractor's budget;

(c) Secure building permits, issued in the name of the General Contractor;

(d) Secure a payment and performance bond (or approved alternate security for General Contractor's performance, such as a letter of credit), issued in the name of the General Contractor, from a company rated at least "A-" by AMBest & Co.;

(e) Ensure that none of the General Contractor duties to manage and control the construction of the Project are subcontracted; and

(f) No change.

(20) The Credit Underwriter shall require an operating deficit guarantee to be released upon the following:

(a) For CWHIP loans which meet the criteria of paragraph 67-58.030(3)(a), F.A.C., achievement of a minimum debt service coverage ratio of 1.00 for a minimum of six (6) consecutive months; and

(b) For CWHIP loans not eligible for forgiveness, achievement of a minimum debt service coverage ratio of 1.10 for a minimum of six (6) consecutive months.

(21) through (25) No change.

(26) The CWHIP loan and other mortgage loans related to the Project must close within 90 days of the date of the CWHIP loan commitment unless an extension is approved by the Board. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting an extension and detail the timeframe to close the loan. The written request will then be submitted to the Corporation's Board for consideration. The Corporation shall charge an extension fee of 1 one percent of the CWHIP loan amount if the Board approves the extension.

(27) No change.

Specific Authority 420.5095 FS, Ch. 2006-69, s. 27, LOF. Law Implemented 420.5095 FS, Ch. 2006-69, s. 27, LOF. History-New 12-17-06, Amended \_\_\_\_\_.

67-58.030 Terms and Conditions of Loans.

(1) The proceeds of all loans shall be used for New Construction or Rehabilitation of affordable, decent, safe and sanitary housing units.

(2) No change.

(3) The loans to Applicants Public-Private Partnerships shall have interest rates as follows:

(a) through (b) No change.

~~(4)(e)~~ No change.

~~(5)(4)~~ No change.

~~(6)(5)~~ The Corporation shall require adequate insurance to be maintained on the Project as determined by the first mortgage lender or the Corporation's servicer, but which shall, in any case, include fire, hazard and other insurance sufficient to meet the standards established in Part V, Section 106 of the Fannie Mae DUS Guide, effective August 10, 2006 ~~November 3, 2003~~, which is adopted and incorporated by reference and available on the Corporation's Website.

(6) through (12) renumbered (7) through (13) No change.

Specific Authority 420.5095 FS, Ch. 2006-69, s. 27, LOF. Law Implemented 420.5095 FS, Ch. 2006-69, s. 27, LOF. History-New 12-17-06, Amended \_\_\_\_\_.

67-58.040 Sale or Transfer of a Project.

The CWHIP loan shall be assumable upon sale or transfer of the Project if the following conditions are met:

(1) No change.

(2) The proposed transferee and release of transferor receives a favorable recommendation from the Credit Underwriter as satisfying the criteria stated in the Credit Underwriter's report; meeting the stated purposes of the Corporation; complying with all legal requirements of the Corporation; and subject to ~~the~~ approval by the Board.

Specific Authority 420.5095 FS, Ch. 2006-69, s. 27, LOF. Law Implemented 420.5095 FS, Ch. 2006-69, s. 27, LOF. History-New 12-17-06, Amended \_\_\_\_\_.

67-58.050 Construction Disbursements.

(1) CWHIP loan proceeds shall be disbursed during the construction phase in an amount per Draw which does not exceed the ratio of the CWHIP loan to the Total Project Development Cost unless approved by the Credit Underwriter.

(2) through (4) No change.

(5) The Corporation shall elect to withhold any Draw or portion of any Draw, notwithstanding any documentation submitted by the Borrower in connection with the request for a Draw, if:

(a) The Corporation or the Corporation's servicer determines at any time that the actual cost budget or progress of construction differs from that as shown on the loan documents; or

(b) The percentage of progress of construction of the improvements differs from that shown on the request for a Draw; or

(c) If an Applicant or any Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer is in arrears for any financial obligation it has to the Corporation or any agent or assignee of the Corporation.

(6) through (8) No change.

Specific Authority 420.5095 FS, Ch. 2006-69, s. 27, LOF. Law Implemented 420.5095 FS, Ch. 2006-69, s. 27, LOF. History--New 12-17-06, Amended.

67-58.060 Loan Servicing.

(1) through (3) No change.

(4) After maturity or acceleration, the note shall bear interest at the default interest rate from the due date until paid. Unless the Corporation has accelerated the CWHIP loan, the Borrower shall pay the Corporation a late charge of 5 percent of any required payment that is not received by the Corporation within 15 Calendar Days of the due date.

(5) through (7) No change.

Specific Authority 420.5095 FS, Ch. 2006-69, s. 27, LOF. Law Implemented 420.5095 FS, Ch. 2006-69, s. 27, LOF. History--New 12-17-06, Amended.

PART III HOMEOWNERSHIP PROJECTS

67-58.070 Credit Underwriting.

The credit underwriting review shall include a comprehensive analysis of the Applicant; the real estate; the economic viability of the Project; the ability of the Applicant and the Project development team to proceed; the evidence of need for Workforce Housing, in order to determine that the Project meets the Program requirements; and the determination of a recommended CWHIP loan amount.

(1) through (2) No change.

(3) A response to the invitation to enter credit underwriting must be received by the Corporation and the Credit Underwriter no later than seven (7) Calendar Days after the date of the letter of invitation.

(4) If the invitation to enter credit underwriting is accepted:

(a) The Applicant shall submit the credit underwriting fee to the Credit Underwriter within 30 ~~15~~ Calendar Days of the date of the letter of invitation.

(b) No change.

(5) No change.

(6) The Applicant has 14 months from the date of the acceptance of the letter of invitation to complete credit underwriting and receive Board approval unless an extension of up to 10 months is approved by the Board. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting an extension and detail the timeframe to close the loan. The written request will then be submitted to the Corporation's Board for consideration. The Corporation shall charge an extension fee of 1 ~~one~~ percent of the CWHIP loan amount if the Board approves the extension request.

(7) The Credit Underwriter shall verify all information in the Application, including information relative to the Applicant, Developer, General Contractor, and other members of the Project development team.

(8) through (10) No change.

(11) A full or self-contained appraisal per the Uniform Standards of Professional Appraisal Practice, which shall include a separate appraisal for each model and typical lot being offered for sale, and a ~~separate~~ market study shall be ordered by the Credit Underwriter at the Applicant's expense from an appraiser qualified for the geographic area and product type not later than completion of credit underwriting. The Credit Underwriter shall review the appraisal to properly evaluate the proposed Project's financial feasibility. Appraisals which have been ordered and submitted by a third party lender which meet the above requirements and are acceptable to the Credit Underwriter may be used instead of the appraisal referenced above. ~~The market study must be completed by a disinterested party who is approved by the Credit Underwriter.~~ The Credit Underwriter shall review and consider the market study, the Project's financial impact on development in the area previously funded by the Corporation, and other documentation when making its recommendation. The Credit Underwriter shall also review the appraisal and other market documentation to determine if the market exists to support both the demographic and income restriction set-asides committed to within the Application.

(12) No change.

(13) The Credit Underwriter shall request the following information:

(a) From the Applicant and general partners, audited financial statements or financial statements for the most recent fiscal year ended; credit check, banking and trade references; and deposit verifications compiled or reviewed in accordance with SSARS. If audited financial statements or financial

statements compiled or reviewed in accordance with SSARS are not available, unaudited financial statements prepared within the last 90 days and reviewed by the Credit Underwriter and the two (2) most recent years tax returns. If the entities are newly formed (less than 18 months in existence as of the date that the credit underwriting information is requested), a copy of any and all tax returns with related supporting notes and schedules; and

(b) From the General Contractor:

(i) Verification that the General Contractor has the requisite knowledge and experience to complete the proposed Project;

(ii) Narrative regarding experience with residential construction; and

(iii) Audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant for the most recent fiscal year ended; credit check, banking and trade references; and deposit verifications. The audited or compiled statements may be waived if a payment and performance bond equal to 100 percent of the total construction cost is issued in the name of the General Contractor by a company rated at least "A-" by AMBest & Co.

(14) The Credit Underwriter shall consider the following when determining the need for construction completion guarantees:

(a) No change.

(b) Developer and General Contractor's history successfully completing projects developments of comparable in size and scope;

(c) No change.

(d) Exposure of Corporation funds compared to Total Project Development Cost.

At a minimum, the Credit Underwriter shall require a personal guarantee for completion of construction from the principal individual or the corporate general partner of the borrowing entity. In addition, a letter of credit or payment and performance bond will be required if the Credit Underwriter determines after evaluation of paragraphs (a)-(d) in this subsection that additional surety is needed.

(15) The Developer fee shall be limited to 16 percent of the Project Total Development Cost exclusive of the land cost. A Developer fee on the building acquisition cost shall be limited to 12 percent of the cost of the building exclusive of the land cost.

(16) The General Contractor's fee shall be limited to a maximum of 14 percent of the actual construction cost.

(17) The General Contractor must secure building permits issued in the name of the General Contractor.

(18) through (22) No change.

(23) The CWHIP loan and other mortgage loans related to the Project must close within 90 days of the date of the CWHIP loan commitment unless an extension is approved by the Board. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting an extension and detail the timeframe to close the loan. The written request will then be submitted to the Corporation's Board for consideration. The Corporation shall charge an extension fee of 1 one percent of the CWHIP loan amount if the Board approves the request to extend the commitment beyond the period outlined in this rule chapter.

(24) No change.

Specific Authority 420.5095 FS, Ch. 2006-69, s. 27, LOF. Law Implemented 420.5095 FS, Ch. 2006-69, s. 27, LOF. History--New 12-17-06, Amended \_\_\_\_\_.

67-58.080 Terms of the Loans to Applicants  
~~Public-Private Partnerships.~~

(1) The proceeds of all loans shall be used for New Construction or Rehabilitation of affordable, decent, safe and sanitary housing units.

(2) No change.

(3) The loans to Applicants ~~Public-Private Partnerships~~ shall have interest rates as follows:

(a) One percent simple interest per annum, non-amortizing, will accrue during construction on loans to Projects where long term affordability of at least 30 years is provided and when at least 80 percent of the units are set aside for Workforce Housing and at least 50 percent of the units are set aside for Essential Services Personnel. The accrued interest ~~During construction, interest will accrue at 3 percent simple interest per annum and~~ will be forgiven upon sale of the unit to an Eligible Person.

(b) For CWHIP loans not eligible for forgiveness, the interest rate shall be 3 percent fully amortized loans to Projects other than those identified in paragraph (a) above. Applicant shall pay all interest accrued during construction of the Project.

(c) No change.

(4) through (8) No change.

(9) The Compliance Period for a CWHIP Project shall be the greater of 20 years, the term of the CWHIP loan, or the term of the Affordability Period committed to in the Application Response.

(10) For units set-aside as Workforce Housing, Applicants are responsible for limiting the sales price of any unit to not more than 90 80 percent of the median sales price for that type of unit in that county, or the statewide median sales price for that type of unit, whichever is higher, and require that all Eligible Persons purchasing the homeownership units occupy the homes as their primary residence, and ensuring that the purchase price of the property after construction does not exceed the appraised value of the property.

(11) through (12) No change.

(13) Units set aside for Workforce Housing shall be deed-restricted for resale to Eligible Persons at a sales price of not more than ~~90~~ ~~80~~ percent of the median sales price for that type of unit in that county, or the statewide median sales price for that type of unit, whichever is higher, at the time of resale.

Specific Authority ~~420.5095 FS, Ch. 2006-69, s. 27, LOF.~~ Law Implemented ~~420.5095 FS, Ch. 2006-69, s. 27, LOF.~~ History–New 12-17-06, Amended.

67-58.090 Disbursement of Funds, Draw Requests, and Construction Loan Servicing.

(1) CWHIP loan proceeds shall be disbursed during the construction phase in an amount per Draw which does not exceed the ratio of the CWHIP loan to the Total ~~Project Development~~ Cost unless approved by the Credit Underwriter.

(2) through (4) No change.

(5) The Corporation shall elect to withhold any Draw or portion of any Draw, notwithstanding any documentation submitted by the Borrower in connection with the request for a Draw, if:

(a) The Corporation or the Corporation’s servicer determines at any time that the actual cost budget or progress of construction differs from that as shown on the loan documents; ~~or~~

(b) The percentage of progress of construction of the improvements differs from that shown on the request for a Draw; ~~or~~

(c) If an Applicant or any Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer is in arrears for any financial obligation it has to the Corporation or any agent or assignee of the Corporation.

(6) through (8) No change.

Specific Authority ~~420.5095 FS, Ch. 2006-69, s. 27, LOF.~~ Law Implemented ~~420.5095 FS, Ch. 2006-69, s. 27, LOF.~~ History–New 12-17-06, Amended.

67-58.100 Terms of the Loans to Eligible Persons.

(1) No change.

(2) The CWHIP loan to an Eligible Person should not be in lower than second lien position; however, it may occupy a lien position lower than second if another source of down payment assistance from a local government is provided to the Eligible Person in an amount that exceeds the CWHIP loan ~~must be in not lower than second position unless otherwise approved by the Board.~~

(3) In no instance can the CWHIP loan be combined with any other form of Corporation down payment assistance funds provided to the Eligible Person.

~~(4)(3)~~ Units must be sold to Eligible Persons that qualify at the time of purchase contract execution. Eligible Persons must agree to occupy the unit as their principal residence

throughout the Affordability Period ~~of affordability~~ or transfer the property in accordance with the resale restrictions throughout the Affordability Period ~~of affordability~~.

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

~~(8)(7)~~ The Corporation will consider resubordinating its existing second mortgage loan to an Eligible Person to a first mortgage loan when a refinancing occurs. In making a determination, the Corporation will review the following terms of the new transaction: loan type; term of the loan; interest rate; type of interest rate (variable or fixed); principal balance of the loan; reason for requesting subordination of the loan; and whether or not the terms of the new loan are beneficial to the Eligible Person. Eligible Persons requesting resubordination are subject to the following:

(a) The Eligible Person must have resided in the unit property for at least one ~~(1)~~ year prior to requesting the resubordination;

(b) No additional debt can be refinanced into the new first mortgage with the exception of home repairs or improvements; and

(c) The Eligible Person cannot receive any cash out as a result of the refinancing; ~~and~~

~~(d) The Eligible Person is limited to one resubordination.~~

~~(9)(8)~~ No change.

~~(10)(9)~~ Eligible Persons must comply with all deed restrictions including those regarding resale of the set-aside unit. Before a unit may be resold, the potential purchasers must submit to the Credit Underwriter all documentation necessary for the Credit Underwriter to determine that the potential purchaser qualifies as an Eligible Person. In addition, the Credit Underwriter must determine that the sales price for that set-aside unit is not more than ~~90~~ ~~80~~ percent of the median sales price for that type of unit in that county, or the statewide median sales price for that type of unit, whichever is higher. The Credit Underwriter must also verify that the potential purchaser will occupy the set-aside unit as their primary residence.

~~(11)(10)~~ No change.

Specific Authority ~~420.5095 FS, Ch. 2006-69, s. 27, LOF.~~ Law Implemented ~~420.5095 FS, Ch. 2006-69, s. 27, LOF.~~ History–New 12-17-06, Amended.

67-58.110 Permanent Loan Servicing – Annual Review.

The Corporation’s servicer shall annually certify permanent residency and insurance certification of the Eligible Person occupying a CWHIP unit.

Specific Authority ~~420.5095 FS, Ch. 2006-69, s. 27, LOF.~~ Law Implemented ~~420.5095 FS, Ch. 2006-69, s. 27, LOF.~~ History–New 12-17-06, Repromulgated.



NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Bridget Warring, Homeownership Programs Manager,  
 (850)488-4197  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED  
 THE PROPOSED RULE: David R. Westcott, Deputy  
 Development Officer, Homeownership  
 DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: June 22, 2007  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: Vol. 33, No. 28, July 13, 2007

**DEPARTMENT OF FINANCIAL SERVICES**  
**Division of Insurance Agents and Agency Services**

RULE NO.: 69B-240.001  
 RULE TITLE: Military Sales Practices

PURPOSE AND EFFECT: The proposed rule chapter sets forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices.

SUMMARY: The Florida Legislature enacted Laws of Florida, Ch. 2007-199, s. 10, which created Section 626.9611(2), Florida Statutes. That statute requires the Department to adopt rules to protect members of the United States Armed Forces from dishonest or predatory insurance sales practices. The rules are to be based on NAIC model rules.

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

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

SPECIFIC AUTHORITY: 624.308(1), 626.9541(1), 626.9611(2) FS.

LAW IMPLEMENTED: 626.307(1), 626.951, 626.9521, 626.9541(1), 626.9611 FS.

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

DATE AND TIME: Thursday, October 25, 2007, 9:00 a.m.  
 PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Nancy Rowell, (850)413-5401. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Nancy Rowell, Director of Agent and Agency Services, Division of Insurance Agent and Agency Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0319, phone (850)413-5401

THE FULL TEXT OF THE PROPOSED RULE IS:

MILITARY SALES PRACTICES

69B-240.001 Military Sales Practices.

(1) The purpose of this rule is to set forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive, or unfair.

(2) Scope – This rule shall apply only to the solicitation or sale of any life insurance or annuity product by an insurance producer to an active duty service member of the United States Armed Forces.

(3) Exemptions – This rule shall not apply to solicitations or sales involving:

(a) Credit insurance;

(b) Group life insurance or group annuities where there is no in-person, face-to-face solicitation of individuals by an insurance producer or where the contract or certificate does not include a side fund;

(c) Individual stand-alone health policies, including disability income policies;

(d) Contracts offered by Servicemembers’ Group Life Insurance (SGLI) or Veterans’ Group Life Insurance (VGLI), as authorized by 38 U.S.C. Section 1965 et seq., which are hereby incorporated by reference;

(e) Life insurance contracts offered through or by a non-profit military association, qualifying under Section 501 (c) (23) of the Internal Revenue Code (IRC), and which are not underwritten by an insurer; or

(f) Contracts used to fund:

1. An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

2. A plan described by Sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the IRC, which are hereby incorporated by reference, if established or maintained by an employer;

3. A government or church plan defined in Section 414 of the IRC, which is hereby incorporated by reference, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC, which is hereby incorporated by reference;

4. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

5. Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

6. Prearranged funeral contracts.

(g) Nothing herein shall be construed to abrogate the ability of nonprofit organizations (and/or other organizations) to educate members of the United States Armed Forces in accordance with Department of Defense (DoD) Instruction 1344.07 – PERSONAL COMMERCIAL SOLICITATION ON DOD INSTALLATIONS, which is hereby incorporated by reference.

(4) Definitions

(a) “Active Duty” means full-time duty in the active military service of the United States and includes members of the reserve component (National Guard and Reserve) while serving under published orders for active duty or full-time training or in a drill status in the National Guard or United States Armed Forces Reserve.

(b) “Department of Defense (DoD) Personnel” means all active duty service members and all civilian employees, including nonappropriated fund employees and special government employees, of the Department of Defense.

(c) “General Advertisement” means an advertisement having as its sole purpose the promotion of the reader’s or viewer’s interest in the concept of insurance, or the promotion of the insurer or the insurance producer.

(d) “Insurer” means an insurance company conducting activities requiring to be licensed under the laws of this state to provide life insurance products, including annuities.

(e) “Insurance producer” means a person conducting activities required to be licensed under the laws of this state to sell, solicit, or negotiate life insurance, including annuities.

(f) “Life Insurance” means insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income and unless otherwise specifically excluded, includes individually issued annuities.

(g) “Military Installation” means any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters.

(h) “MyPay” is a Defense Finance and Accounting Service (DFAS) web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms.

(i) “Service Member” means any active duty officer (commissioned and warrant) or enlisted member of the United States Armed Forces.

(j) “Side Fund” means a fund or reserve that is part of or otherwise attached to a life insurance policy (excluding individually issued annuities) by rider, endorsement, or other mechanism which accumulates premium or deposits with interest or by other means. The term does not include:

1. Accumulated value or cash value or secondary guarantees provided by a universal life policy;

2. Cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or

3. A premium deposit fund which:

a. Contains only premiums paid in advance which accumulate at interest;

b. Imposes no penalty for withdrawal;

c. Does not permit funding beyond future required premiums;

d. Is not marketed or intended as an investment; and

e. Does not carry a commission, either paid or calculated.

(k) “Specific Appointment” means a prearranged appointment agreed upon by both parties and definite as to place and time.

(l) “United States Armed Forces” means all components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(5) The following acts or practices when committed on a military installation by an insurance producer with respect to the in-person, face-to-face solicitation of life insurance are declared to be unfair or deceptive acts or practices by Section 626.9541 or 626.9551, F.S.:

(a) Soliciting the purchase of any life insurance product “door to door” or without first establishing a specific appointment for each meeting with the prospective purchaser.

(b) Soliciting service members in a group or “mass” audience or in a “captive” audience where attendance is not voluntary.

(c) Making appointments with or soliciting service members during their normally scheduled duty hours.

(d) Making appointments with or soliciting service members in barracks, day rooms, unit areas, or transient personnel housing or other areas where the installation commander has prohibited solicitation.

(e) Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander’s designee.

(f) Posting bulletins, notices, or advertisements, which have not been authorized by the installation commander.

(g) Failing to present DD Form 2885, Personal Commercial Solicitation Evaluation, to service members solicited or encouraging service members solicited not to complete or submit a DD Form 2885, which is hereby incorporated by reference.

(h) Accepting an application for life insurance or issuing a policy of life insurance on the life of an enlisted member of the United States Armed Forces without first obtaining for the

insurer's files a completed copy of any required form which confirms that the applicant has received counseling or fulfilled any other similar requirement for the sale of life insurance established by regulations, directives, or rules of the DoD or any branch of the Armed Forces.

(i) Using DoD personnel, directly or indirectly, as a representative or agent in any official or business capacity with or without compensation with respect to the solicitation or sale of life insurance to service members.

(j) Participating or using another insurance producer to participate in any United States Armed Forces sponsored education or orientation program.

(6) The following acts or practices by an insurance producer constitute corrupt practices, improper influences or inducements and are declared to be unfair or deceptive acts or practices prohibited by Section 626.9541, F.S. or 626.9551, F.S., regardless of the location where committed:

(a) Submitting, processing, or assisting in the submission or processing of any allotment form or similar device used by the United States Armed Forces to direct a service member's pay to a third party for the purchase of life insurance. The foregoing includes, but is not limited to, using or assisting in using a service member's "MyPay" account or other similar internet or electronic medium for such purposes. This subsection does not prohibit assisting a service member by providing insurer or premium information necessary to complete any allotment form.

(b) Receiving funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship. For purposes of this section, a formal banking relationship is established when the depository institution:

1. Provides the service member a deposit agreement and periodic statements and makes the disclosures required by the Truth in Savings Act, 12 U.S.C. § 4301 et seq., which are hereby incorporated by reference, and the regulations promulgated thereunder, which are hereby incorporated by reference; and

2. Permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums.

(c) Employing any device or method or entering into any agreement whereby funds received from a service member by allotment for the payment of insurance premiums are identified on the service member's Leave and Earnings Statement or equivalent or successor form as "Savings" or "Checking" and where the service member has no formal banking relationship as defined in paragraph (6)(b).

(d) Entering into any agreement with a depository institution for the purpose of receiving funds from a service member whereby the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship.

(e) Using DoD personnel, directly or indirectly, as a representative or agent in any official or unofficial capacity with or without compensation with respect to the solicitation or sale of life insurance to service members, or to the family members of such personnel.

(f) Offering or giving anything of value, directly or indirectly, to DoD personnel to procure their assistance in encouraging, assisting, or facilitating the solicitation or sale of life insurance to another service member.

(g) Offering or giving anything of value to a service member for his or her attendance to any event where an application for life insurance is solicited.

(h) Advising a service member to change his or her income tax withholding or state of legal residence for the sole purpose of increasing disposable income to purchase life insurance.

(i)1. Making any representation, or using any device, title, descriptive name, or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer, insurance producer, or product offered is affiliated, connected or associated with, endorsed, sponsored, sanctioned, or recommended by the U.S. Government, the United States Armed Forces, or any state or federal agency or government entity. Examples of prohibited insurance producer titles include, but are not limited to, "Battalion Insurance Counselor," "Unit Insurance Advisor," "Servicemen's Group Life Insurance Conversion Consultant," or "Veteran's Benefits Counselor."

2. Nothing herein shall be construed to prohibit a person from using a professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning. Such designations include, but are not limited to, Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), Master of Science In Financial Services (MSFS), or Masters of Science Financial Planning (MS).

(j) Soliciting the purchase of any life insurance product through the use of or in conjunction with any third party organization that promotes the welfare of or assists members of the United States Armed Forces in a manner that has the tendency or capacity to confuse or mislead a service member into believing that either the insurer, insurance producer, or insurance product is affiliated, connected or associated with, endorsed, sponsored, sanctioned, or recommended by the U.S. Government, or the United States Armed Forces.

(k) Using or describing the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid.

(l) Excluding individually issued annuities, misrepresenting the mortality costs of a life insurance product, including stating or implying that the product "costs nothing" or is "free."

(m) Making any representation regarding the availability, suitability, amount, cost, exclusions, or limitations to coverage provided to a service member or dependents by SGLI or VGLI, which is false, misleading, or deceptive.

(n) Making any representation regarding conversion requirements, including the costs of coverage, or exclusions or limitations to coverage of SGLI or VGLI to private insurers which is false, misleading, or deceptive.

(o) Suggesting, recommending, or encouraging a service member to cancel or terminate his or her SGLI policy or issuing a life insurance policy which replaces an existing SGLI policy unless the replacement shall take effect upon or after the service member's separation from the United States Armed Forces.

(p) Deploying, using, or contracting for any lead generating materials designed exclusively for use with service members that do not clearly and conspicuously disclose that the recipient will be contacted by an insurance producer, if that is the case, for the purpose of soliciting the purchase of life insurance.

(q) Failing to disclose that a solicitation for the sale of life insurance, if that is the case, will be made when establishing a specific appointment for an in-person, face-to-face meeting with a prospective purchaser.

(r) Failing to clearly and conspicuously disclose the fact that the product being sold is life insurance or an annuity contract.

(s) Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by Section 10 of the "Military Personnel Financial Services Protection Act," Pub. L. No. 109-290, p.16, which are hereby incorporated by reference.

(t) When the sale is conducted in-person face-to-face with an individual known to be a service member, failing to provide the applicant at the time the application is taken:

1. An explanation of any free look period with instructions on how to cancel if a policy is issued; and

2. Either a copy of the application or a written disclosure. The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance or annuity contract, the death benefit applied for and its expected first year cost. A basic illustration that meets the requirements of Section 626.99, F.S. shall be deemed sufficient to meet this requirement for a written disclosure.

(u) Excluding individually issued annuities, recommending the purchase of any life insurance product which includes a side fund to a service member unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable.

(v) Offering for sale or selling a life insurance product which includes a side fund to a service member, who is currently enrolled in SGLI, is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates

that the applicant's SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance.

1. "Insurable needs" are the risks associated with premature death, taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate and/or survivors or dependents.

2. "Other military survivor benefits" include, but are not limited to: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents' Educational Assistance, Dependency and Indemnity Compensation, TRICARE Healthcare benefits, Survivor Housing Benefits and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits.

(w) Excluding individually issued annuities, offering for sale or selling any life insurance contract which includes a side fund:

1. Unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;

2. Unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of return will consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule will be provided for at least each policy year from one (1) to ten (10) and for every fifth policy year thereafter ending at age 100, policy maturity, or final expiration; and

3. Which by default diverts or transfers funds accumulated in the side fund to pay, reduce, or offset any premiums due.

(x) Excluding individually issued annuities, offering for sale or selling any life insurance contract which after considering all policy benefits, including but not limited to endowment, return of premium or persistency, does not comply with standard nonforfeiture law for life insurance.

(y) Selling any life insurance product to an individual known to be a service member that excludes coverage if the insured's death is related to war, declared or undeclared, or any act related to military service except for an accidental death coverage, e.g., double indemnity, which may be excluded.

(7) The department has authority to investigate the affairs of any person to whom this rule applies to determine whether such person has violated this rule. If such investigation demonstrates that a violation of this rule has occurred, the person in violation shall be subject to the procedures and penalties provided in Sections 626.9571, 626.9581, 626.9591, and 626.9601, F.S.

Specific Authority 624.308(1), 626.9541(1), 626.9611(2) FS. Law Implemented 626.307(1), 626.951, 626.9521, 626.9541(1), 626.9611 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Phil Fountain, Assistant Director, Bureau of Licensing,  
 Division of Agent and Agency Services, Department of  
 Financial Services  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED  
 THE PROPOSED RULE: Nancy Rowell, Director, Bureau of  
 Licensing, Division of Agent and Agency Services,  
 Department of Financial Services  
 DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: August 6, 2007  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: August 10, 2007

agency at least five days before the workshop/meeting by contacting: G. W. Harrell, Executive Director, Construction Industry Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750. 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).

**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."

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

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

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

**DEPARTMENT OF MANAGEMENT SERVICES**

**Personnel Management System**

RULE NO.:                      RULE TITLE:  
 60L-35.003                      Minimum Requirements  
 NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 33, No. 37, September 14, 2007 issue of the Florida Administrative Weekly has been withdrawn.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Construction Industry Licensing Board**

RULE NO.:                      RULE TITLE:  
 61G4-15.033                      Marine Specialty Contractor  
 NOTICE OF PUBLIC HEARING

The Construction Industry Licensing Board announces a hearing regarding the above rule, as noticed in Vol. 33, No. 27, July 6, 2007 Florida Administrative Weekly.

DATE AND TIME: Wednesday, October 10, 2007, 2:00 p.m., or as soon thereafter as can be heard.

PLACE: Hyatt Regency Jacksonville Riverfront, 225 East Coast Line Drive, Jacksonville, Florida 32202

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss proposed text of the rule.

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

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

RULE NOS.:                      RULE TITLES:  
 62-610.451                      Minimum System Size  
 62-610.800                      Permitting Requirements

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 30, July 27, 2007 issue of the Florida Administrative Weekly.

62-610.451 Minimum System Size.

(1) Except as provided in subsection 62-610.451(2), F.A.C., no treatment facility with a design average daily flow of less than 0.1 mgd shall have the produced reclaimed water made available for reuse activities covered by Part III (Rules 62-610.450 through 62-610.491, F.A.C.) of this chapter.

(2) through (3) No change.

62-610.800 Permitting Requirements.

(1) through (12) No change.

(13) The Department encourages utilities implementing reuse projects to meter and charge for the use of reclaimed water as described in Section 403.064(16), F.S. Utilities implementing reuse projects are encouraged, except in the case of use by electric utilities as defined in Section 366.02(2), Florida Statutes, to meter use of reclaimed water by all end users and to charge for the use of reclaimed water based on the actual volume used when such metering and charges can be shown to encourage water conservation. Metering and the use of volume-based rates are effective water management tools for the following reuse activities: residential irrigation, agricultural irrigation, industrial uses, landscape irrigation, irrigation of other public access areas, commercial and institutional uses such as toilet flushing, and transfers to other reclaimed water utilities. Each domestic wastewater utility that provides reclaimed water for the reuse activities listed in this rule shall include a summary of its metering and rate structure as part of its annual reuse report to the Department.

(14) No change.