

Section II
Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Aquaculture

RULE NO.: RULE TITLE:

5L-1.003 Shellfish Harvesting Area Standards

PURPOSE AND EFFECT: This amendment proposes to classify the shellfish harvesting area #23 St. Marks. A sanitary survey has been conducted that evaluated current information on pollution sources and bacteriological water quality, and recommended classification of the St. Marks shellfish harvesting area.

SUMMARY: The proposed St. Marks shellfish harvesting area will consist of a 4,111 acre Conditionally Approved area and a 5,264 acre Prohibited area. Proposed management of the St. Marks shellfish harvesting area is based on local rainfall and river discharge. The average closure frequency of the St. Marks Conditionally Approved area is expected to be 6.6 days per month. A sanitary survey has been conducted that evaluated current information on pollution sources and bacteriological water quality, and recommends classification of the St. Marks shellfish harvesting area. This amendment places descriptions, references to shellfish harvesting area map numbers and operating criteria for the St. Marks shellfish harvesting area #23 in the document Shellfish Harvesting Area Classification Boundaries and Management Plans. These documents are hereby incorporated in subsection 5L-1.003(1), F.A.C. Additionally, this amendment provides illustrations of the St. Marks shellfish harvesting area classification boundaries in the shellfish harvesting area map #23. This map is hereby incorporated by reference in subsection 5L-1.003(1), F.A.C.

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: 597.020 F.S.

LAW IMPLEMENTED: 597.020 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: March 27, 2009, 3:00 p.m. – 4:00 p.m.

PLACE: 1203 Governors Square Boulevard, 5th Floor, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Chris Brooks, Division of Aquaculture, 1203 Governor’s Square Boulevard, 5th Floor, Tallahassee, Florida 32301; phone: (850)488-4033

THE FULL TEXT OF THE PROPOSED RULE IS:

5L-1.003 Shellfish Harvesting Area Standards.

(1) The Department shall describe and/or illustrate harvesting areas and provide harvesting area classifications as approved, conditionally approved, restricted, conditionally restricted, prohibited, or unclassified as defined herein, including criteria for opening and closing shellfish harvesting areas in accordance with Chapters II and IV of the National Shellfish Sanitation Program Model Ordinance. Copies of the Shellfish Harvesting Area Classification Maps, revised July 28, 2008, and the document Shellfish Harvesting Area Classification Boundaries and Management Plans, revised July 28, 2008, containing shellfish harvesting area descriptions, references to shellfish harvesting area map numbers, and operating criteria herein incorporated by reference may be obtained by writing to the Department at 1203 Governor’s Square Boulevard, 5th Floor, Tallahassee, Florida 32301 or is available on the Division’s website at www.FloridaAquaculture.com/pub.htm.

(2) through (10) No change.

(11) Shellfish harvesting area numbers are as follows:

Table with 2 columns: AREA NUMBER and HARVEST AREA NAME. Lists various harvesting areas like Pensacola Bay, Escambia Bay, Choctawhatchee Bay, etc., with their respective status (Approved, Restricted, etc.).

1512	Indian Lagoon Conditionally Approved Spring/Fall Mar-Jun, Oct	2806	Suwannee Sound Conditionally Restricted Spring Summer Feb-May and Sept or Suwannee Sound Conditionally Restricted Winter Oct-Jan
1542	Indian Lagoon Conditionally Approved Zone A Winter Nov-Feb	3012	Cedar Key Conditionally Approved Zone A
1552	Indian Lagoon Conditionally Approved Zone B Winter Nov-Feb	3022	Cedar Key Conditionally Approved Zone B
1572	Indian Lagoon Conditionally Approved Summer Jul.-Sep	3006	Cedar Key Conditionally Restricted
1611	Apalachicola Bay Approved Winter Jan-May, Sept.-Dec	3202	Waccasassa Bay Conditionally Approved
1621	Apalachicola Bay Approved Summer June-Aug	3206	Waccasassa Bay Conditionally Restricted
1631	Apalachicola Bay Approved, Shellfish lease numbers 525, 551, 551B,580, 582, 609, 672, and 981 Summer June – Aug	3402	Withlacoochee Bay Conditionally Approved
1612	Apalachicola Bay Conditionally Approved West 1 Winter Jan-May, Sept-Dec	3406	Withlacoochee Bay Conditionally Restricted
1622	Apalachicola Bay Conditionally Approved West 2 Winter Jan-May, Sept-Dec	3701	Citrus County Approved Spring / Fall Mar.-June and Oct.
1632	Apalachicola Bay Conditionally Approved West 3 Winter Jan-May, Sept-Dec	3702	Citrus County Conditionally Approved Winter Nov.-Feb.
1642	Apalachicola Bay Conditionally Approved East Winter Jan-May, Sept-Dec or Apalachicola Bay Approved East Hole Summer June-Aug	3705	Citrus County Restricted Spring / Fall Mar.-June and Oct.
1652	Apalachicola Bay Conditionally Approved North Summer June-Aug	3706	Citrus County Conditionally Restricted Winter Nov.-Feb.
1662	Apalachicola Bay Conditionally Approved South Summer June-Aug	4202	Boca Ciega Bay Conditionally Approved
1606	Apalachicola Bay Conditionally Restricted	4802	Lower Tampa Bay Conditionally Approved
1802	Alligator Harbor Conditionally Approved	5402	Sarasota Bay Conditionally Approved
2002	Ochlockonee Bay Conditionally Approved	5602	Lemon Bay Conditionally Approved
2006	Ochlockonee Bay Conditionally Restricted	5802	Gasparilla Sound Conditionally Approved
2206	Wakulla County Conditionally Restricted	6002	Myakka River Conditionally Approved
2212	Wakulla County Conditionally Approved Zone 1 Winter	6006	Myakka River Conditionally Restricted
2222	Wakulla County Conditionally Approved Zone 2 Winter	6212	Pine Island Sound Conditionally Approved Western Section
2232	Wakulla County Conditionally Approved Zone 1 Spring	6222	Pine Island Sound Conditionally Approved Eastern Section
2242	Wakulla County Conditionally Approved Zone 2 Spring	6602	Ten Thousand Islands Conditionally Approved
<u>2302</u>	<u>St. Marks Conditionally Approved</u>	7001	Indian River/St. Lucie Approved
<u>2303</u>	<u>St. Marks Prohibited</u>	7006	Indian River/St. Lucie Restricted
2501	Horseshoe Beach Approved Summer Apr-Sep	7202	North Indian River Conditionally Approved
2502	Horseshoe Beach Conditionally Approved Winter Oct-Mar	7206	North Indian River Conditionally Restricted
2506	Horseshoe Beach Conditionally Restricted Winter Oct-Mar	7412	Body F Conditionally Approved
2802	Suwannee Sound Conditionally Approved Spring Summer Feb-May and Sept or Suwannee Sound Conditionally Approved Winter Oct-Jan	7416	Body F Conditionally Restricted
		7506	Body E Conditionally Restricted
		7602	Body D Conditionally Approved
		7606	Body D Conditionally Restricted
		7712	Body C Conditionally Approved Zone 1 Spring/Summer/Fall Mar-Nov
		7722	Body C Conditionally Approved Zone 2 Spring/Summer/Fall Mar-Nov
		7732	Body C Conditionally Approved Winter Dec-Feb
		7716	Body C Conditionally Restricted Winter Dec-Feb
		7726	Body C Conditionally Restricted Spring/Summer/Fall Mar-Nov
		7812	Body B Conditionally Approved Zone 1
		7822	Body B Conditionally Approved Zone 2
		7902	South Banana River Conditionally Approved

- 7906 South Banana River Conditionally Restricted
- 8001 Body A Approved
- 8005 Body A Restricted
- 8201 South Volusia Approved
- 8212 South Volusia Conditionally Approved Zone 1
- 8222 South Volusia Conditionally Approved Zone 2
- 8206 South Volusia Conditionally Restricted
- 8802 St. Johns South Conditionally Approved
- 8806 St. Johns South Conditionally Restricted
- 9202 St. Johns North Conditionally Approved
- 9206 St. Johns North Conditionally Restricted

Specific Authority 597.020 FS. Law Implemented 597.020 FS. History—New 1-4-87, Amended 8-10-88, 7-9-89, 12-23-91, Formerly 16R-7.004, Amended 7-3-95, 6-18-97, 7-1-97, 7-22-97, 10-12-97, 12-16-97, 12-28-97, 2-12-98, 2-25-98, 7-1-98, 7-20-98, 11-13-98, 12-28-98, 3-18-99, 7-1-99, Formerly 62R-7.004, Amended 6-19-00, 8-9-00, 10-14-01(1), 10-14-01(1), 8-17-04, 9-28-04, 9-5-05, 6-11-06, 3-11-07, 10-2-07, 4-14-08, 7-28-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sherman Wilhelm, Director, Division of Aquaculture
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles Bronson, Commissioner, Department of Agriculture and Consumer Services
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 25, 2009
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 25, 2008

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-203.201 **RULE TITLE:** Inmate Trust Fund
PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to eliminate language concerning Social Security benefits, as inmates incarcerated for more than 30 days are ineligible to receive Social Security benefits or federal disability benefits.
SUMMARY: The proposed amendment to Rule 33-203.201, F.A.C., removes language addressing attachment, levy, and seizure of inmates' Social Security and Veteran's Affairs pensions benefits, as inmates incarcerated more than 30 days are ineligible under federal law to receive such benefits.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 944.09, 944.516, 945.215 FS.
 LAW IMPLEMENTED: 17.61, 57.085, 717.113, 944.09, 944.516, 945.091, 945.215 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

- 33-203.201 Inmate Trust Fund.
 - (1) No change.
 - (2)(a) No change.
 - (b) In accordance with 38 U.S.C. 5301 and ~~42 U.S.C. 407~~, Veterans Administration (VA) and ~~Social Security (SS)~~ benefit checks are exempt from attachment, levy or seizure. The Department shall not place liens on the inmate's trust fund account for medical co-payments, legal copies, or other Department generated liens for VA and ~~SS~~ benefits checks mailed directly to the Bureau of Finance and Accounting, Inmate Trust Fund Section.
 - (c) through (d) No change.
 - (3) through (12) No change.

Specific Authority 944.09, 944.516, 945.091, 945.215 FS. Law Implemented 17.61, 57.085, 717.113, 944.09, 944.516, 945.091, 945.215 FS. History—New 1-27-86, Amended 7-16-89, 5-1-90, 3-2-92, 6-2-92, 8-25-92, 10-19-92, 4-13-93, 5-28-96, 6-15-98, Formerly 33-3.018, Amended 5-7-00, 7-13-03, 10-20-03, 1-23-05, 5-12-05, 11-12-06, 9-2-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rhonda Vause, Chief of Finance and Accounting
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter A McNeil, Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 16, 2009
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 16, 2009

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-401.701 **RULE TITLE:** Medical and Substance Abuse Clinical Files
PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to provide one location for all provisions related to maintenance of and access to inmate medical and substance abuse clinical files.

SUMMARY: The proposed rule requires the Department to keep comprehensive medical and substance abuse files on all inmates and detainees, to be used and disclosed in accordance with the Health Insurance Portability and Accountability Act Privacy Rule of 1996 (HIPAA) and Florida law; provides definitions; provides guidelines regarding access to and disclosure of medical and substance abuse records; and incorporates by reference the following forms: DC4-534, Health Care Information Request Record; DC2-913, Acknowledgement of Responsibility to Maintain Confidentiality of Medical Information; and DC1-206, Inmate Acknowledgement of Responsibility to Maintain Confidentiality of Health or Substance Abuse Information.

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

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

SPECIFIC AUTHORITY: 944.09, 945.10, 945.6034 FS.

LAW IMPLEMENTED: 119.07, 944.09, 945.10, 945.25, 945.6034 FS., 42 USCS 290 ee-3, 45 CFR Parts 160 and 164
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-401.701 Medical and Substance Abuse Clinical Files.

(1) The Department of Corrections Office of Health Services shall maintain a comprehensive medical file (including medical, dental and mental health components) on every person committed to the custody and care of the Florida Department of Corrections. Information included in the inmate's medical file is protected health information and shall be used or disclosed in accordance with the Health Insurance Portability and Accountability Act Privacy Rule of 1996, (HIPAA) and Florida law. The Department of Corrections shall also maintain a comprehensive substance abuse file, should one exist, on every person committed to the custody and care of the Florida Department of Corrections. Information included in the inmate's substance abuse file is confidential in accordance with 42 C.F.R. Part II, the Health Insurance Portability and Accountability Act Privacy Rule of 1996, (HIPAA) and Florida law.

(2) Definitions.

(a) Business Associate – refers to a person or entity who is not a member of the Department of Corrections' workforce and who, on behalf of the department, performs a function or

activity involving the use or disclosure of individually identifiable health information. A business associate agreement or contract requiring a business associate to appropriately safeguard protected health information is required from business associates.

(b) Designated Records Set – refers to an inmate's medical, mental health, dental, Reception Medical Center hospital file, and substance abuse clinical files that are maintained by the Department.

(c) Department workforce – includes employees, volunteers, interns, trainees and other persons whose conduct, in the performance of work for the Department, is under the direct control of such the Department, whether or not they are paid by the Department.

(d) Disclose – refers to the release, transfer, provision of access to, or divulging in any other manner of information outside the Department.

(e) Health Services Administrator – refers to designated Department employees responsible for working with the privacy officer to ensure that all Department privacy procedures are implemented.

(f) Medical file – as used in this rule refers to the inmate's medical, mental health, and dental files maintained by the department.

(g) Personal Representative – as used in this rule, means, with respect to a deceased inmate, an executor, administrator, or other person with authority under Florida law to act on behalf of the deceased inmate or the inmate's estate. With respect to a living inmate, a personal representative means a health care surrogate, proxy, guardian, or other person with authority under Florida law to make decisions related to the inmate's health care.

(h) Protected health information (PHI) – where used herein, refers to inmate or offender information that is created or received by the Department of Corrections, whether oral, recorded, transmitted, or maintained in any form or medium, that relates to the past, present, or future physical or mental health or condition of an inmate or offender, the provision of health care to an inmate or offender, or the past, present, or future payment for the provision of health care to an inmate or offender and identifies an inmate or offender or there is a reasonable basis to believe the information can be used to identify an inmate or offender.

(i) Psychotherapy notes – refers to notes recorded by a mental health professional documenting or analyzing the contents of conversation during a private or group session. The term does not include medication prescription and monitoring, session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following: diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

(j) Substance abuse clinical file – refers to the department's inmate file containing all written documents, records and forms compiled to detail an inmate's substance

abuse history, substance abuse screening, assessment, intervention, and other substance abuse services, including the results of urinalysis testing done for treatment, program participation, and admission and discharge summaries.

(k) Substance abuse progress notes – refers to notes recorded by a substance abuse health care professional documenting or analyzing the contents of conversation during a private or group session. The term does not include session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following: diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

(l) Use – refers to, with respect to protected health information, the sharing, employment, application, utilization, examination, or analysis of such information within the Department.

(3) Inmate and offender access to their own protected health information in a designated records set.

(a) Except as otherwise provided in this rule, an inmate shall be allowed to have access to his or her own protected health information contained in a designated records set. An inmate desiring access to his or her own medical file shall submit a written request using Form DC6-236, Inmate Request, to the health services administrator or his or her designee. An inmate desiring access to his own substance abuse clinical file shall submit a written request using DC6-236, Inmate Request, to the substance abuse program manager or his or her designee. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.

(b) The department does not maintain medical files or substance abuse clinical files on offenders under community supervision. Access to records maintained by treatment providers under contract with the department should be requested by contacting the treatment provider.

(c)1. Inmates shall have no access to psychotherapy notes or substance abuse progress notes maintained in the department's records.

2. Inmates shall have no access to protected health information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding.

3. Inmates shall have no access to protected health information maintained by the Department that is subject to the Clinical Laboratory Improvements Amendments of 1988, 42 U.S.C. 263a, to the extent that the provision of access to the inmate is prohibited by law, or is exempt from the Clinical Laboratory Improvement Amendments of 1988, pursuant to 42 C.F.R. 493.3(a)(2).

(d) An inmate's request for access shall be denied in whole or in part due to any of the following reasons:

1. The request is for records or information identified in paragraph (c) above.

2. The request is for protected health information that was obtained from someone other than a health care provider under a promise of confidentiality and the access requested would with reasonable likelihood reveal the source of the information.

3. The request is for information not maintained or no longer maintained by the department in its files.

4. There has been a determination by a licensed or certified health care professional that:

a. The requested access is reasonably likely to endanger the life or physical safety of the inmate or another person;

b. The requested access is to protected health information that makes reference to another person (other than a health care provider) and such access is reasonably likely to cause substantial harm to such other person; or

c. The access is requested by a personal representative of the inmate and such access is likely to cause substantial harm to the inmate.

(e) Except as otherwise provided in this rule, all requests shall be granted, including providing access or copies or both, or denied, in whole or in part, by the health services administrator or his designee or substance abuse program manager or his designee in writing within 30 days of the date of receipt of the request. However, if the requested files are not maintained on-site, the department shall provide or deny access, in whole or in part, within 60 days from receipt of the request. If the department is unable to grant or deny, in whole or in part, the request for access within the 30 or 60 day time periods, the department is authorized to extend the time for such action an additional 30 days by providing the inmate a written statement that the time period has been extended for 30 days and the reason(s) for the extension. This extension is available only one time.

(f) Denials must provide:

1. The basis for the denial;

2. Information on where the requested information is maintained if subparagraph (d)3. applies, and the department knows where the information is maintained;

3. Notification that the inmate may request a review of a denial based on subparagraph (d)4., by submitting a written request to the health services administrator or his or her designee in the case of medical files, or the substance abuse program manager or his or her designee in the case of substance abuse clinical files; and

4. That the inmate may grieve the denial through the inmate grievance process pursuant to Chapter 33-103, F.A.C.

5. Upon written request of the inmate to the staff member designated above, denials based on subparagraph (d)4., shall be reviewed by a licensed or certified health care professional who is designated by the health services administrator or his or her designee or substance abuse program manager or his or her designee, and who did not participate in the original decision to deny the request. Review of the denial must be completed

within a reasonable time after receipt of the request for review. Immediately upon determination on review, the inmate shall be notified in writing of the decision.

(g) Where a request for access to an inmate's medical file or substance abuse clinical file is denied in part, the department shall provide access to the requested file after excluding the information for which access was denied.

(h) Providing Access:

1. Before any inmate reviews his or her medical file or substance abuse clinical file the Department will verify the inmate's identity using the inmate's ID card.

2. Medical files and substance abuse clinical files must be reviewed in a secure area in the presence of health record staff or the health service administrator.

3. No information shall be copied or removed from the file by the inmate at the time of the review. Form DC6-236, Inmate Request, shall be submitted by the inmate to obtain any copies.

(i) Copies will be provided upon receipt of payment as provided in subsection 33-601.901(2), F.A.C., except that when providing the inmate a copy of the requested information would jeopardize either the health, safety, security, custody of the inmate or of other inmates; or the safety of any officer, employee, or other person at the correctional institution or a person responsible for the transporting of the inmate, no copies shall be provided. A denial of copies on this basis shall not be subject to review under subparagraph (3)(f)3. above.

(4) Requesting Restrictions on the Use and Disclosure of Protected Health Information in a designated records set.

(a) An inmate may request that the Department restrict the uses and disclosures of his or her protected health information to carry out treatment, payment, health care operations, and for notification for involvement in the inmate's care. Inmates shall submit requests for restrictions on Form DC6-236, Inmate Request, to the health services administrator and provide a reason to support the requested restriction.

(b) In accordance with 45 C.F.R. § 164.522 the Department is not required to agree to a request for restriction and the Department shall not restrict disclosures of protected health information to other government agencies providing benefits or services to the inmate, to government agencies that oversee health care providers, or that are required by law.

(c) The Department shall notify the inmate of the denial or acceptance of the request to restrict information and a copy of the notice of denial or acceptance shall be filed in the inmate's designated record set and sent to other workforce members with a need to know. The written request and notification of denial or acceptance must be kept for six years from the date it was created or the date it was last in effect, whichever is later.

(d) If the Department agrees to the restriction, the Department and its business associates shall honor the restriction unless the inmate is in need of emergency treatment and the restricted information is needed to provide the emergency treatment. If restricted information is disclosed to a

health care provider for emergency treatment, the Department shall request that the health care provider not further use or disclose the information.

(e) The Department shall terminate its agreement to a restriction, if:

1. The inmate agrees to or requests the termination in writing;

2. The inmate orally agrees to the termination and the oral agreement is documented; or

3. The Department informs the inmate that it is terminating its agreement to a restriction. The termination is only effective for protected health information created or received after the Department informed the inmate of the termination.

(5) Requesting Confidential Communications.

(a) An inmate or offender may request that the Department communicate protected health information with him or her by alternative means or at alternative locations. Inmates must make requests for confidential communication in writing on Form DC6-236, Inmate Request. The Department shall refuse an inmate's request if the inmate has not specified a reasonable method of communication or if the request would jeopardize or disrupt the safety, security or operations of the institution. The health services administrator shall notify the inmate that the request for confidential communication was denied or accepted.

(b) The Department shall retain the inmate's request and notification of denial or acceptance for a minimum of six years in the inmate's medical file.

(6) Request to amend protected health information in a designated record set.

(a) An inmate may request that the Department amend a designated record set for as long as the Department maintains the protected health information in the designated record set. Inmates shall make requests for amendments in writing on Form DC6-236, Inmate Request, and provide a reason to support the requested amendment.

(b) In accordance with 45 C.F.R. § 164.526, the Department shall act on the inmate's request for an amendment no later than 60 days after receipt of the request. If the Department is unable to act on the amendment within 60 days, the Department may extend the time by no more than 30 days, provided that within 60 days, the Department provided the inmate with a written statement of the reasons for the delay and the date by which the Department will complete its action on the request. The Department shall have one time extension for action on the request.

(c) If the Department is informed by another health care provider of an amendment to an inmate's protected information, the Department shall amend the protected information in its designated record sets.

(d) Pursuant to 45 C.F.R. § 164.526, the Department shall deny an inmate's request for an amendment to protected health information if it determines that the protected information:

1. Was not created by the Department, unless the inmate provides a reasonable basis to believe that the originator of protected information is no longer available to act on the requested amendment;

2. Is not part of the designated record set;

3. Is information that is not available for inspection by the inmate as provided in subsection (3) above; or

4. Is accurate and complete.

(e) If the Department denies the requested amendment, in whole or in part, the Department shall send the inmate a written denial notice, in plain language that contains:

1. The basis for the denial;

2. The inmate's right to submit a written statement disagreeing with the denial and how the inmate may submit such a statement on Form DC6-236, Inmate Request;

3. A statement that if the inmate does not submit a statement of disagreement, the inmate may request that the Department provide the inmate's request for amendment and the denial with any future disclosures of the protected information that is the subject of the amendment; and

4. A description of how the inmate may complain through the inmate grievance process.

(f) The Department shall permit the inmate to submit a written statement disagreeing with the denial of all or part of a requested amendment and the basis of such disagreement. The statement of disagreement is limited to 100 words. The Department shall prepare and submit a written rebuttal to the statement of disagreement.

(g) The Department shall identify the protected health information in the designated record set that is the subject of the disputed amendment and append the inmate's request for an amendment, the Department's denial of the request, the inmate's statement of disagreement, if any, and the Department's rebuttal, if any, in the designated record set.

(h) When a subsequent disclosure of the protected health information is made, the Department shall submit the material required in paragraph (g) with the requested protected health information.

(i) If the Department accepts the requested amendment, in whole or in part, the Department shall comply with the following requirements:

1. The Department shall make the amendment to the designated records set by identifying the portions in the record that are affected by the amendment and appending or otherwise providing a link to the location of the amendment.

2. The Department shall inform the inmate that the amendment is accepted and obtain the inmate's identification of, and agreement to have the Department notify relevant persons with which the amendment needs to be shared as described below within 60 days.

3. The Department shall make reasonable efforts to inform and provide the amendment within a reasonable time to:

a. Persons identified by the inmate as having received protected information about the inmate and needing the amendment; and

b. Persons, including business associates, that the Department knows have the protected information that is the subject of the amendment and that may have relied, or could foreseeably rely, on such information to the detriment of the inmate.

(7) Request for Accounting of Disclosures.

(a) Inmates may request that the Department provide them with an accounting of disclosures of protected health information.

(b) Inmates shall make requests for an accounting of disclosures on Form DC6-236, Inmate Request to the health services administrator.

(c) Pursuant to 45 C.F.R. § 164.528 the Department shall provide the accounting of disclosures within 60 days of the request. If the Department is unable to provide the accounting within 60 days, it shall inform the inmate of the reason for the delay and when it expects to provide the accounting. One extension of 30 days is permitted per request. Inmates may request an accounting of disclosures for up to six years prior to the date on which the accounting is requested. Disclosures made prior to April 14, 2003 are excluded from this requirement.

(d) The Department shall provide the inmate with a written account that includes the following information:

1. The date of the disclosure;

2. The name and address of the entity or person who received the protected health information;

3. A brief description of the protected health information disclosed; and

4. A brief statement of the purpose of the disclosure or a copy of a written request from the entity or person that received the protected information.

(e) The accounting of disclosures is not required to contain the following disclosures of protected health information:

1. Disclosures for the purpose of treatment, payment and health care operations;

2. Disclosures to law enforcement or correctional officers for the health and safety of the inmate, other inmates, officers, employees of the correctional institution or others at the correctional institution;

3. Disclosures to law enforcement on the premises of the correctional institutions;

4. Disclosures for the administration and maintenance of the safety, security, and good order of the correctional institution;

5. Disclosures for national security or intelligence purposes;

6. Disclosures made to inmates of their own protected information;

7. Disclosures made as part of a limited data set;

8. Disclosures made to third parties pursuant to the inmate's request written authorization; and

9. Disclosures made prior to April 14, 2003.

(f) If the Department made multiple disclosures of protected information to the same entity for a single purpose, the accounting for a given period of time shall provide:

1. The required information listed above for the first disclosure; and

2. The frequency, periodicity, or number of disclosures made; and the date of the last disclosure.

(g) The Department shall provide the first accounting to an inmate in any 12-month period without charge.

(h) If the second or subsequent request for disclosure within a 12-month period requires duplication, the inmate shall pay the cost of duplication in accordance with subsection 33-601.901(2), F.A.C., and the inmate will sign a receipt for such copies.

(i) The Department shall document the following information regarding accounting of disclosures:

1. The date of disclosure;

2. The information listed in the accounting;

3. Written accounting that is provided to the inmate; and

4. The titles and names of the people who were responsible for receiving and processing the request.

(j) The documentation shall be retained for six years.

(k) The Department shall track disclosures other than for treatment, payment and health care operations. This includes the following disclosures even if the disclosure was to a business associate. The Department shall track disclosures:

1. To other government agencies providing benefits or services to the inmate;

2. To government agencies that oversee health care providers;

3. For research; and

4. Which are required by law.

(l) The following specific information about each disclosure shall be included and documented in the medical file on Form DC4-534, Health Care Information Request Record:

1. The date of the disclosure;

2. The name and address of the entity or person who received the protected information;

3. A brief description of the protected health information disclosed;

4. A brief statement of the purpose of the disclosure; and

5. Written account that was provided to the inmate.

(m) In accordance with 45 C.F.R. § 164.528, the Department shall temporarily suspend an inmate's right to receive an accounting of disclosures to a health care oversight agency with authority by law to oversee the health care system

of the department or a law enforcement official upon written statement from the oversight agency or law enforcement official. The written statement shall specify that the accounting to the inmate would be reasonably likely to impede the agency or official's activities and the time period for which such suspension is required.

(n) Although the accounting of disclosures is not released during a suspension, the Department shall continue tracking and storing the information for future releases.

(8) Each employee of the Department of Corrections shall maintain as confidential all medical, mental health, dental and substance abuse information, regarding any inmate or offender that the employee obtains in conjunction with his or her duties and responsibilities, and shall not disseminate the information or discuss the medical, mental health, dental, or substance abuse condition of the inmate or offender with any person except persons directly necessary to the performance of the employee's duties and responsibilities. An employee who has been designated as a member of the healthcare team or is part of a mental health or substance abuse treatment team shall not disseminate inmate medical, mental health, or substance abuse information or discuss the medical, dental, mental health, or substance abuse condition of an inmate with any person except other members of the healthcare team, mental health treatment team, or substance abuse treatment team, release officers or any other employees designated to facilitate continuity of care and treatment upon reentry, officers responsible for transporting inmates, upper level management at the institution or facility level, regional level and central office level, inspectors from the Inspector General's Office if related to law enforcement on the premises of a correctional institution, classification or security staff if related to maintenance of the safety, security and good order of the correctional institution, department attorneys, or other employees and persons authorized to receive such information in accordance with the Health Insurance Portability and Accountability Act Privacy Rule of 1996, (HIPAA) and Florida law. Breach of this confidentiality shall subject the employee to disciplinary action. Each employee shall acknowledge receipt and review of Form DC2-813, Acknowledgement of Responsibility to Maintain Confidentiality of Medical Information, indicating that he understands the medical and substance abuse confidentiality requirements.

(9) Each inmate assigned as an inmate worker, inmate assistant, substance abuse peer facilitator, or other assignment involving possible contact with health or substance abuse information about other inmates shall maintain as confidential all health or substance abuse information that he sees or hears while performing his duties and responsibilities, and shall not disseminate the information or discuss the medical or substance abuse information with any person except health care staff or substance abuse program staff. Failure to keep health or substance abuse information confidential and private

shall subject the inmate to disciplinary action. Each inmate assigned as an inmate worker, inmate assistant, substance abuse peer facilitator, or other assignment involving possible contact with health or substance abuse information about other inmates shall acknowledge receipt and review of Form DC1-206, Inmate Acknowledgement of Responsibility to Maintain Confidentiality of Health or Substance Abuse Information, indicating that he understands the medical and substance abuse confidentiality requirements.

(10) Use and disclosure of protected health information.

(a) Inmate protected health information shall be used or disclosed in accordance with the Health Insurance Portability and Accountability Act Privacy Rule of 1996, (HIPAA) and Florida law.

(b) Requests for access to a current inmate's protected health information shall be submitted to the health services administrator at the institution where the inmate is housed. Requests for access to a former inmate's protected health information shall be submitted to: Inactive Medical Records, Reception and Medical Center, P. O. Box 628, Lake Butler, Florida 32054.

(c) All requests for access to an inmate's protected health information shall be specific and in writing.

(d) If use or disclosure of an inmate's protected health information is not otherwise permitted by law, an inmate must authorize the use or disclosure by giving written consent using Form DC4-711B, Consent and Authorization for Use and Disclosure, for Inspection and Release of Confidential Information or a legally approved, HIPAA compliant release of protected health information form from another governmental agency. Form DC4-711B is incorporated by reference in Rule 33-601.901, F.A.C.

(e) The DC4-711B or other authorization shall be submitted with the written request for access to an inmate's protected health information. A copy of the authorization shall be provided to the inmate and the inmate shall acknowledge receipt of the copy by signing in the appropriate location on the authorization. The authorization and acknowledgement of receipt of copy shall become a part of the inmate's medical file.

(f) Form DC4-711B Consent and Authorization for Use and Disclosure, Inspection and Release of Confidential Information must be notarized when the authorization is not from a current inmate personally known to the witness or is from a source external to the Department. All authorization forms shall be witnessed by at least one person who can verify the fact that he witnessed the signing of the authorization by the inmate and that, to the best of his knowledge, the inmate knew what was signed.

(g) A disclosure of protected health information may not be made on the basis of an authorization which:

1. Has expired;

2. On its face substantially fails to conform to any of the requirements of the Health Insurance Portability and Accountability Act Privacy Rule of 1996;

3. Is known to have been revoked; or

4. Is known, or through a reasonable effort could be known, by the person holding the records to be materially false.

(h) In accordance with 45 C.F.R. § 164.502, a personal representative of a deceased inmate or a deceased inmate's estate shall have access to or authorize the disclosure of the deceased inmate's protected health information that is relevant to the personal representative's legal authority to act on behalf of the deceased inmate or the deceased inmate's estate. A certified copy of a letter of administration or other document demonstrating such authority shall be filed in the inmate's medical file and Form DC4-711B, Consent and Authorization for Use and Disclosure, for Inspection and Release of Confidential Information must be signed by a personal representative.

(i) In accordance with 45 C.F.R. § 164.502, a personal representative of a living inmate shall have access to or authorize the disclosure of the inmate's protected health information that is relevant to the personal representative's legal authority to make health care decisions on behalf of the inmate. Form DC4-711B, Consent and Authorization for Use and Disclosure, for Inspection and Release of Confidential Information shall be signed by the inmate or the inmate's personal representative in accordance with Florida law. A copy of the document demonstrating the personal representative's authority shall be filed in the inmate's medical file.

(j) In accordance with 45 C.F.R. § 164.514(h), the department shall verify the identity and the authority of a person requesting access to an inmate's protected health information if the identity or authority of such person is not known.

(k) No information concerning test results, or other protected health information, shall be released over the telephone without proper verification that the caller is the person authorized to receive such information. All calls requesting the disclosure of protected health information over the telephone shall be forwarded to the Chief Health Officer, the Nursing Supervisor or their designees.

(l) Copies of protected health information will be provided upon receipt of payment as provided in subsection 33-601.901(2), F.A.C.

(11) Alcohol and Drug Abuse Treatment Files: Any information, whether recorded or not, concerning the identity, diagnosis, prognosis or treatment of any inmate or offender which is maintained in connection with the performance of any alcohol or drug abuse prevention or treatment function shall be confidential and shall be disclosed only as follows:

(a) With the prior written authorization of the inmate or offenders described in subsection (10) above.

(b) Pursuant to 42 C.F.R. Part 2, the department is authorized to disclose information about an inmate or offender to those persons within the criminal justice system who have made participation in the program a condition of the

disposition of any criminal proceedings against the inmate or offender or of the inmate or offender's parole or other release from custody if:

1. The disclosure is made only to those individuals within the criminal justice system who have a need for the information in connection with their duty to monitor the inmate or offender's progress; and

2. The inmate or offender has signed Form DC4-711B meeting the requirements of paragraph (9)(a) except for the revocation provision in subparagraph (9)(a)8. This written consent shall state the period during which it remains in effect. This period shall be reasonable, taking into account:

a. The anticipated length of the treatment;

b. The type of criminal proceeding involved, the need for the information in connection with the final disposition of that proceeding, and when the final disposition will occur; and

c. Such other factors as the program, the inmate or offender, and the persons who will receive the disclosure consider pertinent. The written consent shall state that it is revocable upon the passage of a specified amount of time or the occurrence of a specified, ascertainable event. The time or occurrence upon which consent becomes revocable shall be no later than the final disposition of the action in connection with which consent was given.

(c) Each disclosure made with the inmate or offender written consent shall be accompanied by the following written statement:

This information has been disclosed to you from records protected by federal confidentiality rules (42 C.F.R. Part 2). The federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 C.F.R. Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

(d) Whether or not the inmate or offender has given written consent, 42 C.F.R. Part 2 permits disclosure of information as follows:

1. To medical personnel to the extent necessary to meet a medical emergency and for continuity of care;

2. To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel shall not identify, directly or indirectly, any individual inmate or offender in any report of such research, audit, or evaluation, or otherwise disclose inmate or offender identities in any manner.

3. To communicate within a program or between a program and an entity having direct administrative control over that program;

4. To law enforcement officers concerning crimes on program premises or against program personnel, or when a threat to commit such a crime has been made;

5. Reports of suspected child abuse and neglect; and

6. If authorized by a court order.

(12) The following forms are hereby incorporated by reference. Copies of these forms are available from the Forms Control Administrator, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) DC4-534, Health Care Information Request Record, effective _____.

(b) DC2-813, Acknowledgement of Responsibility to Maintain Confidentiality of Medical Information, effective _____.

(c) DC1-206, Inmate Acknowledgement of Responsibility to Maintain Confidentiality of Health or Substance Abuse Information, effective _____.

Specific Authority 944.09, 945.10, 945.6034 FS. Law Implemented 119.07, 944.09, 945.10, 945.25, 945.6034 FS., 42 USCS 290 ee-3, 45 CFR Parts 160 and 164. FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sandeep Rahangdale, M.D., Assistant Secretary of Health Services

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 14, 2008

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.314

RULE TITLE: Rules of Prohibited Conduct and Penalties for Infractions

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the types of portable communication devices and components inmates are prohibited from possessing and to add tampering with computers and other office equipment as a ground for discipline.

SUMMARY: The proposed Rule defines contraband to include components and peripherals of wireless communication devices, such as SIM cards, Bluetooth devices, batteries, and chargers. The proposed Rule also adds tampering with computers and other office equipment as a prohibited offense and ground for discipline.

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

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.14, 944.279, 944.28 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.314 Rules of Prohibited Conduct and Penalties for Infractions.

The following table shows established maximum penalties for the indicated offenses. As used in the table, "DC" means the maximum number of days of disciplinary confinement that may be imposed and "GT" means the maximum number of days of gain time that may be taken. Any portion of either penalty may be applied.

Section 1 through Section 2 No change.

Section 3 – CONTRABAND – ANY ARTICLE NOT SOLD IN THE CANTEEN, OR ISSUED BY THE INSTITUTION, OR FOR WHICH YOU DO NOT HAVE A SPECIFIC PERMIT AUTHORIZED BY THE INSTITUTION WHERE PRESENTLY HOUSED

Section 3-1 through Section 3-13 No change.

Section 3-14 Possession or use of a cellular telephone or any other type of wireless communication device, or any components or peripherals to such devices, including but not limited to SIM cards, Bluetooth items, batteries, and charging devices; any other technology that is found to be in furtherance of possessing or using a communication device prohibited under Section 944.47(1)(a)6., F.S. 60 DC + All GT

Section 3-15 No change.

Section 4-8 No change.

Section 9-1 through 9-36 No change.

Section 9-37 Unauthorized use of or tampering with a computer, computer peripheral device, or any other office equipment. Other office equipment includes copying machines, facsimile machines, postage meters, or any other device utilized in an office or office-like environment. 60 DC + All GT

Section 10-11 No change.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.14, 944.279, 944.28 FS. History--New 3-12-84, Amended 1-10-85, Formerly 33-22.12, Amended 12-30-86, 9-7-89, 11-22-90, 6-2-94, 10-1-95, 3-24-97, 7-9-98, 8-13-98, Formerly 33-22.012, Amended 9-30-99, 6-7-00, 4-18-02, 10-10-04, 1-9-05, 4-17-05, 6-5-05, 10-27-05, 10-12-06, 11-8-07, 5-18-08, 11-9-08,_____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 21, 2009

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

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.901 RULE TITLE: Confidential Records

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to move language related to maintenance of and access to inmate medical and substance abuse clinical files to a new proposed Rule 33-401.701, F.A.C., to provide one location for all medical and substance abuse file provisions for easier access.

SUMMARY: The proposed rule eliminates the provisions regarding medical and substance abuse clinical files, as those provisions will be moved to proposed Rule 33-401.701, F.A.C.

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

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

SPECIFIC AUTHORITY: 20.315, 944.09, 945.10 FS.

LAW IMPLEMENTED: 119.07, 944.09, 945.10, 945.25 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.901 Confidential Records.

(1) Inmate and offender access to records or information.

(a) No change.

(b) Inmate and offender access to their own medical or substance abuse clinical files is addressed in Rule 33-401.701, F.A.C records.

1. Definitions:

a. "Medical record" as used in this rule includes the inmate's medical, mental health, and dental files maintained by the department.

b. "Protected health information" or "PHI" as used in this rule means individually identifiable health information about an inmate or offender.

c. "Psychotherapy notes" as used in this rule means notes recorded by a mental health professional documenting or analyzing the contents of conversation during a private or group session. The term does not include medication prescription and monitoring, session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following: diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

d. "Substance abuse clinical record" as used in this rule means the department inmate file containing all written documents and records, including department forms compiled to detail an inmate's substance abuse history, substance abuse screening, assessment, intervention, and other substance abuse services, including the results of urinalysis testing done for treatment, program participation, and admission and discharge summaries.

e. "Substance abuse progress notes" as used in this rule means notes recorded by a substance abuse health care professional documenting or analyzing the contents of conversation during a private or group session. The term does not include session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following: diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

2. An inmate shall be allowed to have access to his own medical record and, if such exists, his own substance abuse clinical record. An inmate desiring access to his own medical record shall submit a written request to the health services administrator or his designee; an inmate desiring access to his own substance abuse clinical record shall submit a written request to the substance abuse program manager or his designee.

3. The department does not maintain medical records or substance abuse clinical records on offenders under community supervision. Access to records maintained by treatment providers under contract with the department should be requested by contacting the treatment provider.

4.a. Inmates shall have no access to psychotherapy notes or substance abuse progress notes maintained in the department's records.

b. Inmates and offenders shall have no access to health information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding.

5. The request for access shall be denied in whole or in part due to any of the following reasons:

a. The request is for records or information identified in subparagraph 4. above.

b. The request is for PHI that was obtained from someone other than a health care provider under a promise of confidentiality and the access requested would with reasonable likelihood reveal the source of the information.

c. The request is for information not maintained or no longer maintained by the department in its files.

d. There has been a determination by a licensed or certified health care professional that:

I. The requested access is reasonably likely to endanger the life or physical safety of the inmate or another person;

II. The requested access is to PHI that makes reference to another person (other than a health care provider) and such access is reasonably likely to cause substantial harm to such other person; or

III. The access is requested by a personal representative of the inmate and such access is likely to cause substantial harm to the inmate.

6. All requests shall be granted, including providing access or copies or both, or denied, in whole or in part, by the health services administrator or his designee or substance abuse program manager or his designee in writing within 30 days of the date of receipt of the request, except that where the requested records are not maintained on site, the department shall provide or deny access, in whole or in part, within 60 days from receipt of the request. If the department is unable to grant or deny, in whole or in part, the request for access within the 30 or 60 day time periods, the department is authorized to extend the time for such action an additional 30 days by providing the inmate a written statement that the time period has been extended for 30 days and the reason(s) for the extension. This extension is available only one time.

7. Denials must provide:

a. The basis for the denial;

b. Information on where the requested information is maintained if sub-subparagraph 5.c. applies, and the department knows where the information is maintained;

c. Notification that the inmate may request a review of the denial by submitting a written request to the health services administrator or his designee in the case of medical records, or the substance abuse program manager or his designee in the case of substance abuse clinical records; and

d. That the inmate may grieve the denial through the inmate grievance process pursuant to Chapter 33-103, F.A.C.

8. Upon written request of the inmate to the staff member designated above, denials based on sub-subparagraph 5.d. shall be reviewed by a licensed or certified health care professional who is designated by the health services administrator or his designee or substance abuse program manager or his designee, and who did not participate in the original decision to deny the request. Review of the denial must be completed within a reasonable time after receipt of the request for review.

Immediately upon determination on review, the inmate shall be notified in writing of the decision. The determination on review shall be followed by the department.

~~9. Where a request for access to an inmate's medical record or substance abuse clinical record is denied in part, the department shall provide access to the requested record after excluding the information for which access was denied.~~

~~(e) Copies will be provided upon receipt of payment as provided in subsection (2) of this rule, except that when providing the inmate a copy of the requested information would jeopardize either the health, safety, security, custody of the inmate or of other inmates; or the safety of any officer, employee, or other person at the correctional institution or a person responsible for the transporting of the inmate, no copies shall be provided. A denial of copies on this basis shall not be subject to review under subparagraph (b)8. above.~~

(2) No change.

(3) The following records or information contained in department files shall be confidential and shall be released for inspection or duplication only as authorized in this rule or in Rule 33-401.701, F.A.C.:

(a) Medical reports, opinions, memoranda, charts or any other medical record of an inmate or offender, including dental and medical classification reports as well as clinical drug treatment and assessment records; letters, memoranda or other documents containing opinions or reports on the description, treatment, diagnosis or prognosis of the medical or mental condition of an inmate or offender; the psychological screening reports contained in the admission summary; the psychological and psychiatric evaluations and reports on inmates or offenders; health screening reports; Mentally Disordered Sex Offender Status Reports. Other persons may review medical records only when necessary to ensure that the inmate's or offender's overall health care needs are met, or upon a specific written authorization from the inmate or offender whose records are to be reviewed, or as provided by law. If a request for inmate or offender medical records is submitted upon consent or authorization given by the patient inmate or offender, the department's Consent and Authorization for Use and Disclosure, Inspection and Release of Confidential Information, Form DC4-711B, or a legally approved, HIPAA compliant release of protected health information form from another governmental agency shall be utilized in accordance with Rule 33-401.701, F.A.C. Form DC4-711B is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is November 27, 2007. Offenders under supervision, or previously under supervision, who desire information from their own records, shall be referred to the agency or office originating the report or document to obtain such information.

(b) through (8) No change.

~~(9) Any information, whether recorded or not, concerning the identity, diagnosis, prognosis or treatment of any inmate or offender which is maintained in connection with the performance of any alcohol or drug abuse prevention or treatment function shall be confidential and shall be disclosed only as follows:~~

~~(a) With the prior written consent of the inmate or offender. The written consent shall include the following information:~~

- ~~1. The specific name or general designation of the program or person permitted to make the disclosure;~~
- ~~2. The name or title of the individual or the name of the organization to which disclosure is to be made;~~
- ~~3. The name of the inmate or offender;~~
- ~~4. The purpose of the disclosure;~~
- ~~5. How much and what kind of information is to be disclosed;~~
- ~~6. The signature of the inmate or offender; or, when required for an inmate or offender who is incompetent or deceased, the signature of a person authorized to sign in lieu of the inmate or offender;~~
- ~~7. The date on which the consent is signed;~~
- ~~8. A statement that the consent is subject to revocation at any time except to the extent that the program or person which is to make the disclosure has already acted in reliance on it.~~
- ~~9. The date, event, or condition upon which the consent will expire if not revoked before. This date, event, or condition must ensure that the consent will last no longer than reasonably necessary to serve the purpose for which it is given.~~

~~If a request for inmate medical records is submitted upon consent given by the patient inmate/offender, the department's Consent and Authorization for Use and Disclosure, Inspection and Release of Confidential Information, Form DC4-711B, or a legally approved, HIPAA compliant release of protected health information form from another governmental agency shall be utilized in order to obtain medical records held by the department.~~

~~(b) Pursuant to 42 C.F.R. Part 2, the department is authorized to disclose information about an inmate or offender to those persons within the criminal justice system who have made participation in the program a condition of the disposition of any criminal proceedings against the inmate or offender or of the inmate or offender's parole or other release from custody if:~~

- ~~1. The disclosure is made only to those individuals within the criminal justice system who have a need for the information in connection with their duty to monitor the inmate or offender's progress; and~~
- ~~2. The inmate or offender has signed Form DC4-711B meeting the requirements of paragraph (9)(a) except for the revocation provision in subparagraph (9)(a)8. This written consent shall state the period during which it remains in effect. This period shall be reasonable, taking into account:~~

a. The anticipated length of the treatment;

b. The type of criminal proceeding involved, the need for the information in connection with the final disposition of that proceeding, and when the final disposition will occur; and

c. Such other factors as the program, the inmate or offender, and the persons who will receive the disclosure consider pertinent. The written consent shall state that it is revocable upon the passage of a specified amount of time or the occurrence of a specified, ascertainable event. The time or occurrence upon which consent becomes revocable shall be no later than the final disposition of the action in connection with which consent was given.

(c) A disclosure may not be made on the basis of a consent which:

1. Has expired;

2. On its face substantially fails to conform to any of the requirements set forth in paragraph (9)(a) above;

3. Is known to have been revoked; or

4. Is known, or through a reasonable effort could be known, by the person holding the records to be materially false.

(d) Each disclosure made with the inmate or offender written consent shall be accompanied by the following written statement:

This information has been disclosed to you from records protected by federal confidentiality rules (42 C.F.R. Part 2). The federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 C.F.R. Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

(e) Whether or not the inmate or offender has given written consent, 42 C.F.R. Part 2 permits disclosure of information as follows:

1. To medical personnel to the extent necessary to meet a medical emergency and for continuity of care;

2. To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel shall not identify, directly or indirectly, any individual inmate or offender in any report of such research, audit, or evaluation, or otherwise disclose inmate or offender identities in any manner.

3. To communicate within a program or between a program and an entity having direct administrative control over that program;

4. To law enforcement officers concerning crimes on program premises or against program personnel, or when a threat to commit such a crime has been made;

5. Reports of suspected child abuse and neglect; and

6. If authorized by a court order.

(10) Each employee of the Department of Corrections shall maintain as confidential all medical and mental health, including substance abuse information, regarding any inmate or offender that the employee obtains in conjunction with his or her duties and responsibilities, and shall not disseminate the information or discuss the medical, mental health or substance abuse condition of the inmate or offender with any person except persons directly necessary to the performance of the employee's duties and responsibilities. An employee who has been designated as a member of the healthcare transfer team or is part of a mental health or substance abuse treatment team shall not disseminate inmate medical or substance abuse information or discuss the medical or mental health or substance abuse condition of an inmate with any person except other members of the healthcare transfer team, medical, mental health or substance abuse staff, upper level management at the institution or facility level, regional level and central office level, inspectors from the Inspector General's Office, or department attorneys. Breach of this confidentiality shall subject the employee to disciplinary action. Each employee shall acknowledge receipt and review of Form DC2-813, Acknowledgement of Responsibility to Maintain Confidentiality of Medical Information, indicating that he understands the medical and substance abuse confidentiality requirements. Form DC2-813 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is 2-9-06.

(11) Each inmate assigned as an inmate worker, inmate assistant, substance abuse peer facilitator, or other assignment involving possible contact with health or substance abuse information about other inmates shall maintain as confidential all health or substance abuse information that he sees or hears while performing his duties and responsibilities, and shall not disseminate the information or discuss the medical or substance abuse information with any person except health care staff or substance abuse program staff. Failure to keep health or substance abuse information confidential and private shall subject the inmate to disciplinary action. Each inmate assigned as an inmate worker, inmate assistant, substance abuse peer facilitator, or other assignment involving possible contact with health or substance abuse information about other inmates shall acknowledge receipt and review of Form DC1-206, Inmate Acknowledgement of Responsibility to Maintain Confidentiality of Health or Substance Abuse Information, indicating that he understands the medical and substance abuse confidentiality requirements. Form DC1-206 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is 7-8-03.

Specific Authority 20.315, 944.09, 945.10 FS. Law Implemented 119.07, 944.09, 945.10, 945.25 FS., 42 USCS 290 ee 3, 45 CFR Parts 160 and 164. History--New 10-8-76, Amended 6-10-85, Formerly 33-6.06, Amended 1-12-89, 7-21-91, 9-30-91, 6-2-92, 8-4-93, 6-12-96, 10-15-97, 6-29-98, Formerly 33-6.006, Amended 9-19-00, 7-8-03, 2-9-06, 11-27-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sandeep Rahangdale, M.D., Assistant Secretary of Health Services

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 14, 2008

WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

RULE NO.: 40B-4.1090
RULE TITLE: Publications and Agreements Incorporated by Reference

PURPOSE AND EFFECT: The purpose of the proposed rule is to adopt the most current version of the items incorporated by reference. The effect of the proposed rule amendments will incorporate the new flood insurance studies for the Suwannee River and its tributaries.

SUMMARY: This proposed rule will address items incorporated by reference.

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 FS.

LAW IMPLEMENTED: 373.083, 373.084, 373.085, 373.086, 373.413, 373.416 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Linda Welch, Administrative Assistant, Suwannee River Water Management District, 9225 C.R. 49, Live Oak, Florida 32060, (386)362-1001 or (800)226-1066 (FL only)

THE FULL TEXT OF THE PROPOSED RULE IS:

40B-4.1090 Publications and Agreements Incorporated by Reference.

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

(b) Columbia County, Florida and Incorporated Areas, Effective February 4, 2009;

(c)(b) Dixie County, Florida and Incorporated Areas, Effective September 29, 2006;

(d)(e) Gilchrist County, Florida and Incorporated Areas, Revised September 29, 2006;

(e)(d) Lafayette County, Florida and Incorporated Areas, Effective September 29, 2006;

(f)(e) Suwannee County, Florida and Incorporated Areas, Effective September 28, 2007;

(g) Union County, Florida and Incorporated Areas, Effective February 4, 2009.

Specific Authority 373.044 FS. Law Implemented 373.083, 373.084, 373.085, 373.086, 373.413, 373.416 FS. History--New 11-21-02, Amended 5-13-07, 4-21-08, _____.

Copies of the items incorporated by reference may be obtained by contacting: Linda Welch, Administrative Assistant, SRWMD, 9225 CR 49, Live Oak, FL 32060; (386)362-1001.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jon Dinges, Director, Resource Management, Suwannee River Water Management District, 9225 County Road 49, Live Oak, Florida 32060; (386)362-1001

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 19, 2009

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-13.001
RULE TITLE: Medicaid Providers Who Bill on the Non-Institutional 081

PURPOSE AND EFFECT: The purpose is to repeal rule 59G-13.001, Medicaid Providers Who Bill on the Non-Institutional 081, because the Non-Institutional 081 claim form is now obsolete. Providers who submitted paper claims on the Non-Institutional 081 claim form must now submit paper claims on the CMS-1500 claim form, which is incorporated by reference in Rule 59G-4.001, F.A.C. The effect will be to repeal Rule 59G-13.001, F.A.C., Medicaid Providers Who Bill on the Non-Institutional 081.

SUMMARY: The proposed repeal of the rule eliminates the requirement that Medicaid providers submit paper claims on the Non-Institutional 081 claim form.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this rule repeal will not result in any additional regulatory costs. The rule repeal is budget neutral.

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, 409.912 FS.

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

DATE AND TIME: Wednesday, April 1, 2009, 2:00 p.m.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Girard, Agency for Health Care Administration, Bureau of Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)488-9711, girardk@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-13.001 Medicaid Providers Who Bill on the Non-Institutional 081.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.906, 409.907, 409.908, 409.912 FS. History–New 2-3-05, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen Girard

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 24, 2009

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-52.003
RULE TITLE: Procedure for Approval of Attendance at Continuing Education Courses

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify CE requirements.

SUMMARY: Requirements for CE will be clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A 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: 478.43(1), (4), 478.50(2), (4)(a), (b) FS.

LAW IMPLEMENTED: 456.013, 456.033, 478.43(4), 478.50(2), (4)(a), (b) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Electrolysis Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-52.003 Procedure for Approval of Attendance at Continuing Education Courses.

(1) No change.

(2) All licensees shall be awarded contact hours for attendance at all offerings that are approved by the Electrolysis Society of Florida (ESF), or the Electrolysis Association of Florida (EAF), or the American Electrology Association, or the Society of Clinical and Medical Hair Removal, and all offerings from other states which are approved by the states' licensing agency or professional electrology organization which offerings have been approved by the American Electrology Association, or the Society of Clinical and Medical Hair Removal, or any technical school, college or university course taken and successfully completed for the first time by the licensee in a subject area relevant to electrolysis. The licensee shall ~~The automatic approval provided herein is intended only to assist licensees and does not relieve any licensee of the responsibility to provide sufficient verification upon request of the Department Council.~~

(3) HIV/AIDS and blood-borne disease continuing education requirements. No fewer than and no more than 2 hours each biennium must be obtained by each licensee in

(a) Each licensee is required to complete no later than upon first renewal an approved course offerings on blood-borne diseases including 1 hour on HIV/AIDS education. Approved offerings in HIV/AIDS are those that meet the requirements of Section 465.033, F.S. Courses approved by any Board within the Division of Medical Quality Assurance of the Department of Health pursuant to Section 456.033, F.S., are approved by this council.

(b) One hour of each biennium must be obtained by each licensee in an approved course on blood-borne diseases.

(4) through (7) No change.

Specific Authority 478.43(1), (4), 478.50(2), (4)(a), (b) FS. Law Implemented 456.013, 456.033, 478.43(4), 478.50(2), (4)(a), (b) FS. History-New 6-1-93, Formerly 21M-77.003, 61F6-77.003, Amended 5-11-95, Formerly 59R-52.003, Amended 2-9-98, 2-16-99, 2-17-00, 9-21-00, 8-13-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrolysis Council

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 6, 2009

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

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.:	RULE TITLE:
64B16-26.103	Continuing Education Credits; License Renewal; Consultant Pharmacist License Renewal; Nuclear Pharmacist License Renewal

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify the requirements for continuing education credits and license renewal and to incorporate the Individual Request for Continuing Education for Volunteers form.

SUMMARY: Requirements for continuing education credits and license will be clarified; a form will be incorporated into the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A 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, 465.009 FS.

LAW IMPLEMENTED: 456.013(7), (9), 456.033, 465.009 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: Rebecca R. Poston, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-26.103 Continuing Education Credits; License Renewal; Consultant Pharmacist License Renewal; Nuclear Pharmacist License Renewal.

(1) Prior to biennial renewal of pharmacist licensure, a licensee shall complete no less than 30 hours of approved courses of continued professional pharmaceutical education within the 24 month period prior to the expiration date of the license. The following conditions shall apply.

(a) Upon a licensee's first renewal of licensure, the licensee must document the completion of one (1) hour of board approved continuing education which includes the topics of Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome; the modes of transmission, including transmission from a healthcare worker to a patient and the patient to the healthcare worker; infection control procedures, including universal precautions; epidemiology of the disease; related infections including tuberculosis (TB); clinical management; prevention; and current Florida law on AIDS and its impact on testing, confidentiality of test results, and treatment of patients. In order to meet this requirement, licensees must demonstrate that the course includes information on the State of Florida law on HIV/AIDS and its impact on testing, reporting, the offering of HIV testing to pregnant women, and partner notification issues pursuant to Sections 381.004 and 384.25, Florida Statutes. Any HIV/AIDS continuing education course taken during the second or subsequent renewal of licensure may be applied to satisfy the general continuing education hours requirement.

~~(b)(a)~~ The initial renewal of a pharmacist license will not require completion of courses of continued professional pharmaceutical education hours if the license was issued less than 12 months prior to the expiration date of the license. If the initial renewal occurs 12 months or more after the initial licensure, then 15 hours of continued professional pharmaceutical education hours shall be completed prior to the renewal of the license but no earlier than the date of initial licensure.

~~(b)~~ Prior to renewal, a licensee must complete, within the 24 month period prior to the expiration date of the license, a one-hour continuing education course approved in advance by the Board on HIV/AIDS that covers the topics contained in Rule 64B16-26.6011, F.A.C. In lieu of completing an HIV/AIDS course, the licensee may complete a course in end of life care and palliative health care, so long as the licensee completed an approved HIV/AIDS course in the immediately preceding biennium. Hours obtained pursuant to this section may be applied by the licensee to the requirements of subsection (1).

(c) Prior to renewal a licensee must complete, within the 24 month period prior to the expiration date of the license, a two-hour continuing education course approved in advance by the Board or the Accreditation Council for Pharmacy

Education (ACPE) on medication errors that covers the study of root-cause analysis, error reduction and prevention, and patient safety topics set forth in Rule 64B16-26.6011, F.A.C. Hours obtained pursuant to this section may be applied by the licensee to the requirements of subsection (1).

(d) Five hours of continuing education in the subject area of risk management may be obtained by attending one full day or eight (8) hours of a board meeting at which disciplinary hearings are conducted by the Board of Pharmacy in compliance with the following:

1. The licensee must sign in with the Executive Director or designee of the Board before the meeting day begins;
2. The licensee must remain in continuous attendance;
3. The licensee cannot receive continuing education credit for attendance at a board meeting if required to appear before the board; and
4. The maximum continuing education hours allowable per biennium under this paragraph shall be ten (10).

(e) A member of the Board of Pharmacy may obtain five (5) hours of continuing education in the subject area of risk management for attendance at one Board meeting at which disciplinary hearings are conducted. The maximum continuing education hours allowable per biennium under this paragraph shall be ten (10).

(f) Up to five hours per biennium of continuing education credit may be fulfilled by the performance of volunteer services to the indigent as provided in Section 456.013(9), F.S., or to underserved populations, or in areas of critical need within the state where the licensee practices. In order to receive credit, the licensee must make application to and receive approval in advance from the Board. Application shall be made on form DH-MQA 1170 (Rev. 02/09), Individual Request for Continuing Education for Volunteers, which is hereby incorporated by reference. The form can be obtained from the Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254. One hour credit shall be given for each two hours volunteered ~~worked~~ in the 24 months prior to the expiration date of the license. In the application for approval, the licensee shall disclose the type, nature and extent of services to be rendered, the facility where the services will be rendered, the number of patients expected to be serviced, and a statement indicating that the patients to be served are indigent. If the licensee intends to provide services in underserved or critical need areas, the application shall provide a brief explanation as to those facts. A licensee who is completing community service as a condition of discipline imposed by the board cannot use such service to complete continuing education requirements.

(g) Continuing education credit shall be granted for completion of post professional degree programs provided by accredited colleges or schools of pharmacy. Credit shall be

awarded at the rate of 5 hours of continuing education credit per semester hour completed within the 24 months prior to the expiration date of the license.

(h) Continuing education may consist of post-graduate studies, institutes, seminars, lectures, conferences, workshops, correspondence courses, or other educational opportunities which advance the practice of the profession of pharmacy if approved by the Board. A course shall be approved prior to completion.

(i) In addition to the continuing education credits authorized above, any volunteer expert witness who is providing expert witness opinions for cases being reviewed by the Department of Health pursuant to Chapter 465, F.S., shall receive five (5) hours of credit in the area of risk management for each case reviewed in the 24 months prior to the expiration date of the license, up to a maximum of ten (10) hours per biennium.

(j) At least ten (10) of the required 30 hours must be obtained either at a live seminar, a live video teleconference, or through an interactive computer-based application.

(k) All programs approved by the ACPE for continuing education for pharmacists are deemed approved by the Board for general continuing education hours for pharmacists. Any course necessary to meet the continuing education requirement for HIV/AIDS, consultant pharmacist license renewal or nuclear pharmacist license renewal shall be Board approved.

(l) General continuing education earned by a non-resident pharmacist in another state that is not ACPE approved, but is approved by the board of pharmacy in the state of residence can be applied to meet the requirements of license renewal in subsection (1) above.

(2)(a) Prior to renewal a consultant pharmacist shall complete no less than 24 hours of Board approved continuing education in the course work specified in Rule 64B16-26.302, F.A.C., within the 24 month period prior to the expiration date of the consultant license. The hours earned to satisfy this requirement cannot be used to apply toward the 30 hours required in subsection (1) above. However, if consultant recertification hours are earned and not used to meet the requirements of this paragraph, they may be applied by the licensee to the 30 hours required in subsection (1).

(b) If the initial renewal of a consultant pharmacist license occurs less than 12 months after the initial licensure, then completion of consultant courses of continuing education hours will not be required.

(c) If the initial renewal of a consultant pharmacist license occurs 12 months or more after the initial licensure, then 12 hours of consultant continuing education hours must be completed prior to the renewal date of the license but no earlier than the date of initial licensure.

(3)(a) Prior to renewal a nuclear pharmacist shall complete no less than 24 hours of Board approved continuing education in the course work specified in Rule 64B16-26.304

64B16-26.303, F.A.C., within the 24 month period prior to the expiration date of the nuclear pharmacist license. The hours earned to satisfy this requirement cannot be used to apply toward the 30 hours required in subsection (1) above. However, if nuclear pharmacist license renewal hours are earned and not used to meet the requirements of this paragraph, they may be applied by the licensee to the 30 hours required in subsection (1).

(b) If the initial renewal of a nuclear pharmacist license occurs less than 12 months after the initial licensure, then completion of courses of nuclear pharmacy continuing education hours will not be required.

(c) If the initial renewal of a nuclear pharmacist license occurs 12 months or more after the initial licensure, then 12 hours of nuclear pharmacy continuing education hours must be completed prior to the renewal date of the license but no earlier than the date of initial licensure.

Specific Authority 456.033, 465.009 FS. Law Implemented 456.013(7), (9), 456.033, 465.009 FS. History--New 3-19-79, Formerly 21S-6.07, Amended 1-7-87, Formerly 21S-6.007, Amended 7-31-91, 10-14-91, Formerly 21S-26.103, 61F10-26.103, Amended 7-1-97, Formerly 59X-26.103, Amended 7-11-00, 10-15-01, 1-2-02, 1-12-03, 4-12-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pharmacy
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Pharmacy
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 11, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 18, 2008

DEPARTMENT OF HEALTH

Division of Environmental Health

RULE NOS.:	RULE TITLES:
64E-6.001	General
64E-6.003	Permits
64E-6.004	Application for System Construction Permit
64E-6.005	Location and Installation
64E-6.008	System Size Determinations
64E-6.009	Alternative Systems
64E-6.010	Septage and Food Establishment Sludge
64E-6.0101	Portable Restrooms and Portable or Stationary Holding Tanks
64E-6.011	Abandonment of Systems
64E-6.012	Standards for the Construction, Operation, and Maintenance of Aerobic Treatment Units
64E-6.013	Construction Materials and Standards for Treatment Receptacles

64E-6.014	Construction Standards for Drainfield Systems
64E-6.015	Permitting and Construction of Repairs
64E-6.0151	Product Composition
64E-6.023	Certification of Partnerships and Corporations
64E-6.027	Permits
64E-6.028	Location and Installation

PURPOSE AND EFFECT: The proposed changes to Chapter 64E-6, Florida Administrative Code, incorporate recommendations from regulators and industry. The proposed changes have been reviewed by the Technical Review and Advisory Panel.

SUMMARY: The proposed rule incorporates changes reviewed and recommended by the Technical Review and Advisory Panel for onsite sewage treatment and disposal systems. The proposals address existing system tank inspection procedures; operating permits; filters and components; land application of septage; drainfield repairs; portable restrooms; design, construction location and use of septic tanks, dosing systems, drip irrigation systems, performance-based treatment systems, aerobic treatment systems and mound drainfield systems; system abandonment; site evaluations; reports required; and availability of forms.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: These rules potentially impact anyone seeking to design install, maintain, repair, modify or manufacture components for an onsite sewage treatment and disposal system. In addition to \$6600 in rule-promulgation costs, the Department anticipates \$11,400 in new annual costs for the Bureau of Onsite Sewage Programs to review certain new product and system designs. Costs to the regulated industries and public would be for the design of treatment receptacle lids, component labeling, large aerobic treatment units and up-to-date site evaluations. Numerous potential cost savings occur as the proposed rules present additional options for system design, permitting, construction and evaluation.

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

SPECIFIC AUTHORITY: 381.0065, 381.0066, 489.553, 489.557 FS.

LAW IMPLEMENTED: 381.0065, 381.066, 381.0067, 386.041, 489.553, 489.557 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: March 30, 2009, 2:00 p.m.

PLACE: Bureau of Onsite Sewage Programs, Conference Room 240P, Capital Circle Office Center, 4042 Bald Cypress Way, 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 7 days before the workshop/meeting by contacting: Shirley Kugler, Bureau of Onsite Sewage Programs 4052 Bald Cypress Way, Bin #A08, Tallahassee, Florida 32399-1713. 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: Gerald Briggs, Chief, Bureau of Onsite Sewage Programs, 4052 Bald Cypress Way, Bin #A08, Tallahassee, Florida 32399-1713

THE FULL TEXT OF THE PROPOSED RULES IS:

64E-6.001 General.

(1) through (3) No change.

(4) Except as provided for in Section 381.00655, F.S., any existing and prior approved system which has been placed into use and which remains in satisfactory operating condition shall remain valid for use under the terms of the rule and permit under which it was approved. Alterations that change the conditions under which the system was permitted and approved, sewage characteristics or increase sewage flow will require that the owner, or their authorized representative, apply for and receive reapproval of the system by the DOH county health department, prior to any alteration of the structure, or system. If an applicant requests that the department consider the previous structure's or establishment's most recent approved occupancy, the applicant must provide written documentation that the onsite sewage treatment and disposal system was approved by the department for that previous occupancy. An applicant will be required to complete Form DH 4015, 10/97, Application for Onsite Sewage Treatment and Disposal System Construction Permit, herein incorporated by reference, and provide a site plan in accordance with paragraph 64E-6.004(3)(a), F.A.C., to provide information of the site conditions under which the system is currently in use and conditions under which it will be used. The applicant shall have all system tanks; pumped by a permitted septage disposal service ~~to determine tank volume based on the actual measurements of the tank. A registered septic tank contractor, state-licensed plumber, person certified under Section 381.0101, F.S. or master septic tank contractor shall determine the tank volume and~~ refilling of the tank may be used in lieu of measured inside or outside tank dimensions. The person performing the inspection, and shall submit the results to the DOH county health department as part of the application. If a prior approved existing system has been approved by the DOH county health department within the preceding three years, and the system was determined to be in satisfactory operating condition at that time, a new inspection is not required unless there is a record of failure of the system. If it is determined that a new inspection is not required, only the application fee shall be charged for this application and approval. A commercial system out of service for more than one year shall be brought into full compliance with current requirements of this Chapter prior to the system being placed into service. If the use of a building is changed or if additions or alterations to a building are made which will increase domestic sewage flow, change sewage characteristics, or compromise the integrity or function of the system, the onsite sewage treatment and disposal system serving such building shall be brought into full compliance with the provisions and requirements of these rules. Proper well setbacks shall be maintained. Prior to any modification of the system, the owner shall apply for and obtain a permit for modification of the system from the county health department in accordance with Rule 64E-6.004, F.A.C. The permit shall be valid for 18 months from the date of issue. Where building construction has commenced, it shall be valid for an additional 90 days. Necessary site investigations and tests shall be performed at the expense of the owner by either an engineer with soils training who is licensed in the state of Florida pursuant to Chapter 471, F.S., registered septic tank contractors, master septic tank contractors, or persons certified under Section 381.0101, F.S., or department personnel for the appropriate fee specified in Section 381.0066, F.S. ~~The service pumping the tank shall perform a visual inspection of the tank when the tank is empty to detect any observable defects or leaks in the tank. The tank volume shall be obtained from the tank legend or shall be calculated from measured internal tank dimensions for length, width and depth to the liquid level line or from the measured outside dimensions for length and width minus the wall thickness and depth to the liquid level line. For odd shaped tanks and tanks without a legend, metered water flows from the~~

refilling of the tank may be used in lieu of measured inside or outside tank dimensions. The person performing the inspection, and shall submit the results to the DOH county health department as part of the application. If a prior approved existing system has been approved by the DOH county health department within the preceding three years, and the system was determined to be in satisfactory operating condition at that time, a new inspection is not required unless there is a record of failure of the system. If it is determined that a new inspection is not required, only the application fee shall be charged for this application and approval. A commercial system out of service for more than one year shall be brought into full compliance with current requirements of this Chapter prior to the system being placed into service. If the use of a building is changed or if additions or alterations to a building are made which will increase domestic sewage flow, change sewage characteristics, or compromise the integrity or function of the system, the onsite sewage treatment and disposal system serving such building shall be brought into full compliance with the provisions and requirements of these rules. Proper well setbacks shall be maintained. Prior to any modification of the system, the owner shall apply for and obtain a permit for modification of the system from the county health department in accordance with Rule 64E-6.004, F.A.C. The permit shall be valid for 18 months from the date of issue. Where building construction has commenced, it shall be valid for an additional 90 days. Necessary site investigations and tests shall be performed at the expense of the owner by either an engineer with soils training who is licensed in the state of Florida pursuant to Chapter 471, F.S., registered septic tank contractors, master septic tank contractors, or persons certified under Section 381.0101, F.S., or department personnel for the appropriate fee specified in Section 381.0066, F.S.

(a) through (g) No change.

(5) through (7) No change.

Specific Authority ~~381.0011(4), (13),~~ 381.0065(3)(a), 489.553(3), 489.557(1) FS. Law Implemented 381.0065, 381.0067, 386.041, 489.553 FS. History—New 12-22-82, Amended 2-5-85, Formerly 10-6.41, Amended 3-17-92, 1-3-95, 5-14-96, 2-13-97, Formerly 10D-6.041, Amended 11-19-97, 2-3-98, 3-22-00, 9-5-00, 5-24-04, 11-26-06, _____.

64E-6.003 Permits.

(1) No change.

(2) System Inspection – Before covering with earth and before placing a system into service, a person installing or constructing any portion of an onsite sewage treatment and disposal system shall notify the county health department of the completion of the construction activities and shall have the system inspected by the department for compliance with the requirements of this Chapter, except as noted in subsection 64E-6.003(3), F.A.C., for repair installations.

(a) through (b) No change.

(c) Final installation approval shall not be granted until the DOH county health department has confirmed that all requirements of this Chapter, including building construction and lot grading are in compliance with plans and specifications submitted with the permit application.

1. through 2. No change.

3. If an operating permit is required for the onsite sewage treatment and disposal system, final installation approval shall not be granted until the operating permit application and fee have been received by the Department.

(d) No change.

(e) Systems which are required to have an annual or biennial operating permit and the structures which they serve shall be inspected by the department at least once per year during the term of the permit to determine compliance with the terms of the operating permit.

(3) through (4) No change.

(5) Operating permits – No business or facility shall occupy a building served by an onsite sewage treatment and disposal system if the building is located in an area zoned or used for industrial or manufacturing purposes or its equivalent; or where a business will generate commercial sewage waste; and no structure shall be occupied ~~or~~ where an aerobic treatment unit or performance-based treatment system is used, until an “Application for Onsite Sewage Treatment and Disposal System Operating Permit” has been received and approved by the department. Form DH 4081, 10/96, “Application for Onsite Sewage Treatment and Disposal System Operating Permit,” is hereby incorporated by reference.

(a) through (b) No change.

(c) Maintenance entities contracting to service aerobic treatment systems and performance-based treatment systems shall obtain a biennial operating permit from the DOH county health department for the system. Persons operating an aerobic treatment unit or performance-based treatment system shall permit department personnel right of entry to the property during normal working hours to allow for effluent sampling or evaluating the general state of repair or function of the system. Persons required to obtain an annual operating permit for an onsite sewage treatment and disposal system in an industrial or manufacturing zone or its equivalent, or where the system receives commercial sewage, shall not ~~also~~ be required to obtain another an annual operating permit for an aerobic treatment unit or performance-based treatment system at that site. Performance-based treatment systems that also include an aerobic treatment unit require only one biennial operating permit for the system.

(6) No change.

Specific Authority ~~154.06(1), 381.0011(4), (13), 381.0065(3)(a), 489.553(3), 489.557(1) FS. Law Implemented 381.0012, 381.0025, 381.0065, 381.0067, 386.041 FS. History–New 12-22-82, Amended 2-5-85, Formerly 10D-6.43, Amended 3-17-92, 1-3-95, 5-14-96, 2-13-97, Formerly 10D-6.043, Amended 3-22-00, 4-21-02, 5-24-04, 11-26-06,_____.~~

64E-6.004 Application for System Construction Permit.

(1) through (2) No change.

(3) The suitability of a lot, property, subdivision or building for the use of an onsite sewage treatment and disposal system shall be determined from an evaluation of lot size, anticipated sewage flow into the proposed system, the anticipated sewage waste strength, soil and water table conditions, soil drainage and site topography and other related criteria. Necessary site investigations and tests shall be performed at the expense of the owner by either an engineer with soils training who is licensed in the State of Florida pursuant to Chapter 471, F.S., by department personnel, registered septic tank contractors, master septic tank contractors, professional soil scientists certified and registered by the Florida Association of Environmental Soil Scientists, and persons certified under Section 381.0101, F.S. Registered septic tank contractors shall perform site evaluations for system repairs only. When determining that the necessary site investigations and tests be performed by an engineer licensed in the State of Florida, the county health department must consider the criteria listed in subsection 64E-6.004(4), F.A.C. Results of site investigations shall be entered on, or attached to, the construction permit application form for consideration by the county health department. Site evaluations shall occur not earlier than 180 days prior to the date the department receives the permit application. Site evaluations remain valid for the life of the permit. The application shall also include the following data:

(a) through (f) No change.

(4) through (8) No change.

(9) All materials incorporated herein may be obtained from the Bureau of Onsite Sewage Programs at www.MyFloridaEH.com or 4052 Bald Cypress Way, Bin #A08, Tallahassee, Florida 32399-1713.

Specific Authority ~~381.0011(4), (13), 381.0065(3)(a), 489.553(3) FS. Law Implemented 381.0065, 489.553 FS. History–New 12-22-82, Amended 2-5-85, Formerly 10D-6.44, Amended 3-17-92, 1-3-95, 5-14-96, 2-13-97, Formerly 10D-6.044, Amended 11-19-97, 3-22-00, 11-26-06,_____.~~

64E-6.005 Location and Installation.

All systems shall be located and installed so that with proper maintenance the systems function in a sanitary manner, do not create sanitary nuisances or health hazards and do not endanger the safety of any domestic water supply, groundwater or surface water. Sewage waste and effluent from onsite sewage treatment and disposal systems shall not be discharged onto the

ground surface or directly or indirectly discharged into ditches, drainage structures, groundwaters, surface waters, or aquifers. To prevent such discharge or health hazards:

(1) No change.

(2) Systems shall not be located under buildings or within 5 feet of building foundations, including pilings for elevated structures, or within 5 feet of mobile home walls, swimming pool walls, or within 5 feet of property lines except where property lines abut utility easements which do not contain underground utilities, or where recorded easements are specifically provided for the installation of systems for service to more than one lot or property owner.

(a) No change.

(b) Systems shall not be located within 10 feet of water storage tanks in contact with the ground or potable water lines unless such lines are sealed with a water proof sealant within a sleeve of similar material pipe to a distance of at least 10 feet from the nearest portion of the system or the water lines themselves consist of schedule 40 PVC or stronger. In no case shall the ~~sleeved~~ water line be located within 24 inches of the onsite sewage treatment and disposal system. Potable water lines within 5 feet of the drainfield shall not be located at an elevation lower than the drainfield absorption surface. Non-potable water lines shall not be located within 24 inches of the system without backflow devices per subparagraphs 381.0065(2)(1)1. and 2., Florida Statutes, preventers or check valves being installed on the water line ~~so as~~ to preclude contamination of the water system.

(c) No change.

(3) through (7) No change.

(8) Notwithstanding the requirements of this section, where an effluent transmission line consists of schedule 40 PVC ~~or consists of schedule 20 PVC enclosed in a sleeve of schedule 40 PVC~~, the transmission line shall be set back from private potable wells, irrigation wells or surface water bodies by ~~the maximum distance attainable but~~ not less than 25 feet when installed. Effluent transmission lines constructed of schedule 40 PVC shall be set back from property lines and building foundations by not less than 2 feet. Schedule 40 PVC effluent transmission lines shall be set back from potable water lines and storm water lines by no less than 5 feet unless all portions of the ~~bottom of the~~ potable water line or storm water line within 5 feet of the effluent transmission line are:

(a) a minimum of 12 inches above the top of the effluent transmission line ~~and-~~

(b) sealed with a waterproof sealant within a sleeve of schedule 40 PVC or stronger pipe or the water line itself consists of schedule 40 PVC or stronger pipe.

(9) No change.

Specific Authority ~~381.0011(13), 381.006, 381.0065(3)(a), 489.553, 489.557(1) FS. Law Implemented 154.01, 381.001(2), 381.0011(4), 381.0012, 381.0025, 381.006(7), 381.0061, 381.0065, 381.0067, 386.044, 489.553 FS. History-New 12-22-82, Amended 2-5-85, Formerly 10D-6.46, Amended 3-17-92, 1-3-95, Formerly 10D-6.046, Amended 11-19-97, 2-3-98, 3-22-00, 05-24-04,_____.~~

64E-6.008 System Size Determinations.

(1) No change.

(2) Minimum effective septic tank capacity and total dosing tank capacity shall be determined from Table II. However, where multiple family dwelling units are jointly connected to a septic tank system, minimum effective septic tank capacities specified in the table shall be increased 75 gallons for each dwelling unit connected to the system. With the exception noted in paragraph 64E-6.013(2)(a), F.A.C., all septic tanks shall be multiple chambered or shall be placed in series to achieve the required effective capacity. The use of an approved outlet filter device shall be required. Outlet filters shall be installed within or following the last septic tank or septic tank compartment before distribution to the drainfield. The outlet filter device requirement includes blackwater tanks, but does not include graywater tanks or grease interceptors or laundry tanks. Outlet filter devices shall be placed to allow accessibility for routine maintenance. Utilization and sizing of outlet filter devices shall be in accordance with the manufacturers' recommendations. The approved outlet filter device shall be installed in accordance with the manufacturers' recommendations. The Bureau of Onsite Sewage Programs shall approve outlet filter devices per the department's Policy on Approval Standards For Onsite Sewage Treatment And Disposal Systems Outlet Filter Devices, November, 2008 August 1999, which is herein incorporated by reference.

Table II No change.

(3) through (6) No change.

Specific Authority ~~381.0011(4), (13), 381.0065(3)(a) FS. Law Implemented 381.0065 FS. History-New 12-22-82, Amended 2-5-85, Formerly 10D-6.48, Amended 3-17-92, 1-3-95, Formerly 10D-6.048, Amended 11-19-97, 3-22-00, 9-5-00, 11-26-06,_____.~~

64E-6.009 Alternative Systems.

When approved by the DOH county health department, alternative systems may, at the discretion of the applicant, be utilized in circumstances where standard subsurface systems are not suitable or where alternative systems are more feasible. Unless otherwise noted, all rules pertaining to siting, construction, and maintenance of standard subsurface systems shall apply to alternative systems. In addition, the DOH county health department may, using the criteria in subsection 64E-6.004(4), F.A.C., require the submission of plans prepared by an engineer licensed in the State of Florida, prior to considering the use of any alternative system. ~~The DOH county health department shall require an engineer licensed in the state of Florida to design a system having a total absorption~~

~~area greater than 1000 square feet and shall require the design engineer to certify that the installed system complies with the approved design and installation requirements.~~

(1) through (2) No change.

(3) Mound systems – are used to overcome certain limiting site conditions such as an elevated seasonal high water table, shallow permeable soil overlying slowly permeable soil and shallow permeable soil located over creviced or porous bedrock. Special installation instructions or design techniques to suit a particular site shall, using the criteria in subsection 64E-6.004(4), F.A.C., be specified on the construction permit in addition to the following general requirements.

(a) through (c) No change.

(d) Where the soil material underlying a mound system is of a similar ~~slightly limited~~ textural material as that used in system construction, the mound drainfield size shall be based on estimated sewage flows as specified in Rule 64E-6.008, F.A.C., Table I and upon the quality of fill material utilized in the mound system. When estimated sewage flows are calculated to be less than 200 gallons per day, specifications for system design shall be based on a minimum flow of 200 gallons per day. Maximum sewage loading rates for soils used in mound construction shall be in compliance with the following:

Fill Material	Maximum Sewage Loading Rate to Mound Drain Trench Bottom Surface in gallons per square foot per day	Maximum Sewage Loading Rate to Mound Absorption Bed Bottom Surface in gallons per square foot per day
Sand; Coarse Sand; Loamy Coarse Sand	1.00	0.75
Fine Sand	0.80	0.65
Sandy Loam; Coarse Sandy Loam; Loamy Sand	0.65	0.40
<u>Fine Sandy Loam;</u>	<u>0.35</u>	<u>0.25</u>

~~Very Fine Sand; Loamy Fine Sand; Loamy Very Fine Sand~~

(e) No change.

(f) There shall be a minimum 4 feet separation between the shoulder of the fill and the nearest trench or absorption bed sidewall. Where a portion of the mound slope will be placed adjacent to building foundations, pilings or supports for elevated structures, mobile home walls, swimming pool walls, retaining walls, or similar obstructions there shall be a minimum 5 foot separation between the sidewall of the absorption area and the obstruction. Such obstructions shall impact the slope on no more than 50 percent of the shoulder perimeter. Retaining walls must be designed by a professional engineer licensed in the state of Florida to withstand the lateral earth forces under saturated conditions and to prevent seepage. Where mounds are placed on slopes exceeding 2 percent, the

toe of the slope on the downslope side of the mound shall extend an additional 4 inches for each additional 1 percent of slope. To taper the maximum elevation of the mound at the outer perimeter of the shoulder down to the toe of the slope, additional moderately or slightly limited fill shall be placed at a minimum 2 foot horizontal to 1 foot vertical grade where mound height does not exceed 36 inches. Mound heights which exceed 36 inches shall have a slope not steeper than 3 foot horizontal to 1 foot vertical. The entire mound including slopes, shoulders and the soil cap shall be stabilized with vegetation. Slopes steeper than 5:1 shall be sodded ~~or hydroseeded~~. Soil caps and unsodded slopes must, at a minimum, be ~~hydroseeded or~~ seeded with grass and a layer of hay or similar cover. Where fill material is present in the amount so as to provide a level surface from the top of the required cover over the system over the area where the slopes would normally be located, no slopes shall be required. For example, if the neighboring lot has been permanently filled to the same level as the applicant’s lot, a five-foot separation from the property line to the system will be required, as opposed to requiring the slope area. Stabilization of a mound shall be the responsibility of the septic tank contractor who constructed the mound system unless the written agreement for system construction clearly states the system owner is responsible. Mound slopes which do not conform to permit requirements shall at a minimum be restored to permit specifications prior to stabilizing. Other ~~synthetic or~~ vegetative covers providing protection from mound erosion equal to or better than sod shall be approved by the State Health Office. Final installation approval shall not be granted until sodding, ~~hydroseeding, or~~ seeding and haying or other approved stabilization of the mound has occurred. No portion of the drainfield or shoulder area shall be covered with asphalt or a concrete driveway or be subject to vehicular traffic. Landscaping features such as boulders or trees which obstruct drainfield or fill shoulder area shall not be used. Hydroseeding shall be performed in accordance with the product manufacturer’s instructions and the Florida Erosion and Sediment Control Inspector’s Manual, Chapter 6, Best Management Practices Vegetation for Erosion Control, herein incorporated by reference.

(g) through (i) No change.

(j) Where moderately limited soil is used to construct a mound system, a low pressure distribution network is required.

(4) No change.

(5) Drip irrigation systems – Drip irrigation systems may, at the option of the applicant, be used in lieu of a mineral aggregate drainfield. Drip irrigation systems shall meet all requirements of this Chapter except as noted below.

(a) Drip irrigation systems ~~shall receive~~ ~~receiving~~ effluent from an approved aerobic treatment unit ~~or a performance based treatment system designed to meet at least secondary treatment standards for CBOD₅ and TSS, and~~ shall meet the following requirements:

1. through 2. No change.

3. In an absorption bed configuration, the drainfield area shall be calculated as extending one foot beyond the sides of the outermost emitter lines. Notwithstanding the provision of paragraph 64E-6.014(5)(b), F.A.C., the individual bed size limitation of 1500 square feet does not apply to drip emitter systems.

4. through 14. No change.

15. For mound systems there shall be a minimum 18-inch separation between the shoulder of the fill and the nearest drip emitter line. Mound system slopes shall be in accordance with paragraph 64E-6.009(3)(f), F.A.C., except that a minimum 2 foot separation is required between the nearest drip emitter line and a building foundation, retaining wall, or similar obstruction. Mound systems shall be stabilized in accordance with paragraph 64E-6.009(3)(f), F.A.C.

16. through 19. No change.

20. All onsite sewage treatment and disposal systems that include a drip effluent disposal system and aerobic treatment unit shall have a biennial an annual operating permit, a maintenance contract with an approved aerobic treatment system maintenance entity, and shall be inspected in accordance with the requirements of this chapter.

21. No change.

22. The hydraulic surge storage requirement of Rule 64E-6.028, F.A.C., does not apply to drip irrigation systems. Drip irrigations shall be used for treating domestic wastewater only.

23. No change.

24. Unobstructed area for drip irrigation systems may be located anywhere on the establishment property that meets the setbacks for unobstructed area and can be accessed via transmission lines, supply lines and return lines installed in accordance with this Chapter. The land containing only transmission lines, supply lines and return lines shall not be included in the calculation of unobstructed area.

25. Supply lines and return lines shall be considered as transmission lines for determining setbacks not specified in this section.

26. Except for slopes required to meet the stabilization requirements of paragraph 64E-6.009(3)(f), F.A.C., the area over the drip irrigation drainfield shall be vegetated with plant species specified by the design engineer. The species specified shall not include trees.

(b) Drip irrigation systems shall be monitored during required maintenance visits by visual inspection of the ground surface above the emitter lines for evidence of soil saturation at the ground surface receiving waste from other treatment devices shall be regulated under Part IV of this Chapter.

(6) No change.

(7) Alternative system component and design approval – After innovative system testing is completed, requests for approval of system components and designs which are not specifically addressed in this chapter shall be submitted to the department’s Bureau of Onsite Sewage Programs.

(a) through (d) No change.

(e) Unless determined unnecessary or impractical by the Department at the time of component approval, effective January 1, 2010, all components shall be labeled with the name of the manufacturer and the model identification of the component. The design, installation and maintenance manual shall show the location of the label and shall include an illustration of a typical label. The label shall be in a location where it will be visible or easily exposed at the time of system inspection. All identifying marks shall be inscribed or affixed at the point of manufacture.

(8) through (10) No change.

Specific Authority ~~381.0011(4), (13)~~; 381.0065(3)(a) FS. Law Implemented 381.0065 FS. History–New 12-22-82, Amended 2-5-85, Formerly 10D-6.49, Amended 3-17-92, 1-3-95, Formerly 10D-6.049, Amended 11-19-97, 2-3-98, 3-22-00, 4-21-02, 06-18-03, 11-26-06, _____.

64E-6.010 Septage and Food Establishment Sludge.

(1) through (6) No change.

(7) The food establishment sludge and contents from onsite waste disposal systems shall be disposed of at a site approved by the DOH county health department and by an approved disposal method. Untreated domestic septage or food establishment sludges shall not be applied to the land. Criteria for approved stabilization methods and the subsequent land application of domestic septage or other domestic onsite wastewater sludges shall be in accordance with the following criteria for land application and disposal of domestic septage.

(a) through (p) No change.

(q) Unless required by law to be limited by phosphorous, application Application rates of septage and food establishment sludges are limited by the nitrogen content of the waste.

1. Where the application rate is limited by nitrogen content, the The maximum annual surface application rate of total nitrogen is 500 pounds per acre during any 12-month period. Application of septage shall be applied as evenly as possible during the 12 month period to ensure maximum uptake of nitrogen by the crops used. This equates to 6 dry tons or 40,000 gallons of typical septage per acre per year. However, if the following formula, based on the annual uptake of nitrogen for a given crop is used, the 40,000 gallons of septage applied per acre per year shall be increased if the nitrogen content of the septage will not exceed the nitrogen uptake of the crop.

AAR = N÷0.0026

AAR is the annual application rate in gallons per acre per 365 day period; and N equals the amount of nitrogen in pounds per acre per 365 day period needed by the crop or vegetation grown on the land. Application methods shall be conducted in a manner which will disperse the treated septage uniformly over the land application site.

2. Where the application rate is limited by phosphorous, the maximum annual surface application rate of total phosphorous is 40 pounds per acre during any 12 month period. Application of septage shall be applied as evenly as possible during the 12 month period to ensure maximum uptake of phosphorous by the crops used. This equates to 2 dry tons or 12,000 gallons of typical septage per year. However, if the following formula, based on the annual uptake of phosphorous for a given crop is used, the 12,000 gallons of septage applied per acre per year shall be increased if the phosphorous content of the septage will not exceed the phosphorous demand of the crop.

AAR=P÷0.0076 if the crop demand is calculated for P₂O₅.

AAR=P÷0.0033 if the crop demand is calculated for P.

AAR is the annual application rate in gallons per acre per 365 day period; and P equals the Crop Phosphorous Demand in pounds per acre per 365 day period calculated for the crop or vegetation grown on the land. Application methods shall be conducted in a manner which will disperse the treated septage uniformly over the land application site.

(r) through (v) No change.

(8) through (10) No change.

Specific Authority ~~381.0011(4), (13); 381.0065(3)(a), 489.553(3) FS. Law Implemented ~~381.0012, 381.0064, 381.0065, 386.041, 373.4595~~ FS. History--New 12-22-82, Amended 2-5-85, Formerly 10D-6.52, Amended 3-17-92, 1-3-95, 5-14-96, Formerly 10D-6.052, Amended 3-22-00, 05-24-04, 11-26-06,_____.~~

64E-6.0101 Portable Restrooms and Portable or Stationary Holding Tanks.

(1) through (6) No change.

(7) Portable Restrooms, Portable Holding Tanks, Stationary Holding Tanks, Mobile Restroom Trailers, Mobile Shower Trailers, and Portable Sinks.

(a) through (g) No change.

(h) Portable restrooms shall be serviced at least weekly and the inside of the structure housing the storage compartment shall be cleaned on each service visit. The waste storage compartment shall be charged with a sanitizer-deodorizer solution prepared in accordance with the sanitizer-deodorizer manufacturer's instructions.

(i) through (x) No change.

(8) No change.

Specific Authority ~~381.0011(4), (13); 381.0065(3)(a), 489.553(3) FS. Law Implemented ~~381.0012, 381.0064, 381.0065, 386.041~~ FS. History--New 5-24-04, Amended 11-26-06,_____.~~

64E-6.011 Abandonment of Systems.

(1) through (3) No change.

(4) A septic tank serving a single family residence may, at the owner's discretion, be converted into a cistern pursuant to the following procedures:

(a) The applicant shall obtain a system abandonment permit from the county health department.

(b) The permit application shall specify the intended use of the abandoned septic tank.

(c) The activities related to abandoning the onsite sewage treatment and disposal system shall not create a sanitary nuisance.

(d) The septic tank shall be disconnected from the drainfield and from the building sewer pipe.

(e) All work to disconnect, clean and sanitize the septic tank shall be conducted by a registered septic tank contractor or a state-licensed plumber or by the owner of the owner-occupied single family residence being served by the septic tank.

(f) All septage, wash water, and other liquids removed from the tank shall be removed and handled as septage (Rule 64E-6.010, F.A.C.) by a DOH-licensed septage disposal service and disposed of at a DEP-regulated wastewater treatment facility.

(g) The health department shall inspect the tank once it is disconnected, emptied, cleaned, disinfected and filled with water. The inspection shall determine whether all of the following conditions have been met:

1. The tank has been disconnected from the drainfield and the building sewer.

2. The tank is full of water within 12 inches of the top of the tank.

3. The clarity of the water is such that a Secchi disk is visible at the bottom of the tank.

4. The pH of the water in the tank is between 6.0 and 8.0.

5. The free chlorine residual of the water in the tank is ≤ 1.0 ppm.

6. The total coliform count is ≤ 1000 per 100 ml.

7. The fecal coliform count is ≤ 200 per 100 ml.

8. No sanitary nuisance condition exists on the property related to the abandonment activities.

(h) One inspection is included in the abandonment permit fee. The applicant shall pay a reinspection fee for any additional inspection visits necessary until all of the criteria in subparagraphs 64E-6.011(4)(g)1. through 8., F.A.C., are met and final approval of the abandonment is granted by the county health department.

(i) The applicant shall be responsible for all required laboratory fees. All sampling shall be conducted by county health department staff during the final inspection.

(j) The septic tank shall be converted and inspected within 90 days after connection of the building plumbing to the sanitary sewer.

(k) The tank shall not be connected to any irrigation components nor shall the water used for irrigation purposes until final approval of the abandonment has been granted by the county health department.

(l) Upon final approval of the abandonment, use of the tank or the drainfield for sewage storage, treatment or disposal is prohibited and constitutes a nuisance injurious to health as defined by Section 386.041, F.S.

(m) Upon final approval of the abandonment, the water collected in the tank shall be utilized for non-potable, irrigation purposes only.

(n) Persons contemplating this work are advised that working in and around an open septic tank can be dangerous. Activities related to the cleaning and disinfection of the septic tank could expose workers to hazards related to confined workspaces, methane gas, aerosolized pathogens, collapsing tanks and other hazards. The applicant and workers are advised to seek advice from OSHA or experts in occupational safety before undertaking this work.

(o) The applicant is advised to have the tank inspected by a civil engineer or other person qualified to evaluate the condition of the tank and its suitability for the intended use.

Specific Authority ~~154.06, 381.0011, 381.006, 381.0065, 489.553, 489.553(3) FS. Law Implemented 154.01, 381.001, 381.0011, 381.0012, 381.0025, 381.006, 381.0061, 381.0065, 381.00655, 381.0066, 381.0067, Part I, Chapter 386 FS. History–New 12-22-82, Amended 2-5-85, Formerly 10D-6.53, Amended 3-17-92, 1-3-95, 6-18-03,_____.~~

64E-6.012 Standards for the Construction, Operation, and Maintenance of Aerobic Treatment Units.

When aerobic treatment units are used for treating domestic and commercial sewage waste, each unit shall be installed, operated and maintained in conformance with the following provisions:

(1) No change.

(2) The following additional requirements shall also apply to the construction, design, and operation of aerobic treatment units treating 1500 gallons per day or less:

(a) through (h) No change.

(i) A manufacturer, distributor or seller of aerobic treatment units shall furnish, to the State Health Office, in Microsoft Word document format, Portable Document Format (PDF) or other electronic format accepted by the Department, a copy 90-copies of the completion reports and engineering drawings showing the design and construction details of all models of approved Class I units to be constructed or installed under the provisions of this rule. The State Health Office will forward these reports and drawings to each DOH county health department. No aerobic unit shall receive final installation approval until the unit is found to be in compliance with all

provisions of this rule, including compliance with design and construction details shown on the engineering plans filed with DOH county health departments and the State Health Office.

(j) through (n) No change.

(2) No change.

(a) through (e) No change.

(3) An aerobic treatment unit used for treating domestic or commercial sewage flows in excess of 1500 gallons per day ~~but not exceeding 10,000 gallons per day~~ shall be designed and certified by an engineer licensed in the State of Florida. The design shall include an assessment of wastewater strength. The certification shall state that the unit is capable of consistently meeting, at minimum, secondary treatment standards established by DEP in Rule 62-600.420, F.A.C. In addition, the following requirements shall also be met:

(4) through (5) No change.

Specific Authority ~~154.06(1), 381.0011(4), (13), 381.0065(3)(a), 489.553(3) FS. Law Implemented 381.0065, Part I, Chapter 386 FS. History–New 3-17-92, Amended 1-3-95, Formerly 10D-6.0541, Amended 11-19-97, 4-21-02, 6-18-03, 11-26-06,_____.~~

64E-6.013 Construction Materials and Standards for Treatment Receptacles.

(1) through (8) No change.

(9) Pump tanks and pumps – when used as part of an onsite sewage treatment and disposal system, the following requirements shall apply to all pump tanks manufactured for use in Florida unless specifically exempted by other provisions of these rules:

(a) through (b) No change.

(c) The electrical conduit and effluent dosing pipe shall exit the dosing chamber;

1. Through the tank outlet using plumbing fittings and reducers to produce a watertight seal ~~or,~~

2. When risers are used, the electrical line and the effluent dosing pipe may penetrate the riser wall provided the penetration is above the wet season high water table elevation and there is a soil-tight seal around the penetrations. When the top of the dosing tank is placed more than 8 inches below the finished grade, risers shall be used to provide access within 8 inches of the finished grade. Where risers are used, risers shall be attached to the tank in accordance with paragraph 64E-6.013(2)(i), F.A.C. The unused tank outlet shall be sealed with a length of capped PVC pipe installed in accordance with paragraph 64E-6.013(2)(f), F.A.C., or

3. Through a 2 to 4 inch access port installed in the tank lid by the manufacturer as approved by the State Health Office. After installation the port must be sealed with a bonding compound per paragraph 64E-6.013(2)(i), F.A.C. Unused ports shall be sealed watertight with cement or bonding compound or with a length of capped PVC pipe.

(d) When a pump is used as part of a system, the following conditions shall apply.

1. Pumps used to distribute sewage effluent must be certified by the manufacturer to be suitable for such purpose. The use of a timer as a part of any pump system shall not be allowed unless it is part of a design submitted by an engineer, or master septic tank contractor, and is approved by the department. Pumps shall be designed in accordance with the May, 1985, Sump, Effluent and Sewage Pump Manufacturers Association standards for the purpose intended, herein incorporated by reference.

2. through 4. No change.

(10) Transportation and installation.

(a) through (d) No change.

(e) The excavation for the installation of a wastewater receptacle shall be level and free of debris and rocks that could damage the receptacle or prevent proper leveling, backfilling or compaction. Backfill material shall be free of rocks and debris. The installer shall refer to the receptacle manufacturer's installation instructions to prevent the receptacle from settling or floating or from being damaged or distorted.

(11) through (12) No change.

Specific Authority ~~381.0011(4), (13)~~, 381.0065(3)(a) FS. Law Implemented 381.0065 FS. History—New 12-22-82, Amended 2-5-85, Formerly 10D-6.55, Amended 3-17-92, 1-3-95, Formerly 10D-6.055, Amended 11-19-97, 2-3-98, 3-22-00, 4-21-02, 5-24-04, 11-26-06, _____.

64E-6.014 Construction Standards for Drainfield Systems.

(1) through (2) No change.

(3) Low-Pressure dosing – where the total required area of drainfield is greater than 1000 square feet or where the applicant proposes to use low-pressure dosing, an automatic dosing device discharging into a low pressure distribution network consisting of 2 inch or smaller diameter schedule 40 PVC or equal pipe with 1/2 inch or smaller diameter drilled holes shall be used All piping shall use solvent welded connections or equal throughout to prevent dislocation of connections under pressure. The network shall be designed for equal distribution of effluent. For the purposes of this section, equal distribution shall mean that the flow from the least effective hole in the network shall deliver no less than 75% of the flow from the most effective hole. The selected pump capacity (as measured in Gallons Per Minute) versus total dynamic head shall be indicated on a pump curve and shall be shown by calculation to achieve an effluent velocity through the network of at least 2 ft per second to the first exit hole on each lateral. Each line of the pressure network shall individually connect to a pressure manifold and be sealed on their distal ends and shall not be looped with other lines regardless of whether the drainfield is a bed or a trench or whether it is in a mound, filled subsurface installation. Plans and equipment specifications for low-pressure dosing systems shall be approved by the department prior to construction or installation.

(a) through (c) No change.

(d) When a drainfield is installed in slightly limited soil, operating levels shall be adjusted to dose the drainfield a maximum of six times in a 24 hour period. For moderately limited soils the drainfield shall be dosed no more than four ~~two~~ times in a 24 hour period. More frequent dosing may be allowed with systems designed by engineers licensed in the state of Florida.

(e) through (f) No change.

(4) through (6) No change.

Specific Authority ~~381.0011(4), (13)~~, 381.0065(3)(a) FS. Law Implemented 381.0065 FS. History—New 12-22-82, Amended 2-5-85, Formerly 10D-6.56, Amended 3-17-92, 1-3-95, Formerly 10D-6.056, Amended 2-3-98, 3-22-00, 5-24-04, 11-26-06, _____.

64E-6.015 Permitting and Construction of Repairs.

(1) through (2) No change.

(3) When a repair is to be performed on a failing system in which the contractor will be using any method other than drainfield addition or replacement, the following additional permit application information shall be submitted to the county health department by the contractor. ~~This is~~ in addition to the information required in subsections 64E-6.015(1) and (2), F.A.C.

(a) The process used to repair the system. Examples include high-pressure water jetting of drainlines and ~~For example, hydrogen peroxide treatment or~~ high-pressure injection of air alongside the drainfield. Such information shall include the manner in which the proposed repair will take place. The manufacturers recommended method for product use, quantities and concentration of product, shall be included in this information.

(b) through (c) No change.

(4) through (11) No change.

(12) For inspection purposes when a drainfield is repaired using a physical disruption method, such as air injection, the contractor shall mark the location of each injection site in an easily identifiable manner.

~~(a)~~ The county health department shall inspect repairs to determine that the absorption surface of the repaired drainfield is at least six inches above the wet season high water table, to determine the repair process was completed according to the information provided with the repair permit application and to determine the repair site is free of sanitary nuisance conditions.

~~(b) The county health department shall keep a separate file for repairs completed using physical disruption methods. These records shall be used to provide periodic follow up evaluations of a sampling of these systems to determine the general long term effectiveness of this type of repair. The follow up protocol and evaluation procedure shall be provided by the Bureau of Onsite Sewage Programs.~~

Specific Authority ~~381.0011(4), (13), 381.0065(3)(a)~~ FS. Law Implemented ~~381.0012, 381.0025, 381.0061, 381.0065, 381.0067, 386.041~~ FS. History–New 3-17-92, Amended 1-3-95, 2-13-97, Formerly 10D-6.0571, Amended 2-3-98, 3-22-00, 5-24-04 11-26-06, _____.

64E-6.0151 Product Composition ~~Additive Use.~~

(1) Any ~~onsite sewage treatment and disposal system additive or drainfield conditioner or restorative~~ product sold or used in the state for use in an onsite sewage treatment and disposal system shall be in compliance with the requirements of Section 381.0065(4)(m), F.S. The following criteria shall be used in determining product compliance.

(a) through (c) No change.

(2) If the Department determines an onsite sewage treatment and disposal system ~~additive or drainfield conditioner or restorative~~ product is not in compliance with the criteria in Rule 64E-6.0151, F.A.C., the Department shall notify the product manufacturer of the items in non-compliance. The product shall be allowed to be continued for sale and use in Florida for a maximum of 90 days from date of receipt of notification of violation. This is to allow the manufacturer an opportunity to exhibit to the department that the product satisfactorily complies with the conditions of Section 381.0065(4)(m), F.S., and this rule. In attempting to demonstrate compliance with Section 381.0065(4)(m), F.S., and this rule, the manufacturer shall provide at a minimum the following information:

(a) A listing of all physical, chemical, biological or other agents which make up the product ~~additive, conditioner or restorative~~ and provide toxicity information for each component. This information shall include trade names, chemical names, and concentrations of all individual or complexed components and the Material Safety Data Sheet (MSDS) for the product. Any trade secret will be treated according to Section 381.83, F.S.

(b) No change.

(c) Test results from a State or EPA-certified laboratory demonstrating that use of the ~~additive, drainfield conditioner or restorative~~ product will not result in violations of surface water or groundwater standards in Rule 64E-6.0151, F.A.C. Tests shall be conducted on the product as sold and the test results shall include:

1. through 2. No change.

(d) No change.

(e) All studies done on the use of the ~~additive, conditioner or restorative~~ product which support or disputes the information required in Rule 64E-6.0151, F.A.C. and which demonstrates the product will not harm public health or the environment and will not impair system components and functioning. Monitoring reports and data from systems in use shall be provided if available.

(f) through (g) No change.

(3) No change.

Specific Authority ~~154.06, 381.0011, 381.006, 381.0065(4)(m)~~ FS. Law Implemented ~~154.01, 381.001, 381.0011, 381.0012, 381.0025, 381.006, 381.0061, 381.0065(4)(m), 381.00655, 381.0066, 381.0067, 386.041~~ FS. History–New 3-22-00, Amended 5-24-04, _____.

64E-6.023 Certification of Partnerships and Corporations.

(1) through (5) No change.

(6) All materials incorporated herein may be obtained from the Bureau of Onsite Sewage Programs at www.MyFloridaEH.com or 4052 Bald Cypress Way, Bin A08, Tallahassee, Florida 32399-1713.

Specific Authority ~~154.06, 381.0011, 381.006, 381.0065, 489.553, 489.557~~ FS. Law Implemented ~~154.01, 381.001, 381.0011, 381.0012, 381.0025, 381.006, 381.0061, 381.0065, 381.00655, 381.0066, 381.0067, Part I, Chapters 386, Part III, Chapter 489~~ FS. History–New 10-25-88, Amended 3-17-92, 1-3-95, 5-14-96, 2-13-97, Formerly 10D-6.076, Amended 4-21-02, 5-24-04, _____.

64E-6.027 Permits.

(1) through (5) No change.

(6) Operating permits – No residence or establishment served by a performance-based treatment system shall be occupied until Form DH 4081, 10/96, “Application for Onsite Sewage Treatment and Disposal System Operating Permit” has been received and approved by the department. Form DH 4081, is hereby incorporated by reference, and is available from the department. Where a performance-based treatment system is used, only one operating permit shall be required for the system.

(a) No change.

(b) The permit shall designate the performance system maintenance entity responsible for the operation and maintenance of the system. At a minimum, the performance system maintenance entity responsible for maintenance of the system shall test, or cause to be tested, the performance-based treatment system in accordance with Part IV of this rule. The frequency of testing shall be specified on the ~~biennial annual~~ operating permit. The operating permit shall also specify the observation interval to assess the operation of the system without taking monitoring samples.

(c) through (e) No change.

(7) All materials incorporated herein may be obtained from the Bureau of Onsite Sewage Programs at www.MyFloridaEH.com or 4052 Bald Cypress Way, Bin #A08, Tallahassee, Florida 32399-1713.

Specific Authority ~~381.0011(13), 381.006, 381.0065(3)(a), 489.553(3), 489.557(1)~~ FS. Law Implemented ~~154.01, 381.001(2), 381.0011(4), 381.0012, 381.0025, 381.006(7), 381.0061, 381.0065, 381.0067, Part I, Chapter 386, 489.553~~ FS. History–New 2-3-98, Amended 4-21-02, 6-18-03, _____.

64E-6.028 Location and Installation.

Performance-based treatment systems shall be installed in compliance with the following.

(1) through (2) No change.

(3) Drainfield designs: The following alterations to drainfield requirements shall be allowed for pressure dosed systems only.

(a) through (e) No change.

~~(4)(f)~~ Hydraulic surge storage – the design shall protect the residence from backflow into the treatment tank. For gravity and pumped systems, the following shall apply:

~~(g)~~ For gravity and pumped systems, the following shall apply:

~~(a)1-~~ For aggregate systems, the porosity shall be calculated at 33%.

~~(b)2-~~ The effective storage volume of the drainfield shall be equal to or greater than 1.5 times the design daily flow.

~~(c)3-~~ The total storage volume of the drainfield shall be equal to or greater than 1.8 times the design daily flow.

~~(h)~~ For any pumped systems, the following shall apply:

~~1-~~ The pump chamber shall be capable of providing the reserve required to make up the difference between the actual drainfield effective and total storage volumes provided and the effective and total storage volumes required, if applicable. In the event of pump failure, the pump chamber shall have a reserve capacity of at least 50% of the design daily flow.

~~2-~~ Pumps shall be designed in accordance with the May, 1985 Sump, Effluent and Sewage Pump Manufacturers Association standards for the purpose intended, hereby incorporated by reference.

~~(i)~~ Designs that utilize sound engineering principles and groundwater movement modeling to determine appropriate soil replacement and digout criteria for the disbursement of the design daily flow shall be considered. Groundwater mounding shall not be allowed to be within 18 inches of the infiltrative surface under a hydraulic stress equal to 1.5 times the design daily flow.

~~(5)(j)~~ Infiltrative surface area reductions shall be allowed for systems designed to reduce the wastewater strength of the effluent where the drainfield is sized based on slightly limited soils. The baseline system shall be used for comparison with a typical average CBOD₅ of 140 mg/l and TSS of 105 mg/l. The maximum reduction in infiltrative surface area shall not exceed the following standards.

~~(a)1-~~ Secondary treatment standards: 25% reduction

~~(b)2-~~ Advanced secondary treatment standards: 40 ~~30~~%

~~(c)3-~~ Advanced wastewater treatment standards: 40%

~~Reductions shall not be permitted if all other design requirements are not met. For example, the hydraulic surge storage requirements in Rule 64E-6.028(3)(f)(h), F.A.C., above must be sufficient in the drainfield size specified.~~

Specific Authority ~~381.0011(13), 381.006, 381.0065(3)(a), 489.553(3), 489.557(1) FS. Law Implemented 154.01, 381.001(2), 381.001(4), 381.0012, 381.0025, 381.006(7), 381.0061, 381.0065, 381.0067, 386.041, 489.553 FS. History—New 2-3-98, Amended 3-22-00.~~

NAME OF PERSON ORIGINATING PROPOSED RULE: Dale Holcomb, Environmental Administrator, Bureau of Onsite Sewage Programs

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 20, 2009

DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 3, 2007 and October 31, 2008

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.: 68A-15.006
RULE TITLE: Regulations Relating to Miscellaneous Areas

PURPOSE AND EFFECT: The purpose of the proposed rule change is to establish or revise specific area regulations on miscellaneous areas. The effect of the proposed rule changes will be to establish hunting and fishing seasons, specific area regulations and enable the agency to better manage fish and wildlife resources and public use on miscellaneous areas.

SUMMARY: The proposed rule changes would establish season dates and specific area regulations on miscellaneous areas as follows:

Babcock Ranch Preserve – establish the following open seasons and specific area regulations on the designated hunting area: two four-day archery hunts (quota 40, no exemptions), one three-day muzzleloading gun hunt (quota 40, no exemptions), one three-day general gun for mobility-impaired hunt (quota 25), two two-day family hunts (quota 30, no exemptions), three three-day general gun hunts (quota 40, no exemptions), four two-day small game hunts, two three-day spring turkey hunts (quota 15, no exemptions); prohibit fishing and frogging; prohibit trapping; legal to take – all legal game and wild hog, except quail; allow one antlered and one antlerless deer to be taken per quota permit during the archery season, family hunt and general gun for mobility-impaired hunt; allow one antlered deer per person to be taken during the muzzleloading gun and general gun seasons; allow one turkey to be taken per quota permit during the spring turkey season; public access will be restricted to permitted hunters and youth and allowed only on hunt days and one day prior to each hunt for scouting; prohibit the use of tracked vehicles, airboats, all-terrain vehicles (except during the mobility-impaired hunt), unlicensed and unregistered motorcycles and swamp buggies; allow vehicles to only be operated on named or numbered roads and require vehicles to be parked within 25 feet of an open road or in parking areas; allow the use of all-terrain vehicles during the general gun mobility-impaired hunt by mobility-impaired hunters; require all hunters to enter at a designated entrance, check in and out at the check station and

check all game taken, provide that general wildlife management area rules and regulations related to quota permits shall apply on this area; and provide that outside of the designated hunting area and during periods closed to hunting, public use is allowed only by Babcock Ranch Management LLC.

Kissimmee Chain of Lakes Area – establish a new miscellaneous area with the following open seasons: 30-day archery season, five-day crossbow season, nine-day muzzleloading gun season, 72-day general gun season, 114-day small game season, 58-day fall turkey season, statewide migratory bird season (except crow may be taken during the first phase of crow season only), 37-day spring turkey season; allow wild hog hunting with firearms; fishing and frogging year-round; prohibit trapping; legal to take – all legal game, gobbler or bearded turkey only, wild hog, non-protected mammals, furbearers (except bobcat and otter), fish and frogs; prohibit the take of antlerless deer during all seasons; prohibit the take of wild hog with a gun from one-half hour after sunset until one-half hour before sunrise; prohibit hunting deer with dogs; prohibit baiting; prohibit the take of deer on the West Shore, East Shore and Drasdo Units; prohibit the use of centerfire rifles on the West, East and Northwest Shore Units; allow the possession of guns in accordance with Florida Statutes; allow treestands from ten-days prior to archery season through ten-days after the close of general gun season only.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

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

DATES AND TIME: During the regular meeting of the Commission, April 15-16, 2009, 8:30 a.m. – 5:00 p.m. each day

PLACE: Tallahassee-Leon County Civic Center, 505 West Pensacola Street, Tallahassee, Florida 32301

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The ADA Coordinator, at (850)488-6411. 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: Diane Eggeman, Director, Division of Hunting and Game Management, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-15.006 Regulations Relating to Miscellaneous Areas.

(1) through (2) No change.

(3) Babcock Ranch Preserve.

(a) Open season (in the designated hunting area):

1. Archery – September 12-15 and 19-22.

2. Muzzleloading gun – October 16-18.

3. Family – October 31-November 1 and January 2-3.

4. General gun for mobility-impaired – October 23-25.

5. General gun – November 13-15, 20-22 and December 18-20.

6. Small game – January 9-24 and February 6-7 (Saturdays and Sundays only).

7. Spring turkey – March 6-8 and 13-15.

8. Fishing and frogging – Prohibited.

(b) Legal to take: All legal game (except quail) and wild hog. One antlered and one antlerless deer may be taken per quota permit during the archery season, family and general gun for mobility-impaired hunts. Only mobility-impaired hunters may take antlerless deer during the general gun for mobility-impaired hunt. One antlered deer may be taken per person and per quota permit during the muzzleloading gun and general gun hunts. One turkey per quota permit may be taken during spring turkey season. Turkey may only be taken during the spring turkey season.

(c) General regulations:

1. Hunting is prohibited except in the designated hunting area(s).

2. Hunting with dogs is prohibited except bird dogs may be used during the small game season.

3. Vehicles shall not be parked further than 25 feet from designated roads or parking areas.

4. The use of tracked vehicles, airboats, all-terrain vehicles, unlicensed and unregistered motorcycles and swamp buggies is prohibited, except that all-terrain vehicles may be used during the general gun for mobility-impaired season by certified mobility-impaired hunters.

5. Hunters shall check in and out at the check station when entering and exiting the area and check all game taken.

6. Vehicles must be operated on named or numbered roads, except ATVs during the mobility-impaired hunt.

7. No deer, wild hog or turkey shall be dismembered until checked at the check station.

8. Hunters shall enter and exit the area at the designated entrance only.

9. The use of centerfire rifles for taking wild turkey during the spring turkey season is prohibited.

10. During periods open to hunting, access is allowed only by those individuals with a valid quota permit or guest permit and only from 1.5 hours before sunrise to 1.5 hours after sunset.

11. Scouting is allowed one day prior to each hunt from 8 a.m. to sunset by individuals in possession of a valid quota permit for that hunt. There are no scout days for small game season.

12. During the mobility-impaired general gun hunt, access is restricted to certified mobility-impaired hunters with quota hunt permits, a non-hunting assistant and one guest permit holder who may also participate in the hunt, but must share the bag limit. All mobility-impaired hunt participants are required to attend a pre-hunt orientation meeting.

13. The regulations contained in Rules 68A-15.004 and 68A-15.005, F.A.C., not in conflict with specific area regulations, shall apply to this area.

14. Outside of the designated hunting area and during periods closed to hunting, public use is allowed only by Babcock Ranch Management LLC.

(4) Kissimmee Chain of Lakes Area.

(a) Open season:

1. Non-migratory game – Zonal seasons established under Rule 68A-13.004, F.A.C.

2. Migratory birds – Statewide regulations established under Rules 68A-13.003 and 68A-13.008, F.A.C., except that open season for crow shall be during the first phase of crow season only.

3. Fishing and frogging – Allowed throughout the year.

(b) Legal to take: All legal game (except the take of turkeys shall be limited to bearded turkey or gobblers), wild hog, non-protected mammals, furbearers (except bobcat and otter), fish and frogs. The take of deer is prohibited in the Drasdo, East, and West Shore Units. The take of antlerless deer is prohibited.

(c) General regulations:

1. Taking wildlife with centerfire rifles is prohibited on the Northwest Shore, East Shore, West Shore and Drasdo Units.

2. Taking deer and furbearers with dogs is prohibited.

3. Dogs on leashes may be used for trailing wounded game.

4. Furbearers – During the zonal antlered deer season only.

5. Shooting frogs shall be allowed only during hunting seasons established for this area and only with guns that are legal to use during each open hunting season.

6. The use of airboats is prohibited in those areas posted as closed to airboat use.

7. Driving a metal object into any tree, or hunting from a tree into which a metal object has been driven, is prohibited.

8. No person shall place, expose or distribute any grain or other food for wildlife except as authorized by permit from the executive director. No person shall take wildlife on any land or waters upon which grain or other food has been deposited.

9. Wild hog may be taken in accordance with the following provisions:

a. Wild hog may be taken throughout the year with no size or bag limit.

b. Wild hog may only be taken with a gun from one-half hour before sunrise to one-half hour after sunset. Wild hog may be hunted without a gun at night.

c. Wild hog may not be transported alive.

10. Non-protected mammals, as defined in paragraph 68A-12.002(9)(a), F.A.C., may be taken during any season open for the taking of game mammals, with no size or bag limit.

11. Possession of guns or firearms is allowed pursuant to the provisions of Florida Statutes, except as prohibited under the legal authority of the landowner, lead managing agency or pursuant to federal law. During periods closed to hunting or when the firearm is not a legal method of take, firearms shall be encased and properly secured in a vehicle, vessel, travel trailer, camper or tent, except those persons in possession of a valid Concealed Weapon or Firearm License may possess concealed handguns. No person shall discharge any gun for testing or target practice, except on a Commission shooting range or at Commission-sponsored events.

12. A South Florida Water Management District permit is required to access that portion of the Rough Island Unit posted as “SFWMD Permit Required.”

13. Hunting or fishing is prohibited on any portion of the area posted as closed to hunting or fishing.

14. Erecting or maintaining treestands more than ten days before the start of archery season or more than ten days after the end of general gun season is prohibited.

PROPOSED EFFECTIVE DATE: JULY 1, 2009

Specific Authority Art. IV, Sec 9, Fla. Const. Law Implemented Art IV, Sec 9, Fla. Const. History--New 12-9-99, Amended 5-13-02, 5-1-03, 5-23-04, 7-1-06, 7-1-08, 7-1-09.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.W.

NAME OF PERSON ORIGINATING PROPOSED RULE: Diane Eggeman, Director, Division of Hunting and Game Management, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission

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

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NO.: 68B-45.008
 RULE TITLE: Assessment of Administrative Penalties for Violations Relating to Blue Crab Management

PURPOSE AND EFFECT: The purpose of this rule amendment is to establish administrative penalties for violations relating to the management of blue crab. These administrative penalties would apply when criminal violations such as trap molestation, trap theft, illegal bartering of tags, and fishing with untagged traps are committed. The purpose of creating Rule 68B-45.008, F.A.C., is to fulfill a requirement of Section 379.366(4)(a), F.S., that states “the Commission shall adopt by rule the administrative penalties authorized by this subsection”. The proposed draft rule amendment would create a standardized tiered penalty system that would allow the penalties to be assessed relative to the severity of the violation and the number of previous violations up to the maximum amount allowed as defined in Section 379.366, F.S. This proposed rule would be consistent with existing rules establishing administrative penalties for the stone crab and spiny lobster fisheries in Chapters 68B-13 and 68E-18, F.A.C., respectively.

SUMMARY: Rule 68B-45.008, F.A.C., (Assessment of Administrative Penalties for Violations relating to Blue Crab Management) would be created to contain all of the administrative penalties for violations relating to blue crab management. This rule will define the Commission’s policy regarding assessing administrative penalties for convictions of blue crab management program violations relative to the severity of the violation and the number of previous violations and could result in fines up to \$5,000 and permanent revocation of saltwater fishing privileges.

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

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

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution; 379.366 FS.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution; 379.366 FS.

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

DATES AND TIME: April 15-16, 2009, During the regular meeting of the Commission, 8:30 a.m. – 5:00 p.m., each day

PLACE: Tallahassee-Leon County Civic Center, 505 West Pensacola Street, Tallahassee, FL 32301

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The ADA Coordinator, at (850)488-6411. 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: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600; (850)487-1764

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-45.008 Assessment of Administrative Penalties for Violations Relating to Blue Crab Management.

(1) For conviction of a violation involving use of blue crab traps without current year trap tags pursuant to paragraph 68B-45.007(7)(b), F.A.C., the Commission shall assess administrative penalties pursuant to Section 379.366(4)(a), Florida Statutes, as follows:

(a) For a first violation:

1. Involving 20 or fewer untagged blue crab traps – \$25 per untagged trap;

2. Involving 21 or more untagged blue crab traps – \$1000.

(b) For a second violation occurring within 24 months of any previous such violation:

1. Involving 5 or fewer untagged blue crab traps – \$50 per untagged trap;

2. Involving 6 to 20 untagged blue crab traps – \$75 per untagged trap and suspension of all blue crab fishing privileges for 12 calendar months;

3. Involving 21 or more untagged blue crab traps – \$2000 and suspension of blue crab fishing privileges for 12 calendar months.

(c) For a third violation occurring within 36 months of two previous such violations:

1. Involving 5 or fewer untagged blue crab traps – \$100 per untagged trap and suspension of all blue crab fishing privileges for 24 calendar months;

2. Involving 6 to 20 untagged blue crab traps – \$2500 and suspension of all blue crab fishing privileges for 24 calendar months;

3. Involving 21 or more untagged blue crab traps – \$5000 and suspension of all blue crab fishing privileges for 24 calendar months.

(d) For a fourth violation occurring within 48 months of three previous such violations, regardless of the number of untagged blue crab traps involved – permanent revocation of all saltwater fishing privileges, including the endorsement holder’s saltwater products license, and all endorsements.

(2) For conviction of a violation involving trap theft, which is the unauthorized possession of another harvester’s blue crab trap gear or removal of another harvester’s blue crab trap contents, the Commission shall assess an administrative penalty of \$5000, permanently revoke all saltwater fishing privileges, including all saltwater products licenses, endorsements, and trap tags allotted to him or her by the Commission, and prohibit the transfer of all endorsements pursuant to Section 379.366(4)(b), Florida Statutes.

(3) For conviction of a violation involving the willful molestation of a blue crab trap, trap line or buoy that is the property of any licenseholder without the permission of that licenseholder, the Commission shall assess an administrative penalty pursuant to Section 379.366(4)(c), Florida Statutes, as follows:

(a) For a first violation – \$2500 and suspension of all blue crab or incidental take endorsements for 12 calendar months.

(b) For a second and each of all subsequent such violations – \$5000 and suspension of all blue crab or incidental take endorsements for 24 calendar months.

(4) For conviction of a violation involving the bartering, trading, leasing, selling, giving, supplying, conspiracy to or aid in bartering, trading, leasing or selling, or agreeing or aiding to supply a blue crab trap tag without authorization from the Commission, the Commission shall assess administrative penalties pursuant to Section 379.366(4)(c), Florida Statutes, as follows:

(a) For a first violation:

1. Involving 5 or fewer blue crab trap tags – \$1000;

2. Involving 6 or more blue crab trap tags – \$1000 and suspension of all blue crab endorsements for the remainder of the license year.

(b) For a second violation occurring within 24 months of any previous such violation:

1. Involving 5 or fewer blue crab trap tags – \$1000 and suspension of all blue crab endorsements for 12 calendar months;

2. Involving 6 or more blue crab trap tags – \$2000 and suspension of all blue crab endorsements for 12 calendar months.

(c) For a third and each subsequent violation occurring within 36 months of two previous such violations:

1. Involving 5 or fewer blue crab trap tags – \$3000 and suspension of all blue crab endorsements for 24 calendar months;

2. Involving 6 or more blue crab trap tags – \$5000 and suspension of all blue crab endorsements for 24 calendar months.

(5) For conviction of a violation involving the possession or use of any blue crab trap tags not issued by the Commission or the unlawful making, altering, forging, counterfeiting or reproducing of blue crab trap tags, the Commission shall assess administrative penalties pursuant to Section 379.366(4)(c), Florida Statutes, as follows:

(a) For a first violation:

1. Involving 15 or fewer illegal blue crab trap tags – \$500;

2. Involving 16 or more illegal blue crab trap tags – \$1000.

(b) For a second violation occurring within 24 months of a previous such violation:

1. Involving 10 or fewer illegal blue crab trap tags – \$1000 and suspension of all blue crab endorsements for 12 calendar months;

2. Involving 11 or more illegal blue crab trap tags – \$2000 and suspension of all blue crab endorsements for 12 calendar months.

(c) For a third and each subsequent violation occurring within 36 months of two previous such violations:

1. Involving 5 or fewer illegal blue crab trap tags – \$3000 and suspension of all blue crab endorsements for 24 calendar months;

2. Involving 6 or more illegal blue crab trap tags – \$5000 and suspension of all blue crab endorsements for 24 calendar months.

(6) For conviction of a violation involving the possession of a number of original trap tags or replacement tags, the sum of which exceeds by one percent the number of traps allowed by Commission rules, the Commission shall assess an administrative penalty of \$5000, and suspend all blue crab endorsements for 24 months pursuant to Section 379.366(4)(c), Florida Statutes.

(7) For conviction of a violation involving the commercial harvest of blue crabs during the time period when the license holder’s blue crab or incidental take endorsements are under suspension, the Commission shall assess an administrative penalty of \$5000 and suspend all blue crab or incidental take endorsements for an additional 24 months to be applied consecutively to the current suspension period pursuant to Section 379.366(4)(c), Florida Statutes.

(8) For conviction of a violation involving fraudulently reporting the actual value of a transferred blue crab endorsement, the Commission shall assess an administrative penalty pursuant to Section 379.366(4)(d), Florida Statutes, as follows:

(a) If the difference between the actual value and the reported value of the endorsement is less than 25% of the actual value – suspension of the purchaser’s blue crab endorsements for six calendar months.

(b) If the difference between the actual value and the reported value of the endorsement is between 25% and 49.9% of the actual value – suspension of all the purchaser’s blue crab endorsements for 12 calendar months.

(c) If the difference between the actual value and the reported value of the endorsement is equal to or greater than 50% of the actual value – permanent revocation of all the purchaser’s blue crab endorsements.

(9) Immediately upon receiving a citation for a violation referenced in subsections (3)-(7) the commercial harvester is prohibited from transferring any blue crab endorsement until said violation is adjudicated, pursuant to Section 379.366(4)(c), Florida Statutes.

(10) If blue crab effort management endorsement privileges are suspended for a violation referenced in subsections (3)-(7) a commercial harvester is prohibited from transferring any blue crab endorsement until the period of suspension expires, pursuant to Section 379.366(4)(c), Florida Statutes.

(11) For purposes of this rule, a conviction is any judicial disposition other than acquittal or dismissal.

(12) A blue crab endorsement will not be renewed by the Commission until all fees and administrative penalties are paid in full.

PROPOSED EFFECTIVE DATE: JULY 1, 2009

Specific Authority Art. IV, Sec. 9, Fla. Const., 379.366 FS. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.366 FS. History–New 7-1-09.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mark Robson, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301; (850)487-0554

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 5, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 20, 2009

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: 69K-5.0024
RULE TITLE: Remittances to the Regulatory Trust Fund

PURPOSE AND EFFECT: To increase the fee for each preneed contract written.

SUMMARY: The proposed change will increase the amount of the preneed quarterly remittance paid by preneed licensees, from its current level of \$4 per preneed contract sold, to \$6 per preneed contract sold.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not impose any indirect transactional costs to small businesses but will increase the fee paid by preneed licensees, many of which are small business

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

SPECIFIC AUTHORITY: 497.103, 497.453(1) FS.

LAW IMPLEMENTED: 497.453(6), (9) 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: Douglas Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361

THE FULL TEXT OF THE PROPOSED RULE IS:

69K-5.0024 Remittances to the Regulatory Trust Fund.

The amounts required to be remitted by a preneed licensee to the Regulatory Trust Fund, pursuant to the provisions of Section 497.453(9), F.S., shall be determined in accordance with the following criteria:

- (1) No change.
- (2) Beginning with contracts written July 1, ~~2009~~ 1997, each preneed licensee shall remit to the Regulatory Trust Fund of the Department of Financial Services a fee of ~~\$6.00~~ 4.00 for each preneed contract written; regardless of any payments made by the purchaser.
- (3) No change.

Specific Authority 497.103, 497.453(1) FS. Law Implemented 497.453(9) FS. History–New 5-13-97, Amended 12-12-00, Formerly 3F-5.0024, _____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 7, 2009

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

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: 69K-5.003
RULE TITLE: Application for Registration of a Preneed Sales Agent

PURPOSE AND EFFECT: To remove language requiring an application fee of \$100 for each biennial period and to add language establishing a fee for licensure, additional appointments and biennial renewal of preneed sales agent appointments.

SUMMARY: The rule amendment would establish a fee paid by Preneed Sales Agents for additional appointments of \$250.00 and appointment renewals, of \$250.00 biennially. The rule amendment would increase the fee paid by Preneed Sales Agents for their initial combination license and appointment, by \$150.00.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not impose any indirect transactional costs to small businesses but will increase the fees paid by Preneed Sales Agents, many of which are small business.

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

SPECIFIC AUTHORITY: 497.103(5), 497.140(1), 497.466(2) FS.

LAW IMPLEMENTED: 497.466(2)(h), 497.466(7)(f) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Douglas Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361

THE FULL TEXT OF THE PROPOSED RULE IS:

69K-5.003 Application for Registration of a Preneed Sales Agent.

(1) Each person desiring to obtain registration as a preneed sales agent for a preneed licensee shall apply to the Board by submitting the following by certified mail:

(a) No change.

(b) Fees.

1. The fee for licensure and initial appointment as a preneed sales agent shall be \$250.

2. The fee for each additional appointment shall be \$250.

3. The fee for biennial renewal of a preneed sales agent appointment shall be \$250.

~~The above fees shall be effective on the later of July 1, 2009, or this rule becoming effective. A non-refundable application fee of \$100 which shall be the fee for the biennial period beginning March 1 of each even numbered year or any part thereof.~~

(2) through (8) No change.

Specific Authority 497.103, 497.466(2) FS. Law Implemented 497.466 FS. History--New 4-25-94, Formerly 3F-5.003, Amended _____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 7, 2009

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

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: 69K-12.002
RULE TITLE: Procedure for Licensing a Monument Establishment

PURPOSE AND EFFECT: To increase the initial license fee for monument establishments and to create a biennial renewal fee for monument establishments.

SUMMARY: The rule amendment will establish a biennial license renewal fee for existing Monument Establishments of \$250. The rule amendment would increase the fee paid by Monument license applicants by \$250 biennially for the initial two-year Monument Establishment license.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not impose any indirect transactional costs to small businesses but will increase the fees paid by Monument Establishments, many of which are small business.

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

SPECIFIC AUTHORITY: 497.103(1), 497.105(5) FS.

LAW IMPLEMENTED: 120.60(2), 497.361 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: Douglas Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361

THE FULL TEXT OF THE PROPOSED RULE IS:

69K-12.002 Procedure for Licensing a Monument Establishment.

(1) Each person desiring to obtain a license as a monument establishment shall apply to the Department by submitting the following:

(a) No change.

(b) A non-refundable initial license fee of \$450 ~~200~~ which shall be the fee for the biennial licensing period beginning October 1 of each odd numbered year or any part thereof.

(c) The biennial renewal fee for a Monument Establishment license shall be \$250.

(2) through (6) No change.

Specific Authority 497.103(1), 497.105(5) FS. Law Implemented 120.60(2), 497.361 FS. History–New 3-3-97, Formerly 3D-30.050, 69K-100.050, Amended_____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 7, 2009

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

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: 69K-12.011
RULE TITLE: Annual Inspection Fees for Monument Builders

PURPOSE AND EFFECT: To increase the annual inspection fee for monument builders.

SUMMARY: The rule amendment would increase the annual inspection fee paid by Monument Builders by \$125.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not impose any indirect transactional costs to small businesses but will increase the fees paid by Monument Builders, many of which are small business.

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

SPECIFIC AUTHORITY: 497.103(1)(bb), (5)(a), 497.553(1) FS.

LAW IMPLEMENTED: 497.103(1)(bb), 497.553(1) 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: Douglas Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361

THE FULL TEXT OF THE PROPOSED RULE IS:

69K-12.011 Annual Inspection Fees for Monument Builders.

Each monument builder shall pay an annual inspection fee of \$225 ~~400~~ that is payable upon application for licensure and upon each renewal of such license.

Specific Authority 497.103(1)(bb), (5)(a), 497.553(1) FS. Law Implemented 497.103(1)(bb), 497.553(1) FS. History–New 5-16-07, Amended_____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 7, 2009

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

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: 69K-17.003
RULE TITLE: Fees

PURPOSE AND EFFECT: To increase the biennial active status fees for embalmers, funeral directors and funeral directors/embalmer.

SUMMARY: The rule amendment would increase the license renewal fee paid by Funeral Directors, by \$125.00 biennially. The rule amendment would increase the license fee paid by Funeral Directors & Embalmer combination licensees, by \$125.00 biennially. The rule amendment would increase the license fee paid by Embalmers, by \$215.00 biennially. The rule amendment would increase the inactive license fee paid by Embalmers, Funeral Directors, and direct disposers, by \$325.00 biennially.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not impose any indirect transactional costs to small businesses but will increase the fees paid by funeral directors, embalmers and direct disposers, many of which are small businesses.

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

SPECIFIC AUTHORITY: 497.103, 497.140, 497.378, 497.379 FS.

LAW IMPLEMENTED: 497.140, 497.368, 497.373, 497.378, 497.379, 497.603 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: Douglas Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361

THE FULL TEXT OF THE PROPOSED RULE IS:

69K-17.003 Fees.

(1) No change.

(2) The following biennial active status fees are prescribed by the Board:

(a) Biennial active status fee for license of embalmer shall be ~~\$375 one hundred sixty dollars (\$160.00)~~.

(b) Biennial active status fee for license of funeral director shall be ~~\$375 two hundred fifty dollars (\$250.00)~~.

(c) Biennial active status fee for license renewal of funeral director/embalmer shall be ~~\$375 two hundred fifty dollars (\$250.00)~~.

(3) through (4) No change.

(5) Renewal of an inactive license for an embalmer, funeral director or direct disposer shall be subject to a fee of ~~\$375 50.00~~. Renewal of an inactive license for funeral director/embalmer shall be subject to a fee of ~~\$375 one hundred dollars (\$100.00)~~.

(6) through (12) No change.

Specific Authority 497.103, 497.140, 497.378, 497.379 FS. Law Implemented 497.140, 497.368, 497.373, 497.378, 497.379, 497.603 FS. History—New 11-11-79, Amended 8-18-82, 4-10-84, Formerly 21J-17.03, Amended 3-10-91, 11-15-92, Formerly 21J-17.003, Amended 4-10-94, 1-10-95, 5-1-96, 9-10-96, 10-13-97, 1-4-98, 2-16-98, 10-12-98, 11-11-99, Formerly 61G8-17.003, Amended _____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 7, 2009

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

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: 69K-17.0030 RULE TITLE: Direct Disposer/Establishment; Fees

PURPOSE AND EFFECT: To increase the application fee and renewal fee for direct disposer; and to increase the application fee for direct disposal establishments.

SUMMARY: The rule amendment would increase the license fee paid by Direct Disposal Establishments, by \$150.00 biennially for their initial two-year license. The rule amendment would increase the license fee paid by Direct Disposal, by \$75.00 biennially for their initial two-year license under; and by \$125.00 biennially to renew existing licenses.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not impose any indirect transactional costs on small businesses but will increase the fees paid by direct disposer applicants, existing direct disposers and direct disposal establishment applicants many of which are small businesses.

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

SPECIFIC AUTHORITY: 497.103, 497.140, 497.602, 497.603, 497.604 FS.

LAW IMPLEMENTED: 497.140, 497.602, 497.603, 497.604 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: Douglas Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361

THE FULL TEXT OF THE PROPOSED RULE IS:

69K-17.0030 Direct Disposer/Establishment; Fees.

(1) The direct disposer nonrefundable application fee shall be ~~\$375 300~~.

(2) The direct disposer renewal fee shall be ~~\$375 250~~.

(3) The direct disposal establishment nonrefundable application fee shall be ~~\$450 300~~.

Specific Authority 497.103, 497.140, 497.602, 497.603, 497.604 FS. Law Implemented 497.140, 497.602, 497.603, 497.604 FS. History—New 3-10-98, Formerly 61G8-17.0030, Amended 7-3-06, _____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 7, 2009
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 30, 2009

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: 69K-21.004
 RULE TITLE: Fees

PURPOSE AND EFFECT: To increase the application fee, biennial renewal and the annual inspection fee for funeral establishments.

SUMMARY: The rule amendment would increase the applicant fee paid by funeral homes by \$50.00 for the initial two-year funeral home license; and by \$150.00 biennially to renew existing licenses. The rule amendment would also increase the annual inspection fee paid by funeral homes by \$125.00 per year.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not impose any direct transactional costs to on small businesses but will increase the fees paid by funeral homes, many of which are small businesses.

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

SPECIFIC AUTHORITY: 497.103, 497.104, 497.380 FS.
 LAW IMPLEMENTED: 497.104, 497.146, 497.365(7), 497.380 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: Douglas Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361

THE FULL TEXT OF THE PROPOSED RULE IS:

69K-21.004 Fees.

(1) The application fee for a funeral establishment shall be \$300.00 ~~\$250~~ and will include licensure for the remainder of the biennium during which license application is granted.

(2) The biennial renewal fee for funeral establishments shall be \$450.00 ~~\$300~~.

(3) Each funeral establishment shall pay an annual inspection fee of \$225.00 ~~\$100~~ payable upon application and upon each biennial renewal.

(4) through (8) No change.

Specific Authority 497.103, 497.140, 497.380 FS. Law Implemented 497.140, 497.146, 497.365(7), 497.380 FS. History–New 2-13-80, Formerly 21J-21.04, Amended 3-29-90, 12-18-90, Formerly 21J-21.004, Amended 3-30-94, 5-1-96, 9-17-97, 10-29-97, 2-16-98, 11-17-99, 12-28-00, Formerly 61G8-21.004,_____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 7, 2009

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

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: 69K-22.003
 RULE TITLE: Fees

PURPOSE AND EFFECT: To increase the application and inspection fees for cinerator facilities.

SUMMARY: The rule amendment would increase the application fee paid by cinerator facilities by \$150.00 for the initial two-year license; and by \$150.00 biennially to renew existing license. The rule amendment would also increase the annual inspection fee paid by those entities by \$125.00.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not impose any indirect transactional costs to small businesses but will increase the fees paid by cinerator facilities, many of which are small businesses.

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

SPECIFIC AUTHORITY: 497.103, 497.104, 497.606 FS.
 LAW IMPLEMENTED: 497.104, 497.606 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: Douglas Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361

THE FULL TEXT OF THE PROPOSED RULE IS:

69K-22.003 Fees.

(1) The application fee for a cinerator facility shall be \$450.00 ~~\$300.00~~ and will include licensure for the remainder of the biennium during which license application is granted.

(2) The biennial renewal fee for cinerator facilities shall be ~~\$450.00~~ ~~\$300.00~~.

(3) Each cinerator facility shall be charged ~~\$100.00~~ \$225.00 for each annual inspection. These shall be paid biennially, at the same time as the renewal fee.

(4) through (5) No change.

Specific Authority 497.103, 497.140, 497.606 FS. Law Implemented 497.140, 497.606 FS. History–New 2-13-80, Formerly 21J-22.03, Amended 4-1-90, 12-18-90, Formerly 21J-22.003, Amended 2-21-95, 7-4-95, 9-17-97, 2-16-98, 11-17-99, Formerly 61G8-22.003, Amended 7-3-06,_____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 7, 2009

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

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: 69K-23.004 RULE TITLE: Direct Disposal Establishments

PURPOSE AND EFFECT: To increase the biennial renewal and inspection fees for direct disposal establishments.

SUMMARY: The rule amendment would increase the biennial renewal fee paid by Direct Disposal Establishments by \$100.00; and will increase the annual inspection fee by \$125.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not impose any direct transactional costs to small business but will increase the fee paid by Direct Disposal Establishments, many of which are small businesses.

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

SPECIFIC AUTHORITY: 497.103, 497.104, 497.604 FS.

LAW IMPLEMENTED: 497.104, 497.604 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: Douglas Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361

THE FULL TEXT OF THE PROPOSED RULE IS:

69K-23.004 Direct Disposal Establishments.

(1) through (5) No change.

(6) The biennial renewal fee for direct disposal establishments shall be ~~\$400~~ ~~300~~.

(7) There shall be an annual inspection fee of ~~\$225~~ ~~400~~ for each direct disposal establishment.

(8) through (9) No change.

Specific Authority 497.103, 497.140, 497.604 FS. Law Implemented 497.140, 497.604 FS. History–New 2-13-80, Amended 11-8-82, 8-16-83, Formerly 21J-23.04, Amended 6-5-90, Formerly 21J-23.004, Amended 4-10-94, 9-17-97, 1-4-98, 2-16-98, 5-17-98, 2-17-00, 6-14-00, 11-20-00, Formerly 61G8-23.004, Amended_____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 7, 2009

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

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: 69K-24.020 RULE TITLE: Licensure of Removal Services

PURPOSE AND EFFECT: To increase the application and renewal fees for removal services.

SUMMARY: The rule amendment would increase the application fee paid by Removal Services by \$50.00 for the initial two-year license. The rule amendment would also increase the annual inspection fee paid by Removal Services by \$125.00 per year.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not impose any indirect transactional costs on small businesses but will increase the fees paid by Removal Services, many of which are small businesses.

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

SPECIFIC AUTHORITY: 497.103, 497.385 FS.

LAW IMPLEMENTED: 497.385 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: Douglas Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361

THE FULL TEXT OF THE PROPOSED RULE IS:

69K-24.020 Licensure of Removal Services.

(1) No change.

(2) Removal services shall apply to the Department to be registered and shall pay a nonrefundable application fee of \$300 ~~\$250~~ together with an annual inspection fee of \$225 ~~one hundred dollars (\$100)~~ for each year for which the initial license will be issued.

(3) Removal services shall apply to the Department for renewal of registration and shall pay a nonrefundable renewal fee of \$300 together with the annual inspection fee of \$225 ~~one hundred dollars (\$100)~~ for each year for which the license will be issued.

(4) No change.

Specific Authority 497.103, 497.385 FS. Law Implemented 497.385 FS. History—New 5-21-95, Amended 9-18-95, 9-17-97, 2-16-98, Formerly 61G8-24.020, Amended.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 7, 2009

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

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: 69K-24.030 RULE TITLE: Licensure of Refrigeration Services

PURPOSE AND EFFECT: To increase the application and renewal fees for refrigeration services.

SUMMARY: The rule amendment would increase the application fee paid by Refrigeration Services by \$50.00 for their initial two-year Refrigeration Services license. The rule amendment would also increase the annual inspection fee paid by Refrigeration Services by \$125.00.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not impose any indirect transactional costs on small businesses but will increase the fess paid by Refrigeration Services, many of which are small businesses.

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

SPECIFIC AUTHORITY: 497.103, 497.385 FS.

LAW IMPLEMENTED: 497.385 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: Douglas Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361

THE FULL TEXT OF THE PROPOSED RULE IS:

69K-24.030 Licensure of Refrigeration Services.

(1) No change.

(2) Refrigeration services shall apply to the Department to be registered and shall pay a nonrefundable application fee of \$300 ~~\$250~~ together with an annual inspection fee of \$225 ~~one hundred dollars (\$100)~~ for each year for which the initial license will be issued.

(3) Refrigeration services shall apply to the Department for renewal of registration and shall pay a nonrefundable renewal fee of \$300 together with the annual inspection fee of \$225 ~~one hundred dollars (\$100)~~ for each year for which the license will be issued.

(4) No change.

Specific Authority 497.103, 497.385 FS. Law Implemented 497.385 FS. History—New 5-21-95, Amended 9-17-97, 8-10-98, Formerly 61G8-24.030, Amended.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 7, 2009

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

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: 69K-24.040 RULE TITLE: Licensure of Centralized Embalming Facilities

PURPOSE AND EFFECT: increase the application, inspection and renewal fees for centralized embalming facilities.

SUMMARY: The rule amendment would increase the application fee paid by Centralized Embalming Facilities by \$25.00 for the initial two-year Centralized Embalming Facilities license. The rule amendment would also increase the annual inspection fee paid by Centralized Embalming Facilities by \$125.00.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule

will not impose any indirect transactional costs on small businesses but will increase the fess paid by Centralized Embalming Facilities, many of which are small businesses.

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

SPECIFIC AUTHORITY: 497.103, 497.385 FS.

LAW IMPLEMENTED: 497.385 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: Douglas Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361

THE FULL TEXT OF THE PROPOSED RULE IS:

69K-24.040 Licensure of Centralized Embalming Facilities.

(1) No change.

(2) Centralized embalming facilities shall apply to the Department to be registered and shall pay a nonrefundable application fee of \$300 \$250 together with an annual inspection fee of \$225 ~~one hundred dollars (\$100)~~ for each year for which the initial license will be issued.

(3) Centralized embalming facilities shall apply to the Department for renewal of registration and shall pay a nonrefundable renewal fee of \$300 together with the annual inspection fee of \$255 ~~one hundred dollars (\$100)~~ for each year for which the license will be issued.

(4) through (5) No change.

Specific Authority 497.103, 497.385 FS. Law Implemented 497.385 FS. History--New 7-14-99, Formerly 61G8-24.040, Amended

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 7, 2009

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

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF LAW ENFORCEMENT

Office of Inspector General

Table with 2 columns: RULE NOS. and RULE TITLES. Lists rules 11N-1.002 through 11N-1.006 with their respective titles.

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 35, No. 1, January 9, 2009 issue of the Florida Administrative Weekly has been withdrawn.

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."

AGENCY FOR HEALTH CARE ADMINISTRATION

Cost Management and Control

Table with 2 columns: RULE NOS. and RULE TITLES. Lists rules 59B-9.010 through 59B-9.017 with their respective titles.