

Boating Law Administrator, Boating and Waterways Section, Division of Law Enforcement, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)488-5600

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68D-36.107 Minimum Training Requirements for Personal Watercraft Rentals.

(1) and (2) No change.

~~(3) A livery may not lease, hire, or rent a personal watercraft to any person unless the livery either shows a safe operation instructional video tape or displays and reviews both a safe operation instructional poster and brochure with each prospective operator prior to personal watercraft operation. The instructional materials shall contain information on the personal watercraft safety topics identified in subsection (1).~~

~~(3)(4)~~ Persons offering a personal watercraft for lease, hire, or rent shall conduct an on-the-water demonstration and check ride to verify the prospective operator's ability to safely operate the personal watercraft to be leased, hired, or rented.

Specific Authority ~~327.04, 327.39, 327.54 327.395, 327.731~~ FS. Law Implemented ~~327.39, 327.54 327.395, 327.731~~ FS. History–New 6-9-05, Amended \_\_\_\_\_.

68D-36.109 Boating Safety Information to be Displayed at Liveries (Boat Rental Facilities).

(1) As provided in Section 327.54(1)(f), F.S., a livery must display boating safety information meeting the following minimum standards in a place visible to the renting public.

(a) Any livery offering motorboats, other than personal watercraft, jet boats or houseboats, for lease, hire or rent must display an informational poster or sign titled "Motorboat Rental Safety" and dated October 2008.

(b) Any livery offering houseboats for lease, hire or rent must display an informational poster or sign titled "Houseboat Rental Safety" and dated October 2008.

(c) Any livery offering personal watercraft and/or jet boats for lease, hire or rent must display an informational poster or sign titled "Personal Watercraft/Jet Boat Rental Safety" and dated October 2008.

(d) Any livery offering sailboats for lease, hire or rent must display an informational poster or sign titled "Sailboat Rental Safety" and dated October 2008.

(e) Any livery offering paddlecraft or other manually-propelled boats for lease, hire or rent must display an informational poster or sign titled "Paddlecraft Rental Safety" and dated October 2008.

The posters and signs specified in this section may be obtained at no cost by contacting: FWC Boating and Waterways Section, 620 S. Meridian Street, Tallahassee, FL 32399-1600.

(2) A livery may substitute for a specified information poster or sign any other poster or sign that is no less than 187 square inches in area and contains the same information found on the applicable poster or sign listed in paragraphs (1)(a)-(e).

Specific Authority 327.04, 327.39, 327.54 FS. Law Implemented 327.39, 327.54 FS. History–New \_\_\_\_\_.

## Section II Proposed Rules

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Division of Forestry

RULE NOS.:

5I-2.003

5I-2.004

5I-2.006

RULE TITLES:

Definitions

Open Burning Not Allowed

Open Burning Allowed

PURPOSE AND EFFECT: The purpose of this proposed rule is to bring the reference to agricultural black plastic into line with the statutory citation in Chapter 403, F.S.

We are including in this revision the new open burning certification program for Certified Pile Burning. The rule outlines how to become a certified pile burner and what is required of a certified pile burner when they are using their certification. It also outlines how they can lose their certification.

SUMMARY: The proposed rule changes are to more clearly define the difference between the Department's certification programs for acreage burns and for the new certified pile burning program which is being added to the Rule 5I-2.006, F.A.C. It also highlights the advantages of being a certified burner for either acreage or broadcast. There is clarification concerning the burning of agricultural plastic to bring it in line with proposed changes from FDEP. The language of the proposed rule has been simplified to facilitate the understanding of all Floridians.

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

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

SPECIFIC AUTHORITY: 570.07(23), (28), 590.02(1)(f) FS.

LAW IMPLEMENTED: 570.07(28), 570.548, 590.02(1)(b), 590.02(1)(f), 590.125 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: Thursday, September 4, 8:30 a.m.

PLACE: Eyster Auditorium, 3125 Conner Blvd., Tallahassee, FL 32399-1650

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 4 days before the workshop/meeting by contacting: James Brenner, Fire Management Administrator, Division of Forestry, 3125 Conner Blvd., Tallahassee, FL 32399-1650. Email [brennej@doacs.state.fl.us](mailto:brennej@doacs.state.fl.us), phone: (850)488-6111. 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: James Brenner, Fire Management Administrator, Division of Forestry, phone: (850)488-6111 or email: [brennej@doacs.state.fl.us](mailto:brennej@doacs.state.fl.us)

THE FULL TEXT OF THE PROPOSED RULES IS:

5I-2.003 Definitions.

(1) "Agricultural Burning" is the burning of vegetative material originating on site in conjunction with the cultivation of land, and including: gardening or horticulture, fruit growing, raising of vegetables, trees, shrubs, plants, pastures or rangeland.

(2) "Air Curtain Incinerator" is a portable or stationary combustion device that directs a plane of high velocity forced draft air through a manifold head into a pit with vertical walls in such a manner as to maintain a curtain of air over the surface of the pit and a recirculating motion of air under the curtain.

(3) "Air Pollution" is the presence in the outdoor atmosphere of any one or more substances or contaminants in quantities which are potentially harmful or injurious to human health or welfare, animal or plant life, or property, or which unreasonably interferes with the enjoyment of life or property, including outdoor recreation, unless specifically exempted by state statute.

(4) "Air Pollution Episode" means a day on which generally unhealthy air (an Air Quality Index value of 151 or greater) occurs or is forecast to occur by the Department of Environmental Protection (DEP).

(5) "Certified Prescribed Burn Manager" is an individual who successfully completes the certification program of the Division as outlined in subparagraphs 5I-2.006(2)(c)1. through 5., F.A.C., and possesses a valid certification number.

(6) "Certified Pile Burner" is an individual who successfully completes the certification program of the Division as outlined in subparagraphs 5I-2.006(8)(c)1. through 5., F.A.C., and possessess a valid certification number.

(7)(6) "Department" is the Department of Agriculture and Consumer Services.

(8)(7) "Dispersion Index" is a numerical index from 0 to infinity supplied daily by National Weather Service (NWS), that estimates the atmosphere's capacity to distribute particles and gases emitted by a wildland fire of any type. The Dispersion Index has two relative scales, one for day and one for night.

(9)(8) "Division" is the Florida Division of Forestry.

(10)(9) "Excessive Visible Emissions" are air pollutants emitted in such quantity as to exceed a DEP opacity standard, as determined by a visible emissions observer certified pursuant to Rule 62-297.320, F.A.C., or reduce an observer's view to less than 100 feet.

(11)(10) "Extinguished" means that no spreading flame for wildland burning or certified prescribed burning, and no visible flame, smoke or emissions for vegetative land-clearing debris burning, exist.

(12)(11) "Fine Fuel Moisture" is the amount of moisture, usually expressed as a percentage, found in fast drying, dead fuels such as grass, leaves, draped pine needles, and very small diameter (less than 1/4 inch) twigs.

(13)(12) "Flame Length" is the distance between the flame tip and the base of the flame measured generally at the ground surface.

(14)(13) "Land Clearing Debris" is uprooted or cleared vegetation resulting from a land clearing operation including untreated wood, e.g., old fence posts, and does not include yard trash.

(15)(14) "Land Clearing Operation" means the uprooting or clearing of vegetation in connection with construction for buildings and rights-of-way, land development, or mineral operations, but does not include yard trash.

(16)(15) "Mixing Height" as supplied daily by the National Weather Service, is the height above the land surface in feet to which relatively vigorous mixing of the atmosphere occurs.

(17)(16) "National Weather Service Air Stagnation Advisory" is an advisory issued by the National Weather Service (NOAA) to caution local and regional agencies on meteorological conditions expected to persist for at least 36 hours, which are conducive to poor dispersion.

(18)(17) "Occupied Building" means any building that serves as a primary residence, meeting place, or place of business.

(19)(18) "Open Burning" means any outdoor fire or open combustion of material which produces visible emissions.

(20)(19) "Pile Burning" is any burning of silvicultural, agricultural or land clearing and tree cutting debris originating on site that has been stacked together in a round or linear (windrow) fashion.

(21)(20) "Prescribed Burning" means the application of fire, in accordance with a written prescription for vegetative fuels, under specified environmental conditions while following appropriate precautionary measures that ensures

public safety and that the fire is confined to a predetermined area to accomplish planned fire or land management objectives.

~~(22)~~~~(21)~~ “Prescription” is a written plan establishing the necessary criteria for starting, controlling, and extinguishing a prescribed burn.

~~(23)~~~~(22)~~ “Relative Humidity” is the ratio, expressed as a percentage of the amount of moisture in the air, to the maximum amount of moisture the air is capable of holding under the same conditions.

~~(24)~~~~(23)~~ “Refractory Lined” means any non-metallic ceramic substance that is suitable for use as structural material at high temperatures and is used in Air Curtain Incinerators.

~~(25)~~~~(24)~~ “Residential Pile Burning Operation” is a pile burning operation that is conducted by a landowner or an individual contracted by the landowner for an existing or planned residential dwelling of not more than two family units. This does not include the burning of yard trash.

~~(26)~~~~(25)~~ “Silviculture” is a forestry operation dealing with the establishment, development, reproduction, and care of forest flora and fauna.

~~(27)~~~~(26)~~ “Smoke Sensitive Areas” are areas designated by the Division of Forestry within which, for reasons of visibility, health or human welfare, smoke could unduly adversely impact public safety e.g., interstates, urban areas, airports, and hospitals.

~~(28)~~~~(27)~~ “Spreading” is continued lateral movement of the fire into unburned fuels.

~~(29)~~~~(28)~~ “Sunset” is the official time the sun will set as set forth by the U. S. Naval Observatory (tables are available at National Weather Services offices).

~~(30)~~~~(29)~~ “Surface Wind Speed” is wind speed in miles per hour measured 20 feet above the average local vegetation. Wind speeds supplied by the National Weather Service are “Surface Wind Speeds”.

~~(31)~~~~(30)~~ “Transport Wind Speed” is a measure of the average rate, in miles per hour, of the horizontal movement of air throughout the mixing layer.

~~(32)~~~~(31)~~ “Trash” means waste materials resulting from the construction, renovation or demolition of a structure, and other debris such as paper, cardboard, packing material, pharmaceuticals, cloth, glass, street sweepings, vehicle tires and other like matter. The definition does not include land clearing debris, tree cutting debris, or yard trash.

~~(33)~~~~(32)~~ “Treated Wood” means wood coated or infused with paint, glue, filler, pentachlorophenol, creosote, tar, asphalt, chromated copper arsenate (CCA), or other wood preservatives or treatments.

~~(34)~~~~(33)~~ “Tree Cutting Debris” is debris consisting of trees, tree stumps, and tree limbs resulting from a tree removal or tree trimming operation that is conducted by the homeowner

or an individual contracted by the homeowner of an existing residential dwelling of not more than two family units. It does not include yard trash.

~~(35)~~~~(34)~~ “Untreated Wood” means wood (including lighter pine, tree trunks, limbs and stumps, shrubs, and lumber) which is free of paint, glue, filler, pentachlorophenol, creosote, tar, asphalt, chromated copper arsenate (CCA), and other wood preservatives or treatments.

~~(36)~~~~(35)~~ “Windrow” means a long row of vegetative material originating on the site left to dry.

~~(37)~~~~(36)~~ “Yard Trash” (Yard Waste, Chapter 62-256, F.A.C.) means vegetative matter resulting from landscaping and yard maintenance operations and other such routine property cleanup activities. It includes materials such as leaves, shrub trimmings, grass clippings, brush, and palm fronds.

Specific Authority 570.07(23), (28), 590.125(3)(e) FS. Law Implemented 570.07(28), 570.548, 590.02(1)(b), 590.125(2), (3) FS. History—New 7-1-71, Formerly 17-5, Amended 7-1-75, Formerly 5I-2.03, Amended 1-9-91, 8-9-93, 8-16-95, 10-18-99, 10-31-05,\_\_\_\_\_.

#### 5I-2.004 Open Burning Not Allowed.

(1) Listed below are the types of open burning not allowed in Florida:

(a) Any open burning disallowed by Rule Chapters 5I-2 and 62-256, F.A.C., or Chapters 403 and 590, Florida Statutes.

(b) Open burning of biological waste, hazardous waste, asbestos containing materials, mercury-containing devices, pharmaceuticals, tires, rubber material, residual oil, used oil, asphalt, roofing material, tar, treated wood, plastics, garbage, or trash other than yard trash as provided in subsection 62-256.700(1), F.A.C., except that structures may be burned for the training of fire fighters in accordance with subsection 62-256.700(4), F.A.C.; waste pesticide containers may be burned in accordance with subsection 62-256.700(5), F.A.C.; polyethylene agricultural ~~black~~ plastic ~~mulch~~ and untreated wood pallets used in agriculture may be burned in accordance with subsection 62-256.700(7), F.A.C.; and animal carcasses may be burned in accordance with subsection 62-256.700(6), F.A.C.

(c) Open burning that reduces visibility at a public airport, unless the airport in question has been contacted and has agreed to control air traffic during burning activities to avoid any possible smoke related problems.

(d) Open burning when an air pollution episode exists or is forecast to occur.

(e) Open burning during a National Weather Service Air Stagnation Advisory.

(f) Open burning which reduces visibility on paved public roadways to less than one thousand (1000) feet unless the regulating authorities have agreed to control traffic, or have delegated the authority to control traffic.

(g) Burning in smoke sensitive areas between one hour before sunset and 9:00 a.m. the next day.

(h) All open burning when the Division of Forestry determines that the fire poses a threat to public health, safety, and property protection.

(i) Open burning when the Division of Forestry determines that atmospheric or meteorological conditions indicate improper dispersion of smoke that threatens public health, safety, or general welfare; or which would obscure visibility of vehicular or air traffic; or violates the condition of the authorization, or burning prescription.

(2) Open burning authorizations will be denied to any burner who repeatedly violates Florida law or agency rules. This denial remains in effect until the concern that caused the denial has been mitigated in consultation with the Division of Forestry District/ Center Manager.

Specific Authority 570.07(23), (28) FS. Law Implemented 570.07(28), 570.548, 590.02(1)(b), 590.125(2), (3) FS. History—New 7-1-71, Formerly 17-5, Amended 7-1-75, Formerly 5I-2.04, Amended 9-8-93, 8-16-95, 10-18-99, 10-31-05, \_\_\_\_\_.

5I-2.006 Open Burning Allowed.

(1) Open Burning in General. Authorization must be obtained from the Florida Division of Forestry for burns relating to agriculture, and silviculture and pile burning, ~~on the same day the burn is to take place or after 4:00 p.m. of the previous day.~~ The Division of Forestry will set special requirements for all types of authorizations, (certified or non-certified), in order to protect public health and safety, including; on site inspections, restricting wind direction, limiting the burning period, within each day or to a specific number of days for those types of authorizations that allow for multiple burning days, halt or limit burning when fire danger is too high in all, or specific parts of the state, and requiring specific personnel and control equipment on site. Any authorized burn that goes out of compliance, but has not escaped the authorized area will be allowed a maximum of two hours to be brought into compliance by the person responsible. In the event that the Division determines that there is a threat to life, public safety or property, immediate suppression action will be taken by the Division of Forestry.

~~(a) Daytime Non-Certified Authorizations will be issued for the burning to be conducted from 8:00 a.m. CT or 9:00 a.m. ET and the fire must discontinue spreading one hour before sunset.~~

~~(b) Nighttime Non-Certified Authorizations will be issued with a Dispersion Index of 8 or above for the burning to be conducted between one hour before sunset and 8:00 a.m. CT or 9:00 a.m. ET the following morning. Ignition of these fires is authorized up to midnight CT or ET (specific to the time zone where the fire is located), however the fire can continue to spread until 8:00 a.m. CT or 9:00 a.m. ET the following day. If additional time is required a new daytime authorization must be obtained from the Division.~~

(2) Open Burning for Certified Prescribed Burn Managers (CPBM). ~~(All burning conducted under this section is related to broadcast burning for the purposes of: Silviculture, Wildlife Management, Ecological Maintenance and Restoration, Range and Pasture Management.)~~ Open burning authorizations under this section require the Certified Prescribed Burn Manager's certification number be presented at the time of the request, and that a Certified Prescribed Burn Manager be on site for the entire burn.

(a) Prescription. A prescription for the burn must be completed prior to any ignition and it must be on site and available for inspection by a Department representative. The prescription will contain, as a minimum, (unless the local Division of Forestry District or Center Manger and the burner agree that a particular item is not necessary and this has been documented in writing, agreed to in writing locally between the burner and the District or Center Manager of the Division of Forestry) the following:

1. Stand or Site Description;
2. Map of the area to be burned;
3. Number of personnel and equipment types to be used on the prescribed burn;
4. Desired weather factors, including but not limited to surface wind speed and direction, transport wind speed and direction, minimum mixing height, minimum relative humidity, maximum temperature, and the minimum fine fuel moisture;
5. Desired fire behavior factors, such as type of burn technique, flame length, and rate of spread;
6. The time and date the prescription was prepared;
7. The authorization date and the time period of the authorization;
8. An evaluation and approval of the anticipated impact of the proposed burn on related smoke sensitive areas;
9. The signature and number of the Certified Prescribed Burn Manager.

(b) Open Burning Hours.

1. Daytime CPBM Authorizations will be issued for the burning to be conducted from 8:00 a.m. CT or 9:00 a.m. ET and the fire must discontinue spreading one hour after sunset.

2. Nighttime CPBM Authorizations will be issued with a Dispersion Index of 6 or above for the burning to be conducted between one hour before sunset and 8:00 a.m. CT or 9:00 a.m. ET the following day. Ignition of these fires is authorized up to midnight, however the fire can continue to spread until 8:00 a.m. CT or 9:00 a.m. ET the following day. If additional time is required a new authorization (daytime) must be obtained from the Division. The Division will issue authorizations at other times, in designated areas, when the Division has determined that atmospheric conditions in the vicinity of the burn will allow good dispersement of emissions, and the resulting smoke from the burn will not adversely impact smoke sensitive areas, e.g., highways, hospitals and airports.

(c) Burn Manager Certification Process. Certification to become a Certified Prescribed Burn Manager is accomplished by:

1. Satisfactory completion of the Division of Forestry's Prescribed Fire Correspondence Course and direct experience in three prescribed burns prior to taking the course or;

2. Satisfactory completion of the Division of Forestry's Prescribed Fire Classroom version of the Correspondence Course and a minimum of managing three prescribed burns prior to taking the course or;

3. Satisfactory completion of the Florida Inter-Agency Basic Prescribed Fire Course and direct experience in three prescribed burns following successful completion of the classroom training. The burns conducted during the training do not count as part of this three burn requirement.

4. Applicants must submit a completed prescription for a proposed certifying burn to their local Florida Division of Forestry office prior to the burn for review and approval, and have the burn described in that prescription reviewed by the Division of Forestry during the burn operation. The local Division of Forestry District Manager (or their designee) will recommend DOF Prescribed Burn Manager certification upon satisfactory completion of both the prescription and required number of burns.

5. In order to continue to hold the Division of Forestry Prescribed Burn Manager Certification the burner must comply with paragraph 5I-2.006(2)(d), F.A.C., or Division Certification will terminate five years from the date of issue.

(d) Certification Renewal. A Certified Prescribed Burn Manager must satisfy the following requirements in order to retain certification.

1. Participation in a minimum of eight hours of Division of Forestry approved training every five years relating to the subject of prescribed fire, or participation in a Division of Forestry recognized Fire Council Meeting, and

2. The Certified Prescribed Burn Manager has submitted their certification number for two completed prescribed burns in the preceding five (5) years, or

3. Participation in five (5) burns and have this documented and verified in writing to the Forest Protection Bureau's Prescribed Fire Manager of the Division of Forestry by a current Certified Prescribed Burn Manager, or

4. Retaking either the Prescribed Fire Correspondence Course or the Inter-Agency Basic Prescribed Fire Course.

(e) Decertification. The Commissioner of Agriculture will revoke any Certified Prescribed Burn Manager's certification if they demonstrate that their practices and procedures repeatedly violated Florida law or agency rules or is a threat to public health, safety, or property. Recommendations for decertification by the Division of Forestry to the Commissioner of Agriculture will be based on the Certified Burner Violations – Point Assessment Table, effective July 1,

2003, which is hereby adopted and incorporated by reference and can be found located at: [http://www.fl-dof.com/wildfire/wf\\_pdfs/CBMpoints.pdf](http://www.fl-dof.com/wildfire/wf_pdfs/CBMpoints.pdf).

(3) Open Burning Non-Certified Broadcast Burners. All burning conducted under this section is related to broadcast burning of acreage not conducted as a certified prescribed burn. Authorizations for this type of burning are issued on the day of the burn or after 4:00 p.m. of the previous day.

(a) Daytime Non-Certified Authorizations will be issued for the burning to be conducted from 8:00 a.m. CT or 9:00 a.m. ET and the fire must discontinue spreading one hour before sunset.

(b) Nighttime Non-Certified Broadcast Authorizations will be issued with a Dispersion Index of 8 or above for the burning to be conducted between one hour before sunset and 8:00 a.m. CT or 9:00 a.m. ET the following morning. Ignition of these fires is authorized up to midnight CT or ET, specific to the time zone where the fire is located, however the fire can continue to spread until 8:00 a.m. CT or 9:00 a.m. ET the following day. If additional time is required, a new daytime authorization must be obtained from the Division.

~~(4)(3) Pile Burning General. Piles or windrows shall not be ignited before 8:00 a.m. CT or 9:00 a.m. ET and have no visible flame one hour before sunset or anytime thereafter, except in smoke sensitive areas where the piles must be extinguished with no visible emissions one hour before sunset.~~ The size and number of piles shall be dictated by the materials to be burned and the time available for burning. All pile burning must adhere to the following:

(a) The moisture content and composition of the materials to be burned shall be favorable to good burning which will minimize emissions. The amount of dirt in the piles or rows shall be minimized to enhance combustion and reduce emissions, and

(b) The pile or windrow burning must be set back one hundred (100) feet from any paved public roadway and the prevailing winds will direct the smoke away from any occupied buildings (other than the landowners) or roads. Pile burning for paved public road maintenance and widening is exempt from the 100 foot setback as long as the visibility on the roadway is not reduced to less than 1,000 feet, and

(c) The pile burning is attended at all times, and

(d) The pile burning must meet one of the following setback requirements:

1. Residential, and Agricultural/Silvicultural pile burning must be set back three hundred (300) feet or more away from any occupied building other than that of the landowner and fifty (50) feet from any wildlands, brush or combustible structure.

2. Non-Residential pile burning without an Air Curtain Incinerator must be set back one thousand (1000) feet or more away from any occupied building and one hundred (100) feet from any wildlands, brush or combustible structure.

(e) Exception to Setbacks – An exception to the setbacks in subparagraphs 5I-2.006(3)(d)1. and 2., F.A.C., will be granted if all of the affected parties agree in writing to allow the burn to take place.

~~(5)~~(4) Tree Cutting Debris Burning. Open burning to dispose of tree cutting debris shall be conducted using a DEP permitted air curtain incinerator. Open burning to dispose of tree cutting debris without use of a permitted air curtain incinerator is allowed provided:

(a) The tree cutting debris was generated on residential premises of not more than two family units; and

(b) The open burning is restricted to the site where the tree cutting debris was generated; and

(c) The open burning is conducted in accordance with all provisions applicable to pile burning as set forth by the Division of Forestry at paragraphs 5I-2.006(4)(3)(a), (b), (c), (d)1. and (e), F.A.C.; and

(d) The open burning is not prohibited by any local, county, or municipal rule or ordinance, or the open burning is conducted in accordance with any such rule or ordinance to the extent that such rule or ordinance is stricter than the provisions of this subsection.

~~(6)~~(5) Air Curtain Incinerator Burning. The use of an Air Curtain Incinerator is allowed for the combustion of land clearing debris, provided the incinerator has a DEP air permit or has been specifically exempted from air permitting by the DEP. If an air curtain incinerator has been exempted from air permitting by the DEP, prior authorization to use the incinerator must be obtained from the Division of Forestry. Operation of an exempt air curtain incinerator shall be authorized provided that open burning would otherwise be allowed under this chapter and the following conditions are met:

(a) Only kerosene, diesel fuel, drip torch fuel, clean dry wood or lighted pine, virgin oil, natural gas or liquefied petroleum gas may be used to start the fire in the incinerator. The use of used oil, chemicals, gasoline, or tires to start the fire is prohibited.

(b) An air curtain incinerator must be located at least 300 feet from any occupied building and 50 feet from any wildlands, brush, combustible structure, or paved public roadway.

(c) Incinerators equipped with refractory-lined walls, shall begin charging no earlier than sunrise and must end no later than one hour after sunset.

(d) Incinerators not equipped with refractory lined walls shall begin charging no earlier than 8:00 a.m. CT or 9:00 a.m. ET and must end no later than one hour after sunset.

(e) Regardless of the air curtain incinerator type, after charging ceases, air flow shall be maintained until all material within the air curtain incinerator has been reduced to coals, and

flames are no longer visible. A log shall be maintained on site, and available upon request, that documents daily beginning and ending times of charging.

(f) If the air curtain incinerator employs an earthen trench, the pit walls (width and length), shall be vertical, and maintained so that the combustion of the waste within the pit will be maintained at an adequate temperature and with sufficient air re-circulation to provide enough residence time and mixing for proper combustion and control of emissions. Pit width shall not exceed twelve (12) feet.

(g) The waste material shall not be loaded into the air curtain incinerator such that it protrudes above the level of the air curtain in the pit.

(h) Ash shall not be allowed to build up in the pit of the air curtain incinerator to higher than 1/3 the pit depth or to the point where the ash begins to impede combustion, whichever occurs first.

(i) Excessive visible emissions are not allowed except for a period of up to 30 minutes during start ups.

(j) The air curtain incinerator shall be attended at all times while materials are being burned or flames are visible within the incinerator.

(k) The burning will not exceed 6 months on the same site from the date of the initial authorization from the Division of Forestry, unless the Division is notified of an exemption by DEP.

(l) Exceptions to the setback requirements from occupied buildings shall be granted by the Division of Forestry when the applicant obtains a signed written statement from every affected resident within the setback area that waives their objections to the open burning associated with the land clearing operation and presents the statement to the Division of Forestry 48 hours in advance of the burning.

(m) If the owner or operator of the air curtain incinerator, by lease or other means, grants authority to operate the incinerator to a person not in the employ of the owner, the owner shall provide such person with a copy of this rule section's requirements.

~~(7)~~(6) Off Site Burning. Any open burning of land clearing debris that is allowed by this chapter is restricted to the site where the material was generated and such material shall not be transported to another property to be burned, unless the land clearing debris has been generated by the person, or their agent, who owns or leases the property where it was generated and to where it is transported, and operates an air curtain incinerator in compliance with all applicable paragraphs of subsection 5I-2.006(5), F.A.C.

(8) Open Burning for Certified Pile Burners (CPB). All burning conducted under this section is related to pile burning in Florida regardless of the purpose. The Division of Forestry will issue multiple day authorizations up to three days when the Fire Readiness Level has been set to 1 or 2. CPB's must comply with the hours of operation listed in paragraph

5I-2.006(8)(b), F.A.C. A three day authorization does not allow for burning past one hour after sunset each day. Authorizations for this type of burning are issued on the day of the burn or after 4:00 p.m. of the previous day. Open burning authorizations under this section require that the Certified Pile Burner certification number be presented at the time of the request, and that a Certified Pile Burn Manager sign the startup log and shutdown log, indicating that the piles are properly setup and shut down, attached to the burn plan located at each site on a daily basis.

(a) Pile Burn Plan. A plan for the burn must be completed prior to any ignition and it must be on site and available for inspection by a Department representative. The plan will contain, as a minimum, unless the local Division of Forestry District or Center Manger and the burner agree that a particular item is not necessary and this has been documented in writing, the following:

1. Burn location;
2. Soil type and moisture;
3. Number of personnel and equipment types to be used on the pile burn;
4. Desired weather factors, including but not limited to surface wind speed and direction, minimum relative humidity, drought index, days since rain, maximum temperature, and the dispersion index;
5. Fuel type and condition (how long has it been drying);
6. The time and date the plan was prepared;
7. The authorization date and the time period of the authorization;
8. An evaluation and approval of the anticipated impact of the proposed burn on related smoke sensitive areas;
9. Adjacent landowners to notify;
10. Special precautions;
11. The signature and number of the Certified Pile Burner.

(b) Open Burning Hours. CPB Authorizations will be issued for the burning to be conducted from 8:00 a.m. CT or 9:00 a.m. ET and the fire must not have any visible flame after one hour after sunset except in smoke sensitive areas where there must be no visible emissions one hour before sunset.

(c) Pile Burner Certification Process. Certification to become a Certified Pile Burner is accomplished by:

1. Satisfactory completion of the Division of Forestry's Certified Pile Burner Course, and
2. Applicants must submit a completed plan for a proposed certifying burn to their local Florida Division of Forestry office within one year of completing the classroom training and prior to the certifying burn for review and approval. After the plan has been approved the burn described in that plan must be reviewed by the Division of Forestry during the burn operation. The local Division of Forestry District Manager, or

their designee, will recommend DOF Pile Burner certification to the Forest Protection Bureau upon satisfactory completion of both the plan and the review of the actual burn.

5. In order to continue to hold the Division of Forestry Pile Burner Certification the burner must comply with paragraph 5I-2.006(8)(d), F.A.C., or Division Certification will terminate five years from the date of issue.

(d) Certification Renewal. A Certified Pile Burner must satisfy the following requirements in order to retain certification:

1. The Certified Pile Burner has submitted his or her certification number for five completed pile burns in the preceding five (5) years, or
2. He or she must retake the Pile Burner Certification Training Course.

(e) Decertification. The Commissioner of Agriculture will revoke any Certified Pile Burner's certification if it is demonstrated that their practices and procedures repeatedly violated Florida law or agency rules or is a threat to public health, safety, or property. Recommendations for decertification by the Division of Forestry to the Commissioner of Agriculture will be based on the Certified Pile Burner Violations – Point Assessment Table, July 1, 2008, which is hereby adopted and incorporated by reference and can be found at: [http://www.fl-dof.com/wildfire/wf\\_pdfs/CPBpoints.pdf](http://www.fl-dof.com/wildfire/wf_pdfs/CPBpoints.pdf).

(9) Open Burning for Non-Certified Pile Burners. The division will issue authorizations for one day only for all pile burning, except for those burning citrus. Citrus pile authorizations will be issued for up to three days. Non-Certified Pile Burners must comply with normal hours of operation listed in this section on a daily basis. A three day authorization does not allow for night time burning. Non-Certified Pile Burners shall not begin burning before 8:00 a.m. CT or 9:00 a.m. ET and the burn shall have no visible flame one hour before sunset or anytime thereafter. In smoke sensitive areas the piles must be extinguished with no visible emissions one hour before sunset. Authorizations for Non-Certified Pile burning are issued on the day of the burn or after 4:00 p.m. of the previous day.

(10)(7) Recreational Open Burning. Nothing in this chapter shall be construed to prohibit the legal open burning of vegetative debris and untreated wood in a campfire, outdoor fireplace, or other contained outdoor heating or cooking device, or on cold days for warming of outdoor workers. Furthermore, nothing in this chapter shall be construed to prohibit the open burning of vegetative debris or untreated wood in a recreational or ceremonial bonfire, as long as the fire is attended at all times and is completely extinguished with no visible emissions if the area is to be left unattended. The person or persons responsible for the recreational fire shall ensure

compliance with any applicable open burning rules adopted by the Division of Forestry of the Florida Department of Agriculture and Consumer Services.

~~(11)(8)~~ Open Burning Exceptions. The Director of the Division of Forestry is authorized to grant exceptions in furtherance of public health, safety and welfare, to the open burning rules within Chapter 5I-2, F.A.C., in the event of an emergency that would require the destruction of vegetative debris or animal carcasses in the most expeditious means possible. Examples would include the burning of vegetative matter or animal carcasses resulting from an insect or disease infestation, or resulting from storm damage e.g., hurricanes or tornados.

Specific Authority 570.07(23), (28), 590.125(3)(e) FS. Law Implemented 570.07(28), 570.548, 590.02(1)(b), 590.125(2), (3) FS. History–New 7-1-71, Formerly 17-5, Amended 7-1-75, Formerly 5I-2.06, Amended 1-9-91, 9-8-93, 8-16-95, 10-18-99, 10-31-05, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
James D. Brenner  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jim Karels, Director, Division of Forestry  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 6, 2008  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 23, 2008

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Agricultural Water Policy**

RULE NOS.:	RULE TITLES:
5M-9.001	Purpose
5M-9.002	Approved Best Management Practices
5M-9.003	Presumption of Compliance
5M-9.004	Notice of Intent to Implement
5M-9.005	Record Keeping

PURPOSE AND EFFECT: The purpose of this rule is to effect pollutant reduction through the implementation of non-regulatory and incentive based programs which may be determined to have minimal individual or cumulative adverse impacts to the water resources of the state.

SUMMARY: The rule establishes a procedure for submitting a “Notice of Intent to Implement,” that, when filed with the Florida Department of Agriculture and Consumer Services (FDACS) and implemented, provides a presumption of compliance with state water quality standards for those pollutants addressed by the practices. Once filed with FDACS, the Notice of Intent shall enable the applicant to apply for assistance with implementation as identified in Section 403.067, F.S. This rule also provides that records maintained by the applicant are preserved and subject to periodic inspection.

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

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

SPECIFIC AUTHORITY: 403.067(7)(c)2. FS.

LAW IMPLEMENTED: 403.067(7)(c)2. FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Bill Bartnick, Environmental Administrator, Office of Agricultural Water Policy, 1203 Governor’s Square Boulevard, Suite 200, Tallahassee, Florida 32301, (850)617-1705 or FAX (850)617-1701

THE FULL TEXT OF THE PROPOSED RULES IS:

BEST MANAGEMENT PRACTICES FOR FLORIDA SOD

5M-9.001 Purpose.

The purpose of this rule is to effect pollutant reduction through the implementation of non-regulatory and incentive-based programs that may be determined to have minimal individual or cumulative adverse impacts to the water resources of the state.

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

5M-9.002 Approved Best Management Practices.

The manual titled *Water Quality/Quantity Best Management Practices for Florida Sod (Edition 2008)* is hereby incorporated and adopted by reference in this rule for participating sod growers statewide. Copies of the document may be obtained from the University of Florida Cooperative Extension Service county office or from the Florida Department of Agriculture and Consumer Services (FDACS), Office of Agricultural Water Policy, 1203 Governor’s Square Boulevard, Suite 200, Tallahassee, Florida 32301.

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

5M-9.003 Presumption of Compliance.

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



(1) Conduct an assessment of the subject properties, as provided in the manual, to determine which BMPs are applicable;

(2) Submit a Notice of Intent to Implement, as outlined in Rule 5M-9.004, F.A.C., that identifies the BMPs that are applicable to the subject properties;

(3) Implement all applicable BMPs in accordance with the timeline identified in the Notice of Intent to Implement; and

(4) Maintain documentation to verify the implementation and maintenance of the identified BMPs.

Specific Authority 403.067(7)(c)3. FS. Law Implemented 403.067(7)(c)3. FS. History–New \_\_\_\_\_.

5M-9.004 Notice of Intent to Implement.

A Notice of Intent to Implement BMPs, and accompanying checklist, both of which are in the Appendix of the manual referenced in Rule 5M-9.002, F.A.C., shall be submitted to the FDACS, Office of Agricultural Water Policy, 1203 Governor’s Square Boulevard, Suite 200, Tallahassee, Florida 32301. The checklist identifies the applicable BMPs the applicant intends to implement, and includes an associated timeline for implementation.

(1) The Notice of Intent shall include:

(a) The name of the property owner, the location of the property, and the property tax ID number(s) or other property identification information;

(b) The acreage on which BMPs will be implemented;

(c) The name and contact information of an authorized representative; and

(d) The signature of the owner, lease holder, or an authorized agent.

(2) Once filed, the Notice of Intent to Implement shall enable the applicant to apply for assistance with implementation.

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

5M-9.005 Record Keeping.

All participants must preserve sufficient documentation to confirm implementation of the practices identified in the Notice of Intent to Implement. All documentation is subject to inspection.

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

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Lois T. Pride, Assistant Director, Office of Agricultural Water Policy

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Richard J. Budell, Director, Office of Agricultural Water Policy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 1, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 4, 2008

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-6.021  
RULE TITLE: State of Florida High School Diplomas

PURPOSE AND EFFECT: The purpose of this amendment is to increase the General Educational Development (GED) testing fees so that the Department of Education, as well as local testing centers, can operate with a minimal deficit due to increasing operating costs related to administering the GED test.

SUMMARY: The proposed amendment will increase fees associated with the General Education Development Tests to offset the increased operating costs related to administering the tests.

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: 1001.02(1), 1003.435(1), (5) FS.

LAW IMPLEMENTED: 1003.435 FS.

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

DATE AND TIME: August 19, 2008, 8:30 a.m.

PLACE: 400 South Monroe Street, Room LL03, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alex Penn-Williams, Director, Adult Education and GED Programs, Division of Workforce Education, 325 West Gaines Street, Room 644, Tallahassee, Florida 32399-0400, (850)245-9008

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.021 State of Florida High School Diplomas.

The Commissioner shall award a State of Florida high school diploma pursuant to Section 1003.435, F.S., to a candidate who meets all of the requirements prescribed herein and has attained on each of the five (5) General Education Development Tests a minimum score of 410 or above on a scale of “0” to “800”, with an average score of 450.

(1) The Department shall designate official testing centers in the state which are authorized to act as agents of the state in administering the GED Tests. The Department shall provide tests and test materials annually to the official testing centers,

provide test scoring and reporting services, maintain a perpetual record of individual test results, and issue state of Florida high school diplomas to successful candidates.

(2) Each official testing center shall establish a schedule for testing which adequately meets the needs of the candidates within its service area.

(3) Each district shall establish a fee of not less than the total national and state required fees nor more than seventy (70) fifty (50) dollars for each candidate taking the entire test battery consisting of the five (5) GED Tests. This fee shall be paid at the time the application is filed. A fee of not less than the total national and state required fees nor more than the fourteen (14) ten (10) dollars shall be paid by each candidate for each retake of the Social Studies, Science, Reading, and Mathematics tests. A fee of not less than the total national and state required fees nor more than sixteen (16) twelve (12) dollars shall be paid by the candidate for each retake of the Writing Skills Test. However, the school board, community college, or agency administering the testing center may authorize the waiver, on a uniform or, on an individual basis, of all or any portion of the fees prescribed in this subsection.

(4) In order to defray state costs for the testing program, each school board, community college, or agency administering the GED Tests shall remit to the Department the following fees:

(a) Entire battery of five (5) tests: twenty-eight (28) seventeen (17) dollars.

(b) Retake of the Social Studies, Science, Reading, and Mathematics tests: seven (7) four (4) dollars.

(c) Retake of the Writing Skills test: eight (8) five (5) dollars.

(d) Duplication of diploma: six (6) four (4) dollars.

(e) Duplication of transcript: six (6) four (4) dollars.

(f) Conversion of scores from applicants who have taken the GED in the military: ten (10) seven (7) dollars.

(5) The Chief Examiner of each official testing center shall inform all candidates of testing opportunity and retesting limitations.

(6) Each candidate taking the GED Tests will be issued an official transcript of scores. A candidate who fails to attain the required minimum scores on the initial GED Tests may test a maximum of three (3) times in each subject area during the GED contract year.

(a) Each request directed to the Department for duplication of diploma shall be charged at a rate of six (6) dollars.

(b) Each request directed to the Department for duplication of transcript shall be charged at a rate of six (6) dollars.

Specific Authority 1001.02(1), 1003.435(1), (5) FS. Law Implemented 1003.435 FS. History—Amended 2-20-64, 4-11-70, 6-7-70, 6-17-74, Repromulgated 12-5-74, Amended 5-4-76, 6-7-77, 1-1-79, 9-1-79, 12-7-82, 7-10-85, Formerly 6A-6.21, Amended 12-21-87, 3-1-98, 5-19-08,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Alex Penn-Williams, Director, Adult Education and GED Programs, Division of Workforce Education

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Lucy Hadi, Chancellor, Workforce Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 18, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 25, 2008

**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 ENVIRONMENTAL PROTECTION**

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

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

RULE NOS.:	RULE TITLES:
62-730.171	Transfer Facilities
62-730.182	Criteria to Determine Whether Changes Constitute a "Substantial Modification" at Certain Existing Hazardous Waste Facilities That Are Otherwise Exempt From Statutory Location Standards
62-730.900	Forms

PURPOSE AND EFFECT: The proposed rule amendments will fulfill a statutory requirement that the Department of Environmental Protection (DEP) adopt criteria to determine whether any proposed change at certain hazardous waste facilities constitutes a "substantial modification." Section 403.7211, F.S., establishes specific siting requirements for permitted hazardous waste facilities that manage hazardous waste generated offsite, including federal facilities with hazardous waste permits. DEP is prohibited from issuing a permit for the construction, initial operation or substantial modification of such facility unless the siting requirements are met. The statute also applies to hazardous waste transfer facilities. The statute defines substantial modification as "any physical change in, change in the operations of, or addition to a facility which could increase the potential offset impact, or risk of impact, from a release at that facility; and any change in permit conditions which is reasonably expected to lead to

greater potential impacts or risks of impacts, from a release at that facility,” and directs DEP to adopt criteria, by rule, to determine whether a facility has been substantially modified.

SUMMARY: This rule establishes criteria to determine whether a physical change in, change in the operation of, or addition to, a transfer facility or a hazardous waste treatment, storage, and disposal facility which receives waste generated off-site, including federal facilities, could increase the potential offsite impact, or risk of impact, from a release at that facility.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The proposed rule will have no associated costs unless a hazardous waste facility that does not meet the siting criteria intends to change its current operations.

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

SPECIFIC AUTHORITY: 403.7211 FS.

LAW IMPLEMENTED: 403.7211 FS.

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

DATE AND TIME: August 28, 2008, 9:00 a.m.

PLACE: Conference Room A, 3900 Commonwealth, 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 48 hours before the workshop/meeting by contacting: Julie Rainey at (850)245-8713 or julie.c.rainey@dep.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Julie Rainey, Environmental Manager, Hazardous Waste Regulation, Mail Station 4560, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400

THE FULL TEXT OF THE PROPOSED RULES IS:

62-730.171 Transfer Facilities.

(1) No change.

(2)(a) The transporter who is owner or operator of a transfer facility which stores manifested shipments of hazardous waste for more than 24 hours but 10 days or less (hereinafter referred to as “the transfer facility”) shall obtain an EPA/DEP identification number for each transfer facility location and notify the Department using Form 62-730.900(1)(b), 8700-12FL – Florida Notification of Regulated Waste Activity, effective date \_\_\_\_\_, which is adopted and incorporated by reference at paragraph 62-730.150(2)(a), F.A.C.

(b) Notification pursuant to this subsection shall be submitted at least 30 days before the storage of hazardous waste is to begin at a transfer facility.

(c) The notification shall include the information and documentation required by subsection 62-730.171(3), F.A.C.

(d) The transfer facility shall annually submit updated information on Form 62-730.900(1)(b), 8700-12FL – Florida Notification of Regulated Waste Activity, effective date \_\_\_\_\_, which is adopted and incorporated by reference at paragraph 62-730.150(2)(a), F.A.C.

(3)(a) The following items constitute initial transfer facility notification:

1. Certification by a responsible corporate officer of the transporter that the proposed location satisfies the criteria of Section 403.7211(2), F.S. The Certification shall state a factual basis for the conclusion that the location criteria are met, and how those facts were determined.

2. Completed Form 62-730.900(1)(b), 8700-12FL – Florida Notification of Regulated Waste Activity, effective date \_\_\_\_\_, which is adopted and incorporated by reference at paragraph 62-730.150(2)(a), F.A.C.

3. Evidence of the transporter’s financial responsibility as required under subsection 62-730.170(3), F.A.C.

4. A brief general description of the transfer facility operations, including customer base, anticipated waste codes, operating procedures, structures and equipment (with the maximum design capacity for storage), including engineering drawings or sketches if any.

5. A copy of a closure plan demonstrating that the transfer facility will be closed in a manner which satisfies the closure performance, notification, and decontamination standards of 40 CFR 265.111, 265.112, 265.114 and 265.115 [as adopted by reference in subsection 62-730.180(2), F.A.C.].

6. A copy of the contingency and emergency plan required by paragraph 62-730.171(4)(a), F.A.C.

7. A map or maps of the transfer facility, depicting property boundaries, access control, buildings or other structures and pertinent features (such as recreation areas, runoff and stormwater control systems, access or internal roads, sanitary and process sewer systems, loading and unloading areas, and fire control equipment).

(b) A transporter who is operating a transfer facility must notify the Department prior to making changes in any of the items listed in paragraph 62-730.171(3)(a), F.A.C.

(c) No person shall operate a transfer facility before receiving confirmation from the Department that the initial notification package is complete and technically adequate and receiving an EPA identification number for the transfer facility.

(4)(2) A transfer facility used for storage of hazardous waste for more than 24 hours but 10 days or less shall comply with the following requirements all as adopted by reference in subsection 62-730.180(2), F.A.C., except where otherwise noted:

(a) ~~The owner or operator of the transfer facility shall comply with the requirements of 40 CFR Part 265 Subparts B (general facility standards), C (preparedness and prevention), D (contingency and emergency plan), and I (management of containers), with the exception of 265.13, as adopted by reference in subsection 62-730.180(2), F.A.C.~~

(b) ~~The aisle space requirements described in 40 CFR 265.35 and the special requirements for incompatible wastes described in 40 CFR 265.177(c) shall not apply at transfer facilities to containers stored in trucks loaded in accordance with DOT regulations described in 40 CFR 263.10 [as adopted by reference in subsection 62-730.170(1), F.A.C.]. The 40 CFR Part 265 requirements referenced above shall apply to transfer facilities notwithstanding 40 CFR 265.1(e)(12). The owner or operator of the transfer facility shall submit the contingency and emergency plan to the Department with their first Transfer Facility Notification Form, Form 62-730.900(6), effective date January 5, 1995, which is hereby adopted and incorporated by reference. Rule 62-730.900, F.A.C., contains information on obtaining a copy of this form.~~

(b) ~~The owner or operator of the transfer facility shall have a written closure plan to show that the facility will be closed in a manner which satisfies the requirements of the closure performance, notification, and decontamination standards of 40 CFR 265.111, 265.112, 265.114 and 265.115. The owner or operator of the transfer facility shall submit the closure plan to the Department with their first Transfer Facility Notification Form. Within 60 days of completion of closure, the owner or operator of the transfer facility, shall submit to the Department a certification that the facility has been closed in accordance with the specifications in the closure plan. The certification shall be signed by the owner or operator of the transfer facility, by the owner of the real property where the transfer facility is located, and by an independent registered, professional engineer.~~

(c) ~~Records required in this section shall be maintained in permanent form and shall be available for inspection by the Department. The records shall be kept at the facility unless the Department gives written approval to do otherwise.~~

(5)(4) ~~Hazardous waste stored at transfer facilities in containers or vehicles at transfer facilities shall be stored on a manmade surface which is capable of preventing spills or releases to the ground.~~

(6)(e) ~~The owner or operator of a transfer facility shall maintain a written record of the items listed below. This recordkeeping requirement applies to all hazardous waste that enters and leaves the transfer facility, including hazardous waste generated by CESQGs. Records required in this subsection shall be maintained in permanent form for at least three years and shall be available for inspection by the Department. The records shall be kept at the facility unless the Department gives written approval to do otherwise.~~

(a) Manifest number for each shipment that enters and leaves the facility, or, for a shipment from a CESQG without a manifest, an identifying number from the shipping document.

(b) The date when all hazardous waste enters and leaves the facility.

(c) This record shall include ~~the generator's name; and the generator's EPA/DEP identification number; and the manifest number.~~ For CESQGs conditionally exempt small quantity generators without an EPA/DEP identification number, the record shall include the name and address of the generator. ~~This recordkeeping requirement applies to all hazardous wastes including hazardous waste generated by CESQGs.~~

(d) Amounts of hazardous waste and hazardous waste codes associated with each shipment into and out of the facility.

(7) Within 60 days of closure of the transfer facility, the transporter who is owner or operator of the transfer facility shall submit to the Department a certification that the facility has been closed in accordance with the specifications in the closure plan. The certification shall be signed by the owner or operator of the transfer facility, by the owner of the real property where the transfer facility is located, and by a Florida-registered, professional engineer.

(8) Construction, initial operation or substantial modification of a transfer facility which stores shipments of hazardous waste that are required to be manifested, and which does not comply with the location standards in Section 403.7211, F.S., is prohibited. A transporter operating a transfer facility is subject to the demonstration requirements of subsections 62-730.182(3)-(8), F.A.C., regarding substantial modification.

(3) ~~The owner or operator of a transfer facility which stores manifested shipments of hazardous waste for more than 24 hours but 10 days or less shall notify the Department on the Transfer Facility Notification Form. The owner or operator of a new facility shall submit a notification form at least 30 days before the storage of hazardous waste is to begin. The transfer facility shall annually update the information on the Transfer Facility Notification Form and send it to the Department with the transporter's evidence of financial responsibility as required under subsection 62-730.170(3), F.A.C.~~

(4) ~~The owner or operator of a transfer facility shall obtain an EPA/DEP identification number for each transfer facility location. Any owner or operator who has not obtained an EPA/DEP identification number for each transfer facility location may obtain one by applying to the Department using Form 62-730.900(1)(b), 8700 12FL Florida Notification of Regulated Waste Activity.~~

Specific Authority 403.0877, 403.704, 403.721 FS. Law Implemented 403.0877, 403.704, 403.721 FS. History—New 3-2-86, Amended 6-28-88, Formerly 17-30.171, Amended 8-13-90, 9-10-91, 10-14-92, Formerly 17-730.171, Amended 1-5-95, 1-29-06,\_\_\_\_\_.

62-730.182 Criteria to Determine Whether Changes Constitute a “Substantial Modification” at Certain Existing Hazardous Waste Facilities That Are Otherwise Exempt From Statutory Location Standards.

(1) This section applies only to transfer facilities which store shipments of hazardous waste that are required to be manifested and to facilities, including federal facilities, which treat, store, or dispose of shipments of hazardous waste generated off-site that are required to be manifested. This section does not apply to:

(a) Manufacturers, power generators, or other industrial operations that received a permit from the Department, or apply for a permit or a modification to a permit for the treatment, storage, or disposal of hazardous waste generated only on-site or generated at other sites owned or acquired by the permittee;

(b) Federal facilities which received a permit from the Department, or apply for a permit or a modification to a permit for the treatment, storage, or disposal of hazardous waste generated only on-site or at other sites under the command or supervisory control of the federal facility at which the permitted hazardous waste management operations occur;

(c) Hazardous waste facilities that do not receive waste that is required to be manifested; or

(d) Hazardous waste facilities that meet all siting requirements of Section 403.7221, F.S.

(2) This section shall apply to all pending permit applications for which the Department has not issued a Final Order.

(3) Any applicant who submits an application under Section 403.722 F.S., for a permit to modify a hazardous waste treatment, storage, or disposal facility which does not comply with the location standards in Section 403.7211, F.S., must include a demonstration that the modification is not “substantial” as defined in subsection 62-730.182(4), F.A.C.

(4) A substantial modification under this subsection means any change in operations, structures, or permit conditions, at a permitted TSD, or any changes to the transfer facility notification submitted to the Department in accordance with subsection 62-730.171(2), F.A.C., which is reasonably expected to lead to a substantial increase in the potential impact, or risk of impact, from a release at that facility, as follows:

(a) A substantial increase in the potential impact from a release means a potential increase in the distance from a facility at which life-threatening concentrations of a hazardous substance may occur from an instantaneous release based on the proposed modification versus the threat from existing operations, as determined in accordance with subsection 62-730.182(5), F.A.C. For the purposes of this section, a concentration of hazardous waste or hazardous substances shall be deemed to be life-threatening when the concentration of such hazardous waste or substances could cause susceptible

or sensitive individuals, excluding hypersensitive or hyper susceptible individuals, to experience irreversible or serious, long-lasting effects or impaired ability to escape.

(b) Except as provided in subsection 62-730.182(7), F.A.C., a substantial increase in the risk of impact from a release means addition of waste codes; increase in the number or area of treatment, storage or disposal units; or increase in the volume of hazardous waste managed at the hazardous waste facility (which includes a transfer facility).

(5)(a) In the demonstration required by subsection 62-730.182(3), F.A.C., the owner or operator shall analyze and report:

1. One worst-case release scenario that is estimated to create the greatest distance in any direction to an inhalation toxic endpoint determined in accordance with the hierarchy referenced in sub-subparagraph 62-730.182(5)(g)1.a., F.A.C.; and

2. One worst-case release scenario that is estimated to create the greatest distance in any direction to a flammable endpoint defined in sub-subparagraph 62-730.182(5)(g)1.b., F.A.C., resulting from the release of regulated flammable substances under worst-case conditions defined in paragraph 62-730.182(5)(g), F.A.C.

(b) The worst-case release quantity shall be the greater of the following:

1. For substances in a tank (for example, a reactor, vat, kettle, boiler, or cylinder) or other container (for example, a drum or barrel), the greatest amount potentially held in a single tank or container, taking into account administrative controls that limit the maximum quantity; or

2. For substances in pipes, the greatest amount potentially in a pipe, taking into account administrative controls that limit the maximum quantity.

(c)1. For toxic substances that are normally gases at ambient temperature and handled as a gas or as a liquid under pressure, the owner or operator shall assume that the quantity in the vessel or pipe, as determined under paragraph 62-730.182(5)(b), F.A.C., is released as a gas over 10 minutes. The release rate (in minutes) shall be assumed to be the total quantity divided by 10 unless passive mitigation systems are in place.

2. For gases handled as refrigerated liquids at ambient pressure:

a. If the released substance is not contained by passive mitigation systems or if the contained pool would have a depth of one centimeter, the owner or operator shall assume that the substance is released as a gas in 10 minutes;

b. If the released substance is contained by passive mitigation systems in a pool with a depth greater than one centimeter, the owner or operator may assume that the quantity in the vessel or pipe, as determined under paragraph 62-730.182(5)(b), F.A.C., is spilled instantaneously to form a

liquid pool. The volatilization rate (release rate) shall be calculated at the boiling point of the substance and at the conditions specified in paragraph 62-730.182(5)(d), F.A.C.

(d)1. For toxic substances that are normally liquids at ambient temperature, the owner or operator shall assume that the quantity in the vessel or pipe, as determined under paragraph 62-730.182(5)(b), F.A.C., is spilled instantaneously to form a liquid pool.

a. The surface area of the pool shall be determined by assuming that the liquid spreads to one centimeter deep unless passive mitigation systems are in place that serve to contain the spill and limit the surface area. Where passive mitigation is in place, the surface area of the contained liquid shall be used to calculate the volatilization rate.

b. The owner or operator may take into account the actual surface characteristics when analyzing the volatilization rate.

2. The volatilization rate shall account for the highest daily maximum temperature occurring in the past three years and the temperature of the substance in the vessel.

3. The rate of release to air shall be determined from the volatilization rate of the liquid pool. The owner or operator may use any publicly available technique or methodology that accounts for the modeling conditions and are recognized by industry as applicable as part of current practices. Proprietary models that account for the modeling conditions may be used provided the owner or operator allows the implementing agency access to the model and describes model features and differences from publicly available models upon request.

(e) For flammable gases, the owner or operator shall assume that the quantity of the substance, as determined under paragraph 62-730.182(5)(b), F.A.C., and the provisions in subparagraphs 62-730.182(5)(e)1. and 2., F.A.C., vaporizes resulting in a vapor cloud explosion. A yield factor of 10 percent of the available energy released in the explosion shall be used to determine the distance to the explosion endpoint if the model used is based on trinitrotoluene (TNT) equivalent methods.

1. For flammable substances that are normally gases at ambient temperature and handled as a gas or as a liquid under pressure, the owner or operator shall assume that the quantity in the vessel or pipe, as determined under paragraph 62-730.182(5)(b), F.A.C., is released as a gas over 10 minutes. The total quantity shall be assumed to be involved in the vapor cloud explosion.

2. For flammable gases handled as refrigerated liquids at ambient pressure:

a. If the released substance is not contained by passive mitigation systems or if the contained pool would have a depth of one centimeter or less, the owner or operator shall assume that the total quantity of the substance is released as a gas in 10 minutes, and the total quantity will be involved in the vapor cloud explosion.

b. If the released substance is contained by passive mitigation systems in a pool with a depth greater than one centimeter, the owner or operator may assume that the quantity in the vessel or pipe, as determined under paragraph 62-730.182(5)(b), F.A.C., is spilled instantaneously to form a liquid pool. The volatilization rate (release rate) shall be calculated at the boiling point of the substance and at the conditions specified in paragraph 62-730.182(5)(d), F.A.C. The owner or operator shall assume that the quantity which becomes vapor in the first 10 minutes is involved in the vapor cloud explosion.

(f) For flammable liquids, the owner or operator shall assume that the quantity of the substance, as determined under paragraph 62-730.182(5)(b), F.A.C., and the provisions in subparagraphs 62-730.182(5)(b)1. and 2., F.A.C., vaporizes resulting in a vapor cloud explosion. A yield factor of 10 percent of the available energy released in the explosion shall be used to determine the distance to the explosion endpoint if the model used is based on TNT equivalent methods.

1. For regulated flammable substances that are normally liquids at ambient temperature, the owner or operator shall assume that the entire quantity in the vessel or pipe, as determined under paragraph 62-730.182(5)(b), F.A.C., is spilled instantaneously to form a liquid pool. For liquids at temperatures below their atmospheric boiling point, the volatilization rate shall be calculated at the conditions specified in paragraph 62-730.182(5)(d), F.A.C.

2. The owner or operator shall assume that the quantity which becomes vapor in the first 10 minutes is involved in the vapor cloud explosion.

(g) The owner or operator may use any commercially or publicly available air dispersion modeling techniques, provided the techniques account for the modeling conditions and are recognized by industry as applicable as part of current practices. Proprietary models that account for the modeling conditions may be used provided the owner or operator allows the implementing agency access to the model and describes model features and differences from publicly available models upon request. The chosen model shall use the following parameters:

1. The following endpoints shall be used:

a. The inhalation toxic endpoints shall be determined in accordance with the hierarchy provided in the technical report dated \_\_\_\_\_.

b. The endpoints for flammables vary according to the scenarios studied:

(I) For explosion, an overpressure of one pound per square inch.

(II) For radiant heat/exposure time, a radiant heat of five kilowatts per squared meter for 40 seconds.

(III) For lower flammability limit, concentration of flammable constituent in air that exceeds 25 percent of their lower flammability limit.

2. The owner or operator shall use a wind speed of 1.5 meters per second and F atmospheric stability class (Pasquill-Gifford system).

3. The owner or operator shall use the highest daily maximum temperature in the previous three years and average humidity for the site, based on temperature/humidity data gathered at the stationary source or at a local meteorological station.

4. The worst-case release of a toxic substance shall be analyzed assuming a ground level (0 feet) release.

5. The owner or operator shall use either urban or rural topography, as appropriate. Urban means that there are many obstacles in the immediate area; obstacles include buildings or trees. Rural means there are no buildings in the immediate area and the terrain is generally flat and unobstructed.

6. The owner or operator shall ensure that tables or models used for dispersion analysis of toxic substances appropriately account for gas density.

7. For worst case, liquids other than gases liquefied by refrigeration only shall be considered to be released at the highest daily maximum temperature, based on data for the previous three years appropriate for the stationary source, or at process temperature, whichever is higher.

(h) Consideration of passive mitigation. Passive mitigation systems may be considered for the analysis of worst case provided that the mitigation system is capable of withstanding the release event triggering the scenario and would still function as intended.

(i) Factors in selecting a worst-case scenario. Notwithstanding the provisions of paragraph 62-730.182(5)(b), F.A.C., of this section, the owner or operator shall select as the worst case for flammable substances or the worst case for toxic substances, a scenario based on the following factors if such a scenario would result in a greater distance to an endpoint defined in subparagraph 62-730.182(5)(g)1., F.A.C., beyond the stationary source boundary than the scenario provided under paragraph 62-730.182(5)(b), F.A.C., of this section:

1. Smaller quantities handled at higher process temperature or pressure; and

2. Proximity to the boundary of the stationary source.

(6) In the demonstration required by subsection 62-730.182(3), F.A.C., the owner or operator shall analyze and report:

(a) The physical and chemical characteristics of hazardous waste to be stored; including ignitability, corrosivity, reactivity, toxicity, and volatility; together with any proposed restrictions on the types of hazardous waste to be stored.

(b) The maximum volume of each type of hazardous waste to be stored, together with any proposed restrictions on the types and/or volumes of hazardous waste to be stored.

(c) Operating methods, techniques, and practices to be undertaken by the facility for hazardous waste for which life-threatening concentrations would occur off-site from a spill, fire, or other accidental release.

(d) Passive design improvements or operational restrictions, other than those set forth in this rule, proposed by the owner or operator.

(e) No protection from a fire department may be assumed. Passive fire protection measures only, not active fire protective measures, may be assumed to be effective in the demonstration.

(7) The modifications listed in paragraph 62-730.182(4)(b), F.A.C., shall not be considered to substantially increase the risk of impact if, evaluated on a unit by unit basis, the applicable criteria within the following conditions are met:

(a) Any additional units or expanded areas are:

1. Separated from adjoining hazardous waste storage, treatment, or disposal units or areas by 4-hour fire rated walls, or

2. Separated from the existing hazardous waste storage, treatment, disposal units, or areas by a sufficient distance (to be specified in the site-specific permit or other authorization) such that a spill, fire, or other accidental release will not result in the spread of a fire, spill, or other accidental release to the new unit or units.

(b) Interior emergency egress lighting is provided for all hazardous waste treatment, storage, disposal, and transfer facility structures. [Note, the National Fire Protection Association (NFPA) provides design standards for egress lighting in the National Fire Codes].

(c) Exterior emergency lighting is provided for the exterior of all hazardous waste treatment, storage, disposal, and transfer facility hazardous waste management areas, including loading/unloading and transporter vehicle parking areas. [Note, the NFPA provides design standards for exterior emergency lighting in the National Fire Codes].

(d) Secondary containment is provided for all loading and unloading areas, as follows:

1. The secondary containment system has sufficient capacity to contain the total volume of the largest container or 10% of the total volume of the maximum number of containers managed in the loading and unloading area, whichever is greater.

2. If the secondary containment system is not sheltered from precipitation, the secondary containment system has the additional capacity necessary to contain precipitation at the loading and unloading area from a 25-year, 24-hour storm event.

3. For attended transfer to a tank, the tank is installed with a spill containment system at each tank fill connection. This spill containment system is designed to prevent a discharge of

regulated substances when the transfer hose or pipe is detached from the tank fill pipe and meets the requirements of paragraph 62-761.500(1)(e), F.A.C.

(e) All transportation vehicles in which hazardous waste is stored incident to transportation at a hazardous waste management facility are parked on a concrete or asphalt surface.

(f) All hazardous waste management areas, including loading and unloading areas at treatment, storage, or disposal units and transfer facilities, comply with the security requirements of 40 CFR Part 264, Subpart C, as adopted by reference in Rule 62-730.180, F.A.C.

(g) All hazardous waste management areas, including loading and unloading areas at treatment, storage, or disposal units and transfer facilities, comply with the communications or alarm system requirements of 40 CFR Part 264, Subpart C, including fire and smoke alarm systems, as adopted by reference in Rule 62-730.180, F.A.C. The system includes a 24-hour alarm station attended by properly trained personnel and an alarm system which automatically transmits a signal to a municipal fire department, a fire brigade, or an emergency response agency without delay.

(h) Concrete floors for the hazardous waste management areas are constructed with an impervious, chemically resistant, surface or coating. Design and construction of the concrete floors must be signed and sealed by a professional engineer in accordance with the requirements of Chapter 471, F.S.

(i) Hazardous waste treatment, storage, disposal and transfer facilities use, at a minimum, incombustible materials for the following structural elements: party and firewalls, interior bearing walls, interior nonbearing partitions, columns, beams, girders, trusses, arches, floors, floor/ceiling assemblies, roofs, roof/ceiling assemblies, exterior bearing walls, and exterior nonbearing walls.

(j) All bays that contain water reactive (Department of Transportation (DOT) Class 4.3), flammable or combustible hazardous waste (DOT Class 2.1, Class 3, Class 4.1 and Class 4.2), oxidizers (DOT Class 5.1), or organic peroxides (DOT Class 5.2), as defined in 49 CFR Part 173, are completely surrounded with four-hour firewalls to the ceiling and provided with automatic fire doors for the entrance and exit. A two-hour rated ceiling is provided for all water reactive storage or treatment bays. Contiguous bays which contain compatible hazardous waste may be considered as a single bay in meeting this standard. This standard shall not apply if the flammable or combustible hazardous waste is separated from other hazardous waste management areas in accordance with the distances specified in subparagraph 62-730.182(7)(a)2., F.A.C.

(k) The facility is provided with an automatic fire sprinkler or suppression system. Fire suppression agents are compatible with the predominant type or types of hazardous waste

managed. [Note, the National Fire Protection Association (NFPA) provides design standards for fire sprinkler and suppression systems in the National Fire Codes].

(l) Lightning protection is provided for all interior storage or treatment structures for hazardous waste treatment, storage and transfer facilities [Note, the National Fire Protection Association (NFPA) provides standards for the installation of lightning protection systems in the National Fire Codes].

(m) The owner or operator maintains a real-time record of information online or at an off-site location that identifies the generators of the waste and the quantity, type, location, and hazards of the waste at the facility, and makes this information accessible to the Department, to the county in which the facility is located, to any municipality with planning jurisdiction over the site of the facility, and to emergency response agencies that have a role under the contingency plan for the facility.

(n) In addition to the security requirements of 40 CFR 264.14, the owner or operator provides a security and surveillance system at the facility 24 hours a day, seven days a week, either by employing trained facility personnel or by providing an electronic security and surveillance system which may include television, motion detectors, heat-sensing equipment, combustible gas monitors, or any combination of these, capable of promptly detecting unauthorized access to the facility; monitoring conditions; identifying operator errors; and detecting any discharge that could directly or indirectly cause a fire, explosion, or release of hazardous waste or hazardous waste constituents into the environment or threaten human health.

(o) The owner or operator installs an on-site wind monitor located so that the real-time wind direction can be determined from a remote location in the event of a release of hazardous waste or hazardous waste constituents into the environment.

(8) The owner or operator shall not implement a proposed modification until the Department approves the demonstration required by this section.

Specific Authority 403.7211 FS. Law Implemented 402.7211 FS. History—New \_\_\_\_\_.

62-730.900 Forms.

No change.

(1)(a) No change.

(b) 8700-12FL – Florida Notification of Regulated Waste Activity, \_\_\_\_\_ April 22, 2007. [Form number 62-730.900(1)(b)]

(2) through (5) No change.

(6) [reserved] Transfer Facility Notification Form, January 5, 1995. [Form number 62-730.900(6)]

(7) through (8) No change.



Specific Authority 120.53, 403.061, 403.0611 FS. Law Implemented 120.52, 120.53, 120.55, 403.0611, 403.0875, 403.7234 FS. History—New 11-30-82, Amended 4-1-83, 5-5-83, 8-21-83, 3-1-84, 5-31-84, 9-17-84, 10-29-84, 2-11-85, Formerly 17-1.207(1), (3)-(6), Amended 2-6-86, 4-8-86, 9-23-87, Formerly 17-30.401, Amended 6-28-88, 12-12-88, Formerly 17-30.900, Amended 7-3-89, 8-13-90, 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.900, Amended 1-5-95, 10-10-02, 1-29-06, 4-22-07,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tim Bahr, Environmental Administrator, Hazardous Waste Regulation, Department of Environmental Protection

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Mary Jean Yon, Director, Division of Waste Management, Department of Environmental Protection

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 11, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 22, 2007 and March 21, 2008

**DEPARTMENT OF JUVENILE JUSTICE**

**Residential Services**

RULE NOS.:	RULE TITLES:
63E-7.010	Residential Case Management Services
63E-7.011	Delinquency Intervention and Treatment Services

PURPOSE AND EFFECT: The rule establishes the requirements for the administration and operation of state operated and contracted residential commitment programs for juvenile offenders.

SUMMARY: The rule sections address the provision of case management services within a residential program, including the function of the multidisciplinary intervention and treatment team. All aspects of case management are covered, from initial assessment, through performance planning and review, and concluding with transition planning prior to release. Delinquency intervention and treatment services are also addressed, including the provision of delinquency intervention services to address criminogenic needs, and treatment services for physical, mental health and substance abuse.

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

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

SPECIFIC AUTHORITY: 985.64 FS.

LAW IMPLEMENTED: 985.601(3)(a) 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: Wednesday, August 27, 2008, 9:30 a.m.  
 PLACE: DJJ Headquarters, 2737 Centerview Drive, General Counsel’s Conference Room 3223, Tallahassee, Florida  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: John Milla, 2737 Centerview Dr., Ste. 3200, Tallahassee, FL 32399-3100, e-mail: john.milla@djj.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

63E-7.010 Residential Case Management Services.

(1) A residential commitment program shall provide case management services for each youth that ensure his or her priority needs are identified and addressed through the coordinated delivery of delinquency intervention and treatment services. The program’s case management processes shall include the following:

- (a) Assessment of the youth, including reassessments or updates;
- (b) Development and implementation of the youth’s performance plan and, when necessary to address a priority treatment need, the youth’s treatment plan;
- (c) Review and reporting of the youth’s performance and progress; and
- (d) Transition planning.

(2) Accommodating Disabilities. When providing case management services to any youth identified as having a disability, a residential commitment program shall make accommodations as needed to facilitate the youth’s understanding of and active participation in the case management processes listed above in paragraphs 63E-7.010(1)(a)-(d), F.A.C.

(3) Parent or Guardian Involvement. A residential commitment program shall, to the extent possible and reasonable, encourage and facilitate involvement of the youth’s parent or guardian in case management processes to include, at a minimum, assessment, performance plan development, progress reviews, and transition planning. To facilitate this involvement, the program shall invite the youth’s parent or guardian to participate in intervention and treatment team meetings for the purposes of developing the youth’s performance plan, conducting formal performance reviews of the youth’s progress in the program, and planning for the youth’s transition to the community upon release from the program. If unable to attend, the parent or guardian shall be given the opportunity to participate via telephone or video conferencing or to provide verbal or written input prior to the meeting. However, the program shall obtain the written consent of any youth 18 years of age or older, unless the youth is incapacitated and has a court-appointed guardian, before providing or discussing with the parent or guardian any information related to the youth’s physical or mental health screening, assessment, or treatment. Additionally, the program

shall obtain the written consent of any youth, regardless of age, unless he or she is incapacitated and has a court-appointed guardian, before sharing with the parent or guardian any substance abuse information pertaining to the youth.

(4) Multidisciplinary Intervention and Treatment Team. A residential commitment program shall implement a multidisciplinary case management process, assigning each newly admitted youth's case to a multidisciplinary intervention and treatment team. The team shall plan for and ensure delivery of coordinated delinquency intervention and treatment services to meet the prioritized needs of each youth assigned.

(a) The program director or his or her designee shall identify a leader for each intervention and treatment team to coordinate and oversee the team's efforts and facilitate effective management of each case assigned to the team.

(b) At a minimum, a multidisciplinary intervention and treatment team shall be comprised of the youth, representatives from the program's administration and residential living unit, and others directly responsible for providing, or overseeing provision of, intervention and treatment services to the youth. Each intervention and treatment team member shall participate in the case management processes addressed in paragraphs 63E-7.010(1)(a)-(d), F.A.C., to ensure provision of coordinated services to each youth. The program shall request and encourage a representative of the educational staff to participate as an intervention and treatment team member. However, at a minimum, the intervention and treatment team shall obtain input from the educational staff for use when developing and modifying the youth's performance plan, preparing progress reports to the court, and engaging in transition planning.

(5) Assessment. A residential commitment program shall provide assessment services as follows:

(a) Initial Assessment. The program shall ensure that an initial assessment of each youth is conducted within 30 days of admission. The program shall maintain all documentation of the initial assessment in the youth's official youth case record.

1. Criminogenic Risks and Needs. The program shall assess each youth to identify criminogenic risk and protective factors, prioritize the youth's criminogenic needs, and determine his or her risk to re-offend. The criminogenic assessment tool used for this purpose shall address, at a minimum, the following domains, with information for its completion being obtained through a multi-disciplinary assessment process:

- a. Criminal history;
- b. Substance abuse involvement;
- c. Attitudes, behaviors and skills;
- d. Relationships;
- e. Family history and current family dynamics;
- f. School and work history and status; and
- g. Use of free time;

2. Educational and Treatment Needs. Additionally, the program shall ensure that the initial assessment process addresses the youth's educational and treatment needs as specified in the following subsections, and that any resulting information that is applicable to the criminogenic risk and needs assessment is reflected on the criminogenic assessment tool addressed in subparagraph 63E-7.010(5)(a)1., F.A.C.

a. Education. An educational assessment shall be conducted as required in Section 1003.52, F.S.

b. Physical Health. A comprehensive physical assessment conducted by a physician, advanced registered nurse practitioner (ARNP) or physician assistant, as well as a health-related history conducted by a physician, ARNP, physician assistant or nurse licensed pursuant to Section 464.003, F.S., shall be made available to the program by the time of the youth's admission. After the youth is admitted, healthcare professionals with the qualifications referenced above shall review the respective documents within seven calendar days of the youth's admission, resulting in verification or update of the youth's medical status, identification of any medical alert relevant to the youth, and provision of healthcare services as indicated.

c. Mental Health and Substance Abuse. The program shall ensure that a comprehensive mental health or substance abuse evaluation is conducted when the need is identified through screening pursuant to paragraph 63E-7.004(2)(b), F.A.C. However, if a comprehensive evaluation, as defined in Rule 63E-7.002, F.A.C., was conducted within the past twelve months, an update to that evaluation may be completed instead. Only a licensed mental health professional or a mental health clinical staff person working under the direct supervision of a licensed mental health professional shall conduct a mental health evaluation or update. Any substance abuse evaluation or update shall be conducted by a qualified professional who is licensed under Chapter 458, 459, 490 or 491, F.S., or a substance abuse clinical staff person who is an employee of a service provider licensed under Chapter 397, F.S., or an employee in a facility licensed under Chapter 397, F.S.

(b) Reassessment. The program shall determine and document changes in each youth's risks and needs so that updated information is available when the intervention and treatment team prepares a 90-day Performance Summary pursuant to paragraph 63E-7.010(9)(b), F.A.C. Additionally, the program shall ensure that any other updates or reassessments are completed when deemed necessary by the intervention and treatment team to effectively manage the youth's case. The program shall maintain all re-assessment documentation in the youth's official youth case record.

(6) Performance Plan. A residential commitment program shall ensure that each youth has a performance plan with individualized delinquency intervention goals to achieve before release from the program. Based on the findings of the

initial assessment of the youth, the intervention and treatment team, including the youth, shall meet and develop the performance plan within 30 days of the youth's admission.

(a) The performance plan, developed to facilitate the youth's successful reintegration into the community upon release from the program, shall include goals that:

1. Specify delinquency interventions with measurable outcomes for the youth that will decrease criminogenic risk factors and promote strengths, skills, and supports that reduce the likelihood of the youth reoffending;

2. Target court-ordered sanctions that can be reasonably initiated or completed while the youth is in the program; and

3. Identify transition activities targeted for the last 60 days of the youth's anticipated stay in the program.

(b) For each goal, the performance plan shall specify its target date for completion, the youth's responsibilities to accomplish the goal, and the program's responsibilities to enable the youth to complete the goal.

(c) To facilitate the youth's rehabilitation or promote public safety, the intervention and treatment team may revise the youth's performance plan based on reassessment results, the youth's demonstrated progress or lack of progress toward completing a goal, or newly acquired or revealed information. Additionally, based on the transition conference addressed in paragraph 63E-7.010(10)(a), F.A.C., the intervention and treatment team shall revise the youth's performance plan as needed to facilitate transition activities targeted for completion during the last 60 days of the youth's stay in the program.

(d) The youth, the intervention and treatment team leader, and all other parties who have significant responsibilities in goal completion shall sign the performance plan, indicating their acknowledgement of its contents and associated responsibilities. The program shall file the original signed performance plan in the youth's official youth case record and shall provide a copy to the youth. Within 10 working days of completion of the performance plan, the program shall send a transmittal letter and a copy of the plan to the committing court, the youth's JPO, the parent or legal guardian, and the DCF counselor, if applicable.

(7) Treatment Plan. When a youth has a developmental disability or a mental health, substance abuse, or physical health need that is addressed in a separate treatment or care plan, that treatment or care plan shall be coordinated with the youth's performance plan through the multi-disciplinary intervention and treatment team process to ensure compatibility of goals, services and service delivery. The youth's performance plan shall reference or incorporate the youth's treatment or care plan. When a youth in a residential commitment program has a current behavior support plan or case plan through the Agency for Persons with Disabilities, the program shall coordinate the youth's performance plan with the youth's APD plan for related issues.

(8) Academic Plan. A youth's performance plan and his or her academic plan as specified in paragraph 6A-6.05281(4)(a), F.A.C., if applicable, shall be coordinated through the multi-disciplinary intervention and treatment team process, and the performance plan shall reference or incorporate the academic plan.

(9) Performance Review and Reporting.

(a) Performance Reviews. A residential commitment program shall ensure that the intervention and treatment team reviews each youth's performance, including progress on individualized performance plan goals, positive and negative behavior, including behavior that resulted in physical interventions, and if the youth has a treatment plan, treatment progress. Performance reviews shall result in revisions to the youth's performance plan when determined necessary by the intervention and treatment team in accordance with paragraph 63E-7.010(6)(c), F.A.C., and reassessments when deemed necessary by the intervention and treatment team in accordance with paragraph 63E-7.010(5)(b), F.A.C.

1. Low-risk, moderate-risk, and high-risk programs shall conduct biweekly reviews of each youth's performance. A formal performance review, requiring a meeting of the intervention and treatment team, shall be conducted at least every 30 days. In any month, one bi-weekly performance review may be informal, where the intervention and treatment team leader meets individually with the youth. When needed, the team leader may include other team members' input in an informal review.

2. In maximum-risk programs, the intervention and treatment team shall meet at least every 30 days to conduct a formal performance review of each youth.

3. The intervention and treatment team shall document each formal and informal performance review in the official youth case record, including the youth's name, date of the review, meeting attendees, any input or comments from team members or others, and a brief synopsis of the youth's progress in the program.

(b) Performance Reporting. The intervention and treatment team shall prepare a Performance Summary (RS 007, September 2006) at 90-day intervals, beginning 90 days from the signing of the youth's performance plan, or at shorter intervals when requested by the committing court. Additionally, the intervention and treatment team shall prepare a Performance Summary prior to the youth's release, discharge or transfer from the program.

1. Each Performance Summary shall address, at a minimum, the following areas:

a. The youth's status on each performance plan goal;

b. The youth's overall treatment progress if the youth has a treatment plan;

c. The youth's academic status, including performance and behavior in school;

d. The youth's behavior, including level of motivation and readiness for change, interactions with peers and staff, overall behavior adjustment, and, for any initial Performance Summary, the youth's initial adjustment to the program;

e. Significant positive and negative incidents or events; and

f. A justification for a request for release, discharge or transfer, if applicable.

2. The staff member who prepared the Performance Summary, the intervention and treatment team leader, the program director or designee, and the youth shall review, sign and date the document. Prior to the youth signing the document, program staff shall give the youth an opportunity to add comments, providing assistance to the youth, if requested. The program shall distribute the performance plan as specified below within 10 working days of its signing.

a. With the exception of a Performance Summary prepared in anticipation of a youth's release or discharge, the program shall send copies of the signed document to the committing court, the youth's JPO, and the parent or guardian and shall provide a copy to the youth.

b. As notification of its intent to release a youth pursuant to subsection 63E-7.012(2), F.A.C., or discharge a youth pursuant to subsection 63E-7.012(3), F.A.C., the program shall send the original, signed Performance Summary, together with the Pre-Release Notification and Acknowledgement form (RS 008, September 2006), to the youth's JPO who is responsible for forwarding the documents to the committing court.

c. The program shall file the original, signed Performance Summary in the official youth case record except when it is prepared in anticipation of a youth's release or discharge, in which case, the program shall file a signed copy in the official youth case record.

(10) Transition Planning. When developing each youth's performance plan and throughout its implementation during the youth's stay, a residential commitment program shall ensure that the intervention and treatment team is planning for the youth's successful transition to the community upon release from the program. The intervention and treatment team shall intensify its transition planning as the youth nears his or her targeted release date as follows:

(a) Transition Conference. In a program with a length of stay over 90 days, the intervention and treatment team shall conduct a transition conference at least 60 days prior to the youth's targeted release date. In any program with a length of stay of 90 days or less, the exit conference, addressed in paragraph 63E-7.010(10)(b), F.A.C., shall suffice to address all necessary pre-release transition activities.

1. The program director or designee, the intervention and treatment team leader, and the youth shall attend the transition conference. Although the program shall encourage other intervention and treatment team members to attend, those not attending shall provide written input to the team leader prior to

the conference. If the youth's teacher is not an active intervention and treatment team member, the team leader shall invite the teacher to participate in the transition conference; however, if the teacher chooses not to attend, the team leader shall obtain the teacher's input prior to the conference. Additionally, the program shall invite the youth's JPO, post-residential services counselor, if different than the JPO, the youth's parent or guardian, and if applicable, the DCF counselor, encouraging their participation through advanced notifications and reasonable accommodations. However, when arrangements cannot be made for their participation in the transition conference, the intervention and treatment team leader shall request their input and offer an opportunity for them to provide it prior to the conference.

2. During the transition conference, participants shall review transition activities on the youth's performance plan, revise them if necessary, and identify additional activities as needed. Target completion dates and persons responsible for their completion shall be identified during the conference. The intervention and treatment team leader shall obtain conference attendees' dated signatures, representing their acknowledgement of the transition activities and accountability for their completion pursuant to the youth's performance plan.

3. In follow-up to the conference, if anyone not in attendance is identified as having responsibility for completing a transition activity, the intervention and treatment team leader shall send him or her a copy of the plan and request its return with a dated signature. In this case, an original signature is not necessary.

(b) Exit Conference. Prior to a youth's release, the program shall conduct an exit conference to review the status of the transition activities established at the transition conference and finalize plans for the youth's release. The exit conference shall be conducted after the program has notified the JPO of the release, but not less than 14 days prior to the youth's targeted release date or, if the program has a length of stay of 45 days or less, it shall be conducted not less than one week prior to the youth's targeted release date.

1. The program shall arrange and prepare for the exit conference in accordance with the requirements for the transition conference stipulated in subparagraph 63E-7.010(10)(a)1., F.A.C.

2. The program shall document the exit conference in the official youth case record, including the date of the conference, attendees' signatures, names of persons participating via telephone or video conferencing, and a brief summary of the follow-up transition activities still pending. The program shall track and ensure completion of any pending actions necessary to expedite the youth's release and successful transition.

(11) Coordination of Youth Served by DJJ and DCF. In an effort to coordinate services for youth jointly served by the department and DCF, a residential commitment program shall provide information requested by the DCF counselor, or the

youth's JPO on behalf of the DCF counselor, and shall, upon request, make reasonable accommodations for a DCF counselor to visit the youth. The program shall invite the DCF counselor to the youth's transition and exit conferences and, if necessary, make reasonable accommodations for telephone or video access to participate in the conference. Additionally, the program shall notify the DCF counselor 30 days prior to a youth's release or, in the event that the program does not have 30 days notice of the youth's release, the program shall notify the DCF counselor immediately upon becoming aware of the release date.

(12) Management of Sexually Violent Predator (SVP) Eligible Cases. A residential commitment program shall establish and implement a tracking system to ensure that any case of a youth who is screened by the department as potentially eligible for involuntary commitment as a SVP is managed as follows:

(a) The program shall identify the youth's potential SVP eligibility as part of the initial assessment documentation and the youth's performance plan. The program shall include transition activities on the youth's performance plan that facilitate determination of the youth's SVP eligibility status.

(b) When planning the youth's release pursuant to paragraph 63E-7.012(2)(b), F.A.C., the program shall assist the DCF multidisciplinary team and the State Attorney by providing additional information requested or by accommodating their request to interview the youth.

Specific Authority 985.64 FS. Law Implemented 985.601(3)(a) FS. History--New \_\_\_\_\_.

#### 63E-7.011 Delinquency Intervention and Treatment Services.

A residential commitment program shall provide delinquency intervention and treatment services that are gender-specific pursuant to Section 985.02, F.S., and that focus on preparing youth to live responsibly in the community upon release from the program. The program shall design its services and service delivery system based on the common characteristics of its primary target population, including age, gender, and special needs, and their impact on youths' responsivity to intervention or treatment. However, in accordance with Rule 63E-7.010, F.A.C., the program shall individualize and coordinate the provision of delinquency intervention and treatment services based on each youth's prioritized needs.

(1) Residential Community. A residential commitment program shall establish an environment that is conducive to the effective delivery of delinquency intervention and treatment services. This environment shall promote and reinforce community values by giving youth opportunities to assume the responsibilities and experience the benefits of being part of a community. Therefore, the program shall establish a residential community, as defined in Rule 63E-7.002, F.A.C., that promotes the following:

(a) Each youth's personal accountability for his or her actions and how they impact others;

(b) Community safety through peaceful conflict resolution and youth learning to manage their behavior;

(c) Competency development through opportunities for youth to practice skills needed for responsible community living;

(d) Youths' active participation through opportunities to make choices, assume meaningful roles, including team membership and leadership roles, and give input into the rules and operation of the residential community. The program shall establish a formal process to promote youths' constructive input, such as a youth advisory council, that gives them experience in identifying systemic issues impacting their residential community and making recommendations for resolution to improve conditions and enhance the quality of life for staff and youth in the program.

#### (2) Delinquency Intervention Services.

(a) For each youth in its care, a residential commitment program shall implement a delinquency intervention model or strategy that is an evidence-based practice or a practice with demonstrated effectiveness as defined in Rule 63E-7.002, F.A.C., that addresses a priority need identified for that youth.

(b) A staff person whose regularly assigned job duties include implementation of a specific delinquency intervention model, strategy or curriculum shall receive training in its effective implementation.

(c) A residential commitment program shall provide delinquency intervention services that include, at a minimum, the following:

1. Educational Services and Career and Vocational Programming. Educational services shall be provided pursuant to Section 1003.52, F.S., the cooperative agreement between the applicable school district and the department as referenced in Section 1003.52(13), F.S., and any applicable provisions of the residential provider's contract with the department. Career and vocational programming services shall be provided pursuant to Chapter 63B-1, F.A.C., and any applicable provisions of the residential provider's contract with the department. The program shall make relevant facility training available to the educational and vocational staff, including program orientation, facility safety and security procedures, the program's behavior management system, and other topics that the program deems necessary to promote coordination of services, as well as safety and security.

2. Life and Social Skill Competency Development. The program shall provide interventions or instruction that focus on developing life and social skill competencies in youth. For purposes of this rule chapter, life skills are those skills that help youth to function more responsibly and successfully in everyday life situations, including social skills that specifically address interpersonal relationships. Non-clinical staff may implement life and social skills interventions or instruction

except when the instructional materials are specifically designed for use by clinical staff or when the skill training is delivered in response to a youth's treatment plan, thereby requiring a clinician's implementation.

a. The program shall provide life and social skills intervention services that address, at a minimum, identification and avoidance of high-risk situations that could endanger self or others, communication, interpersonal relationships and interactions, non-violent conflict resolution, anger management, and critical thinking including problem-solving and decision-making.

b. Direct care staff shall model prosocial behaviors for youth throughout the course of each day in the program, and guide and re-direct youth toward prosocial behaviors and positive choices. Additionally, staff shall engage youth in constructive dialogue to peacefully resolve conflict when it occurs or, if imminent safety and security issues delay intervention to resolve the conflict, as a follow-up process after safety and security are restored.

3. Impact of Crime Awareness Activities. The program shall provide activities or instruction intended to increase youths' awareness of and empathy for crime victims and survivors and increase youths' personal accountability for their criminal actions and harm to others. These activities or instruction shall be planned or designed to:

a. Assist youth to accept responsibility for harm they have caused by their past criminal actions, challenging them to recognize and modify their irresponsible thinking, such as denying, minimizing, rationalizing, and blaming victims;

b. Teach youth about the impact of crime on victims, their families and their communities;

c. Expose youth to victims' perspectives through victim speakers, in person or on videotape or audiotape, or through victim impact statements, and engage youth in follow-up activities to process their reactions to each victim's accounting of how crime affected his or her life; and

d. Provide opportunities for youth to plan and participate in reparation activities intended to restore victims and communities, such as restitution activities and community service projects.

4. Community Service Projects. The program shall engage youth in community service projects as learning experiences that promote competency development in youth and provide opportunities for them to give back to the community, such as projects that benefit less fortunate or victimized persons. If youth are restricted to the confines of the residential facility grounds pursuant to subsection 63E-7.013(19), F.A.C., the program shall engage them in structured activities that can be accomplished on-site at the program while benefiting the community. Through collaborative community partnerships, the program shall identify service projects that are needed and valued by the community. Although program staff shall be responsible for the direct supervision of youth while engaged

in a community service project, the program shall ensure that any community member identified to sponsor or oversee a project serves as a positive role model while providing guidance needed for youth to successfully complete the project. In order for youth to understand the value of community service, staff shall provide opportunities for youth to give input into the selection of a community service project, involve youth in planning for the project, and de-brief with youth after completion of the project to process what they learned and how the community was benefited.

5. Recreation and Leisure Activities. The program shall provide a range of supervised, structured indoor and outdoor recreation and leisure activities for youth. These activities shall be based on the developmental levels and needs of youth in the program, as well as youths' input about their preferences and interests in various activities. The program shall offer recreation and leisure activities requiring varying degrees of mental and physical exertion, such as board games, creative arts, sports, and physical fitness activities. Activities shall be planned for youths' exposure to a variety of leisure and recreation choices, exploration of interests, constructive use of leisure time, and social and cognitive skill development, as well as to promote creativity, teamwork, healthy competition, mental stimulation, and physical fitness.

a. When engaging youth in active recreation and physical fitness activities, the program shall take the precautionary measures necessary to prevent over-exertion, heat stress, dehydration, frostbite, hypothermia, and exacerbation of existing illness or physical injury.

b. When planning for and engaging youth in active recreation and physical fitness activities, the program shall accommodate youths' limitations due to physical disabilities.

c. The program shall provide each youth with the opportunity to engage in large muscle exercise at least one hour daily. However, a youth shall not engage in such exercise when prohibited by medical contraindications or restrictions documented by a licensed healthcare professional or when a youth is exhibiting signs and symptoms of illness or physical injury pending a licensed healthcare professional's determination as to the necessity for medical restrictions. Additionally, a youth shall be prohibited from large muscle exercise when he or she is temporarily separated from the general population, including when placed on controlled observation or room restriction status pursuant to Rule 63E-7.013, F.A.C. However, if a youth is restricted to a room, the program shall give the youth an opportunity for large muscle exercise as soon as is reasonably possible after the youth is reintegrated into the general population.

d. The program director shall ensure development and implementation of written procedures that establish the conditions, content, and supervision necessary for the use of books and other leisure reading materials, television programming, videos, movies, and video games in the

program. Except for academic classroom materials approved by educational personnel, program staff shall screen or preview the content of books and other reading materials, television programming, videos, movies, and video games to prevent youth's access to content that promotes violence, criminal activity, sexual activity, or abuse. Program staff shall not allow youth to view any television program, video, or movie that is rated above PG-13 unless it is previewed and pre-approved by the program director or his or her designee.

6. Gang Prevention and Intervention Strategies. Consistent with subsection 63E-7.013(8), F.A.C., a residential commitment program shall implement gang prevention and intervention strategies when youth are identified as being a criminal street gang member, are affiliated with any criminal street gang, or are at high risk of gang involvement. Identification of youth to participate in gang prevention or intervention activities shall be based on information obtained through the program's screening, assessment and classification processes, as well as gang-associated behaviors exhibited or the youth's expressed interest or intent while in the program.

(d) Rehabilitative Planning and Follow-up Requirements for Off-Campus Activities. A residential commitment program shall ensure that off-campus activities addressed in this subsection are purposeful, deliberately planned, and related to the rehabilitation of the participating youth. Programs shall comply with eligibility, risk classification, notification and approval, supervision, and other security requirements related to off-campus activities specified in subsection 63E-7.013(19), F.A.C. Additionally, the program shall comply with the following rehabilitative planning and follow-up requirements for youth participating in supervised off-campus activities, such as community service projects, field excursions and other transition-related activities, and unsupervised temporary release activities, such as community employment, or day activities and home visits with youths' parents or guardians. However, the following requirements are not mandatory for supervised recreational off-campus activities earned by youth as incentives in accordance with the program's behavior management system.

1. A participating youth shall have specific, written goals or objectives, consistent with his or her performance plan and transition goals, to accomplish during the above-listed off-campus activities. For a home visit, the youth's home visit goals shall be included on the Home Visit Plan/Notification form (RS 003, September 2006). The program shall send the form to the youth's JPO, the youth's post-residential services counselor, if assigned, the youth's parent or guardian as an attachment to a transmittal letter explaining their responsibilities for providing supervision and support during their child's home visit, and the committing court as an attachment to the Home Visit Plan Approval form (RS 004, September 2006). When the program sends this form to the

committing court, the program shall copy the youth's parent or guardian, the youth's JPO, and the youth's post-residential services counselor, if assigned.

2. After completion of an off-campus activity, program staff shall de-brief with participating youth to process what they learned from the experience, as well as how they performed during the activity, including successes, challenges, and if applicable, alternative behaviors or actions that could have resulted in more positive outcomes. The youth's treatment team shall use information about the youth's performance during off-campus activities when reviewing the youth's overall progress and when planning future off-site and transition activities for the youth. Therefore, the program shall solicit feedback on a youth's performance from the employer of a youth participating in community employment, the community member overseeing a community services project, and the parent or guardian after supervising their child during a day activity or home visit.

(3) Treatment Services. Treatment services shall be provided in accordance with the following provisions:

(a) Authority for Evaluation and Treatment.

1. For purposes of this rule section, routine physical and mental healthcare services are defined as those specified on the Authority for Evaluation and Treatment (AET) form (HS 002, May 2007) defined and incorporated into this rule pursuant to Rule 63E-7.002, F.A.C.

2. Prior to admission to the program of a youth under 18 years of age or a youth 18 years of age or older who is incapacitated as defined in Section 744.102(12), F.S., the youth's JPO shall provide the residential commitment program with an original or a legible copy of the signed AET or a court order addressing the provision of routine physical and mental healthcare. However, when a youth is 18 years of age or older and not incapacitated, or otherwise emancipated as provided in Section 743.01 or 743.015, F.S., no AET or court order is required since the youth is responsible for authorizing his or her own physical and mental health care.

3. Unless revoked or modified by a youth's parent or guardian or superceded by a court order addressing the provision of routine physical and mental healthcare, an AET remains current and valid while the youth remains under the department's supervision or custody or for one year after it is signed, whichever comes later. However, if a youth reaches 18 years of age while in the program and is not incapacitated, or is otherwise emancipated as provided in Section 743.01 or 743.015, F.S., the youth is responsible for authorizing his or her own physical or mental health care.

4. When the person authorized to consent withholds, revokes or limits consent for any recommended treatment, the program's Designated Health Authority, based on his or her clinical judgment, shall determine whether the treatment, if not provided, will potentially result in serious or significant health consequences for the youth or threaten his or her life or

jeopardize the health of other youth and staff in the program. If the Designated Health Authority so determines, the program director shall explain the situation to the person withholding, revoking or limiting consent, encouraging him or her to consent to the needed treatment; however, if consent is still denied, the program director shall contact the department's regional general counsel to request him or her to obtain a court order authorizing the treatment.

5. If the program anticipates that a youth will reach 18 years of age while in the program and believes that he or she is an incapacitated person as defined in Section 744.102(12), F.S., the treatment team shall track the youth and, at least three months prior to his or her 18th birthday, shall contact the youth's parent or guardian to request that he or she initiate the process to determine incapacitation and guardianship in accordance with the procedures specified in Part V of Chapter 744, F.S., or, in the case of a youth in foster care, notify the Department of Children and Families counselor of the situation. If the program has reason to believe that guardianship is not being pursued, the program shall notify the department's regional legal counsel.

6. Except in the case of an incapacitated youth for whom the court has appointed a parent as the guardian, the program shall not release any health or mental health information to a parent of a youth who is 18 years of age or older, or is otherwise emancipated as provided in Section 743.01 or 743.015, F.S., without the youth's written consent. The program shall request the youth to give consent for his or her parent to be contacted in the event of an emergency; however, if the youth does not consent, the program shall request the youth to designate in writing the person or persons he or she wants contacted in an emergency situation.

7. The program shall not, under any circumstances, withhold physical or mental health emergency services pending the signing of an AET or issuance of a court order.

8. The program shall ensure that the original or a legible copy of the AET or the court order is maintained in the youth's individual healthcare record. Additionally, any revocations or modifications to the aforementioned documents shall be documented in the youth's individual healthcare record.

(b) Physical Health Services. A residential commitment program shall employ or contract with an individual to be the Designated Health Authority. He or she shall be licensed pursuant to Chapter 458 or Chapter 459, F.S. The Designated Health Authority shall be responsible for ensuring the delivery of administrative, managerial and medical oversight of the program's health care system. The program shall promote the health and physical development of the youth in its custody by ensuring the provision of, at a minimum, the following healthcare components.

1. Intake Screenings and Assessments. Each youth shall be screened pursuant to Rule 63E-7.004, F.A.C., and assessed pursuant to Rule 63E-7.010, F.A.C. If a youth is identified as

having a chronic condition or a communicable disease, is determined to be pregnant, or experiences a significant change in his or her healthcare status, or when a new medication or medical regimen is initiated, a physician or physician's designee shall conduct a follow-up assessment when deemed necessary based on his or her clinical judgment about the youth's condition.

2. Episodic Care. The program shall respond to any unexpected illness, accident or condition that requires immediate attention by ensuring 24-hour first aid and access to emergency care for youth when needed.

3. Sick Call Care. The program shall ensure implementation of an effective method for each youth to access sick call, as well as a system to respond to any youth's sick call complaint of illness or injury of a non-emergent nature with a nursing assessment and, when warranted, a nursing intervention or referral to an off-site health care provider for treatment. Sick call shall be conducted by a registered nurse or a licensed practical nurse who shall review the cases daily, telephonically or in person, with a healthcare professional at a licensure level of an RN or higher.

4. Medication Management. The program's medication management system shall provide for the safe, effective, and documented storage, administration, and inventory of over-the-counter and prescription medications, including controlled substances.

5. Infection Control. The program shall develop and implement a plan for surveillance, screening and management of illnesses or potential infectious conditions. The program's infection control plan shall be approved by the Designated Health Authority and shall address, at a minimum, universal precautions, blood borne pathogens, needlestick injuries with post-exposure evaluation and follow-up, and communicable diseases.

6. Health Education. Health education pertaining to issues of adolescence shall be provided to youth appropriate for their age, developmental level and gender. Additionally, as applicable, individualized health education shall be provided on specific health conditions, such as prenatal, postpartum and parenting education for pregnant youth.

7. Transitional Healthcare Planning. Consistent with transition planning required in Rule 63E-7.010, F.A.C., the program shall ensure a process to facilitate healthcare transitional planning and information exchange to maintain continuity of care for a youth who is released or discharged from the program or transferred to another facility.

(c) Mental Health and Substance Abuse Services.

1. Designated Mental Health Authority or Clinical Coordinator. A residential commitment program shall designate a Designated Mental Health Authority or a Clinical Coordinator as follows:



a. Any program with an operating capacity of 100 or more youth or any program providing DJJ specialized treatment services shall employ or contract with a single licensed mental health professional to be known as the Designated Mental Health Authority. If the program contracts with an agency or corporate entity, rather than a single mental health professional, then a single licensed mental health professional within the agency or corporate entity shall be identified as the Designated Mental Health Authority.

b. Any program with an operating capacity of less than 100 youth or that does not provide specialized DJJ treatment services, shall designate either a Designated Mental Health Authority or a Clinical Coordinator. Designating a non-licensed mental health clinical staff person as a Clinical Coordinator does not confer upon that person the authority to function as a clinical supervisor.

2. A residential commitment program shall ensure that youth in the program have access to, at a minimum, the following mental health and substance abuse services:

a. Mental health and substance abuse screening;

b. Comprehensive mental health and substance abuse evaluation;

c. Individualized mental health and substance abuse treatment planning and discharge planning;

d. Individual, group and family therapy;

e. Behavioral therapy;

f. Psychosocial skills training;

g. Psychiatric services;

h. Suicide prevention services;

i. Mental health crisis intervention;

j. Emergency mental health and substance abuse services; and

k. Developmental disability services for youth with a developmental disability.

3. Screening. Mental health and substance abuse screening that addresses risk factors for suicide, mental disorder and substance abuse shall be conducted upon a youth's admission to a residential commitment program in accordance with Rule 63E-7.004, F.A.C.

4. Comprehensive Evaluation. Youth who demonstrate behaviors or symptoms indicative of mental disorder or substance abuse during the screening process or after admission to the program shall be referred for a comprehensive mental health or substance abuse evaluation or update to be conducted by a qualified person in accordance with Rule 63E-7.010, F.A.C.

5. Suicide Prevention Services. Youth who demonstrate suicide risk factors during the screening process or after admission to a program shall be referred for Assessment of Suicide Risk or emergency mental health services if the youth is in crisis. A youth identified with suicide risk factors shall be maintained on suicide precautions until he or she has received

an Assessment of Suicide Risk conducted by a mental health clinical staff person who is a licensed mental health professional or works under the direct supervision of a licensed mental health professional. The Assessment of Suicide Risk form (MHSA 004, August 2006) is incorporated into this rule and is available electronically at [http://www.djj.fl.us/forms/mental\\_health\\_substance\\_abuse\\_services\\_forms\\_index.html](http://www.djj.fl.us/forms/mental_health_substance_abuse_services_forms_index.html).

6. Treatment Plan Development and Implementation. When a comprehensive mental health or substance abuse evaluation indicates the youth is in need of mental health and/or substance abuse treatment, an individualized mental health and/or substance abuse treatment plan shall be developed and timely treatment shall be provided based upon the youth's treatment plan. Pending development of an individualized mental health or substance abuse treatment plan, an initial plan is acceptable.

a. The individualized mental health treatment plan shall include the signatures of the youth, the mental health clinical staff person that prepared the plan, and any intervention and treatment team members who participated in its development. A licensed mental health professional shall review, sign and date the treatment plan within 10 days of completion.

b. The individualized substance abuse treatment plan shall include the signatures of the youth, the substance abuse clinical staff person that prepared the plan and any intervention and treatment team members who participated in its development. The plan shall be completed by a qualified professional who is licensed under Chapter 458, 459, 490 or 491, F.S., or a substance abuse clinical staff person who is an employee of a service provider licensed under Chapter 397, F.S., or an employee in a facility licensed under Chapter 397, F.S. If the treatment plan is completed by a non-licensed substance abuse clinical staff person, the treatment plan shall be reviewed, countersigned and dated by a qualified professional within 10 calendar days of completion of the treatment plan as set forth in subsection 65D-30.004(17), F.A.C.

7. Mental Health and Substance Abuse Treatment. The program shall ensure the delivery of individual, group and family therapy, behavioral therapy, or psychosocial skills training in accordance with a youth's treatment plan. Mental health treatment shall be provided by a licensed mental health professional or a mental health clinical staff person working under the direct supervision of a licensed mental health professional. Substance abuse treatment shall be delivered by a qualified professional who is licensed under Chapter 458, 459, 490 or 491, F.S., a substance abuse clinical staff person who is an employee of a service provider licensed under Chapter 397, F.S., or an employee in a facility licensed under Chapter 397, F.S. Additionally, psychiatric treatment services delivered in accordance with a youth's treatment plan shall be provided by a licensed psychiatrist or a licensed and certified psychiatric advanced registered nurse practitioner working under the clinical supervision of a licensed psychiatrist. The psychiatrist

shall be a physician licensed under Chapter 458 or 459, F.S., who is board certified in Child and Adolescent Psychiatry or Psychiatry by the American Board of Psychiatry and Neurology or has completed a training program in Psychiatry approved by the American Board of Psychiatry and Neurology for entrance into its certifying examination. A licensed psychiatrist who is board certified in Forensic Psychiatry by the American Board of Psychiatry and Neurology or American Board of Forensic Psychiatry may also provide psychiatric treatment services if he or she has prior experience and training in psychiatric treatment with children or adolescents.

8. Crisis Intervention and Emergency Mental Health Services. Youth who demonstrate acute emotional or behavioral problems or acute psychological distress shall be referred for mental health crisis intervention services conducted by a licensed mental health professional or a non-licensed mental health clinical staff person working under the direct supervision of a licensed mental health professional. When a youth exhibits behaviors that constitute an imminent danger to self or others because of mental illness, the youth shall be referred for emergency mental health services in accordance with the provisions of Section 394.463, F.S.

9. Discharge Planning. Prior to a youth being discharged from mental health or substance abuse treatment, either when completing treatment or when being transferred, released or discharged from the residential program before completing treatment, a mental health or substance abuse discharge plan shall be developed to facilitate continuity when the youth moves from one facility to another or returns to his or her community. Additionally, the youth's intervention and treatment team shall use the youth's treatment discharge plan when planning for the youth's transition to the community pursuant to Rule 63E-7.010, F.A.C.

Specific Authority 985.64 FS. Law Implemented 985.601(3)(a) FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Pamela Brantley, Residential Services, Policy Development and Planning

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Darryl Olson, Assistant Secretary for Residential Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 22, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 3, 2008

**DEPARTMENT OF HEALTH**

**Division of Medical Quality Assurance**

RULE NO.: 64B-9.002  
 RULE TITLE: Physician Survey Procedures  
 PURPOSE AND EFFECT: To update and expand the rule relating to physician workforce surveys.

SUMMARY: The rule incorporates an expanded physician survey with an effective date of July 2008.

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: 458.3191(4), 459.0081(4) FS.

LAW IMPLEMENTED: 381.4018, 458.3191, 459.0081 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: Lola Pouncey, Bureau Chief, 4052 Bald Cypress Way, Bin #C10, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B-9.002 Physician Survey Procedures.

(1) At time of licensure renewal, each medical doctor and osteopathic physician who renews his or her license on line at [www.FLHealthSource.com](http://www.FLHealthSource.com) must fully complete on line all applicable portions of the physician workforce survey, form DH-MQA 1119, entitled Physician Workforce Survey, effective ~~07/08~~ ~~02/08~~, which is incorporated herein by reference and also may be viewed at <http://www.doh.state.fl.us/mqa/medical/index.html> or at <http://www.doh.state.fl.us/mqa/osteopath/index.html>. The address where physicians who do not renew online are required to obtain, complete and submit a paper copy of the survey with their renewal is 4052 Bald Cypress Way, Bin #C10, Tallahassee, FL 32399.

(2) No change.

Specific Authority 458.3191(4), 459.0081(4) FS. Law Implemented 381.4018, 458.3191, 459.0081 FS. History--New ~~4-21-08~~, Amended\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Lola Pouncey

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ana Viamonte Ros

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 23, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 30, 2008

**DEPARTMENT OF MILITARY AFFAIRS**

RULE NO.: 70-1.001  
 RULE TITLE: Florida Armed Forces Reserve Family Readiness Program Application Fund

**PURPOSE AND EFFECT:** The purpose of the proposed rule is to establish an application form to be used by all applicants requesting assistance from the Family Readiness Program, with the effect of ensuring that all applications for assistance are processed using one standardized format. This will facilitate rapid review of the application, and minimize processing delays caused by incomplete information being provided by the applicant.

**SUMMARY:** Section 250.5206, Florida Statutes (Family Readiness Program), establishes a need-based assistance program for the purpose of providing financial assistance to the families of eligible Servicemembers of the Florida National Guard, United States Reserves Forces, and Coast Guard Reserves. Families are eligible to request assistance while Servicemembers are federally deployed and serving in the Global War on Terrorism, or participating in state operations for homeland defense, and for 120 days after the Servicemember is released from qualifying service. The proposed rule provides a uniform application form that clearly delineates all information needed to process the request for assistance to completion.

**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:** 250.5206(8) FS.

**LAW IMPLEMENTED:** 250.5206 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:** Lieutenant Colonel Elizabeth C. Masters, (904)823-0131

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

70-1.001 Florida Armed Forces Reserve Family Readiness Program Application Fund.

Application process for the Florida Armed Forces Reserve Family Readiness Program Application Fund (FLARF FRPAF). All persons applying for assistance from the FLARF FRPAF shall include all information required by Section 250.5206, Florida Statutes, and any other information determined to be needed by the federal Family Center Support Specialist accepting the application for review. Persons applying for assistance shall utilize the FLARF FRPAF Application for Assistance Forms (dated November 2007), which are incorporated by reference, and available on the Department of Military Affairs' (DMA's) web site at [www.dma.state.fl.us](http://www.dma.state.fl.us).

Specific Authority 250.5206(8) FS. Law Implemented 250.5206 FS. History--New

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Lieutenant Colonel Elizabeth C. Masters

**NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:** Major General Douglas Burnett, The Adjutant General, Department of Military Affairs

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** December 10, 2007

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** December 19, 2007

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

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NOS.:	RULE TITLES:
6A-22.001	Definitions
6A-22.002	Rehabilitation Provider Qualifications
6A-22.003	Reemployment Status Review
6A-22.004	Notice Requirements
6A-22.006	Screening Process
6A-22.008	Reemployment Services and Programs
6A-22.009	Employee Responsibilities
6A-22.010	Reporting Services and Costs: Qualified Rehabilitation Provider and Employer or Carrier Responsibilities
6A-22.011	List of Forms
6A-22.012	Expenditures from the Workers' Compensation Administrative Trust Fund

**NOTICE OF CONTINUATION**

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 24, June 13, 2008 Florida Administrative Weekly has been continued from August 19, 2008 to October 21, 2008.

**DEPARTMENT OF COMMUNITY AFFAIRS**

**Division of Housing and Community Development**

RULE NO.:	RULE TITLE:
9B-13.0041	Thermal Efficiency Standards Adopted

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 23, June 6, 2008 issue of the Florida Administrative Weekly.