

Rule 69I-20.050: The purpose and effect of the proposed rule amendment is to amend the rule and provide that a holder may not enter into a voluntary disclosure agreement if the holder has agreed to a self-audit, been requested by the Department to conduct a self-audit, or has been notified of the Department's intention to audit or examine the holder.

SUBJECT AREA TO BE ADDRESSED: Rules 69I-20.0011: Full disclosure. 69I-20.0028: Joint ownership of unclaimed property. 69I-20.0029: Survivorship accounts. 69I-20.031: Due diligence. 69I-20.050: Voluntary disclosure agreements.

SPECIFIC AUTHORITY: 717.117(1), 717.138 FS.

LAW IMPLEMENTED: 655.005, 655.79, 717.101, 717.117, 717.119, 717.124, 717.12403, 717.126, 717.129, 717.135, 717.1351, 731.201 FS.

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

DATE AND TIME: Friday, March 14, 2008, 9:00 a.m.

PLACE: Suite 547, The Fletcher Building, 101 E. Gaines St., Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Paul Stadler, (850)413-3010. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Paul C. Stadler, Jr., Assistant General Counsel, Department of Financial Services, 200 E. Gaines St., Tallahassee, Florida 32399-4247, (850)413-3010

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

SUMMARY: This amendment updates references to required technical standards, clarifies ambiguous language, reorganizes and consolidates various provisions, and provides for greater flexibility in agency technology practices while continuing to require adherence to records retention and access requirements set forth in Chapters 119 and 257, Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs 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: 257.14, 257.36 FS.

LAW IMPLEMENTED: 257.14, 257.36 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: Tuesday, March 4, 2008, 2:00 p.m.

PLACE: Conference Room 307, R. A. Gray Building, 500 S. Bronough Street, Tallahassee, FL 32399

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 3 days before the workshop/meeting by contacting: Jim Berberich, Program Manager, Information Resources Management, Division of Library and Information Services, M.S. 9A, Tallahassee, FL 32399-0250, phone (850)245-6750, e-mail jberberich@dos.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jim Berberich, Program Manager, Information Resources Management, Division of Library and Information Services, M.S. 9A, Tallahassee, FL 32399-0250, phone (850)245-6750, e-mail jberberich@dos.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

1B-26.003 Electronic Recordkeeping.

(1) PURPOSE. These rules provide standards for record (master) copies of public records which reside in electronic recordkeeping systems. Recordkeeping requirements must be incorporated in the system design and implementation of new systems and enhancements to existing systems. Public records are those as defined by Section 119.011(11), F.S.

(2) AUTHORITY. The authority for the establishment of this rule ~~these rules~~ is Sections 257.14 and 257.36(1) and ~~(6)(e)~~, F.S.

(3) SCOPE.

(a)1. These rules are applicable to all agencies as defined by Section 119.011(2), F.S.

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Library and Information Services

RULE NO.: 1B-26.003 RULE TITLE: Electronic Recordkeeping

PURPOSE AND EFFECT: The purpose of this amendment is to update guidelines for managing public records created or maintained in electronic form. Updated guidelines reflect current technologies and best practices in managing electronic records and ensuring their retention and accessibility in accordance with public records provisions of Chapter 119, Florida Statutes.

2. These rules establish minimum requirements for the creation, utilization, maintenance, retention, preservation, storage and disposition of electronic record (master) copies, regardless of the media.

3. Electronic records include numeric, graphic, audio, ~~sound~~ video, and textual information which is recorded or transmitted in analog or digital form.

4. These rules apply to all electronic recordkeeping systems, including, but not limited to, microcomputers, minicomputers, main-frame computers, and image recording systems (regardless of storage media) in network or stand-alone configurations.

(b) Before existing records are committed to an electronic recordkeeping system, the agency shall conduct a cost benefit analysis to insure that the project or system contemplated is cost effective.

~~(c) Any electronic recordkeeping system not meeting the provisions of these rules may be utilized for long term or permanent records provided the record (master) copy is maintained or microfilmed in accordance with the provisions of Rule 1B-26.0021, F.A.C., prior to disposition.~~

(4) INTENT. Electronic recordkeeping systems in use at the effective date of this rule, that are not in compliance with the requirements of this rule, may be used until the systems are replaced or upgraded. New and upgraded electronic recordkeeping systems created after the effective date of this rule shall comply with the requirements contained herein. The Department is aware that it may not be possible to implement this rule in its entirety immediately upon its enactment, and it is not the intent by this rule to disrupt existing recordkeeping practices provided that agencies make no further disposition of public records without approval of the Division of Library and Information Services of the Department of State.

(5) DEFINITIONS. For the purpose of these rules:

(a) “ASCII” means the American Standard Code for Information Interchange, a 7-bit coded character set for information interchange which was formerly ANSI (American National Standards Institute) Standard X3.4 and has since been incorporated into the Unicode standard as the first 128 Unicode characters.

(b)(a) “Database” means an organized collection of automated information.

(c)(b) “Database management system” means a set of software programs that controls the organization, storage and retrieval of data (fields, records and files) in a database. It also controls the security and integrity of the database.

~~(e) “Data file” means related numeric, textual, sound, video, or graphic information that is organized in a prescribed form and format.~~

(d) “Digital signature” means a type of electronic signature (any letters, characters, or symbols executed with an intent to authenticate) that can be used to authenticate the

identity of the sender of a message or the signer of a document and to ensure that the original content of the message or document that has been sent is unchanged. Digital signatures can be created through hashing algorithms.

~~(e)(d)~~ “Electronic record” means any information that is recorded in machine readable form.

~~(f)(e)~~ “Electronic recordkeeping system” means an automated information system for the organized collection, processing, transmission, and dissemination of information in accordance with defined procedures.

(g) “Hashing algorithm” (hash function, checksum) means a formula or procedure for checking that electronically transmitted messages or documents have not been altered by transforming a string of characters into a usually shorter fixed-length “hash value” or key that represents the original string. The receiver of the message can execute the same hashing algorithm as the sender and compare the resulting hash values; any difference in the hash values indicates an alteration of the message or document sent. Hashing algorithms can be used to create digital signatures.

~~(h)(f)~~ “System design” means the design of the nature and content of input, files, procedures, and output and their interrelationships.

~~(i)(g)~~ “Permanent or long-term Long-term records” means any public records as defined by Section 119.011(11), F.S. which have an established retention period of more than 10 years. See Section 119.011(11), F.S., for the definition of a public record.

~~(j)(h)~~ “Record (master) copy” means public records specifically designated by the custodian as the official record.

~~(k)(f)~~ “Geographic information system” means a computer system for capturing, storing, checking, integrating, manipulating, analyzing and displaying data related to positions on the Earth’s surface.

~~(l)(j)~~ “Open format” means a data format that is defined in complete detail and that allows transformation of the data to other formats without loss of information. An open format may be either standards-based or proprietary.

(m) “Unicode” means the universal character encoding standard maintained by the Unicode Consortium, providing the basis for processing, storage, and interchange of text data in any language in all modern software and information technology protocols.

(6) AGENCY DUTIES AND RESPONSIBILITIES. ~~The head of~~ Each agency shall:

(a) Develop and implement a program for the management of electronic records.

(b) Ensure that all records are included within records retention schedules, either by being included within an applicable General Records Schedule, or by developing and obtaining approval for an individual agency-specific records retention schedule in accordance with Rule 1B-24.003, F.A.C.,

~~Records Retention Scheduling and Dispositioning. Each record series shall be considered on an individual basis by the Division of Library and Information Services in establishing this retention period. See subsection 1B-24.001(3), F.A.C., for the definition of a record series.~~

(c) Integrate the management of electronic records with other records and information resources management programs of the agency.

(d) Incorporate electronic records management objectives, responsibilities, and authorities in pertinent agency directives, or rules, as applicable.

(e) Establish procedures for addressing records management requirements, including recordkeeping requirements and disposition, before approving, recommending, adopting, or implementing new electronic recordkeeping systems or enhancements to existing systems.

(f) Provide training for users of electronic recordkeeping systems in the operation, care, and handling of the equipment, software, and media used in the system.

(g) Ensure that agency electronic recordkeeping systems meet state requirements for public access to records in accordance with Chapter 119, F.S.

1. STANDARD. Each agency which maintains public records in an electronic recordkeeping system shall provide, to any person making a public records request pursuant to Chapter 119, F.S., a copy of any data in such records which is not specifically exempt from disclosure by statute. Said copy shall be on paper, disk, tape, optical disk, or any other electronic storage device or media requested by the person, if the agency currently maintains the record in that form, or as otherwise required by Chapter 119, F.S. Except as otherwise provided by state statute, the cost for providing a copy of such data shall be in accordance with the provisions of Sections 119.07(4), F.S.

2. STANDARD. Except as otherwise provided by law, no agency shall enter into a contract with, or otherwise obligate itself to, any person or entity for electronic recordkeeping hardware, software, systems, or services if such contract or obligation impairs the right of the public under state law to inspect or copy the agency's nonexempt public records, or impairs the agency's ability to retain the records in accordance with established records retention schedules existing on-line in, or stored on a device or media used in connection with, a computer system or optical imaging system owned, leased or otherwise used by an agency in the course of its governmental functions.

~~3. STANDARD. Each agency shall ensure that current and proposed electronic recordkeeping systems adequately provide for the rights of the public to access public records under Chapter 119, F.S.~~

3.4. STANDARD. In providing addition to ensuring that electronic recordkeeping systems meet requirements for public access to electronic public records, agencies shall ensure that procedures and controls are in place to maintain confidentiality for information which is exempt from public disclosure.

~~(h) Develop and maintain documentation about electronic recordkeeping systems used by the agency to specify technical characteristics necessary for reading or processing the records. Documentation for electronic records systems shall meet the following standards:~~

~~1. STANDARD. Each agency shall identify all inputs and outputs of the system; define the organization and contents of the files and records; define policies on access and use; define the purpose and function of the system; define update cycles or conditions and rules for adding information to the system, changing information in it, or deleting information; and ensure the timely, authorized disposition of the records in accordance with Chapter 1B-24, F.A.C.~~

~~2. STANDARD. Each agency shall specify the location and media in which electronic records are maintained to meet retention requirements, establish and document security controls for the protection of the records, and maintain inventories of electronic recordkeeping systems to facilitate disposition.~~

(7) DOCUMENTATION STANDARDS.

(a) STANDARD. Agencies shall develop and maintain adequate and up-to-date technical and descriptive documentation for each electronic recordkeeping system to specify characteristics necessary for reading or processing the records. Documentation for electronic records systems shall be maintained in printed form, and may should also be maintained in computer-readable form to facilitate access to the records. The minimum documentation required is:

1. A narrative description of the system, including all inputs and outputs of the system; the organization and contents of the files and records; policies on access and use; security controls; purpose and function of the system; update cycles or conditions and rules for adding information to the system, changing information in it, or deleting information; and the location and media in which electronic records are maintained and their retention requirements to ensure appropriate disposition of records in accordance with Chapter 1B-24, F.A.C.

2. The physical and technical characteristics of the records, including a record layout or markup language that describes each file or field including its name, size, starting or relative position, and description of the form of the data (such as alphabetic, decimal, or numeric), or a data dictionary or the equivalent information associated with a database management system including a description of the relationship between data elements in databases;

3. For information coming from geographic information systems, the physical and technical characteristics of the records must be described including a data dictionary, a quality and accuracy report and a description of the graphic data structure, such as recommended by the federal Spatial Data Transfer Standards; and

4. Any other technical information needed to read or process the records.

(8) ~~CREATION AND USE OF ELECTRONIC RECORDS AS RECORD (MASTER) COPIES.~~ Electronic recordkeeping systems that maintain record (master) copies of public records on electronic media shall meet the following minimum requirements:

(a)1. Provide a method for all authorized users of the system to retrieve desired records;

2. Provide an appropriate level of security to ensure the integrity of the records, in accordance with the requirements of Chapter 282, F.S. Security controls should include, at a minimum, physical and logical access controls, backup and recovery procedures, and training for custodians and users. Automated methods for integrity checking should be incorporated in all systems that generate and use official file copies of records. Hashing algorithms and digital signatures should be considered for all official file copies of electronic records. The use of automated integrity controls, such as hashing algorithms and digital signatures, can reduce the need for other security controls. Hashing algorithms used to protect the integrity of official file copies of records should meet the requirements of US Federal Information Processing Standard Publication 180-24 (FIPS-PUB 180-24) (~~August 1, 2002 April 17, 1995~~) entitled "Secure Hash Standard" (~~or "Secure Hash Signature Standard"~~) which is hereby incorporated by reference, and made a part of this rule. This publication is available from the National Technical Information Service (NTIS), 5285 Port Royal Road, U.S. Department of Commerce, Springfield, VA 22161, and at the Internet Uniform Resource Locator: <http://csrc.nist.gov/publications/fips/fips180-2/fips180-2.pdf> ~~<http://www.itl.nist.gov/fipspubs/fip180-1.htm>~~. Agencies ~~utilizing hashing algorithms shall only use validated implementations of hashing algorithms should also consider using only validated implementations of hashing algorithms in cases where the data being protected are of great intrinsic value or where the content and authenticity of the records are likely to be at issue in litigation.~~

3. Identify the open format or standard interchange format when necessary to permit the exchange of records on electronic media between agency electronic recordkeeping systems using different software/operating systems and the conversion or migration of records on electronic media from one system to another. For text records in the absence of other conversion capabilities, the word processing or text creation system should be able to import and export files in the ASCII or Unicode format as prescribed by the Unicode 5.0 Standard (or successor

~~Unicode Standard) Federal Information Processing Standard Publication (FIPS PUB) Number 1-2; entitled Coded Character Sets—7-Bit American National Standard Code for Information Exchange (7-Bit ASCII) (1986, R2002), which is hereby incorporated by reference, and made a part of this rule. This publication is available from the Unicode Consortium, P. O. Box 391476, Mountain View, CA 94039-1476, and at the Internet Uniform Resource Locator: <http://www.unicode.org/book/bookform.html> National Technical Information Service (NTIS), 5285 Port Royal Road, U.S. Department of Commerce, Springfield, VA 22161; and~~

4. Provide for the disposition of the records including, when appropriate, transfer to the Florida State Archives.

(b) STANDARD. Before a record (master) copy is created on an electronic recordkeeping system, the record shall be uniquely identified to enable authorized personnel to retrieve, protect, and carry out the disposition of records in the system. Agencies shall ensure that records maintained in such systems can be correlated with any existing related records on paper, microfilm, or other media.

(9) LEGAL AUTHENTICATION. Agencies shall implement the following procedures to enhance the legal admissibility of electronic records:

(a) Document that similar kinds of records generated and stored electronically are created by the same processes each time and have a standardized retrieval approach.

(b) Substantiate that security procedures prevent unauthorized addition, modification, or deletion of a record and ensure systems are protected ~~protection~~ against such problems as power interruptions.

(c) Identify the electronic media on which records are stored throughout their life cycle, the maximum time span that records remain on each storage media, and the official retention requirements as approved by the Division of Library and Information Services.

(d) State agencies shall, and other agencies are encouraged to, establish and maintain integrity controls for record (master) copies of electronic records in accordance with the requirements of Chapter 282, F.S.

(10) SELECTION OF ELECTRONIC RECORDS STORAGE MEDIA. For storing record (master) copies of electronic public records throughout their life cycle, agencies shall select appropriate media and systems which meet the following requirements:

(a) Permit easy and accurate retrieval in a timely fashion;

(b) Retain the records in a usable format until their authorized disposition and, when appropriate, meet the requirements necessary for transfer to the Florida State Archives.

(c) STANDARD. Agencies shall not use floppy disks, audio cassettes, or VHS-format video cassettes for the storage of record (master) copies of ~~long-term or permanent~~ or long-term records. ~~Long-term and Ppermanent~~ or long-term

records on magnetic tape shall be stored on polyester-based media. Agencies shall use only previously unrecorded audio or video tape videotape for ~~original~~ record (master) copies of ~~long-term or permanent~~ or long-term audio or video recordings. ~~Obtain recording media only from vendors whose guarantee of 10 years or more of readability is based upon documented accelerated aging tests which are linked to specific locations on the media.~~

(d) STANDARD. A scanning density with a minimum of 300 dots per inch is required for scanned images created by the agency from hard copy permanent or long-term records recording electronic records.

(e) STANDARD. Record (master) copies of scanned digital images created by the agency from hard copy permanent or long-term records must be stored in accordance with a published International Organization for Standardization (ISO) open standard image format the TIFF 6.0 specification (June 3, 1992), which is hereby incorporated by reference and made a part of this rule. This specification is available from the Aldus Corporation, 411 First Avenue South, Seattle, WA 98104-2871. If use of a proprietary image format is unavoidable, the agency must provide a gateway to lossless conversion to the TIFF 6.0 specification.

(f) The following factors are to be considered before selecting a storage media or converting from one media to another:

1. The authorized retention of the records as determined during the scheduling process;
2. The maintenance necessary to retain the records;
3. The cost of storing and retrieving the records;
4. The access time to retrieve stored records;
5. The portability of the medium (that is, selecting a medium that can be read by equipment offered by multiple manufacturers); and
6. The ability to transfer the information from one medium to another, such as from optical disk to magnetic tape.

(11) MAINTENANCE OF ELECTRONIC RECORDS.

(a) STANDARD. Agencies shall back up electronic records on a regular basis to safeguard against the loss of information due to equipment malfunctions, human error, or other disaster. Agencies shall maintain backup all long-term and permanent backup/security electronic recording media created for disaster recovery purposes, and all preservation duplicates of permanent or long-term records, in an off-site storage facility, either on-site or off-site, with constant temperature (below 68 degrees Fahrenheit) and relative humidity (20 to 30 percent) controls. Storage and handling of long-term and permanent or long-term records on magnetic tape shall conform to the standards contained in Standard AES22-1997 (r2003), "AES recommended practice for audio preservation and restoration – Storage and handling – Storage of polyester-base magnetic tape;" (published 1997, reaffirmed 2003), which is hereby incorporated by reference and made a

part of this rule. This publication is available from the Audio Engineering Society, Incorporated, 60 East 42nd Street, Room 2520, New York, New York, 10165-2520, and at the Internet Uniform Resource Locator: <http://www.aes.org/publications/standards/search.cfm>. If an agency cannot practicably maintain backups and preservation duplicates as required in this section, the agency shall document the reasons why it cannot do so. Other electronic records media should be stored in a cool, dry, dark environment when possible (maximum temperature 73 degrees Fahrenheit, relative humidity 20-50 percent).

(b) STANDARD. Agencies shall annually read a statistical sample of all electronic media containing ~~long-term or permanent~~ or long-term records to identify any loss of information and to discover and correct the cause of data loss.

(c) STANDARD. Agencies shall test all ~~long-term or permanent~~ or long-term electronic records at least every 10 years and verify that the media are free of permanent errors. More frequent testing (e.g. at least every 5 years) is highly recommended.

(d) STANDARD. Agencies shall only rewind tapes immediately before use to restore proper tension. When tapes with extreme cases of degradation are discovered, they should be rewound to avoid more permanent damage and copied to new media as soon as possible. Tapes shall be played continuously from end to end to ensure even packing. Tapes shall be stored so that the tape is all on one reel or hub.

(e) STANDARD. Agencies shall prohibit smoking, eating, and drinking in areas where electronic records are created, stored, used, or tested.

(f) STANDARD. External labels (or the equivalent automated management system) for electronic recording media used to store ~~long-term or permanent~~ or long-term records shall provide unique identification for each storage media, including:

1. The name of the organizational unit responsible for the data;
2. System title, including the version number of the application;
3. Special security requirements or restrictions on access, if any; and
4. Software in use at the time of creation.

(g) STANDARD. For all media used to store permanent or long-term electronic records, each electronic records series, agencies shall maintain human readable information specifying the metadata associated with the series, and technical documentation specifying recording methods, formats, languages, dependencies, and schema sufficient to ensure continued access to, and intellectual control over, the records series. Additionally, the following information shall be maintained for each media used to store long-term or permanent or long-term electronic records:

1. File title;
2. Dates of creation;

- 3. Dates of coverage; and
- 4. Character code/software dependency.

(h) STANDARD. Electronic records shall not be stored closer than 2 meters (about 6 feet, 7 inches) from sources of magnetic fields, including generators, elevators, transformers, loudspeakers, microphones, headphones, magnetic cabinet latches and magnetized tools.

(i) STANDARD. Electronic records on magnetic tape or disk shall not be stored in metal containers unless the metal is non-magnetic. Storage containers shall be resistant to impact, dust intrusion and moisture. Compact disks shall be stored in hard cases, and not in cardboard, paper or flimsy sleeves.

(j) STANDARD. Agencies shall ensure that record (master) copies of electronic records are maintained by personnel properly trained in the use and handling of the records and associated equipment.

~~(k) STANDARD. Agencies shall not use floppy disks, audio cassettes, or VHS-format video cassettes for the storage of record (master) copies of long-term or permanent records. Long-term and permanent records on magnetic tape shall be stored on polyester-based media. Agencies shall use only previously unrecorded videotape for original record (master) copies of long-term or permanent video recordings. For long-term or permanent audio recordings of record (master) copies, agencies shall use only one quarter inch open-reel tapes at three and three-quarters or seven and one-half inches per second, full track, using professional unrecorded polyester splice-free tape stock. For long-term or permanent digital recordings of record (master) copies, agencies may use open reel one-half inch tape reels recorded at 1600 or more bits per inch; 3480, 3490, or 3590 type tape cartridges; or compact disk read-only memory (CD-ROM) media.~~

~~(k)(4)~~ Agencies shall establish and adopt procedures for external labeling of the contents of diskettes, disks, tapes, or optical disks so that all authorized users can identify and retrieve the stored information.

~~(l)(4)~~ Agencies shall convert storage media to provide compatibility with the agency's current hardware and software to ensure that information is not lost due to changing technology or deterioration of storage media. Before conversion of information to different media, agencies must determine that authorized disposition of the electronic records can be implemented after conversion ~~long-term or permanent~~. Permanent or long-term electronic records stored on magnetic tape shall be transferred to new media as needed to prevent loss of information due to changing technology or deterioration of storage media.

~~(n) Agencies shall back-up electronic records on a regular basis to safeguard against the loss of information due to equipment malfunctions or human error. Duplicate copies of~~

~~long-term or permanent records shall be maintained in storage areas located in buildings separate from the location of the records that have been copied.~~

(12) RETENTION OF ELECTRONIC RECORDS. Each agency is responsible for ensuring the continued accessibility and readability of public records throughout their entire life cycle regardless of the format or media in which the records are maintained.

Agencies shall establish policies and procedures to ensure that electronic records and their documentation are retained and accessible as long as needed. These ~~retention~~ procedures shall include provisions for:

(a) STANDARD. Scheduling the retention and disposition of all electronic records, as well as related access documentation and indexes, in accordance with the provisions of Chapter 1B-24, F.A.C.

~~(b) STANDARD. Establishing procedures for regular copying, reformatting, and other necessary maintenance to ensure the retention and usability of the electronic records throughout their authorized life cycle. Transferring a copy of the electronic records and any related documentation and indexes to the Florida State Archives at the time specified in the records retention schedule, if applicable. Transfer may take place at an earlier date if convenient for both the agency and the Archives.~~

~~(c) STANDARD. Transferring a copy of the electronic records and any related documentation and indexes to the Florida State Archives at the time specified in the records retention schedule, if applicable. Transfer may take place at an earlier date if convenient for both the agency and the Archives. Establishing procedures for regular copying, reformatting, and other necessary maintenance to ensure the retention and usability of the electronic records throughout their authorized life cycle.~~

(13) DESTRUCTION OF ELECTRONIC RECORDS. Electronic records may be destroyed only in accordance with the provisions of Chapter 1B-24, F.A.C. At a minimum each agency shall ~~should~~ ensure that:

(a) Electronic records scheduled for destruction are ~~must~~ be disposed of in a manner that ensures that protection of any information that is confidential or exempt from disclosure, including sensitive, proprietary, or security information, cannot practicably be read or reconstructed, and;

(b) Recording media previously used for electronic records containing information that is confidential or exempt from disclosure, including sensitive, proprietary, or security information, are not reused if the previously recorded information can be compromised in any way by reuse.

Specific Authority 257.14, 257.36(1), 257.36(6) FS. Law Implemented 257.36(1)(a) FS. History-New 8-16-92, Amended 5-13-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jim Berberich, Program Manager, Information Resources Management, Division of Library and Information Services, M.S. 9A, Tallahassee, FL 32399-0250, phone (850)245-6750, e-mail jberberich@dos.state.fl.us

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Judith Ring

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 30, 2008

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE NO.: 5E-14.142
RULE TITLE: Responsibilities and Duties – Records, Reports, Advertising, Applications

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to add an amendment that will accommodate newer phone communication technology in the conduct of pest control.

SUMMARY: An amendment that will accommodate newer phone communication technology in the conduct of pest control by removing a requirement for a phone terminating in the licensed business location, while providing for accountability for pest control sales calls. This will allow the use of cell phones which are increasingly important for pest control operators.

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: 482.051 FS.

LAW IMPLEMENTED: 482.051, 482.21(21) FS.

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

DATE AND TIME: March 5, 2008, 10:00 a.m.

PLACE: Florida Department of Agriculture and Consumer Services; Eyster Auditorium, 3125 Conner Boulevard, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Michael J. Page, Chief of Entomology and Pest Control, 1203 Governors Square Boulevard, Suite 300, Tallahassee, Florida 32301-2961, (850)921-4177

THE FULL TEXT OF THE PROPOSED RULE IS:

5E-14.142 Responsibilities and Duties – Records, Reports, Advertising, Applications.

(1) through (2) No change.

(3) Advertising:

(a) Pest control advertising on service vehicles, in telephone directories or other advertising media shall in all cases be factual and shall be set forth only under the licensee’s name or trade name registered with the Department. Unregistered fictitious names are prohibited.

(b) All pest control telephone directory advertising, including ~~direct dial~~ long distance lines shall in all cases show the licensee’s name or trade name registered with the Department, complete licensed business location address from where services will be performed and telephone numbers. ~~Blind (Unidentified) telephone numbers are prohibited. All telephone numbers used in the solicitation and acceptance of pest control shall terminate in the licensed business location.~~

(c) Solicitation and acceptance of pest control must be performed by an identification card holder whether performed in person or by telephone.

(4) through (8) No change.

Specific Authority 482.051 FS. Law Implemented 482.021(21), 482.061, 482.071, 482.091, 482.111(5), (9), 482.161(1)(g), (h), 482.226(1), (6) FS. History–New 1-1-77, Amended 6-27-79, 6-22-83, 1-20-87, 10-25-90, Formerly 10D-55.142, Amended 8-11-93, 5-28-98, 4-29-02, 4-17-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Michael J. Page

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Anderson H. “Andy” Rackley

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

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards

RULE NOS.:	RULE TITLES:
5F-11.022	Marking of Containers
5F-11.026	Unsafe Container or System
5F-11.047	Connecting or Disconnecting Cylinders, Tanks, or Systems; Notice to Owner; Transportation Purpose
5F-11.080	Purpose
5F-11.081	Penalties; General
5F-11.082	Aggravating and Mitigating Factors; Warning Letters
5F-11.083	Resolution of Violations, Settlement, and Additional Enforcement Remedies
5F-11.084	Repeat Violations

- 5F-11.085 Notice of Noncompliance; Failure to Correct
- 5F-11.086 Accident Related Violations
- 5F-11.087 Hazardous Acts
- 5F-11.088 Violations; Enforcement Actions

PURPOSE AND EFFECT: These proposed rules are for the purpose of specifying penalties to be assessed for violations of laws, rules and regulations and to ensure uniformity in the application of such penalties.

SUMMARY: These proposed rules provide guidelines for the application of administrative and civil penalties as provided for in Chapter 527, Florida Statutes. Specific guidance is provided for commonly found violations and for those which constitute a hazard to the public health and welfare.

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: 527.06 FS.

LAW IMPLEMENTED: 527.06, 527.09, 527.12, 527.13, 527.14 FS.

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

DATE AND TIME: March 10, 2008, 9:00 a.m.

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

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 7 days before the workshop/meeting by contacting: Vicki O'Neil, Bureau Chief, Bureau of LP Gas Inspection, 3125 Conner Blvd., Suite N, Tallahassee, Florida 32399-1650, telephone: (850)921-8001. 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: Vicki O'Neil, Bureau Chief, Bureau of LP Gas Inspection, 3125 Conner Blvd., Suite N, Tallahassee, Florida 32399-1650, telephone: (850)921-8001

THE FULL TEXT OF THE PROPOSED RULES IS:

5F-11.022 Marking of Containers.

(1) All dealer-owned containers, aboveground or underground, installed at consumer locations shall be marked in a legible manner with the name and telephone number of the owner by decal, tag, stencil, or similar marking.

(2) Containers gained through acquisition shall be marked as soon as reasonably possible, but no later than 24 months after acquisition.

(3) Failure to mark all dealer-owned containers in a legible manner with the name and phone number of the owner shall result in the following penalties:

(a) First Offense: Warning letter.

(b) Second Offense: \$500 fine.

(c) Subsequent Offenses: \$1,000 fine.

Specific Authority 527.06 FS. Law Implemented 527.06 FS. History–New 8-7-80, Formerly 4A-1.16, Formerly 4B-1.12, 4B-1.012, Amended 3-15-94,_____.

5F-11.026 Unsafe Container or System.

(1)(a) Any system or container that fails to comply with Chapter 527, F.S., this rule chapter, and any standards incorporated by reference shall be designated unsafe by division staff by means of a “red tag” indicating the inspector’s name and the date of inspection where the violation creates an immediate threat to safety.

(b) Systems identified by the bureau in this manner, i.e. red-tagged, shall not continue in service until all deficiencies have been corrected.

(2) The owner of any container or system red-tagged by the division will be notified immediately by the bureau and furnished a copy of the inspection report indicating the deficiencies found.

(3)(a) A red tag placed on a system or container shall not be removed until all inspection deficiencies have been corrected and the bureau or its representative removes or authorizes removal of the red tag from the system or container. Removal of a redtag without authorization of the department shall result in the following penalties:

1. First Offense, Cylinder Exchange: \$1,000 fine.

2. First Offense – all other license categories: \$3,000 fine.

3. Second Offense: License suspension or revocation (mitigating and/or aggravating circumstances to be a determinant).

(b) The red tag must be returned to the bureau immediately upon removal.

Specific Authority 527.06 FS. Law Implemented 527.06 FS. History–New 3-15-94, Formerly 4B-1.037, Amended 7-20-95,_____.

5F-11.047 Connecting or Disconnecting Cylinders, Tanks, or Systems; Notice to Owner; Transportation.

(1) No person, firm or corporation, other than the owner and those authorized by the owner, shall connect or disconnect any cylinder, tank, or system containing liquefied petroleum gas, except in an out-of-gas situation, unless due and sufficient notice has been given by any person, firm or corporation to the owners of any cylinder or tank, prior to disconnecting or connecting such cylinder, tank, or system. Due and sufficient notice shall be received by the owners at least two (2) working

days prior to installing the cylinder, tank, or system of said person, firm, or corporation, and shall be evidenced by a signed receipt. Acceptable evidence of receipt of notification shall be a signed certified mail receipt, signed receipt of hand delivery or facsimile transmission receipt. If after two working days the cylinder, tank or system has not been disconnected by the owner, the said person, firm or corporation, may then disconnect downstream of the system regulator or meter. It shall be mandatory that the person, firm or corporation who so disconnects any such cylinder or tank, whether empty or full, upon the premises of a consumer, does so in a manner that renders the cylinder or tank tight with valves turned off, the cylinder or tank service valve plugged with brass or steel fittings, and all other cylinder, tank or system openings properly plugged. In addition, any cylinder, tank or system disconnected must be done so in a manner that is in compliance with the requirements of NFPA 58.

(2) In an out-of-gas situation and upon receiving authorization from the end user or owner of the cylinder, tank or system, the person, firm or corporation may disconnect the cylinder, tank or system downstream of the system regulator or meter. A person, firm or corporation who disconnects any cylinder, tank or system shall notify the owner of the cylinder, tank or system immediately, but not to exceed 24 hours, followed by written notification within 5 working days after said disconnect. Acceptable evidence of receipt of notification shall be a signed certified mail receipt, signed receipt of hand delivery or facsimile transmission receipt.

(3) The owner of any disconnected cylinder, tank or system must remove the cylinder or tank from the premises of the consumer or end-user within 30 working days after notification. No person, firm or corporation, other than the owner and those authorized to do so, shall transport or carry by any means of conveyance whatsoever, any cylinder or tank containing liquefied petroleum gas, whether in the liquid or vapor state. Failure to remove a disconnected cylinder, tank or system from the premises of the consumer or end-user within 30 working days from the notice of disconnection shall result in the following penalties:

- (a) First Offense: \$500 administrative fine.
- (b) Second Offense: \$1,000 administrative fine.
- (c) Third Offense: \$1,500 administrative fine.
- (d) Subsequent Offenses: \$3,000 with possible license suspension or revocation

(4) Complaints concerning violations of this section must be filed within 90 days of the occurrence.

(5) Connecting or disconnecting a cylinder, tank or system without proper notification as prescribed in this section will result in the following penalties:

- (a) First Offense: \$500 fine.
- (b) Second Offense: \$1,000 fine.
- (c) Third Offense: \$1,500 fine.
- (d) Fourth Offense: \$2,000 fine

- (e) Fifth Offense: \$2,500 fine.
- (f) Subsequent Offenses: \$3,000 fine with possible license suspension or revocation.

Specific Authority 527.06 FS. Law Implemented 527.06, 527.07 FS. History--New 8-7-80, Formerly 4A-1.11, Amended 7-18-85, Formerly 4B-1.08, Amended 2-6-90, 2-5-91, Formerly 4B-1.008, Amended _____.

5F-11.080 Purpose.

The purpose of these rules is to ensure uniform enforcement of regulatory requirements by providing penalty guidelines for specific violations not addressed elsewhere in rule or law. It is the policy of the State of Florida that the purpose of regulation is to protect the public by attaining compliance with these laws, rules and regulations. The collection of administrative fines and the imposition of penalties are intended to be secondary to the primary goal of attaining compliance and ensuring the safety of the public.

Specific Authority 527.06 FS. Law Implemented: 527.06, 527.12, 527.13, 527.14. FS. History--New _____.

5F-11.081 Penalties; General.

(1) The Department will apply one or more of the following penalties for violations of Chapter 527, Florida Statutes, or Chapter 5F-11, Florida Administrative Code, or codes adopted therein:

- (a) Denial of an application for licensure or license renewal and/or qualifier/master qualifier status.
- (b) Revocation of license, qualifier card or master qualifier certificate (not to exceed a 2-year period).
- (c) Suspension of license, qualifier card or master qualifier certificate (not to exceed a 2-year period).
- (d) Administrative fines or civil penalties of up to \$3,000 for each offense.
- (e) Injunction to temporarily or permanently restrain any person from engaging in business until compliance is achieved.
- (f) Cease and Desist Order (may include an administrative fine or civil penalty).
- (g) Red tagging of any equipment which has been determined to be unsafe for continued use until violations are corrected or equipment has been removed or otherwise made safe.
- (h) Warning letters may be issued for first violations which are minor in nature and do not constitute a threat to the public health, safety or welfare.
- (i) If inadequate training is found during an investigation where any violation has occurred, the department shall require remedial training as a part of any administrative action taken.

Specific Authority 527.06 FS. Law Implemented 527.06, 527.12, 527.13, 527.14 FS. History--New _____.

5F-11.082 Aggravating and Mitigating Factors; Warning Letters.

(1) When imposing an administrative fine, the Department will consider the degree and extent of harm or potential harm that was, or could have been, caused by the violation, the cost of rectifying the damage, whether the violation was committed willfully, the compliance record of the violator, and the costs to the Department of investigating the violation.

(2) Any department investigation or inspection which reveals minor violations for which the department has reason to believe that the violator was unaware of the law or rule or unclear as to how to comply with it, may result in the issuance of an inspection report, notice of noncompliance or a warning letter as the department's first response to a violation. For the purposes of this section a minor violation includes, but is not limited to, general violations of a non-threatening nature, i.e. housekeeping issues such as a lack of proper signage, painting required, weeds growing around containers, storage of combustibles too close to a container, or failure to file proper paperwork.

(3) The department may deviate from the penalties reference in this rule and impose any penalty authorized under Section 527, F.S., upon a showing of one or more of the following aggravating or mitigating circumstances presented to the finder of fact:

(a) The violation was committed maliciously.

(b) The danger to public safety or welfare.

(c) The number of previous violations for the same type of offense, whether or not disciplinary action was taken.

(d) The length of time the violator engaged in the prohibited activity.

(e) The length of time since the violation occurred.

(f) Previous disciplinary action against the violator in this or any other jurisdiction.

(g) The amount of damage to persons or property caused by the violation.

(h) The deterrent effect of the penalty imposed.

(i) Any efforts by the violator at rehabilitation.

(j) Attempts by the violator to correct violations or the failure to correct violations.

(k) The violator's prior knowledge of Chapter 527, F.S.

(l) Whether the violation resulted from negligence or an intentional act.

(m) Financial hardship.

(n) The cost of disciplinary proceedings.

(o) The number of other violations proven in the same proceeding.

(p) The violation occurred while on probation.

(q) Any other aggravating or mitigating circumstances.

(6) The provisions of this rule are not intended and shall not be construed to limit the ability of the division to informally dispose of disciplinary actions by stipulation, settlement or consent order pursuant to Section 120.57(3), F.S.

(7) The provisions of this rule are not intended and shall not be construed to limit the ability of the Department to pursue or recommend collateral civil or criminal action when appropriate.

Specific Authority 527.06 FS. Law Implemented 527.06, 527.12, 527.13, 527.14 FS. History–New _____.

5F-11.083 Resolution of Violations, Settlement, and Additional Enforcement Remedies.

(1) The Department and the violator may agree to resolve violations prior to administrative hearing, or to enter into settlement pursuant to Section 120.57(4), Florida Statutes. The penalties addressed in this rule shall not be construed to limit the authority of the Department to resolve violations prior to or after initiation of any administrative action or to settle with any party. The Department may utilize all available remedies to ensure voluntary compliance including administrative action, civil actions and referrals for criminal prosecution. The willingness of a party to resolve violations prior to initiation of administrative action or to settle shall be considered in determining the appropriate penalty. The Department shall enforce a failure to comply with an agreement to resolve violations or a settlement agreement with the penalties and remedies provided in the agreement and/or as authorized by law.

(2) Failure to respond to an administrative complaint shall result in the entry of a Final Order against the entity imposing administrative fines equal to twice the amount imposed in the original complaint, not to exceed \$3,000 per violation. A failure to comply with a Final Order of the department shall result in license revocation and additional penalties as prescribed by law.

Specific Authority 527.06 FS. Law Implemented 527.06, 527.12, 527.13, 527.14 FS. History–New _____.

5F-11.084 Repeat Violations.

(1) A repeat violation is one for which the license holder has a previous violation where an administrative sanction was imposed by the Department within the last three years. The three-year period shall be calculated from the date of the violation.

(2) Unless otherwise specified herein, any person, firm or corporation who accumulates more than three administrative fines for violations of Florida's laws, rules, regulations or codes within a three-year period, shall receive a \$3,000 penalty for each subsequent action, and, based on the nature and severity of the cumulative deficiencies, shall be subject to license suspension or revocation, as provided for in Section 521.14, F.S.

Specific Authority 527.06 FS. Law Implemented 527.06, 527.12, 527.13, 527.14 FS. History–New _____.

5F-11.085 Notice of Noncompliance; Failure to Correct. Failure to correct rule or code deficiencies identified in a Notice of Noncompliance within the time period specified by the notice shall result in the following penalties unless otherwise specified herein:

- (1) First offense: Administrative fine of \$500.
- (2) Second offense: Administrative fine of \$1,000.
- (3) Third offense: Administrative fine of \$1,500.
- (4) Subsequent offenses: Administrative fine of \$3,000.

Specific Authority 527.06 FS. Law Implemented 527.06, 527.12, 527.13, 527.14 FS. History–New _____.

5F-11.086 Accident Related Violations.

(1) Violations found during the course of an accident investigation by the Department and that are determined to have contributed to the severity of the accident but were not a direct cause, shall result in the following penalties:

(a) Death, severe personal injury requiring professional medical treatment, or a total loss of property: \$1,500 administrative fine per violation.

(b) Minor personal injury not requiring professional medical attention, or property damage over \$1,000 that is not a total loss: \$1,000 administrative fine per violation.

(c) Property damage of less than \$1,000: \$500 administrative fine per violation.

(2) Violations found during the course of an accident investigation that are determined to be a direct cause of the accident shall result in the following administrative fines:

(a) Death, severe personal injury requiring professional medical treatment, or a total loss of property: \$3,000 administrative fine per violation.

(b) Minor personal injury not requiring professional medical attention, or property damage over \$1,000 that is not a total loss: \$2,000 administrative fine per violation.

(c) Property damage of less than \$1,000: \$1,000 administrative fine per violation.

(3) Any company found to be operating without a license and whose unlicensed activities result in an accident, shall receive an administrative fine of \$3,000 for each violation found which contributed to the severity of, or is found to be the direct cause of the accident.

Specific Authority 527.06 FS. Law Implemented 527.06, 527.12, 527.13, 527.14 FS. History–New _____.

5F-11.087 Hazardous Acts.

Any department investigation or inspection conducted under the authority of Chapter 527, Florida Statutes, which reveals willful or intentional violation of the law, or any acts on the part of a person, firm, corporation, qualifier or master qualifier which are considered dangerous, hazardous or potentially

harmful in any way, shall result in the maximum penalties of \$3,000 per violation, with the consideration of license, qualifier or master qualifier certificate suspension or revocation. In determining license, qualifier or master qualifier certificate suspension or revocation, the department shall consider the offenders compliance record, good faith efforts in correcting the situation, the degree and extent of harm or potential harm, and other mitigating or aggravating circumstances as determined during investigation.

Specific Authority 527.06 FS. Law Implemented 527.06, 527.12, 527.13, 527.14 FS. History–New _____.

5F-11.088 Violations; Enforcement Actions.

(1) Conducting LP gas activities without the required insurance coverage in violation of Sections 527.02 and 527.04, Florida Statutes, shall result in the following penalties:

- (a) First offense: \$500 administrative fine.
- (b) Second offense: \$1,000 administrative fine.
- (c) Subsequent Offenses: \$1,500 administrative fine.

(2) Falsification of records relating to application for, or renewal of, qualifier or master qualifier status, including but not limited to misrepresentation of eligibility, of position within the licensed company, or place of full-time employment, shall result in the following penalties:

- (a) First Offense: Warning letter.
- (b) Second Offense: \$1,000 administrative fine.
- (c) Subsequent Offenses: \$3,000 administrative fine with possible revocation or suspension of qualification.

(3) Failure to notify the department of a loss of qualifier or master qualifier in violation of Section 527.0201, Florida Statutes, shall result in the following penalties:

- (a) First Offense: \$500 administrative fine.
- (b) Second Offense: \$1,000 administrative fine.
- (c) Third Offense: \$3,000 administrative fine.

(d) Subsequent Offenses: \$3,000 administrative fine with possible license suspension or revocation and/or possible suspension or revocation of qualification or denial of qualifier/master qualifier renewal.

(4) Any company found to be operating without a license and whose unlicensed activities result in an accident, shall be fined \$3,000 per violation found. Companies found conducting unlicensed activities in the following categories, when such activities are not accident related, shall be penalized as follows:

(a) Categories I, II, IV, and Requalification and Fabrication

- 1. First offense: \$500 administrative fine.
- 2. Second offense: \$1,000 administrative fine.
- 3. Subsequent Offenses: \$1,500 administrative fine.

- (b) Installer and Specialty Installer Licenses
- 1. First offense: \$400 administrative fine.
- 2. Second offense: \$800 administrative fine.
- 3. Subsequent Offenses: \$1,200 administrative fine

- (c) Category III, V, and Manufacturer of Equipment
- 1. First offense: \$300 administrative fine.
- 2. Second offense: \$600 administrative fine.
- 3. Subsequent Offenses: \$900 administrative fine

- (d) Dealer in Appliances and Equipment
- 1. First offense: \$200 administrative fine.
- 2. Second offense: \$400 administrative fine.
- 3. Subsequent Offenses: \$600 administrative fine

(5) Failure to provide documentation of employee training upon request shall result in the following penalties:

- (a) First Offense: \$500 administrative fine.
- (b) Second Offense: \$1,000 administrative fine.
- (c) Third Offense: \$1,500 administrative fine.
- (d) Subsequent Offenses: \$3,000 administrative fine with possible license suspension or revocation.

(6) Filling a container without inspection or verification of compliance with codes shall result in the following penalties:

- (a) First Offense: \$500 administrative fine.
- (b) Second Offense: \$1,000 administrative fine.
- (c) Third Offense: \$3,000 administrative fine with possible license suspension or revocation.

(7) Transportation of propane cylinders in violation of the requirements of NFPA 58, shall result in the following penalties:

- (a) First Offense: \$1,000 administrative fine.
- (b) Second Offense: \$2,000 administrative fine.
- (c) Subsequent Offenses: \$3,000 administrative fine with possible license suspension or revocation.

(8) Failure to install LP gas appliances, piping, equipment in accordance with manufacturers instructions and/or adopted safety codes; or to install, disconnect, and/or store LP gas containers in accordance with rules and adopted safety codes, when such installation causes direct or potential harm to individuals or property, shall result in the following administrative fines:

- (a) First Offense: \$1,000 administrative fine.
- (b) Second Offense: \$2,000 administrative fine.
- (c) Subsequent Offenses: \$3,000 administrative fine with possible license suspension or revocation.

(9) Failure to follow proper fill procedures, including overfilling of propane containers, shall result in the following penalties:

- (a) First Offense: \$1,000 administrative fine.
- (b) Second Offense: \$2,000 administrative fine.
- (c) Subsequent Offenses: \$3,000 administrative fine with possible license suspension or revocation.

(10) Failure to perform and/or document periodic testing required on propane cargo vehicles within the time frames prescribed by Title 49, Code of Federal Regulations, as referenced in NFPA 58, shall result in the following penalties for the referenced inspection:

- (a) Annual External Visual and Leak Test:
- 1. First Violation: \$500 per vehicle
- 2. Second Violation: \$1,000 per vehicle
- 3. Subsequent Offenses: \$3,000 per vehicle

- (b) Five-Year Cargo Vessel Pressure Test
- 1. First Violation: \$500 per vehicle
- 2. Second Violation: \$1,000 per vehicle
- 3. Subsequent Offenses: \$3,000 per vehicle

- (c) Monthly Delivery Hose Inspection
- 1. First Violation: \$500 per vehicle
- 2. Second Violation: \$1,000 per vehicle
- 3. Subsequent Offenses: \$3,000 per vehicle

- (d) Monthly Emergency Shutoff Valve Test
- 1. First Violation: \$500 per vehicle
- 2. Second Violation: \$1,000 per vehicle
- 3. Subsequent Offenses: \$3,000 per vehicle

(11) The intentional alteration or disabling of any component in an LP gas system, including the container and its appurtenances, which either renders the equipment out of compliance with adopted laws, rules and codes, or which renders the component inoperable, or prevents it from functioning as intended by the equipment manufacturer, shall result in the following penalties:

- (a) First Violation: \$1,000 administrative fine
- (b) Second Violation: \$3,000 administrative fine
- (c) Subsequent Offenses: \$3,000 administrative fine with possible license suspension or revocation.

(12) Failure to conduct a leak test in a new piping system, or in an out-of-gas or interrupted service situation, as required by NFPA 54 and Rule 5F-11.044, F.A.C., shall result in the following penalties:

- (a) First Offense: \$1,000 administrative fine.
- (b) Second Offense: \$2,000 administrative fine.
- (c) Subsequent Offenses: \$3,000 with possible license suspension or revocation.

(13) Failure to respond to a verifiable leak call within a reasonable time period (non-accident related) or failure to physically respond to an emergency within 2 hours when

contacted by an emergency response unit as required by Sections 527.065(4) and 527.065(5)], Florida Statutes, shall result in the following penalties:

- (a) First Offense: \$1,000 administrative fine.
- (b) Second Offense: \$3,000 administrative fine.
- (c) Third Offense: \$3,000 administrative fine
with possible license
suspension or revocation.

(14) Failure to provide local emergency response personnel with emergency contacts for after-hour emergencies; failure to post emergency numbers on the premises; or failure to relay messages on emergency answering services or machines within time frames as required by Section 527.065(3), Florida Statutes, shall result in the following penalties:

- (a) First Offense: Warning letter.
- (b) Second Offense: \$500 administrative fine.
- (c) Third Offense: \$1,000 administrative fine.
- (d) Subsequent Offenses: \$3,000 administrative fine
with possible license
suspension or revocation.

(15) Failure to notify the department of any accident meeting the criteria of Section 527.065, Florida Statutes, shall result in the following penalties:

- (a) First Offense: \$500 administrative fine.
- (b) Second Offense: \$1,000 upon second violation.
- (c) Third Offense: \$3,000 administrative fine.

(16) Selling, filling, refilling, delivering, or using an LP gas container for any gas or compound, or for any other purpose, without permission of the owner, in violation of Section 527.07, Florida Statutes, shall result in the following penalties:

- (a) First Offense: \$500 administrative fine.
- (b) Second Offense: \$1,000 administrative fine.
- (c) Third Offense: \$3,000 administrative fine
with possible license
suspension or revocation.

(17) Placing a bulk plant or dispensing unit into operation without submitting a site plan and/or calling for a final inspection as required by Section 527.0605, Florida Statutes, shall result in the following penalties:

- (a) First Offense: \$500 administrative fine.
- (b) Second Offense: \$1,000 administrative fine.
- (c) Third Offense: \$3,000 administrative fine
with possible license
suspension or revocation.

Specific Authority 527.06 FS. Law Implemented 527.06, 527.12, 527.13, 527.14 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Vicki O'Neil, Bureau Chief, Bureau of LP Gas Inspection,
3125 Conner Blvd., Suite N, Tallahassee, Florida, 32399-1650,
telephone: (850)921-8001

NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Paul Driggers, Director of Standards
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: December 3, 2007

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

DEPARTMENT OF TRANSPORTATION

RULE NOS.:	RULE TITLES:
14-100.003	Variable Rate Tolls for Express Lanes
14-100.004	95 Express Toll Exemption Registration

PURPOSE AND EFFECT: The title of the rule chapter is being changed from "Toll Enforcement" to "Tolls" with the existing toll enforcement rules in "Part I Toll Enforcement" and new rules added under Part II "Variable Rate Tolls." The new rules establish standards for use of variable rate tolls for express lanes and a process for exemptions from tolls on the 95 Express Lanes Project.

SUMMARY: Two new rules on variable rate tolls are added and the rule chapter is restructured into two parts.

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

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

SPECIFIC AUTHORITY: 334.044(2), 316.0741 FS.
LAW IMPLEMENTED: 316.0741, 316.1001, 316.640(1), 334.044(16), 338.155(1), 338.165, 335.02(3), 338.231 FS.

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

DATE AND TIME: March 4, 2008, 6:00 p.m. (Informal Session), 7:15 p.m. (Hearing)

PLACE: Sheraton Fort Lauderdale Airport Hotel, 1825 Griffin Road, Empire Ballroom, Dania, Florida 33004

DATE AND TIME: March 6, 2008, 6:00 p.m. (Informal Session), 7:15 p.m. (Hearing)

PLACE: Miami Shores Country Club, 10000 Biscayne Boulevard, Miami Shores, Florida 33138

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULES IS:

TOLLS ENFORCEMENT

PART I Toll Enforcement

PART II Variable Rate Tolls

14-100.003 Variable Rate Tolls for Express Lanes.

(1) Purpose. Express lanes are used to relieve congestion and provide reliable, predictable travel alternatives. By controlling points of access and collecting tolls, express lanes manage demand, thereby optimizing facility capacity, improving operating speeds, and encouraging carpooling and other ride-sharing alternatives to single occupant vehicles. Toll collection is performed electronically and is intended primarily to keep the express lanes moving freely. Because operating conditions on the express lanes and the adjacent general use lanes change continuously throughout the day, effective traffic management within the express lanes cannot be accomplished through a fixed toll schedule.

(2) Definition. Express lanes are a set of lanes physically separated from the general use lanes within a roadway corridor in which operational strategies, including congestion-priced tolls are implemented in response to changing conditions. These lanes may be operated as reversible flow or bi-directional facilities. Specified classes of vehicles may be restricted from using these lanes, and toll exceptions may be granted as a way of encouraging specific transportation choices.

(3) Toll Rate Criteria. Variable toll rates will be used on express lanes. Under this program, toll charges will be set based on one or more of the following:

(a) Traffic levels (volumes) in the express lanes;

(b) Operating speeds and level of service in the express lanes; and

(c) Operating speeds and level of service in the adjacent general use lanes.

(4) Toll Rates. Toll rates in express lanes will be varied based on a time-of-day variable rate schedule, or dynamically, based on continual monitoring of traffic and the criteria set forth in subsection (3) above. In addition to the variable toll rate criteria, the following specific conditions apply:

(a) The toll rate will be set to allow free flow conditions in the express lanes under typical anticipated traffic demand conditions while maximizing overall throughput for the entire facility.

(b) If time-of-day variable rates are used, such rates shall be established for each period of the day, hourly or less, by day of the week, and by travel direction.

(c) The time-of-day variable rates will be periodically reviewed and adjusted as needed. During the operation of the express lanes, traffic volumes will be collected and historic trend data will be used to review the settings for the current toll rate table. If trend data indicate that the express lanes are

underutilized, the time-of-day toll rates will be reduced; if the toll rates do not allow for free flow conditions, toll rates will be increased.

(d) When traffic demand in the express lanes does not allow free flow conditions, the initial toll rates will be increased to improve traffic flow conditions. Once the traffic demand in the express toll lanes returns to a free flow condition, the toll rate will be reduced.

(e) The minimum toll rate charged will be:

1. Based on a minimum per-mile rate of \$0.03; and

2. Calculated for each trip between any entry and exit point of the express lanes as the base per-mile fee times the distance traveled on the express lanes, rounded to the nearest \$0.05; and

3. Be at least \$0.25 per segment (between points of entry and exit) at any given time.

(f) Toll rates at any time may be higher than the minimum rates based on traffic and operating conditions.

(5) Toll Rate Display.

(a) To the extent feasible, toll rates will be displayed on variable electronic message signs in advance of each point of entry. Users of the express lanes will have a reasonable opportunity to view the current toll rate before deciding to enter the express lanes. Variable toll rate signs in advance of each point of entry will provide information for up to two possible points of exit from the express lanes. If there are more than two possible points of exit, the toll rates for the most distant exit point plus one additional exit point shall be displayed.

(b) To the extent feasible, the users of the express lanes will pay the toll rate displayed on the variable electronic message sign made available for their view prior to entering the express lane. However, due to the inherent nature of variable pricing, some variation in the actual toll rate to be paid can be expected from time to time because the actual toll rate will be the variable rate in effect at the precise time the vehicle passes under the toll collection gantry.

Specific Authority 334.044(2), 316.0741 FS. Law Implemented 316.0741, 316.1001, 316.640(1), 334.044(16), 335.02(3), 338.155(1), 338.165, 338.231 FS. History—New _____.

14-100.004 95 Express Toll Exemption Registration.

The provisions of this section apply to the express lanes on I-95 in Miami-Dade and Broward Counties.

(1) Purpose. To address congestion and to offer travel-choice options to motorists in South Florida, the 95 Express project implements a combination of tolling, technology, travel demand management and transit elements into a single project along the Interstate 95 corridor from just south SR 112/I-195 in Miami-Dade County to just north of I-595 in Broward County. Tolls will be collected electronically. Toll exemptions are allowed for certain vehicle types as

specified in this section. Both the tolls and toll exemptions are intended to provide incentives for increased vehicle occupancy, shift in travel demand, and overall congestion relief.

(2) Exemptions. Tolls shall be collected from all vehicles using the express lanes, unless a valid exemption applies. The following qualify for an exemption from payment of tolls on 95 Express:

(a) Carpools with three or more occupants, registered in the manner described in subsection (5) below;

(b) South Florida Vanpools, registered in the manner described in subsection (5) below;

(c) Inherently Low Emission Vehicles (ILEV) or Hybrid vehicles with valid Department of Motor Vehicles decals, registered in the manner described in subsection (5) below;

(d) School buses used by the Miami-Dade County Public School and the Broward County Public School systems, registered in the manner described in subsection (6) below;

(e) Buses used by the Miami-Dade Transit Agency and Broward County Transit Agency, registered in the manner described in subsection (6) below;

(f) Over-the-Road Buses, defined as vehicles operated by a for-hire company registered on the US Federal Motor Carrier Safety Administration (USFMCSA) registration system, characterized by an elevated passenger deck located over a baggage compartment and at least 35 feet in length with a capacity of 30 or more passengers, registered in the manner described in subsection (6) below; and

(g) Motorcycles.

(3) Registered South Florida Vanpools and registered carpools shall only be granted free passage if the vehicle has the minimum number of occupants specified in subsection (5) below; otherwise such user shall be required to pay the applicable tolls.

(4) South Florida Commuter Services (SFCS) along with SunPass are partnering to administer the fulfillment and registration process pertaining to the 95 Express Project. SFCS is the regional commuter assistance program funded by the Florida Department of Transportation. SunPass is the Florida Department of Transportation's Prepaid Toll Program. This rule sets forth the process to register for exemption from payment of tolls on the 95 Express project.

(5) Decals will be provided for the following vehicles eligible for an exemption from payment of tolls for use of the express lanes: registered 3+ passenger carpools, registered ILEV and hybrid vehicles and registered South Florida Vanpools. 3+ passenger carpools means at least three commuters traveling to and from work in one vehicle and properly registered by SFCS as a 3+passenger carpool. An ILEV or a hybrid vehicle means a vehicle as defined in Section 316.0741, F.S. A South Florida Vanpool means a van meeting the registration requirements of the South Florida Vanpool Program. The South Florida Vanpool program is managed by the Miami-Dade County Metropolitan Organization with coordination from Broward County Metropolitan Planning Organization, and the Palm Beach Metropolitan County Planning Organization.

(a) 3+ Passenger Carpools:

1. All eligible 3+ passenger carpools must register with SFCS.

2. Registration will allow users to receive a "95 Express" decal that will allow them to use the express lanes without incurring tolls.

3. SFCS will provide the "95 Express" registration form. The registration form requests: name, home address, work address, employer, home/work phone numbers, work schedule, driver license number, and state of vehicle registration.

4. 3+ Passenger Carpool eligibility will be based on matching all of the following criteria:

<u>Criteria</u>	<u>Configuration</u>	<u>Comments</u>
<u>Home Distance</u>	<u>3 mile radius</u>	<u>System will seek similar participants that live within a three-mile radius. If participant's commute distance is less than three miles, search radius will be 2 of distance</u>
<u>Work Distance</u>	<u>1 mile radius</u>	<u>Matched participants must work within a one-mile radius to have a positive match</u>
<u>Start Time / End Time</u>	<u>30 minutes</u>	<u>Participants must have a start/end work time within this timeframe to have a positive match</u>

The only exception that will be allowed to the above criteria will be for carpools whose participants meet at a specified location, parking lot, park-n-ride lot, or transit/multi-modal facility that is located between the origin and destination of all participants within the carpool.

5. If a driver of a vehicle with a registered 3+passenger carpool decal receives two or more citations for failure to pay a required 95 Express toll under Section 316.1001, F.S., which

results in a withhold of adjudication or an adjudication of guilt, when operating a vehicle with less than three passengers, the 3+ passenger decal will be revoked. Further, the driver, and the owner of the 3+passenger carpool decal (if different), will not be eligible to apply for a 3+passenger carpool decal for a period of one year from the revocation of the decal.

(b) ILEV and Hybrid Vehicles:

1. ILEV and hybrid vehicle owners in Miami-Dade and Broward counties with valid Florida DHSMV decals are eligible to register for toll exemption on 95 Express. Eligible ILEV and hybrid vehicle owners who complete registration with SFCS will receive a decal for toll-free use of the 95 Express lanes.

2. ILEV and hybrid vehicle owners will be required to renew 95 Express registration annually based upon the anniversary date of the initial request.

(c) Registered South Florida Vanpools:

1. One decal will be sent to the primary driver of the vanpool.

2. One decal will be provided per van.

3. The 95 Express lanes are only to be used by South Florida Vanpools for commuting purposes only.

4. The "95 Express" decal will remain active as long as the South Florida Vanpool continues to be part of the South Florida Vanpool program.

(6) Miami-Dade County Public School, Broward County Public School, Miami-Dade Transit Agency, and Broward County Transit Agency buses are eligible to use the 95 Express and are exempt from paying tolls on 95 Express if their license plates have been registered with SFCS. The respective agencies shall provide and maintain current a license plate list of buses and school buses that may utilize the 95 Express and SFCS. Over-the Road-Buses (OTRB) registered with USFMCSA are eligible to be exempt from paying tolls on 95 Express. OTRB owners or operators shall provide a copy of valid USFMCSA registration to SFCS in order to register to utilize the 95 Express. OTRB owner information, name, address, and license plate information shall be provided to SFCS and shall be updated annually by OTRB vehicle owners or operator.

Specific Authority 334.044(2), 316.0741 FS. Law Implemented 316.0741, 316.1001, 316.640(1), 334.044(16), 335.02(3), 338.155(1), 338.165(7), 338.231 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: James Wolfe, District Secretary, District 4, and Gerry O'Reilly, Interim District Secretary, District 6

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Stephanie C. Kopelousos, Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 28, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 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."

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NOS.:	RULE TITLES:
40D-4.021	Definitions
40D-4.041	Permits Required
40D-4.051	Exemptions

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendments is to clarify when an Environmental Resource Permit is required by removing the distinction between a "surface water management system" and a "new surface water management system". The rulemaking will further clarify when an Environmental Resource Permit is required by simplifying the definition of "alteration" and by creating exemptions for the operation of systems constructed under an earlier exemption.

SUMMARY: The District's current ERP rules require an ERP to construct or operate a new surface water management system except when a project meets a specific rule or statutory exemption. The proposed rule amendments will clarify when an ERP is required by removing the distinction between a "surface water management system" and a "new surface water management system." The proposed revision deletes the term "new surface water management system" from Rules 40D-4.021 and 40D-4.041, F.A.C., and creates new exemptions under Rule 40D-4.051, F.A.C., for the operation of systems constructed prior to October 1, 1984 or systems constructed under a previous exemption. The changes are consistent with the District's long-term interpretation and application of the terms. The proposed rule amendments also remove the word "design" from the definition of Alteration in Rule 40D-4.021, F.A.C., to clarify that an ERP is required for activities that result in an increase or decrease in the discharge of the system as constructed.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118, 373.149, 373.171, 373.414 FS.

LAW IMPLEMENTED: 373.403, 373.406, 373.413, 373.414(9), 373.416, 373.426, 373.427 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: Carrie N. Felice, Staff Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-4.021 Definitions.

When used in this chapter and Chapters 40D-40 and 40D-400, F.A.C.:

(1) "Alteration" means any activity resulting in substantial expansion or change of a surface water management system that will increase or decrease the ~~design~~ discharge of the system, increase pollutant loading, change the point or points of discharge, or intrude into or otherwise adversely impact wetlands by rim ditching, draining, filling or excavation. Routine custodial maintenance and repairs shall not constitute alterations.

(2) through (3) No change.

(4) "Construction" means any on-site activity which will result in the creation of a ~~new~~ surface water management system, or the abandonment or alteration of an existing surface water management system, including the building, assembling, expansion or recontouring of the property; the erection of buildings or other structures, or any part thereof; or land clearing.

(5) through (10) No change.

~~(11) "New surface water management system" means any surface water management system which is not in existence on October 1, 1984, or not authorized to be constructed on October 1, 1984.~~

(12) through (22) renumbered (11) through (21) No change.

Specific Authority 373.044, 373.113, 373.118, 373.149, 373.171 FS. Law Implemented 373.403, 373.413 FS. History—Readopted 10-5-74, Formerly 16J-4.02, Amended 10-1-84, 3-1-88, 9-11-88, 10-3-95, 7-23-96, 2-27-02, 9-26-02, 2-19-04, 2-6-07, 1-8-08,_____.

40D-4.041 Permits Required.

(1) Unless expressly exempt by law or District rule an Environmental Resource Permit shall be obtained from the District prior to:

~~(a) The construction and operation of any new surface water management system, or~~

~~(a)(b)~~ The construction, operation, alteration, abandonment, or removal of any surface water management system.

~~(b)(e)~~ The establishment of a mitigation bank.

(2) through (6) No change.

Specific Authority 373.044, 373.113, 373.118, 373.149, 373.171 FS. Law Implemented 373.413, 373.416, 373.426, 373.427 FS. History—Readopted 10-5-74, Amended 12-31-74, 9-4-77, 6-7-78, Formerly 16J-4.04, 16J-4.10(1), (2), (4), Amended 10-1-84, 3-1-88, 10-3-95, 7-23-96, 10-16-96, 4-17-97, 10-11-01, 7-16-02, 9-26-02, 3-26-03, 1-8-08,_____.

40D-4.051 Exemptions.

The following activities are exempt from permitting under this chapter:

(1) The activities specified in Section 373.406, F.S.

(2) The operation and maintenance of a surface water management system which:

(a) Was constructed before October 1, 1984; or

(b) Was constructed or was being constructed on or before December 9, 1999 and was not required to obtain a District permit under exemptions existing at that time.

(2) through (14) renumbered (3) through (15) No change.

Specific Authority 373.044, 373.113, 373.149, 373.171, 373.414(9) FS. Law Implemented 373.406, 373.413, 373.414(9) FS. History—Readopted 10-5-74, Formerly 16J-4.05, Amended 10-1-84, 10-1-86, 3-1-88, 1-24-90, 10-3-95, 4-18-01, 5-17-01, 4-9-02, 2-19-04, 6-30-05., 11-26-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Carrie N. Felice, Staff Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 1, 2008

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.:	RULE TITLE:
40D-8.624	Guidance and Minimum Levels for Lakes

PURPOSE AND EFFECT: To amend Chapter 40D-8, Florida Administrative Code, to establish minimum levels for the next set of priority lakes pursuant to Section 373.042, Florida Statutes and to establish guidance levels for those lakes.

SUMMARY: The proposed amendments establish the High Guidance Level, High Minimum Level, Minimum Lake Level and Low Guidance Level for Dinner Lake, Lake Mabel and Lake Starr in Polk County, Florida. The proposed amendments replace the previous levels adopted for these lakes.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.042, 373.0421, 373.086 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: Doug Leeper, Chief Environmental Scientist, Resource Conservation and Development Department, Southwest Florida Water Management District, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4272

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-8.624 Guidance and Minimum Levels for Lakes.

(1) through (12) No change.

(13) Levels for lakes established during or after August 7, 2000, are set forth in the following table. After the High Minimum Lake Level and Minimum Lake Level elevation for each lake is a designation indicating the Method used, as described in subsection 40D-8.624(8), F.A.C., to establish the level. Compliance with the High Minimum and Minimum Lake Levels is determined pursuant to paragraphs (6)(b) and (7)(b) above. Guidance Levels established prior to August 7, 2000, are set forth in Table 8-3 in subsection 40D-8.624(14), F.A.C., below.

Table 8-2 Minimum and Guidance Levels Established During or After August 7, 2000. Levels are elevations, in feet above the National Geodetic Vertical Datum of 1929.						
Location by County and Basin	Name of Lake and Section, Township and Range Information	Ten Year Flood Guidance Level	High Guidance Level	High Minimum Lake Level	Minimum Lake Level	Low Guidance Level
(a)-(y) No change						
(z) In Polk County Within the Peace River Basin	Annie, Lake S-3, T-29S, R-27E		116.0'	115.2' (CAT 3)	112.8' (CAT 3)	111.7'
	Bonnie, Lake S-31, T-29S, R-28E		105.9'	105.8' (CAT 3)	102.1' (CAT 3)	99.8'
	Clinch Lake S-31, T-31S, R-28E	107.4'	105.5'	105.5' (CAT 3)	104.4' (CAT 3)	103.1'
	Dinner Lake S-15, T-29S, R-27E		114.4' 115.7'	113.6' 114.9' (CAT 3)	110.6' 112.7' (CAT 3)	109.1' 112.2'
	Eagle Lake S-01, T-29S, R-25E	131.3'	129.6'	129.0' (CAT 3)	127.9' (CAT 3)	127.2'
	Lee, Lake S-10, T-29S, R-27E		116.8'	116.0' (CAT 3)	113.9' (CAT 3)	113.1'
	Mabel, Lake S-11, T-29S, R-27E		107.5' 108.7'	106.7' 107.9' (CAT 3)	103.9' 105.9' (CAT 3)	102.5' 105.4'
	McLeod Lake S-07, T-29S, R-26E	133.3'	129.4'	129.4' (CAT 3)	128.3' (CAT 3)	127.0'
	Parker, Lake S-8, T-28S, R-24E	131.8'	130.6'	130.6' (CAT 3)	129.6' (CAT 3)	129.0'
	Starr, Lake S-14, T-29S, R-27E		105.8' 106.9'	105.0' 106.1' (CAT 3)	102.1' 104.2' (CAT 3)	100.7' 103.8'
	Venus Lake S-9, T-29S, R-27E		121.2'	120.4' (CAT 3)	118.2' (CAT 3)	117.4'
	Wales Lake S-01, T-30S, R-27E	114.1'	ND	107.7' (CAT 3)	106.6' (CAT 3)	ND
(aa)-(cc) No change						

(14) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.036, 373.0361, 373.042, 373.0421, 373.086 FS. History--New 6-7-78, Amended 1-22-79, 4-27-80, 10-21-80, 12-22-80, 3-23-81, 4-14-81, 6-4-81, 10-15-81, 11-23-81, 1-5-82, 3-11-82, 5-10-82, 7-4-82, 9-2-82, 11-8-82, 1-10-83, 4-3-83, 7-5-83, 9-5-83, 10-16-83, 12-12-83, 5-8-84, 7-8-84, 12-16-84, 2-7-85, 5-13-85, 6-26-85, 11-3-85, 3-5-86, 6-16-86, Formerly 16J-8.678, Amended 9-7-86, 2-12-87, 9-2-87, 2-18-88, 6-27-88, 2-22-89, 3-23-89, 9-26-89, 7-26-90, 10-30-90, 3-3-91, 9-30-91, 10-7-91, 7-26-92, 3-1-93, 5-11-94, 6-6-96, 2-23-97, 8-7-00, 1-8-04, 12-10-04, 6-5-05, 1-1-07, 2-12-07, 1-10-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Doug Leeper, Chief Environmental Scientist, Resource Conservation and Development Department, Southwest Florida Water Management District, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4272
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 30, 2007
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 1, 2008

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE NO.: 59A-9.034
 RULE TITLE: Reports

PURPOSE AND EFFECT: The Agency proposes to amend Rule 59A-9.034, Florida Administrative Code, to change the reporting system for abortion clinics.

SUMMARY: The proposed amendments establish an on-line reporting system for the monthly reports required from abortion clinics to the Agency for Health Care Administration.

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: 390.012 FS.

LAW IMPLEMENTED: 390.012 FS.

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

DATE AND TIME: March 3, 2008, 1:00 p.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conf. Rm. B, Tallahassee, FL 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Tara E. Ehlers by e-mail at

ehlerst@ahca.myflorida.com or by phone at (850)922-0791. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bill McCort, Bureau of Health Facility Regulation, 2727 Mahan Drive, Tallahassee, Florida, or call (850)487-0641

THE FULL TEXT OF THE PROPOSED RULE IS:

59A-9.034 Reports.

Pursuant to ~~Section Chapters 382 and 390.0112~~, F.S., an abortion clinic must submit a report each month to the ~~Agency, Office of Vital Statistics of the Department of Health~~, regardless of the number of terminations of pregnancy. Monthly reports must be received by the ~~Agency department~~ within 30 days following the preceding month using the ~~on-line reporting system that may be accessed at: http://ahca.myflorida.com/ITOP. "Monthly Report of Induced Terminations of Pregnancy"~~, hereby incorporated by reference; ~~Department of Health, Office of Vital Statistics, Public Health Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042, or by telephone request at (904)359-6900, extension 1049.~~

Specific Authority 390.012 FS. Law Implemented ~~20.42(2)(a), 382.002, 390.002, 390.011, 390.0112, 390.012~~ FS. History--New 6-13-90, Formerly 10D-72.034, Amended 8-24-94, 9-25-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bill McCort, Bureau of Health Facility Regulation, 2727 Mahan Drive, Tallahassee, Florida, or call (850)487-0641

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jeffrey Gregg, Bureau of Health Facility Regulation, Division of Health Quality Assurance, Agency for Health Care Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 28, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 26, 2007

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NOS.:	RULE TITLES:
59G-13.080	Home and Community-Based Services Waivers
59G-13.083	Developmental Disabilities Waiver Services

PURPOSE AND EFFECT: The purpose of the rule amendment to Rule 59G-13.080, F.A.C., is to delete the reference to the Florida Medicaid Developmental Disabilities Waiver Services Coverage and Limitations Handbook and other obsolete language from the general Home and Community-Based

Services (HCBS) Rule. We are deleting references from the general HCBS rule to the individual waiver programs for which we have promulgated individual rules.

The purpose of Rule 59G-13.083, F.A.C., is to incorporate by reference the revised Florida Medicaid Developmental Disabilities Waiver Services Coverage and Limitations Handbook, July 2007, in rule. The handbook revisions include updated agency names, provider definitions, provider qualifications; changes to the Core Assurances; and updated policies in accordance with Senate Bill 1124 and proviso language in the 2007-2008 General Appropriations Act.

The effect of the rule amendment to Rule 59G-13.080, F.A.C., is to delete the reference to the Florida Medicaid Developmental Disabilities Waiver Services Coverage and Limitations Handbook and other obsolete language from the general Home and Community-Based Services (HCBS) Rule. The effect of Rule 59G-13.083, F.A.C., will be to incorporate by reference the revised Florida Medicaid Developmental Disabilities Waiver Services Coverage and Limitations Handbook, July 2007.

SUMMARY: The purpose of the rule amendment to Rule 59G-13.080, F.A.C., is to delete the reference to the Florida Medicaid Developmental Disabilities Waiver Services Coverage and Limitations Handbook and other obsolete language from the general Home and Community-Based Services (HCBS) Rule. The purpose of Rule 59G-13.083, F.A.C., is to incorporate by reference the revised Florida Medicaid Developmental Disabilities Waiver Services Coverage and Limitations Handbook, July 2007, in rule.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.906, 409.907, 409.908, 409.910, 409.912, 409.913 FS.

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

DATE AND TIME: Monday, March 3, 2008, 2:00 – 4:00 p.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room A, Tallahassee, Florida
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Pam Kyllonen, Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)414-9756, kyllonep@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULES IS:

59G-13.080 Home and Community-Based Services Waivers.

(1) through (5) No change.

(6) Program Requirements – General. ~~All HCB services waiver providers and their billing agents must comply with the provisions of the Florida Medicaid Provider Reimbursement Handbook, Non-Institutional 081, October 2003, which is incorporated by reference and available from the Medicaid fiscal agent. The following requirements are applicable to all HCB services waiver programs:~~

(a) through (i) No change.

(7) through (8) No change.

(9) Home and Community-Based Services Waiver Programs. The following are authorized HCB services waivers: Adult Cystic Fibrosis Waiver, Adult Day Health Waiver ~~(a)~~ Aged and Disabled Adult Waiver; Alzheimer's Disease Waiver, Assisted Living for the Elderly Waiver, ~~(b)~~ Channeling Waiver; ~~(c)~~ Consumer-Directed Care Waiver, Developmental Disabilities Services Waiver; Family Supported Living Waiver, Familial Dysautonomia Waiver, ~~(d)~~ Model Waiver; ~~(e)~~ Project AIDS Care Waiver, and Traumatic Brain Injury and Spinal Cord Injury Waiver.

~~(10) Aged/Disabled Waiver.~~

~~(a) Program Summary. The aged/disabled waiver is a long term care initiative providing HCB services to the aged and disabled as an alternative to institutional care. Services are available statewide to recipients who meet the eligibility requirements as specified in paragraph (10)(c) of this rule.~~

~~(b) Covered Services and Provider Qualifications. Providers must meet the criteria specified in Chapter 59G-5, F.A.C. In addition, providers must be under contract with the Department for the provision of HCB services available under this waiver. Provider qualifications for services are:~~

~~1. Adult Day Health Care providers must be licensed adult day health care centers in accordance with Rule 59A-16.003, F.A.C.~~

~~2. Caregiver Training and Support providers must be community care for the elderly (CCE) agencies or be Medicaid participating home health agencies pursuant to Chapter 59A-8, F.A.C.~~

~~3. Case Aide providers must be CCE agencies, pursuant to Chapter 410, F.S.~~

~~4. Case Management providers must be CCE contractors, or community care for the disabled adults contractors, or staff of the Department who serve the community care for the disabled adults program, pursuant to Chapter 58C-1, F.A.C.~~

~~5. Chore Services providers must be community action agencies or home repair services, pursuant to Chapter 10A-10 F.A.C.~~

~~6. Consumable Medical Supplies must be provided by medical supply companies, home health agencies, or licensed independent vendors.~~

~~7. Counseling providers must be licensed psychologists or mental health counselors pursuant to Sections 490.001-.015, F.S., licensed social workers pursuant to Sections 491.002-.015, F.S., or licensed mental health centers, pursuant to Sections 394.65-.907, F.S.~~

~~8. Environmental Modifications providers must be community care agencies as defined in Chapter 10A-10, F.A.C., or independent contractors holding local occupational licenses. If major structural modifications are required, the providers must comply with Chapter 61G4-15, F.A.C.~~

~~9. Home Delivered Meals providers must be Older Americans Act and Community Care Meal providers that comply with Sections 410.011-.029, F.S., and Chapter 58C-1, F.A.C.; or Section 410.402 or Sections 410.602-.606, F.S.~~

~~10. Homemaker and Personal Care Services providers must be Medicaid participating home health agencies or CCE agencies, pursuant to Chapter 59A-8, F.A.C. or Sections 400.461-.506, F.S.~~

~~11. Occupational Therapy providers must be occupational therapists licensed in accordance with Chapter 468, F.S.~~

~~12. Personal Emergency Response System providers must be independent contractors that comply with Sections 410.604-.606, F.S.~~

~~13. Physical Therapy providers must be physical therapists licensed in accordance with Chapter 486, F.S.~~

~~14. Respite Care providers must be licensed Medicaid participating home health agencies, CCE agencies, or residential providers, pursuant to Sections 400.011-.332, 400.401-.454, and 400.616-.629, F.S.~~

~~15. Risk Reduction Services providers must be community care agencies, Medicaid participating home health agencies, or independent contractors, pursuant to Chapter 61F11-4, F.A.C.~~

~~16. Speech Therapy providers must be speech pathologists licensed in accordance with Sections 468.1105-.1315, F.S.~~

~~(c) Recipient Eligibility. Individuals must meet Medicaid eligibility requirements as defined by Chapter 409, F.S., subsection 65A-1.711(4), F.A.C., and Florida's Title XIX State Plan; or be physically disabled or aged as defined by Rule 65A-1.701, F.A.C., and 42 CFR 435.217 and 435.726, as of October 1, 2001, the latter two hereby incorporated by reference. Recipients must be assessed as meeting level of care criteria for skilled or intermediate nursing home care as defined in Rules 59G-4.180 and 59G-4.290, F.A.C., and must be at risk for nursing facility placement without the provision of HCB services.~~

~~(d) Program Operations. The HCB services program under this waiver shall comply with the provisions of Chapters 10A-4, 58A-5, 65C-2, 65C-6, 58C-1, 58A-1, and 58A-14, F.A.C.~~

~~(10)(H) Channeling Waiver.~~

(a) Program Summary. The Channeling program is directed toward a group of seriously impaired, aged Medicaid eligible individuals. The core functions of outreach, screening, assessment, care planning, and case management focus community services on program participants as an alternative to institutional care.

(b) Covered Services and Provider Qualifications. The Agency contracts with qualified entities for the provision of these services to enrolled recipients. The standards applicable to the contractor's selection of vendors and providers of covered services are outlined in the contract between the Agency and the contractor. The following services are available:

1. Adult Day Health Care;
2. Caregiver Training and Support;
3. Companion Services;
4. Consumable Medical Supplies;
5. Financial Education and Protection Services;
6. Home Health Aide Services;
7. Homemaker and Personal Care Services;
8. Housekeeping/Chore Services;
9. Medical Alert and Response Service;
10. Mental Health Services;
11. Minor Physical Adaptations to the Home/Home Modification;
12. Occupational Therapy;
13. Physical Therapy;
14. Respite Care;
15. Skilled Nursing;
16. Special Home Delivered Meals;
17. Special Drug and Nutritional Assessments;
18. Speech Therapy; and
19. Waiver Case Management.

(c) Recipient Eligibility. Recipients eligible for services under this waiver must be Broward or Dade County residents, 65 years of age or older, and eligible under the HCB services waiver optional coverage groups as defined by 42 CFR section 435.217, or otherwise be Medicaid eligible. Recipients must be assessed as meeting level of care criteria for skilled or intermediate nursing home care as defined in Rules 10C-7.032 and 10C-7.033, F.A.C. The contractor may refuse participation in the program to otherwise qualified recipients whose estimated cost of community care exceeds 85 percent of the cost of institutional care in that recipient's county of residence.

(d) Provider enrollment is accomplished through the contract procurement process as set forth in Chapter 287, F.S., and Chapter 13A-1, F.A.C.

(e) Payment Methodology. Payment is based on a prospective monthly per diem reimbursement rate with a year-end cost settlement. Medicaid will make monthly payment to the contractor for satisfactory performance of

duties and responsibilities as set forth in the contract. The per diem rate is set annually as a part of the agreement renewal process. The rates are developed using historical Channeling Project data for similar services in the same geographic area, adjusted for anticipated service and cost increases. The final amount paid shall not exceed the amount that would have been paid, on an aggregate basis, by Medicaid under fee-for-service for institutional care provided to a demographically similar population of recipients.

~~(12) Developmental Services Waiver—General. This rule applies to all Developmental Services Waiver Services providers enrolled in the Medicaid program. All Developmental Services Waiver Services providers enrolled in the Medicaid program must comply with the Developmental Services Waiver Services Florida Medicaid Coverage and Limitations Handbook, October 2003, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, Non Institutional 081, October 2003. Both handbooks are available from the Medicaid fiscal agent. The Developmental Disabilities Waiver Services Provider Rate Table, November 2003, is incorporated by reference. The Developmental Disabilities Waiver Services Provider Rate Table is available from the Medicaid fiscal agent.~~

~~(11)~~(13) Model Waiver.

(a) Program Summary. The model waiver allows the provision of specified HCB services to persons with degenerative spinocerebellar disease. These services are provided to eligible persons who would otherwise require the level of care provided in an acute care hospital.

(b) Services Availability. Eligible program participants may receive covered services if approved by the case manager as part of a service plan developed in accordance with the requirements outlined in this section.

(c) Recipient Eligibility. Individuals eligible for HCB services under the model waiver must be:

1. Persons under 21 years of age, disabled with a degenerative spinocerebellar disease as identified in the International Classification of Diseases, 9th Revision (ICD-9), 1995 Edition, effective October 1, 1994, code range beginning with the first three digits of 330 through 337, inclusive; hereby incorporated by reference;

2. Assessed as being at risk of hospitalization by the comprehensive assessment and review for long term care services (CARES) team; administered by DOEA; or the Children’s Multidisciplinary multi-handicapped Assessment Team (CMHAT), administered by the Department’s of Health, Children’s Medical Services program; and able to live safely at home with the Medicaid HCB services made available to him; and

3. Cost-effective to the state for each individual program participant, pursuant to the approved federal waiver.

(d) Covered Services and Provider Qualifications. Provider qualifications for services available under this waiver are:

1. Case Management providers must be licensed as a registered nurse in the state of Florida and meet applicable state requirements, pursuant to Chapter 464, F.S.

2. Respite Care providers must be a Florida licensed and Medicaid participating home health agency and meet applicable state requirements, pursuant to Chapter 400, F.S.

~~(14) Project AIDS Care.~~

~~(a) Program Summary. The Project AIDS Care waiver provides a range of HCB services designed to meet the needs of people living with AIDS related conditions.~~

~~(b) Covered Services and Provider Qualifications. Providers of AIDS waiver services must be enrolled Medicaid providers, subject to the requirements of Chapter 59G-5, F.A.C. Additional provider qualifications for services available under this waiver are as follows:~~

~~1. Adaptive Equipment providers must be handymen, home repair general contractors, licensed general contractors, or medical supply and equipment vendors.~~

~~2. Case Management. Case management agency providers must be licensed hospitals, insurance companies, community based AIDS service organizations, or entities of the HRS or the Agency.~~

~~a. Case management agencies must meet the following general standards:~~

~~(I) Have sufficient qualified case management support and administrative staff to meet service demands in their service area;~~

~~(II) Have data collection and analysis capability that will enable the tracking of recipient service utilization, cost, and demographic information;~~

~~(III) Have a medical records system that complies with the guidelines of the HRS Pamphlet 150-8, “Guidelines for Clinical Records Management in County Public Health Units”;~~

~~(IV) Maintain all accounting and business records according to accepted accounting principles and in sufficient detail to constitute a clear audit trail to justify Medicaid reimbursement for all services;~~

~~(V) Require case managers to maintain case loads that are equal to or less than the maximum set by the Medicaid Agency; and~~

~~(VI) Comply with state licensure and certification requirements appropriate to the type of provider.~~

~~b. In addition to subparagraphs 1. through 6. above, community-based AIDS service organizations must also meet the following standards:~~

~~(I) Be organized for the primary purpose of providing health, social, or support services to persons with HIV disease;~~

(II) Be incorporated as a Florida not-for-profit corporation and have documentation of federal Internal Revenue Service 501(c)(3) status;

(III) Have a Board of Directors consisting of at least five members;

(IV) Have been an operational entity for at least two years;

(V) Have a full-time administration consisting of regularly scheduled and maintained hours of operation, at least a full-time executive director, and sufficient support staff to manage the agency;

(VI) Have an agency director with at least a baccalaureate degree from an accredited college or university in a social science area or a baccalaureate degree and at least two years experience in the social services field;

(VII) Have written operating policies and procedures that address:

(A) Compliance with civil rights/handicapped statutes;

(B) Fiscal operations;

(C) Conflicts of interest;

(D) Procedures for provision of case management services;

(E) Confidentiality; and

(F) Continuing education.

(VIII) Maintain personnel policies and procedures that assure that case managers will be able to provide waiver case management. This includes:

(A) Position descriptions that include background and education requirements; and

(B) Signed statements by employees acknowledging their obligations to protect confidential information.

(C) Requirements for Case Managers. Case managers must be graduates of accredited colleges or universities with at least a baccalaureate degree in a social science; or, be a licensed registered nurse in the state of Florida and have one year of case management experience. Case managers who do not have this educational background may substitute case management experience on a year for year basis for the required education.

3. Chore Services providers must be handymen or licensed pest control companies.

4. Consumable Medical Supplies providers must be a Medicaid certified home health agency, hospice, Medicaid participating pharmacy provider, or medical supply vendor.

5. Day Health Care providers must be licensed by the state as child and adult day health care centers, including prescribed pediatric extended care centers. These pediatric extended care centers are day stay facilities for ambulatory pediatric patients and are state licensed, pursuant to Chapter 10D-102, F.A.C.

6. Education and Support providers must be community mental health centers licensed by the state pursuant to Chapter 394, F.S., or hospices, or the following licensed professionals: mental health counselors, marriage and family therapists, social workers, and psychologists.

7. Homemaker Services providers must be a licensed, enrolled Medicaid provider, and participating home health agency, hospice, or community based AIDS service organization that has met the standards for enrollment as case management agencies and that provides training to the homemakers including: confidentiality, infection control, interpersonal skills, basic AIDS education, cultural sensitivity, substance abuse, death and dying, and professional roles and responsibilities.

8. Home Delivered Meals providers must meet all local regulatory requirements for the preparation, packaging, and delivery of home delivered meals.

9. Home Modifications providers must be general contractors, handymen, or home repair services. Modifications that require a building permit will be performed only by state licensed general contractors.

10. Personal Care Services providers must be a licensed and Medicaid participating home health agency or hospice. Duties are assigned and performed under the supervision of a registered professional nurse or other appropriate professional.

11. Respite Care providers must be state licensed and Medicaid participating hospitals, hospices, home health agencies, or day health care centers; or registered nurses licensed under Chapter 464, F.S.

13. Skilled Care providers must be an appropriately licensed nurse-employee of a state licensed and Medicaid certified home health agency, a hospice, a state Title V agency (including county public health units), or a licensed respiratory therapist.¹² Specialized Personal Care Services to Foster Care Children providers must be state licensed foster homes, group homes, or shelter care homes.

14. Substance Abuse Treatment providers must be licensed community mental health centers, licensed drug abuse treatment centers, or individuals who are licensed by the state pursuant to Chapter 490, F.S., or Chapter 491, F.S., as psychologists, mental health counselors, clinical social workers, or marriage and family therapists.

(e) Recipient Eligibility. Recipients eligible for services under this waiver shall:

1. Be categorically eligible or financially eligible under the institutional care program as defined by Chapter 10C-8, F.A.C., and 42 CFR, sections 435.217 and 435.726.

2. Be diagnosed as having AIDS;

3. Be assessed by the CARES team as being at risk of hospitalization or at risk of institutionalization in a nursing facility, pursuant to Rules 59G-4.290 and 59G-4.180, F.A.C.;

4. Be determined by the HRS or by the Social Security Administration to be disabled according to Social Security Administration standards;

5. Be able to be maintained safely in the home; and

6. Have a Project AIDS Care case manager.

(d) ~~Provider Enrollment.~~ Pursuant to the requirements of Chapter 59G-5, F.A.C., providers seeking enrollment must complete a Medicaid agreement, and a Medicaid non-institutional provider agreement. To enroll a person not in a licensed profession, the case management agency must submit a letter of reference from a current or past employer, attesting to the person's character and their professional skills, knowledge, and capability to meet the demands of the position.

(e) ~~Program Operations.~~

1. ~~Case Management Activities.~~

a. Project AIDS Care services identified in plans of care and costing less than a total dollar amount set by the Medicaid office may be authorized by the case manager without prior approval from Medicaid.

b. If the total estimated cost of Project AIDS Care services exceeds a level prescribed by the Medicaid office, prior approval must be obtained from Medicaid before service authorizations can be made. This approval will be made after consultation with the case manager and a review of the recipient's condition, service needs, and the variety and quantity of planned services.

c. The case manager will notify the Medicaid office within seven working days of the recipient's enrollment. Upon request, case managers will send plans of care to the Medicaid office.

d. The case manager will review plans of care on an ongoing basis, but no less frequently than every six months.

e. ~~Service Authorization.~~ The case manager shall develop written service authorizations for all services except case management. These authorizations will provide sufficient information to allow the provider to bill for services with a minimum of assistance. The authorizations will parallel the plans of care in terms of specificity of the service, the duration of the service, frequency of service, and the total authorized amount to be spent. If a case manager authorizes a service orally, he will send a written authorization to the provider within five working days as confirmation of the oral authorization.

2. ~~Participating case management agency files shall contain at least the following:~~

a. Notice of Medicaid recipient eligibility;

b. Level of care determination;

c. Project AIDS Care application;

d. Needs assessment;

e. Progress notes;

f. Plans of care; and

g. Service authorizations.

3. Other participating provider agency files shall contain at least the following:

a. Service authorizations;

b. Provider eligibility documents; and

c. Provider enrollment documents.

4. ~~Disenrollment of Case Management Agencies.~~ The Agency or its designee will disenroll a case management agency whose performance impairs the agency's ability to furnish services. The Agency or its designee must provide at least one oral and at least one written warning to the case management agency regarding the implications of their performance. The Agency or its designee will give a written explanation of disenrollment to the case management agency when disenrollment occurs. Disenrolled case management agencies may submit a new application for Medicaid consideration no less than 12 months after the date of disenrollment.

(f) ~~Payment Methodology.~~ Medicaid will make payment for services provided to Project AIDS Care recipients in accordance with applicable Medicaid claims processing requirements.

(15) ~~Assistive Care Services and Assisted Living for the Elderly Waiver.~~ All Assistive Care Services and Assisted Living for the Elderly Waiver providers must comply with the provisions of the Florida Medicaid Assistive Care Services and Assisted Living for the Elderly Waiver Coverage and Limitations Handbook, July 2001, which is incorporated by reference and available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.906, 409.907, 409.908, 409.910, 409.912, 409.913 FS. History—New 4-20-82, Formerly 10C-7.527, Amended 3-22-87, 11-23-89, Formerly 10C-7.0527, Amended 1-16-96, 7-23-97, 1-6-02, 10-27-02, 6-11-03, 11-24-03, 1-16-05, 6-23-05, Formerly 59G-8.200, Amended 11-29-07, _____.

59G-13.083 Developmental Disabilities Waiver Services.

(1) This rule applies to all developmental disabilities waiver services providers enrolled in the Medicaid program.

(2) All developmental disabilities waiver services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Developmental Disabilities Waiver Services Coverage and Limitations Handbook, July 2007, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, Non-Institutional 081, which is incorporated by reference in Rule 59G-13.001, F.A.C. Both handbooks are available from the Medicaid fiscal agent's website at <http://floridamedicaid.acs-inc.com>. Paper copies of the handbooks may be obtained by calling the Medicaid fiscal agent at (800)377-8216.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.907, 409.908, 409.912 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Pam Kyllonen
 NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Andrew Agwunobi, M.D.
 DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: January 30, 2008
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: July 27, 2007

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NOS.:	RULE TITLES:
59G-13.081	Developmental Disabilities Waiver Provider Rate Table
59G-13.082	Developmental Disabilities Waiver Services Procedure Codes
59G-13.084	Developmental Disabilities Residential Habilitation Services in a Licensed Facility Provider Rate Table

PURPOSE AND EFFECT: The purpose of the amendment to Rule 59G-13.081, F.A.C., is to incorporate by reference in rule the Developmental Disabilities Home and Community-Based Services Waiver Provider Rate Table, January 1, 2008. The effect will be to incorporate by reference in rule Developmental Disabilities Home and Community-Based Services Waiver Provider Rate Table, January 1, 2008.

The purpose of the amendment to Rule 59G-13.082, F.A.C., is to incorporate by reference in rule the Developmental Disabilities Home and Community-Based Services Waiver Procedure Codes, January 1, 2008. The effect will be to incorporate by reference in rule the Developmental Disabilities Home and Community-Based Services Waiver Procedure Codes, January 1, 2008.

The purpose of Rule 59G-13.084, F.A.C., is to incorporate by reference in rule the Developmental Disabilities Home and Community-Based Services Waiver Residential Habilitation Services in a Licensed Facility Provider Rate Table, April 1, 2008. The effect will be to incorporate by reference in rule the Developmental Disabilities Home and Community-Based Services Residential Habilitation Services in a Licensed Facility Provider Rate Table, April 1, 2008. In the Notice of Rule Development that was published in the Florida Administrative Weekly on November 16, 2007, the rate table was dated December 1, 2007. We changed the date to April 1, 2008.

SUMMARY: The purpose of the amendment to Rule 59G-13.081, F.A.C., is to incorporate by reference in rule the Developmental Disabilities Home and Community-Based Services Waiver Provider Rate Table, January 1, 2008. The purpose of the amendment to Rule 59G-13.082, F.A.C., is to incorporate by reference in rule the Developmental Disabilities Home and Community-Based Services Waiver Procedure

Codes, January 1, 2008. The purpose of Rule 59G-13.084, F.A.C., is to incorporate by reference in rule the Developmental Disabilities Home and Community-Based Services Waiver Residential Habilitation Services in a Licensed Facility Provider Rate Table, April 1, 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: 409.919 FS.

LAW IMPLEMENTED: 393.066, 393.0661, 409.906, 409.908 FS., Chapter 2007-64 L.O.F.

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

DATE AND TIME: Monday, March 3, 2008, 2:00 p.m. – 4:00 p.m.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Pam Kyllonen, Bureau of Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308, (850)414-9756, kyllonep@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULES IS:

59G-13.081 Developmental Disabilities Waiver Provider Rate Table.

(1) No change.

(2) All developmental disabilities waiver services providers enrolled in the Medicaid program must be in compliance with the Developmental Disabilities Home and Community-Based Services Waiver Provider Rate Table, January 1, ~~2008~~ 2007, which is incorporated by reference. The rate table is available from the Medicaid fiscal agent’s website at <http://floridamedicaid.acs-inc.com>. Click on Provider Support, and then on Fees. Paper copies of the rate table may be obtained from the Agency for Health Care Administration, Bureau of Medicaid Services, 2727 Mahan Drive, M.S. 20, Tallahassee, Florida 32308.

Specific Authority 409.919 FS. Law Implemented ~~393.0661~~, 409.906, 409.908 FS. History–New 5-29-06, Amended 11-15-07, _____.

59G-13.082 Developmental Disabilities Waiver Services Procedure Codes.

(1) No change.

(2) All developmental disabilities waiver services providers enrolled in the Medicaid program must be in compliance with the Developmental Disabilities Home and Community-Based Services Waiver Procedure Codes and Maximum Units of Service, January 1, 2008 ~~November 2003~~, which is incorporated by reference. The Developmental Disabilities Home and Community-Based Services Waiver Procedure Codes and Maximum Units of Service is available from the Medicaid fiscal agent website at <http://floridamedicaid.acs-inc.com>. Click on Provider Support, and then on Fees.

Specific Authority 409.919 FS. Law Implemented 393.066, 409.906, 409.908 FS. History–New 11-22-06, Amended _____.

59G-13.084 Developmental Disabilities Waiver Residential Habilitation Services in a Licensed Facility Provider Rate Table.

(1) This rule applies to all developmental disabilities waiver services providers enrolled in the Medicaid program.

(2) All developmental disabilities waiver services providers enrolled in the Medicaid program must be in compliance with the Developmental Disabilities Waiver Residential Habilitation Services in a Licensed Facility Provider Rate Table, April 1, 2008, which is incorporated by reference. The Developmental Disabilities Waiver Residential Habilitation Services in a Licensed Facility Provider Rate Table is available from the Medicaid fiscal agent website at <http://floridamedicaid.acs-inc.com>. Click on Provider Support, and then on Fees.

Specific Authority 409.919 FS. Law Implemented 393.0661, 409.906, 409.908 FS., Chapter 2007-64, L.O.F. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Pam Kyllonen

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Andrew Agwunobi, M.D.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 30, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 16, 2006

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Electrical Contractors’ Licensing Board

RULE NO.: 61G6-4.019 RULE TITLE: General Definitions

PURPOSE AND EFFECT: The purpose and effect is to add a definition for “call verification methods.”

SUMMARY: A definition for “call verification methods” is added.

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: 489.507(3) FS.

LAW IMPLEMENTED: 489.521(7)(b), 489.529 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: Anthony B. Spivey, Executive Director, Electrical Contractors’ Licensing Board, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

61G6-4.019 General Definitions.

The following words, terms and phrases are used in Chapter 489, Part II, F.S., shall mean the following:

(1) Call Verification Methods – The term “call verification methods” is the process of monitoring facility personnel making two or more attempts to make contact prior to dispatch, by means of telephone or audio conversation, with an authorized pass code holder or other authorized person for the protected premises to verify that no emergency exists.

(2) Other Advertising Media – The term “other advertising media” shall apply to business proposals, bill of sales, contracts, business cards, construction site signs, all newspapers, airwave transmission, phone directory, handbills, billboards, flyers, shopping and service guides (coupon offerings), magazines (including trade association publications), classified advertisements, internet websites, manufacturer’s “authorized dealer” listings, and signs on vehicles. They shall not apply to business stationery, balloons, pencils, pens, hats, articles of clothing, or other promotional novelties. Neither shall the terms apply to free phone directory listings (regardless of page color) of one, two, or three lines, which display nothing more than the proper name, company name, address, and telephone numbers in whole or in part in an unbolded or unhighlighted print and without further textual or pictorial elaboration or touting in its overall display.

Specific Authority 489.507(3) FS. Law Implemented 489.521(7)(b), 489.529 FS. History–New 8-23-89, Amended 7-3-91, Formerly 21GG-4.019, Amended 12-24-97, 5-13-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Electrical Contractors’ Licensing Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Electrical Contractors’ Licensing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 16, 2007

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-730.020	Definitions
62-730.021	References, Variances and Case-by-Case Regulations
62-730.030	Identification of Hazardous Waste
62-730.160	Standards Applicable to Generators of Hazardous Waste
62-730.170	Standards Applicable to Transporters of Hazardous Waste
62-730.180	Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
62-730.181	Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities
62-730.183	Land Disposal Restrictions
62-730.185	Standards for Universal Waste Management
62-730.200	Introduction, Scope and Procedures for Decision Making
62-730.220	Applications for Permits and Other Authorizations

PURPOSE, EFFECT AND SUMMARY: The proposed rule amendments incorporate by reference the changes made by the U.S. Environmental Protection Agency (EPA) between July 1, 2006 and June 30, 2007 to the federal hazardous waste regulations. The Florida Department of Environmental Protection (FDEP) is authorized by EPA to administer the state hazardous waste program in lieu of the federal program. As a result of that authorization, every year FDEP must adopt changes that make state rules equivalent to and consistent with the existing federal regulations. The amendments in this notice serve that purpose.

SPECIFIC AUTHORITY: 403.8055 FS.

LAW IMPLEMENTED: 403.061, 403.151, 403.704, 403.707, 403.72, 403.721, 403.722, 403.723, 403.724, 403.727 FS.

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 403.8055, F.S. WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE TO: Ms. Julie Rainey, Hazardous Waste Regulation Section, Mail Station 4560, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400

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

THE FULL TEXT OF THE PROPOSED RULES IS:

62-730.020 Definitions.

(1) The Department adopts by reference the definitions contained in 40 Code of Federal Regulations (CFR) 260.10 revised as of ~~July 1, 2007~~ ~~July 1, 2006~~, except for the optional addition of "or 267.101" to subsection (2) of the definition of "facility" in the Federal Register dated September 8, 2005 (70 FR 53419).

(2) through (5) No change.

Specific Authority 403.704, 403.721, 403.8055 FS. Law Implemented 403.704, 403.72, 403.721 FS. History—New 5-28-81, Amended 9-8-81, 12-6-81, 11-25-82, 5-19-83, 1-5-84, 8-24-84, 7-5-85, Formerly 17-30.02, Amended 9-19-86, 10-31-86, 4-13-88, Formerly 17-30.020, Amended 1-25-89, 8-13-90, 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.020, Amended 1-5-95, 9-7-95, 4-30-97, 8-19-98, 2-4-00, 12-20-00, 8-1-02, 10-1-04, 1-29-06, 4-6-06, 5-1-07, _____.

62-730.021 References, Variances and Case-by-Case Regulations.

The Department adopts by reference the following Sections of 40 CFR Part 260 revised as of ~~July 1, 2007~~ ~~July 1, 2006~~: 260.11 except for the optional amendments to 260.11(c)(1), 260.11(c)(3)(xxvii) and 260.11(d)(1) in the Federal Register dated September 8, 2005 (70 FR 53419); 260.21; 260.23; 260.30; 260.31; 260.32; 260.33; 260.40 and 260.41. The language of 40 CFR 260.11 in effect on September 8, 2005 remains in effect.

Specific Authority 403.704, 403.721, 403.8055 FS. Law Implemented 403.704, 403.721 FS. History—New 7-5-85, Formerly 17-30.021, Amended 1-25-89, 8-13-90, 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.021, Amended 1-5-95, 9-7-95, 4-30-97, 8-19-98, 2-4-00, 12-20-00, 8-1-02, 10-1-04, 4-6-06, 5-1-07, _____.

62-730.030 Identification of Hazardous Waste.

(1) The Department adopts by reference 40 CFR Part 261 revised as of ~~July 1, 2007~~ ~~July 1, 2006~~, and all appendices, with the exceptions described in paragraphs (1)(a) through (d) of this section.

(a) through (4) No change.

Specific Authority 403.72, 403.721, 403.8055 FS. Law Implemented 403.72, 403.721 FS. History—New 5-28-81, Amended 9-8-81, 12-6-81, 3-4-82, 11-25-82, 5-19-83, 1-5-84, 8-24-84, 12-18-84, 7-5-85, 10-3-85, Formerly 17-30.03, Amended 5-5-86, 8-25-86, 9-19-86, 10-31-86, 3-31-87, 4-13-88, Formerly 17-30.030, Amended 1-25-89, 8-13-90, 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.030, Amended 1-5-95, 9-7-95, 4-30-97, 8-19-98, 2-4-00, 12-20-00, 8-1-02, 10-1-04, 1-29-06, 4-6-06, 5-1-07,_____.

62-730.160 Standards Applicable to Generators of Hazardous Waste.

(1) The Department adopts by reference 40 CFR Part 262 revised as of July 1, 2007 ~~July 1, 2006~~, including the Appendix with the exception of 40 CFR 262.34(e) and the Project XL site-specific regulations in 262.10(j) and Subparts I and J.

(2) through (7) No change.

Specific Authority 403.704, 403.721, 403.8055 FS. Law Implemented 403.704, 403.72, 403.721 FS. History—New 5-19-82, Amended 5-20-82, 3-31-83, 1-5-84, 2-2-84, 8-24-84, 7-5-85, 10-3-85, Formerly 17-30.16, Amended 9-19-86, 10-31-86, 3-31-87, 5-26-87, 6-28-88, Formerly 17-30.160, Amended 1-25-89, 8-13-90, 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.160, Amended 1-5-95, 9-7-95, 4-30-97, 8-19-98, 2-4-00, 12-20-00, 8-1-02, 10-1-04, 1-29-06, 4-6-06, 5-1-07,_____.

62-730.170 Standards Applicable to Transporters of Hazardous Waste.

(1) The Department adopts by reference 40 CFR Part 263 revised as of July 1, 2007 ~~July 1, 2006~~.

(2) through (3) No change.

Specific Authority 403.704, 403.721, 403.724, 403.8055 FS. Law Implemented 403.704, 403.721, 403.724 FS. History—New 11-8-81, Amended 5-31-84, 9-13-84, Formerly 17-30.17, Amended 9-19-86, 3-31-87, 5-26-87, 6-28-88, Formerly 17-30.170, Amended 1-25-89, 8-13-90, 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.170, Amended 1-5-95, 4-30-97, 8-19-98, 2-4-00, 12-20-00, 8-1-02, 10-1-04, 1-29-06, 4-6-06, 5-1-07,_____.

62-730.180 Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities.

(1) The Department adopts by reference 40 CFR Part 264 revised as of July 1, 2007 ~~July 1, 2006~~, including all appendices, with the exceptions described in paragraphs (1)(a) through (c) of this section.

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

(2) The Department adopts by reference 40 CFR Part 265 revised as of July 1, 2007 ~~July 1, 2006~~, including all appendices, with the exceptions described in paragraphs (2)(a) through (e) of this section.

(a) through (6) No change.

Specific Authority 403.704, 403.721, 403.724, 403.8055 FS. Law Implemented 403.704, 403.721, 403.724 FS. History—New 5-19-82, Amended 3-4-82, 5-20-82, 7-14-82, 8-30-82, 10-7-82, 11-25-82, 2-3-83, 3-31-83, 5-19-83, 1-5-84, 2-2-84, 11-7-84, 7-5-85, 10-3-85, Formerly 17-30.18, Amended 5-5-86, 9-19-86, 10-31-86, 3-31-87, 4-13-88, 6-28-88, Formerly 17-30.180, Amended 1-25-89, 8-13-90, 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.180, Amended 1-5-95, 9-7-95, 4-30-97, 8-19-98, 2-4-00, 12-20-00, 8-1-02, 10-1-04, 1-29-06, 4-6-06, 5-1-07,_____.

62-730.181 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities.

(1) The Department adopts by reference 40 CFR Part 266 revised as of July 1, 2007 ~~July 1, 2006~~, except for the Project XL site-specific regulations in Subpart O.

(2) No change.

Specific Authority 403.704, 403.721, 403.8055 FS. Law Implemented 403.704, 403.721 FS. History—New 7-5-85, Amended 10-3-85, 5-5-86, 4-13-88, Formerly 17-30.181, Amended 1-25-89, 8-13-90, 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.181, Amended 1-5-95, 9-7-95, 2-25-96, 4-30-97, 8-19-98, 2-4-00, 12-20-00, 8-1-02, 10-1-04, 1-29-06, 4-6-06, 5-1-07,_____.

62-730.183 Land Disposal Restrictions.

The Department adopts by reference 40 CFR Part 268 revised as of July 1, 2007 ~~July 1, 2006~~, and all appendices, with the exception of subsections (1) and (2) of this section.

(1) through (2) No change.

Specific Authority 403.704, 403.721, 403.8055 FS. Law Implemented 403.704, 403.721 FS. History—New 1-25-89, Formerly 17-30.183, Amended 8-13-90, 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.183, Amended 1-5-95, 9-7-95, 4-30-97, 8-19-98, 2-4-00, 12-20-00, 8-1-02, 10-1-04, 4-6-06, 5-1-07,_____.

62-730.185 Standards for Universal Waste Management.

(1) The Department adopts by reference 40 CFR Part 273 revised as of July 1, 2007 ~~July 1, 2006~~.

(2) No change.

Specific Authority 403.704, 403.721, 403.8055 FS. Law Implemented 403.061, 403.704, 403.721 FS. History—New 9-7-95, Amended 4-30-97, 8-19-98, 2-4-00, 12-20-00, 8-1-02, 10-1-04, 1-29-06, 4-6-06, 5-1-07,_____.

62-730.200 Introduction, Scope and Procedures for Decision Making.

(1) through (2) No change.

(3) The Department will follow the procedures set forth in these sections of 40 CFR Part 124 revised as of July 1, 2007 ~~July 1, 2006~~: 124.3(a); 124.5(a), (c), and (d); except the optional amendment to 124.5(c)(1) in the Federal Register dated September 8, 2005 (70 FR 53419); 124.6(a), (d), and (e) except (d)(4)(ii) through (v); 124.8(a) and (b) except (b)(3) and (b)(8); 124.10(a) except (a)(1)(i) and (a)(1)(iv) through (a)(3); 124.10(b); 124.10(c) except (c)(1)(iv) through (viii); 124.10(d) except (d)(1)(vii) through (ix) and (d)(2)(iv); 124.11;

124.12(a); and 124.17 except (b); 124.31 except for two sentences in 124.31(a) which include the phrase “over which EPA has permit issuance authority” and the optional amendments to 124.31(a), (b) and (c) in the Federal Register dated September 8, 2005 (70 FR 53419); 124.32 except for two sentences in 124.32(a) which include the phrase “over which EPA has permit issuance authority” and the optional amendment to 124.32(a) in the Federal Register dated September 8, 2005 (70 FR 53419); and 124.33 except for 124.33(a), which are hereby adopted by reference. For the optional amendments excepted in this section, the language in effect on September 8, 2005 remains in effect. Sections 124.31, 124.32, 124.33 apply to all applicants seeking construction or operation permits for hazardous waste management units.

(4) through (5) No change.

Specific Authority 403.704, 403.721, 403.722, 403.8055 FS. Law Implemented 403.704, 403.721, 403.722 FS. History—New 7-1-82, Formerly 17-30.20, Amended 9-23-87, 6-28-88, Formerly 17-30.200, Amended 9-10-91, 10-14-92, Formerly 17-730.200, Amended 1-5-95, 1-29-06, 4-6-06, 5-1-07, _____.

Editorial Note: Formerly Rule 62-730.184, F.A.C.

62-730.220 Applications for Permits and Other Authorizations.

(1) The Department adopts by reference the following sections of 40 CFR Part 270 revised as of July 1, 2007 ~~July 1, 2006~~: 270.1(c) except for the Project XL site-specific regulations in 270.1(c)(2)(ix); 270.2, except for the optional amendments to the definition of “permit” and “Standardized Permit” in the Federal Register dated September 8, 2005 (70 FR 53419); 270.3; 270.4; 270.6; 270.10 except for the optional amendments to 270.10(a) and (h) in the Federal Register dated September 8, 2005 (70 FR 53419); 270.11; 270.12 through 270.28; 270.30; 270.31; 270.32(b)(2); 270.33; 270.51 except for the optional amendments to 27051(e) in the Federal Register dated September 8, 2005 (70 FR 53419); 270.61; 270.62; 270.65; 270.66; 270.68; 270.72; 270.79 through 270.230; and 270.235. For the optional amendments excepted in this section, the language in effect on September 8, 2005 remains in effect.

(a) through (11) No change.

Specific Authority 403.061, 403.087, 403.704, 403.721, 403.722 FS. Law Implemented 403.151, 403.704, 403.707, 403.721, 403.722, 403.723, 403.727 FS. History—New 7-9-82, Amended 1-5-84, 8-19-84, 7-22-85, Formerly 17-30.22, Amended 9-23-87, 6-28-88, 12-12-88, Formerly 17-30.220, Amended 8-13-90, 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.220, Amended 1-5-95, 4-30-97, 8-19-98, 2-4-00, 12-20-00, 8-1-02, 10-1-04, 1-29-06, 4-6-06, 5-1-07, _____.

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE NO.: 64B18-11.001
 RULE TITLE: Application for Licensure

PURPOSE AND EFFECT: The Board proposes the rule amendment to remove language concerning the date of the administering of the PMLexis Examination.

SUMMARY: The date required for administering the PMLexis examination will be removed from the rule.

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

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

SPECIFIC AUTHORITY: 456.033(6), 461.005 FS.

LAW IMPLEMENTED: 456.017(1)(c), 456.033, 461.006 FS.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Podiatric Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B18-11.001 Application for Licensure.

An application file for licensure is not complete unless and until it contains verification of a passing score from examination of the National Board of Podiatric Medical Examiners, including Part I, Part II, and the PMLexis Examination ~~administered after August of 1996~~. Such verification must be received by the Board office directly from the provider of the National Board of Podiatric Medical Examiners examination.

Specific Authority 456.033(6), 461.005 FS. Law Implemented 456.017(1)(c), 456.033, 461.006 FS. History—New 1-29-80, Amended 12-9-82, Formerly 21T-11.01, Amended 10-14-86, 1-26-88, 6-20-88, 7-3-89, 6-24-92, Formerly 21T-11.001, Amended 7-6-94, Formerly 61F12-11.001, Amended 1-1-96, 7-15-96, Formerly 59Z-11.001, Amended 9-3-98, 2-8-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Podiatric Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 14, 2007

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

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE NO.: RULE TITLE:

64B18-14.011 Mediation

PURPOSE AND EFFECT: The Board proposes the rule amendment to remove language concerning updating profiling requirements.

SUMMARY: The requirement for updating profiling requirements will be removed from the rule.

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

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

SPECIFIC AUTHORITY: 456.078, 461.005 FS.

LAW IMPLEMENTED: 456.078 FS.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Podiatric Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B18-14.011 Mediation.

The Board of Podiatric Medicine has determined that the following violations are defined as mediation offenses:

(1) Failure to supply copies of patient records in a timely manner when requested by a patient or a patient’s representative;

(2) Failure to post the patient’s bill of rights as required by Sections 381.026 and 381.0261, F.S.;

~~(3) Failure to update profiling requirements on a timely basis; and~~

(4) Failure to provide proof of proper financial responsibility.

Specific Authority 456.078, 461.005 FS. Law Implemented 456.078 FS. History—New 3-26-95, Amended 6-17-97, Formerly 59Z-14.011, Amended 8-24-00, 7-26-04,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Podiatric Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 14, 2007

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

DEPARTMENT OF HEALTH

Vital Statistics

RULE NOS.: RULE TITLES:

- 64V-1.001 Delayed Birth Registration Requirements; Fees
- 64V-1.002 Birth Certificate Amendments; Who May Apply; Fees
- 64V-1.0031 Birth Certificate Amendments by Adoption
- 64V-1.0032 Birth Certificate Amendments by Paternity Establishment; Judicial and Administrative Process
- 64V-1.006 Birth Registration; Evidence Required for Births Occurring Outside of a Facility
- 64V-1.0061 Death and Fetal Death Registration
- 64V-1.007 Death and Fetal Death Certificate Amendments; Who May Apply; Fees; Documentary Evidence Requirements
- 64V-1.008 Delayed Death or Delayed Fetal Death Registration
- 64V-1.0081 Presumptive Death Registration
- 64V-1.0131 Certifications of Vital Records; Information Required for Release; Applicant Identification Requirements
- 64V-1.014 Fees for Vital Statistics Services Provided by State Registrar
- 64V-1.016 Florida Putative Father Registry
- 64V-1.020 Marriage Reporting
- 64V-1.021 Dissolution of Marriage Reporting

PURPOSE AND EFFECT: To update forms used in current processing of vital records registration, amendment thereto, and issuance of said records to clarify instructions and provide location of availability of forms. Incorporating into rule forms used for applying for certifications of marriage or divorce records. Amending rule to change language to agree with statute governing the acknowledgment of paternity process by removing requirement of notarization of form, addressing form to be used for filing a disestablishment of paternity, amending current rule to include process of amending a record as a result of administrative proceeding to establish paternity and amending language stating photocopy can be ordered in place of computer certification to include wording “and is available”. Adding language to allow for electronic creation of birth, death, marriage and dissolution of marriage records using a system adopted by the Department of Health, and the electronic creation and issuance of a Florida Delayed Birth Certificate and Certificate of Foreign Birth.

SUMMARY: The Office of Vital Statistics wishes to improve the quality of service to its clients. Therefore, forms are being updated to provide additional guidance and clarification. The Office of Vital Statistics is implementing the electronic submission and creation of certain vital records.

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: 63.054(3), (9), (10), (14), 382.003(7), (10), (11), 382.008, 382.0085, 382.012, 382.013, 382.015(6), 382.016, 382.016(1), 382.017, 382.019, 382.025, 382.0255(1)(a), (b), (3) FS.

LAW IMPLEMENTED: 63.054, 63.054(9), 63.062(1), 63.152, 382.003(7), (10), (11), 382.008, 382.0085, 382.011, 382.012, 382.013, 382.015, 382.015(2), (3), 382.016, 382.016(1)(b), 382.017, 382.019, 382.023, 382.025, 382.0255(1), 409.256(11)(d), 742.10, 742.16, 742.18(8) FS.

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

DATE AND TIME: Monday, March 3, 2008, 10:00 a.m.

PLACE: Department of Health, State Office of Vital Statistics, 1217 Pearl St., Boorde Bldg., Rm. 420, Jacksonville, Florida 32202

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 3 days before the workshop/meeting by contacting: Kevin Wright, Operations Manager, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042, telephone (904)359-6900, ext. 1004. 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: Kevin Wright, Operations Manager, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042

THE FULL TEXT OF THE PROPOSED RULES IS:

64V-1.001 Delayed Birth Registration Requirements; Fees.

(1) All delayed birth registrations must be accompanied by an Application for Florida Delayed Certificate of Birth, DH Form 521, Feb. 07 July 04, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida

32231-0042, department and the fee required by subsection (2) of Rule 64V-1.014, F.A.C., and by documents described in subsection (2) of Rule 64V-1.001, F.A.C., which substantiate the following facts of birth:

(a) Name at the time of birth of the registrant;

(b) Date of birth of the registrant;

(c) State of birth of the registrant as Florida;

(d) Mother's name including her maiden surname; and

(e) Father's name; except that if the parents were not married at the time of the registrant's birth, the father's name shall not be entered on the delayed certificate except by an affidavit of acknowledgment of paternity signed by both parents before a notarizing official or two witnesses, ~~by both parents~~ or by order of a court of competent jurisdiction.

(2) through (4) No change.

(5) The Application for Florida Delayed Certificate of Birth, DH Form 521, Feb. 07 July 04, must be signed by a parent or guardian before a notarizing official for a registrant under the age of 18. A registrant 18 years or older, or if disability of nonage has been removed and the registrant provides proof of such removal, must sign this form before a notarizing official. ~~The person signing the Delayed Certificate of Birth, DH Form 520, July 04, must sign before a notarizing official.~~

(6) through (10) No change.

(11) Upon receipt of the required forms, fees and documentary evidence, the department shall electronically create and issue a Delayed Certification of Birth, DH Form 520, Nov. 07, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, FL 32231-0042.

Specific Authority 382.003(10), (11), 382.019, 382.0255(3) FS. Law Implemented 382.003(7), (11), 382.019 FS. History—New 1-1-77, Formerly 10D-49.13, Amended 10-1-88, 10-1-90, 4-18-96, 12-26-96, Formerly 10D-49.013, Amended 11-11-98, 7-18-00, 2-29-04, 10-19-04, _____.

64V-1.002 Birth Certificate Amendments; Who May Apply; Fees.

(1) A request for an amendment to a birth certificate made pursuant to subsection (1) of Section 382.016, F.S., shall be submitted with an Application for Amendment to Amended Florida Birth Record, DH Form 429, Sept. 07 June 03, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042, department and accompanied by statutory fees required pursuant to subsection (3) of Rule 64V-1.014, F.A.C., an Affidavit of Amendment to Certificate of Live Birth, DH Form 430, May 04, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042, department and documentary evidence, if required, by Rule 64V-1.003, F.A.C.

The required Affidavit of Amendment to Certificate of Live Birth, DH Form 430, May 04, must be signed before a notarizing official by a registrant who is at least 18 years of age, or if disability of nonage has been removed and the registrant provides proof of such removal; or if under 18, by his or her parent(s) named on the certificate, or guardian or agency having legal custody of the registrant. When requesting any correction to the name of the registrant, both parents must sign the affidavit if both parents are named on the birth record.

(2) No change.

Specific Authority 382.003(10), (11), 382.015(6), 382.016, 382.0255(3) FS. Law Implemented 63.152, 382.003(7), (11), 382.015, 382.016, 382.017 FS. History—New 1-1-77, Formerly 10D-49.14, Amended 10-1-88, 4-18-96, 12-26-96, Formerly 10D-49.014, Amended 11-11-98, 7-18-00, 2-29-04, 10-19-04, _____.

64V-1.0031 Birth Certificate Amendments by Adoption.

(1) Any adoption entered by a court in this state shall be recorded on a Certified Statement of Final Decree of Adoption, DH Form 527, June 07 Jan-03, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 department. Upon receipt of a Certified Statement of Final Decree of Adoption, DH Form 527, completed and certified by the clerk of the circuit court entering the adoption, the department shall amend the birth certificate if the child was born in this state.

(2) The department shall, upon receipt of a Certified Statement of Final Decree of Adoption, DH Form 527, June 07 Jan-03, incorporated by reference in subsection (1) of Rule 64V-1.0031, F.A.C., that has been granted pursuant to Section 382.017, F.S., and an Application for Certificate of Foreign Birth, DH Form 1178, June 07 Jan-03, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 department, electronically create prepare a Certificate of Foreign Birth, DH Form 1156, Nov. 07 July 97, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 department.

Specific Authority 382.003(10), 382.015(6), 382.0255(3) FS. Law Implemented 63.152, 382.003(7), 382.015, 382.017 FS. History—New 11-11-98, Amended 7-18-00, 2-29-04, _____.

64V-1.0032 Birth Certificate Amendments by Paternity Establishment/Disestablishment; Judicial and Administrative Process.

(1) Any judgment establishing paternity entered by a Florida court pursuant to Section 742.10 or 382.015(2), F.S., or disestablishing paternity by a Florida court pursuant to Section 742.18, F.S., shall be recorded on a Certified Statement of Final Judgment of Paternity, DH Form 673, Aug. 06 July 04, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics,

P. O. Box 210, Jacksonville, Florida 32231-0042 department. Upon receipt of a Certified Statement of Final Judgment of Paternity, DH Form 673, completed and certified by the clerk of the circuit court entering the paternity judgment, the department shall amend the birth certificate if the child was born in this state.

(2) Upon receipt of a final order establishing paternity or a final order of paternity and child support rendered pursuant to Section 409.256, F.S., the department shall amend the birth certificate if the child was born in this state.

(3)(2) A request to amend a birth certificate upon written request of the parents pursuant to subsection (1)(b) of Section 382.016, F.S., shall be submitted on an Acknowledgment of Paternity a Consenting Affidavit Acknowledging Paternity, DH 432, Feb. 06 July 04, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 department. The Acknowledgment of Paternity, DH 432, must be signed by both parents before a notarizing official or before two witnesses. The Consenting Affidavit Acknowledging Paternity, DH Form 432 must be signed by both parents and both signatures must be notarized.

(4)(3) An acknowledgment of paternity that was made at the hospital at the time of a child's birth or subsequently by acknowledging paternity pursuant to subsection (1)(b) of Section 382.016, F.S., may be rescinded by either party within 60 days of the date the acknowledgment was signed, by filing a Paternity Acknowledgment Rescission Affidavit, DH Form 2101, May 98, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 department. Filing a rescission will not affect the parentage as recorded on the birth record and if the father's name is to be removed, an order from a court of competent jurisdiction directing that the birth record be amended to remove the father's name, is required.

(5)(4) Any judgment establishing paternity resulting from an affirmation of parental status for gestational surrogacy pursuant to Section 742.16, F.S., shall be recorded on a Certified Statement of Final Order of Affirmation of Parental Status, DH Form 1905, Oct. 02, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 department.

Specific Authority 382.003(10), (11), 382.015(6), 382.016(1), 382.0255(3) FS. Law Implemented 382.003(7), (11), 382.015(2), (3), 382.016(1)(b), 742.10, 742.16, 742.18(8), 409.256(11)(d) FS. History—New 11-11-98, Amended 7-18-00, 2-29-04, 10-19-04, _____.

64V-1.006 Birth Registration; Evidence Required for Births Occurring Outside of a Facility.

(1) All birth records filed in this state pursuant to Section 382.013, F.S., shall be registered electronically on the department's electronic birth registration system or by means specified by the state registrar. A ~~on a~~ Certificate of Live Birth, DH Form 511, July 04, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 shall be used until electronic birth registration system implemented ~~department.~~

(2) No change.

(3) If a written statement referenced in subsection (2) of Rule 64V-1.006, F.A.C., cannot be obtained, corroborating evidence or action as follows may be substituted:

(a) Presentation of the child for whom the certificate is being filed at the ~~DH~~ county health department, or a home visit by an official of a ~~DH~~ county health department to verify the birth; and

(b) through (c) No change.

Specific Authority 382.003 (7), (10), 382.013 FS. Law Implemented 382.003 (7), (10), (11), 382.013 FS. History--New 10-1-90, Formerly 10D-49.0194, Amended 11-11-98, 7-18-00, 2-29-04, 10-19-04, _____.

64V-1.0061 Death and Fetal Death Registration.

(1) All deaths except for fetal deaths filed pursuant to Section 382.008, F.S., shall be registered electronically on the department's electronic death registration system or by means specified by the state registrar. A Florida ~~on a~~ Certificate of Death, DH Form 512, July 04, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 shall be used until an electronic death registration system is implemented ~~department.~~

(2) All fetal deaths occurring in this state shall be filed on a Florida Certificate of Fetal Death, DH Form 428, Jan. 06, ~~both~~ hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042.

Specific Authority 382.003(7), (10), 382.008 FS. Law Implemented 382.003(7), (10), (11), 382.008 FS. History--New 2-29-04, Amended 10-19-04, 11-17-05, _____.

64V-1.007 Death and Fetal Death Certificate Amendments; Who May Apply, Fees; Documentary Evidence Requirements.

(1) No change.

(2) Amendment of the medical certification of the cause of death section, the date of death, hour or time of death, or the place of death (other than street address) on a death certificate shall be confirmed in writing by the certifying physician or the attending physician as listed on the Florida Certificate of

Death, DH 512, or by the medical examiner with current jurisdiction of the district in which the death occurred. An Affidavit of Amendment to Medical Certification of Death, DH Form 434A 434, Jan. 05 Feb. 97, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042, ~~department~~ shall be completed and signed before a notarizing official by the certifying physician or the attending physician as listed on the Florida Certificate of Death, DH Form 512, or by the medical examiner with current jurisdiction of the district in which the death occurred. Such affidavit shall be attached to the original death certificate becoming a permanent part of that record. Amendment fees required pursuant to subsection (1)(c) of 382.0255, F.S., are waived in such cases.

(3) through (7) No change.

(8) Amendment of any item on a fetal death certificate shall be made on an Affidavit of Amendment to Certificate of Fetal Death, DH Form 433A, Dec. 06, Jan 06 hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042. Such affidavit shall be signed before a notarizing official by a parent listed on the Florida Certificate of Fetal Death, DH Form 428, Jan. 06, previously incorporated in Rule 64V-1.0061, F.A.C., except in the case where a father's name is to be added to the Florida Certificate of Fetal Death. In this case, the notarized signatures of both mother and father shall be required.

(9) No change.

Specific Authority 382.003(10), (11), 382.016, 382.0255(3) FS. Law Implemented 382.003(7), (11), 382.011, 382.016 FS. History--New 1-1-77, Formerly 10D-49.22, Amended 10-1-88, 4-18-96, 12-26-96, Formerly 10D-49.022, Amended 11-11-98, 7-18-00, 2-29-04, 12-12-06, _____.

64V-1.008 Delayed Death or Delayed Fetal Death Registration.

To register a delayed death or fetal death certificate, the funeral director or person acting as such shall complete all parts of the Florida Certificate of Death, DH Form 512, July 04 Sept. 96, or Florida Certificate of Fetal Death, DH Form 428, Jan. 06 Nov. 97, both incorporated by reference in Rule 64V-1.0061, F.A.C., except for the medical certification of the cause of death section which shall be completed and certified by a physician or medical examiner with current jurisdiction of the district in which the death occurred. The funeral director or person acting as such shall then file the certificate with the State Office of Vital Statistics, furnishing a written explanation for the delay in filing on the back of the certificate. In addition, the funeral director or person acting as such shall include with the completed certificate an Application for a Presumptive or Delayed Death Record, DH Form 1565, Jun. 03, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box

210, Jacksonville, Florida 32231-0042, ~~department~~ and payment of a delayed filing fee pursuant to subsection (2) of Rule 64V-1.014, F.A.C.

Specific Authority 382.003(7), (10), 382.019, 382.0255(1)(b) FS. Law Implemented 382.019 FS. History—New 10-1-88, Formerly 10D-49.0231, Amended 11-11-98, 2-29-04,_____.

64V-1.0081 Presumptive Death Registration.

A presumptive death certificate shall be recorded on a Florida Certificate of Death, DH Form 512, July 04 Sept. 96, which is incorporated by reference in Rule 64V-1.008, F.A.C., and shall be marked “Presumptive”. The certificate shall be completed with as much personal identifying information regarding the presumed decedent as is known, and shall include a date and a location of the presumed death. If the exact place of death is unknown, an entry identifying the geographical place such as “At Sea – Atlantic Ocean”, “In Air – Over Everglades” shall be entered for place of death. An application for a Presumptive or Delayed Death Record, DH Form 1565, Jun. 03, incorporated by reference in Rule 64V-1.008, F.A.C., and payment of presumptive death fee a delayed filing pursuant to subsection (2) of Rule 64V-1.014, F.A.C., shall accompany the request.

Specific Authority 382.003(7), (10), (11), 382.012 FS. Law Implemented 382.012 FS. History—New 11-11-98, Formerly 64V-1.018, Amended 2-29-04,_____.

64V-1.0131 Certifications of Vital Records; Information Required for Release; Applicant Identification Requirements.

(1) All certifications issued by the Office of Vital Statistics or by any of the ~~DH~~ county health departments shall be on safety security paper designed and approved by the department. Neither plain copy nor uncertified records will be issued except as an approved health study project by the department.

(2) All requests for certifications of birth records less than 100 years old must be accompanied with valid photo identification as prescribed in paragraph 64V-1.0131(2)(c), F.A.C. With the exception of a request to file a delayed birth registration, a birth amendment or a Certificate of Foreign Birth, each request shall be submitted in writing or, on a state office Application for Florida Birth Record, DH Form 726, Sept. 07 July 03, or county office Application for Florida Birth Record, DH Form 1960, July 03, both hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 department. A request to file a delayed birth registration, an amendment to a birth record, or a Certificate of Foreign Birth, must be requested on application forms previously incorporated in Rules 64V-1.001, 64V-1.002 and 64V-1.0031, F.A.C.

(a) through (e) No change.

(3) All requests for certifications of death records where cause of death information is requested and the death occurred less than 50 years prior to the request must be accompanied by valid with photo identification as prescribed in paragraph 64V-1.0131(4)(c), F.A.C. With the exception of ~~non-medical~~ death amendment requests, and delayed or presumptive death registration, all requests must be submitted in writing or on a state office Application for a Florida Death Record, DH Form 727, Nov. 04 July 03, or county office Application for a Florida Death Record, DH Form 1961, July 03, both hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 department. A request to file a ~~non-medical~~ death amendment request, a delayed death registration or a presumptive death must be requested on application forms previously incorporated by reference in Rules 64V-1.007, 64V-1.008 and 64V-1.0081, F.A.C.

(a) through (e) No change.

(4) Upon request of a parent listed on a Florida Certificate of Fetal Death, the department shall create a Certificate of Birth Resulting in Stillbirth, DH Form 728A, Aug. 06, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042. Information listed on the Certificate of Birth Resulting in Stillbirth shall originate from the Florida Certificate of Fetal Death, DH Form 428, Jan. 06, previously incorporated by reference in Rule 64V-1.0061, F.A.C. All requests for a Certificate of Birth Resulting in Stillbirth shall be submitted on an Application for Florida Certificate of Birth Resulting in Stillbirth, DH Form 728, Sept. 07 Aug 06, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042.

(5) All requests for a Department of Health certification of a marriage record must be submitted in writing or on a state office Application for a Marriage Record For Licenses Issued in Florida, DH Form 261, Sept. 07, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042. If the requestor is named on the marriage record and the Social Security field for that person is also requested, then valid photo identification must accompany the request.

(6) All requests for a Department of Health certification of a Florida divorce or annulment record must be submitted in writing or on a state office Application for Dissolution of Marriage Report (Divorce or Annulment) Granted in Florida, DH Form 260, Sept. 07, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042.

Specific Authority 382.003(7), (10), 382.025, 382.0255(1)(a), 382.0085 FS. Law Implemented 382.025, 382.0085 FS. History–New 11-11-98, Amended 2-29-04, 12-12-06,_____.

64V-1.014 Fees for Vital Statistics Services Provided by State Registrar.

The fees for services provided are as follows:

(1) Five dollars for the first calendar year of records searched or retrieved for a vital record and two dollars for each additional calendar year of records searched or retrieved, up to a maximum of fifty dollars. If the record is located, this fee entitles the applicant to one computer certification of the record. A certified photocopy will be issued in lieu of a computer certification ~~if computer certification is not available~~ at no additional cost ~~if computer certification is not available~~. An additional fee of five dollars is required if a certified photocopy is requested, ~~and is available~~, in place of a computer certification.

(2) through (10) No change.

Specific Authority 63.054(9), 382.003(10), 382.0255(3) FS. Law Implemented ~~63.054(9)~~ ~~62.054(9)~~, 382.0255(1) FS. History–New 10-1-88, Amended 11-11-90, 4-18-96, 12-26-96, Formerly 10D-49.034, Amended 11-11-98, 2-29-04,_____.

64V-1.016 Florida Putative Father Registry.

(1) A claim of paternity filed by an unmarried biological father as defined in subsection 63.032(19), F.S., shall be made on a Florida Putative Father Registry Claim of Paternity, DH Form 1965, Oct. 06 ~~Oct. 03~~, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 ~~department~~. A request to update information or revoke a claim of paternity shall be made on a Florida Putative Father Registry ~~Claim of Paternity~~ – Update to Claim of Paternity Registration, DH Form 1964, Oct. 06 ~~Oct. 03~~, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 ~~department~~. A request for search of the Florida Putative Father Registry shall be made on Florida Putative Father Registry – Application for Search, DH Form 1963, Oct. 06 ~~Oct. 03~~, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 ~~department~~.

(2) No change.

Specific Authority 63.054(3), (10), (14), 382.003 (7) FS. Law Implemented ~~63.054~~, 63.062(1), 382.0255(1) FS. History–New 11-11-98, Amended 2-29-04,_____.

64V-1.020 Marriage Reporting.

Marriages occurring in Florida shall be recorded on a Marriage Record, DH Form 743, Apr. 98, hereby incorporated by reference and available from the Florida Department of Health,

State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042, or on an electronic system provided by the Department of Health ~~department~~.

Specific Authority 382.003(7), (10) FS. Law Implemented 382.023 FS. History–New 2-29-04, Amended _____.

64V-1.021 Dissolution of Marriage Reporting.

Dissolution of Marriages shall be recorded on a Report of Dissolution of Marriage – Annulment of Marriage, DH Form 513, Oct. 96, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042, or on an electronic system provided by the Department of Health ~~department~~.

Specific Authority 382.003(7), (10) FS. Law Implemented 382.023 FS. History–New 2-29-04, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kevin Wright, Operations Manager, State Office of Vital Statistics

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth T. Jones, Deputy State Registrar, State Office of Vital Statistics

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 2, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 1, 2007

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE NOS.:	RULE TITLES:
65A-1.707	Family-Related Medicaid Income and Resource Criteria
65A-1.713	SSI-Related Medicaid Income Eligibility Criteria

PURPOSE AND EFFECT: Amendments to the rules clarify language for the Medically Needy Program, allowing medical expenses paid prior to the month for which eligibility is being requested, to be used to meet the share of cost. Technical and non-substantive changes in the rule language are included.

SUMMARY: Proposed amendments revise the language regarding the treatment of paid medical expenses in the Medically Needy Program.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.903, 409.904, 409.906, 409.918, 409.919 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: March 3, 2008, 1:30 p.m.

PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pat Whitford, Economic Self-Sufficiency Services, Telephone (850)410-3479

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-1.707 Family-Related Medicaid Income and Resource Criteria.

(1) No change.

(2) The department considers income in excess of the medically needy income level available to pay for medical care and services. Available income from a one month period is used to determine the amount of excess countable income available to meet medical care and services. To be allowable, a paid expense may not have been previously deducted from countable income during a period of eligibility. The department deducts allowable medical expenses which are not subject to third party payment while unpaid and still owed, or paid during the current month, or incurred and paid during the three previous calendar months to the month for which eligibility is being determined but no earlier than the three retroactive application months from countable income that exceeds the medically needy income level, as follows:

(a) Allowable health insurance costs such as medical premiums, other health insurance premiums, deductibles and co-insurance charges; and

(b) Allowable medical services such as the cost of public transportation to obtain allowable medical services; medical services provided or prescribed by a recognized member of the medical community; and personal care services in the home prescribed by a recognized member of the medical community.

Specific Authority 409.919 FS. Law Implemented 409.903, 409.918, 409.919 FS. History—New 10-8-97, Amended 2-15-01, 11-23-04, 2-20-07, _____.

65A-1.713 SSI-Related Medicaid Income Eligibility Criteria.

(1) Income limits. An individual's income must be within limits established by federal or state law and the Medicaid State Plan. The income limits are as follows:

(a) through (d) No change.

(e) For HCBS, gross income cannot exceed 300 percent of the SSI federal benefit rate after consideration of allowable deductions set forth in subsection 65A-1.713(2), F.A.C. Individuals with income over this limit may qualify for HCBS services by establishing a qualified income trust which meet criteria set forth in subsection 65A-1.702(15), F.A.C.

(f) For hospice services, income cannot exceed 300 percent of the SSI federal benefit rate or income must meet Medically Needy eligibility criteria, including the share of cost requirement. Effective October 1, 1998, institutionalized individuals with income over this limit may qualify for institutional hospice services by establishing an income trust which meets criteria set forth in subsection paragraph 65A-1.702(15)(14)(a), F.A.C.

(g) For SLMB, income must be greater than 100 percent of the federal poverty level but equal to or less than 120 percent of the federal poverty level.

(h) For Medically Needy, income must be less than or equal to the Medically Needy income standard after deduction of allowable medical expenses.

(i) For Protected Medicaid, income cannot exceed the limits established in accordance with 42 U.S.C. § 1383c (incorporated by reference).

(j) No change.

~~(k) For the Traumatic Brain Injury and Spinal Cord Injury Waiver Program an individual cannot have income that exceeds 300% of the federal benefit rate as defined in subsection 65A-1.701(13), F.A.C. An income trust may be established to qualify for this assistance.~~

(2) Included and Excluded Income. For all SSI-related coverage groups the department follows the SSI policy specified in 20 C.F.R. 416.1100 (incorporated by reference), et seq., including exclusionary policies regarding Veterans Administration benefits such as VA Aid and Attendance, unreimbursed Medical Expenses, and reduced VA Improved pensions, to determine what counts as income and what is excluded as income with the following exceptions:

(a) through (e) No change.

(3) No change.

(4) Income Budgeting Methodologies. To determine eligibility SSI budgeting methodologies are applied except where expressly prohibited by 42 U.S.C. § 1396 (incorporated by reference), or another less restrictive option is elected by the state under 42 U.S.C. § 1396a(r)(2) (incorporated by reference). When averaging income, all income from the most recent consecutive four weeks shall be used if it is representative of future earnings. A longer period of past time may be used if necessary to provide a more accurate indication of anticipated fluctuations in future income.

(a) For MEDS-AD Demonstration Waiver, Protected Medicaid, Medically Needy, Qualified Working Disabled Individual, QMB, SLMB, QI1, and to compute the community

spouse income allocation for spouses of ICP individuals, the following less restrictive methodology for determining gross monthly income is followed:

1. through 3. No change.

(b) No change.

(c) Medically Needy. The amount by which the individual's countable income exceeds the Medically Needy income level, called the "share of cost", shall be considered available for payment of medical care and services. The department computes available income for each month eligibility is requested to determine the amount of excess countable income available to meet medical costs. If countable income exceeds the Medically Needy income level the department shall deduct allowable medical expenses in chronological order, by day of service. Countable income is determined in accordance with subsection 65A-1.713(2), F.A.C. To be deducted the expenses must be unpaid, or if paid, must have been paid in the month for which eligibility is being determined or incurred and paid during the three previous calendar months to the month for which eligibility is being determined but no earlier than the three retroactive application months. The paid expense may not have been previously deducted from countable income during a period of eligibility. Medical expenses reimbursed by a state or local government not funded in full by federal funds, excluding Medicaid program payments, are allowable deductions. Any other expenses reimbursable by a third party are not allowable deductions. Examples of recognized medical expenses include:

1. Allowable health insurance costs such as medical premiums, other health insurance premiums, deductibles and co-insurance charges; and,

2. Allowable medical services such as the cost of public transportation to obtain allowable medical services; medical services provided or prescribed by a recognized member of the medical community; and personal care services in the home prescribed by a recognized member of the medical community.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.903, 409.904, 409.906, 409.919 FS. History--New 10-8-97, Amended 1-27-99, 4-1-03, 6-13-04, 8-10-06(1), (4), 8-10-06(1), 2-20-07, 10-16-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Nathan Lewis

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jennifer Lange

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 29, 2007

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation Program

RULE NO.: RULE TITLE:

65C-13.001 Definitions

PURPOSE AND EFFECT: To place all definitions in one section.

SUMMARY: The Department is repealing Rule 65C-13.001, which provides definitions of terms applicable to the Department of Children and Family Services substitute and foster care licensure. Chapter 65C-13, is under rule promulgation and provides a new section for definitions.

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: 39.012, 39.0121 FS.

LAW IMPLEMENTED: 39.012 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pat Badland, Director of Family Safety

THE FULL TEXT OF THE PROPOSED RULE IS:

65C-13.001 Definitions.

Specific Authority 409.175 FS. Law Implemented 409.175 FS. History--New 5-27-92, Amended 7-18-95, Formerly 10M-6.015, Amended 11-30-97, Repealed_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Michael Lee, Bureau Chief, Policy Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Pat Badland, Director of Family Safety

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 29, 2008

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NO.: RULE TITLE:

69O-167.004 Required Preinsurance Inspection of Private Passenger Motor Vehicles

PURPOSE AND EFFECT: To adopt amendments to the rule to reflect legislative changes and update forms.

SUMMARY: Preinsurance Inspection of Private Passenger Motor Vehicles.

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

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

SPECIFIC AUTHORITY: 624.308(1), 627.744(5) FS.

LAW IMPLEMENTED: 624.307(1), 627.744 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: February 26, 2008, 9:30 a.m.

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Brian Bogner, P&C Product Review, Office of Insurance Regulation, E-mail brian.bogner@fldfs.com

THE FULL TEXT OF THE PROPOSED RULE IS:

690-167.004 Required Preinsurance Inspection of Private Passenger Motor Vehicles.

(1) Private passenger motor vehicle insurers providing physical damage coverage, including collision or comprehensive coverage, shall comply with Section 627.744, Florida Statutes, regarding preinsurance inspection requirements. Certain preinsurance inspections are excluded as prescribed by Sections 627.744(2)(a)-(1)(h), Florida Statutes.

(a) through (f) No change.

(2) through (3) No change.

(4) Suspension of insurance coverage applies only to the physical damage coverage and is defined as a discontinuance of physical damage coverage immediately following the ~~thirtieth~~ ~~seventh~~ calendar day if the inspection has not been completed and until the physical damage coverage is reinstated by completion of the inspection. During the period of suspension there is no physical damage coverage.

~~(5) The inspection shall be performed at no cost or charge to the applicant.~~

~~(5)(6)~~ The inspection shall be recorded on Form OIR-B1-507. An insurer may, however, use its own form(s) and any additional information deemed necessary by the

insurer as long as the form(s) used by each insurer has substantially the same information as that contained in Form OIR-B1-507. The insurer may also attach photographs of the inspected vehicle evidencing whether there is pre-existing damage to the vehicle.

~~(6)(7)~~ The preinsurance inspection form, or an electronically or photographically reproduced copy, shall be retained by the insurer with the insured's policy records at the insurer's home office, regional office, or district office for a period of three (3) years. When the insurer is a surplus lines company, these records shall be kept in the Florida office of the surplus lines agent for that insurer. The original signed preinsurance inspection form shall be maintained by the insurer/surplus lines agent and shall be made available to the Office upon request. A copy of the inspection form, without any optional accompanying photographs, shall be made available to the insured upon request.

~~(7)(8)~~ The preinsurance inspection form, or an electronically or photographically reproduced copy, shall be completed by a person or organization authorized by the insurer other than the applicant or insured. Such person or organization may be an employee of the insurer, the agent/producer or employee thereof, or an inspection service, including employees thereof. The competency and trustworthiness of the person or organization authorized by the insurer to conduct preinspections shall be the responsibility of the insurer.

~~(8)(9)~~ In addition to the inspection form, the preinsurance inspection shall include at least paragraph (a), (b), or (c) as follows, which will be for the purpose of positively identifying the vehicle to be insured:

(a) The taking of a physical imprint of the vehicle identification number (VIN) of the motor vehicle by a representative of the insurer other than the applicant or insured. A physical imprint is defined as a tracing or a mold of the actual VIN label (normally located on the dash of the motor vehicle and seen through the windshield from the outside looking into the vehicle).

(b) The taking of a close-up photograph of the VIN label (where the VIN label is usually located on the dash of the vehicle) or the photographing of the Environmental Protection Agency/Federal Certification (EPA) sticker (usually found on the operator's side door jamb). Such close-up photograph shall be taken by a representative of the insurer other than the applicant or insured. The photograph shall be of a sufficient clarity and quality that the information contained on the dash VIN label or the EPA sticker, including the VIN, is legible and easily readable. The VIN recorded on the preinsurance inspection form shall be obtained from a location on the vehicle other than the location being photographed.

(c) The attesting to the authenticity of the VIN by both the insured and the insurer's representative, who shall not be the insured. If this option is selected, each inspector shall

individually observe the VIN (usually imprinted on a label on the dash) of the vehicle and record same on Form OIR-B1-507, or a form which contains substantially the information on Form OIR-B1-507. Each inspector shall also individually observe and attest to the VIN as displayed on the EPA sticker (usually affixed to the operator side door jamb), and the VIN as recorded on the vehicle registration form. Such attestation shall be accomplished by signing the statement appearing on the space provided on the vehicle inspection form. If discrepancies are noted, such as a missing VIN, a defaced VIN, or an inconsistency in the VINs, such discrepancies shall be noted on the motor vehicle preinsurance inspection form.

~~(9)(10)~~ An insurer may defer an inspection for thirty (30) ~~seven (7)~~ calendar days following the effective date of coverage for a new policy or the actual notice to the insurer or its agent of additional or replacement vehicle(s) to an existing policy, if an inspection at the time of the request for coverage would create a serious inconvenience for the applicant. The insurance file shall contain information necessary to identify those circumstances resulting in serious inconvenience.

(a) through (g) No change.

~~(10)(11)~~(a) In addition to the notice requirements as set forth in subsection (10), the insurer or agent/producer shall furnish the applicant, at the time coverage is effected, with an up-to-date list of inspection sites where the inspection can be conducted, provided that inspection service is not available at the originating agent's place of business.

(b) The list shall include the names, addresses, and business phone numbers of persons or organizations authorized by the insurer that are reasonably convenient to the insurer.

(c) In the case of telephonic binders, the location of reasonably convenient inspection sites may be provided by telephone, provided documentation of verbal notice is contained in the applicant's policy record.

(d) The consequences of the applicant's failure to obtain a timely inspection shall be furnished promptly to the applicant by providing Form OIR-B1-506, or a form which contains substantially the information in Form OIR-B1-506. Documentation of such notice, including the name of the person giving the notice and the identity of the site(s) provided, shall be contained in the applicant's policy record.

(e) The insurer shall make a list of all persons or organizations authorized by the insurer available to the Office upon request.

~~(11)(12)~~ Inspections required or permitted pursuant to this regulation shall be made by a person or organization authorized by the insurer at a time and place reasonably convenient to the applicant and should not subject the insured/applicant to an unreasonable delay.

~~(12)(13)~~ Any preinsurance inspection forms issued by the insurer to the applicant for presentation to a person or organization authorized by the insurer shall not contain the Vehicle Identification Number (VIN) of the vehicle to be inspected.

~~(13)(14)~~ Any decision to defer or not to defer an inspection pursuant to this regulation shall not be based on the age, race, sex, or marital status of the applicant or the customary operators of the vehicle, the principal place of garaging, or the fact that a policy has been placed in the FJUA.

~~(14)(15)~~ The insurer or the insured's authorized representative who performs the inspection shall maintain a control system or office procedures reasonably designed to prevent the use of forms to fraudulently indicate the performance of inspections which have not in fact occurred, which may include the use of sequentially numbered reports.

~~(15)(16)~~(a) The inspection report, or the relevant data therefrom, shall be reviewed by the insurer to compare previous damage, prior condition, options, and mileage of the motor vehicle on physical damage claims which occur within three (3) years of the issuance of the policy whenever:

1. The appraisal indicates prior damage;
2. The vehicle is a total loss or unrecovered theft; or
3. The damage exceeds \$2,000 for all claims.

(b) A copy, which may be an electronically or photographically reproduced copy, of the inspection report, or the relevant data therefrom, shall be utilized in the settlement of all claims referenced in paragraph (16)(a) above.

~~(16)(17)~~ A person or organization authorized by the insurer shall not be deemed trustworthy if there exists any conflict of interest which may prevent him or her from conducting a thorough and accurate inspection. It shall be a conflict of interest for a person or organization authorized by the insurer to accept, in connection with an inspection, anything of value from any source other than the insurer.

~~(17)(18)~~ When a private passenger automobile insured for physical damage coverage has been in an accident or otherwise damaged, an insurer may require that the vehicle be made available for inspection prior to continuing physical damage coverage.

~~(18)(19)~~ Forms OIR-B1-505, "Notice of Mandatory Pre-insurance Inspection Requirement" ~~(07/00)~~ ~~(7/91)~~, OIR-B1-506, "Notice of Suspended Insurance Coverage" ~~(07/00)~~ ~~(7/91)~~, OIR-B1-507, "Florida Motor Vehicle Preinsurance Inspection Form" ~~(01/2008)~~ ~~(10/90)~~, and OIR-B1-508, "Acknowledgement of Preinsurance Inspection" ~~(07/00)~~ ~~(7/91)~~, are adopted and incorporated by reference ~~and shall become effective upon adoption of this rule.~~

~~(19)(20)~~ Form OIR-B1-505, Form OIR-B1-506, Form OIR-B1-507, and Form OIR-B1-508 may be obtained from:

(a) The Office's website located at <https://www.florid.com>; or

~~(b) by writing the Bureau of Property and Casualty Product Review Forms and Market Conduct Review, Division of Insurer Services, 200 East Gaines Street, Tallahassee, Florida 32399-03300, (850)413-3146.~~

Specific Authority 624.308(1), 627.744(5) FS. Law Implemented 624.307(1), 627.744 FS. History—New 1-23-91, Formerly 4-28.006, Amended 4-28-92, Formerly 4-167.004, Amended _____.

