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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Allen Hall, Executive Director, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3250

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

FLORIDA HOUSING FINANCE CORPORATION

RULE NOS.:	RULE TITLES:
67-38.002	Definitions
67-38.0026	General Program Requirements and Restrictions
67-38.003	Application Submission Procedures
67-38.004	Incomplete Applications and Rejection Criteria
67-38.005	Application Evaluation and Award Guidelines
67-38.007	Terms of the PLP Loan
67-38.008	Eligible Uses for the Loan
67-38.010	Credit Underwriting Procedures
67-38.011	Fees
67-38.014	Disbursement Procedures

PURPOSE AND EFFECT: This Rule establishes the procedures by which the Florida Housing Finance Corporation shall administer the Predevelopment Loan Program (PLP) which helps to fund the initial and up front costs associated with the building or rehabilitation of affordable housing. These funds may be requested by any unit of government, public housing authority established pursuant to Chapter 421, F.S., community-based or not-for-profit organization, for-profit entity wholly owned by one or more qualified not-for-profit organizations, or limited partnership with the community-based or not-for-profit organization that holds at least 51% of the ownership not owned by a for-profit entity and must materially participate in the development and operation of the Development. Revisions to the Rule are required to implement technical and clarifying changes. The adoption of these revisions will increase the efficiency and effectiveness for program service delivery and will provide greater clarification of the program.

SUBJECT AREA TO BE ADDRESSED: A Rule Development Workshop will be held to receive comments and suggestions from interested persons relative to program requirements as specified in Rule Chapter 67-38, Florida Administrative Code.

RULEMAKING AUTHORITY: 420.528 FS.

LAW IMPLEMENTED: 420.507, 420.521-.529 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: July 9, 2009, 10:00 a.m. (Thursday)

PLACE: Florida Housing Finance Corporation, Seltzer Room, Sixth Floor, 227 North Bronough 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: Amanda Franklin, (850)488-4197. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Robert Dearduff, PLP Administrator, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329

The preliminary text of the proposed rule development will be available on Florida Housing Finance Corporation's web site, www.floridahousing.org.

Section II
Proposed Rules

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Communities Trust

RULE NOS.:	RULE TITLES:
9K-9.002	Definitions
9K-9.003	General Requirements and Eligibility Standards
9K-9.004	Submission of Application and Application Materials
9K-9.006	Project Evaluation Criteria
9K-9.007	Ranking of Application

PURPOSE AND EFFECT: To implement rules to govern the Stan Mayfield Working Waterfronts Program.

SUMMARY: These rules govern the grant application procedures and process for the Stan Mayfield Working Waterfronts program that was created during the 2008 legislative session pursuant to Section 380.5105, Florida Statutes. This rule chapter implements Chapter 2008-229, Laws of Florida, which created Sections 380.503 and 380.5105, Florida Statutes.

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.

RULEMAKING AUTHORITY: 380.507(11), 380.5105(2) FS.

LAW IMPLEMENTED: 259.105, 380.5105 FS.

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

DATE AND TIME: July 15, 2009, 9:00 a.m. – Noon, or until business is concluded, whichever occurs first

PLACE: Randall Kelley Training Room, Third Floor, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Ken Reecy, Community Program Manager, Department of Community Affairs, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1711. 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: Ken Reecy, Community Program Manager, Department of Community Affairs, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1711

THE FULL TEXT OF THE PROPOSED RULES IS:

9K-9.002 Definitions.

(1) through (4) No change.

(5) "Business Summary" means information that describes an organization's status and future goals. It generally projects the vision and future opportunities for the organization and outlines the operations, expected needs, finances and organizational strategies that will enable the organization to achieve its goals. The information required for a Business Summary is specified in Form SMWW-2 ~~SMWW-1~~.

(6) through (15) No change.

(16) "Nonprofit Working Waterfront Organization" means a private Nonprofit Working Waterfront Organization, existing under the provisions of Section 501(c)~~(3)~~ of the United States Internal Revenue Code that can demonstrate that the support of Working Waterfront as defined in Section 380.503(18)(a) and (b), F.S., are among its principal purposes and goals.

(17) No change.

(18) "Project Site" means the specific area(s), defined by a boundary map or legal description and Certified Survey, where Florida Forever Funds are proposed in an Application to be used for all or a portion of the Acquisition. The Project Site may include up to three (3) ownerships. The Project Site may include non-contiguous parcels, so long as the non-contiguous areas are part of a unified scheme of development and management within the same Working Waterfront and within 300 feet of each other ~~sufficiently close that the unified scheme can be maintained~~.

(19) through (26) No change.

Rulemaking ~~Specific~~ Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History–New 11-25-08, Amended _____.

9K-9.003 General Requirements and Eligibility Standards. The following constitutes the general procedures for the Stan Mayfield Working Waterfront Florida Forever grant program of the Florida Communities Trust.

(1) Application Form. Application Form SMWW-2 ~~SMWW-1~~ (eff. _____~~11-25-08~~) is prescribed for use with these rules and is incorporated by reference. Applications for funding must be submitted on Application Form SMWW-2 ~~SMWW-1~~. Applicants may only submit one Application Form per Project Site. A copy, or instructions for receiving the Application Form in an electronic format, may be obtained by writing to the Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100, or by calling (850)922-2207.

(2) through (3) No change.

(4) Nonprofit Working Waterfront Organizations. In all acquisitions by a Nonprofit Working Waterfront Organization, a guaranty or pledge by a Local Government, the Water Management District in which the project is located, or a managing agency of the Board of Trustees to act as a backup manager to assume responsibility for management of the Project Site in the event the Nonprofit Working Waterfront Organization is unable to continue to manage the Project Site shall be obtained.

In addition, when acquiring a less-than-fee interest in the Project Site, the Nonprofit Working Waterfront Organization must provide assurance that they have the capacity to monitor and enforce the easement conditions. Such assurance shall be in the form of an endowment equal to five percent of the appraised value of the less-than-fee interest.

Or, if the Nonprofit Working Waterfront Organization is acquiring a fee-simple interest in the Project Site, the Nonprofit Working Waterfront Organization must provide assurance that they have the capacity to manage the Project Site. Such assurance shall be in the form of an endowment equal to five ~~ten~~ percent of the appraised value of the fee interest and a capital fund equal to five percent of the appraised value of the fee interest.

(5) No change.

(6) Limitation of Awards. The total amount of any Award or combination of Awards applied for by any Applicant(s) under any Application(s) for any project(s) shall not exceed five million dollars ($5,000,000.00) during any one cycle or

the amount appropriated by the Legislature if the appropriated amount is less than five million dollars ($5,000,000.00) ~~the amount annually appropriated and accumulated for this program during any fiscal year~~.

(7) through (9) No change.

(10) Submerged Land Leases:

(a) Applicant: Each Applicant must provide documentation by the Application deadline that any Applicant owned facility or structure located over state sovereignty submerged lands is properly authorized and that any applicable fees and wetslip certification forms are current. The documentation must be in the form of a letter from the Department of Environmental Protection stating that all Applicant owned facilities or structures located over state sovereignty submerged lands are in compliance with Chapters 253, 258, 373, Part IV and 403, Florida Statutes and the submerged land lease and applicable fees and wetslip certification forms are current or that the facilities or structures are not located on state sovereignty submerged land. Reasonable notice must be given to the Department of Environmental Protection to secure this documentation. This documentation must be submitted by the Application deadline, otherwise the project will not be considered by the Trust.

(b) Project Site: Each Applicant must provide a letter from the Department of Environmental Protection that verifies any facilities or structures located on the Project Site that are over state sovereignty submerged lands are properly authorized and that any applicable fees and wetslip certification forms are current or a statement from the Department of Environmental Protection that the facilities or structures are not located on state sovereignty submerged land. The documentation must be in the form of a letter from the Department of Environmental Protection stating the current land owner is in compliance with Chapters 253, 258, 373, Part IV and 403, Florida Statutes and the submerged land lease for all facilities or structures on the Project Site that are located over state sovereignty submerged land and that applicable fees or wetslip certification forms are current or that the facilities or structures are not located on state sovereignty submerged land. Reasonable notice must be given to the Department of Environmental Protection to secure this documentation. This documentation must be submitted to the Trust no later than 48 hours before the FCT Governing Board meeting, otherwise the project will not be considered by the Trust.

(11) Zoning Compliance. Each Applicant must submit a letter from the local planning department that verifies the proposed uses on the Project Site are consistent with the future land use designation and local zoning regulations.

Rulemaking ~~Specific~~ Authority 380.507(11), 380.5105(2). FS. Law Implemented 259.105, 380.501-.515 FS. History–New 11-25-08, Amended _____.

9K-9.004 Submission of Application and Application Materials.

(1) through (3) No change.

(4) Applicants must submit four (4) ~~three (3)~~ complete sets of Application materials. One set shall contain original text and non-text items. The remaining three ~~two~~ sets shall contain legible copies of text and non-text items, unless otherwise specified in the Application form.

(5) No change.

(6) All applications must be submitted on Application Form SMWW-2 ~~SMWW-1~~.

(7) A Business Summary that provides information on the applicable criteria outlined in the Business Summary section of Form SMWW-2 ~~SMWW-1~~ must be provided by the Applicant. ~~Except in the case of a local government proposal to acquire fee simple interest in the Project Site for a public use.~~ Applications submitted without the required Business Summary will not be considered by the Trust for recommendation to the Board of Trustees. Applications containing a Business Summary that is deemed insufficient by the Trust will not be considered by the Board of Trustees. The Business Summary and other relevant information shall be the basis for the Management Plan that will guide the management and operation of funded projects.

(8) The following exhibits shall be provided:

(a) through (h) No change.

(i) The Applicant must provide a letter from the Department of Environmental Protection that verifies any facilities or structures owned by the Applicant that are located over state sovereignty submerged lands are in compliance with Chapters 253, 258, 373, Part IV and 403, Florida Statutes and the submerged land lease and applicable fees and wetslip certification forms are current or that the structures are not located on state sovereignty submerged land. This letter must accompany the Application.

(j) The Applicant must provide a letter from the Department of Environmental Protection that verifies any facilities or structures located on the Project Site that are over state sovereignty submerged lands are in compliance with Chapters 253, 258, 373, Part IV and 403, Florida Statutes and the submerged land lease and applicable fees and wetslip certification forms are current or that the structures are not located on state sovereignty submerged land. This letter can be submitted no later than 48 hours before the FCT Governing Board meeting.

(k) A letter from the local planning department that verifies the proposed uses of the Project Site are in compliance with the future land use designation and local zoning regulations.

Rulemaking ~~Specific~~ Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History–New 11-25-08, Amended _____.

9K-9.006 Project Evaluation Criteria.

The evaluation of Applications shall be based on the criteria set forth in this rule chapter and the information in Application Form SMWW-2 ~~SMWW-1~~. Trust staff shall utilize the information contained in the Application (including exhibits) and all information obtained during its review of the Application, including information obtained during site visits, in drafting an evaluation report and developing a ranking report to present to the Governing Board. At a publicly noticed meeting, the Governing Board will evaluate the reports and approve the recommended ranking report that will be presented to the Board of Trustees.

The Business Summary shall be evaluated for sufficiency based on information provided in Application Form SMWW-2 ~~SMWW-1~~. Staff from the Department of Agriculture and Consumer Services, and other state agencies as deemed necessary by the Trust, shall review each Business Summary and provide comments to the Trust. Trust staff shall prepare a recommended Business Summary sufficiency determination that takes into consideration comments received from the Department of Agriculture and Consumer Services and other agencies for consideration by the Governing Board. Applications containing a Business Summary deemed insufficient by the Trust will not be considered by the Board of Trustees.

An Application shall receive all the points assigned to a particular criterion if the criterion is met; no partial scores will be given for a criterion. If a criterion does not apply to the proposed Project Site, the Applicant should state "No" in the response to the criterion.

Points shall be awarded when the following criteria are met:

(1) Location

(a) No change.

(b) The Project Site is adjacent to or within 2,000 feet of and tidally connected to state-owned submerged lands designated as an aquatic preserve identified in Section 258.39, F.S., National Marine Sanctuary or National Estuarine Research Reserve (10 points);

(c) The Project Site is located within a municipality with a population less than 30,000 or in an unincorporated area of the county with a population in the unincorporated area that is less than 40,000 (10 points);

(d) The Project Site is within an area designated as ~~an active~~ "Waterfronts Florida Partnership Community" (9 points);

(e) No change.

(f) The Project Site is within an area designated as a "Rural Area of Critical Economic Concern" or "Area of Critical State Concern" (points only given on one category) (4 points).

(2) Economic Consideration

(a) through (c) No change.

(d) The grant award amount requested is within the following thresholds (Points will be awarded on only one of the following criteria):

1. The Applicant is requesting a grant award amount that does not exceed $1,500,000.00 (8 points);

2. The Applicant is requesting a grant award amount that does not exceed $2,500,000.00 (4 points);

3. The Applicant is requesting a grant award amount that does not exceed $3,500,000.00 (2 points).

FCT will not participate in project costs that exceed the grant award amount.

(3) Site Suitability/Readiness

(a) The Project Site will provide a docking facility for commercial fishing vessels (Points will be awarded on only one of the following criteria) ~~The Project Site contains existing structures that can be used or require only minor improvements, for use as commercial saltwater fisheries or aquaculture operations (points may be awarded based on the following criteria)~~:

1. The Project Site contains an existing docking facility that can be presently utilized for commercial saltwater fisheries or aquaculture operations (17 points) ~~Docking facility for commercial fishing vessels (12 points)~~;

2. The Project Site contains an existing docking facility that requires major restoration to be utilized for commercial saltwater fisheries or aquaculture operations and the applicant has committed to rebuild the docking facility (12 points) ~~A Seafood House or other buildings to be used for Working Waterfront Business (10 points)~~;

3. The Applicant has committed to construct a new docking facility on the Project Site for commercial fishing vessels or aquaculture operations (6 points) ~~Boat ramp for commercial fishing vessels (8 points).~~;

~~4. Storage area for traps, nets, and other gear needed for commercial fishing or aquaculture operations (4 points);~~

(b) The Project Site will provide a Seafood House or other building to be used for Working Waterfront Business (Points will be awarded on only one of the following criteria): ~~The Project Site has a submerged land lease from the Board of Trustees, Environmental Resource Permit, or Wetland Resource Permit for the existing or proposed docking facility (7 points);~~

1. The Project Site contains an existing Seafood House or other building that can be presently utilized for Working Waterfront Business (10 points);

2. The Project Site contains an existing Seafood House or other building that requires major restoration and the applicant has committed to rebuild the building to be utilized as a Working Waterfront Business (8 points);

3. The Applicant has committed to construct a new Seafood House or other buildings of at least 1,000 square feet on the Project Site to be used for Working Waterfronts Business (4 points).

(c) The Project Site will provide a structure for launching commercial fishing vessels, including but not limited to a boat ramp, boat lift or boat rail system (Points will only be awarded on one of the following criteria): ~~The Project Site has obtained all necessary permits from the local government for the existing or proposed uses on the uplands (7 points);~~

1. The Project Site contains an existing structure for launching commercial fishing vessels, including but not limited to a boat ramp, boat lift or boat rail system, which can be presently utilized without major restoration (6 points);

2. The Project Site contains an existing structure for launching commercial fishing vessels, including but not limited to a boat ramp, boat lift or boat rail system, that requires major restoration and the Applicant has committed to rebuild the existing boat ramp (4 points).

3. The Applicant has committed to construct a new boat launching facility on the Project Site that will be used for commercial fishing vessels (2 points).

(d) The Project Site contains an open area of at least 1/4 acre to be used for the storage of traps, nets, and other gear needed for commercial fishing or aquaculture operations (4 points) ~~The proposed project will be acquired using a less-than-fee Working Waterfronts Covenant for all of the land to be acquired (5 points)~~;

(e) The proposed project will be acquired using a less-than-fee Working Waterfront Covenant for all of the land to be acquired (5 points) T~~he Project Site will participate in Florida's Clean Marina Program (4 points)~~.

(4) Financial Contribution

(a) through 2. No change.

~~(b) The applicant has committed to major restoration of an existing docking facility for commercial fishing vessels or to construct a new docking facility for commercial fishing vessels (8 points);~~

~~(c) The applicant has committed to major restoration of an existing Seafood House of other building used for working waterfront business or to construct a new Seafood House or other buildings of at least 1,000 square feet to be used for Working Waterfront Business (6 points);~~

~~(d) The applicant has committed to major restoration of an existing boat ramp or to construct a new boat ramp for commercial fishing vessels (4 points).~~

(5) Community Planning

(a) The project is located in a Future Land Use category, zoning district, or overlay district that has been identified for the protection and preservation of Working Waterfront (7 points) ~~(5 points)~~;

(b) The project furthers local government comprehensive plan objectives and policies directives that ensure the protection and preservation of Working Waterfront for use by commercial fisherman, aquaculturists, or business entities that support these industries (7 points) ~~(5 points).~~;

~~(c) The project furthers local government comprehensive plan objectives and policies directives to provide facilities that promote and educate the public about the economic, cultural and historical heritage of Florida's traditional Working Waterfront (3 points).~~

(6) Public Education

(a) through (b) No change.

(c) The Project Site will contain interpretive ~~Interpretive~~ kiosk(s) or signs(s) ~~are provided~~ that educate the public about the economic, cultural, or historic heritage of Florida's traditional Working Waterfront (2 points).

Rulemaking ~~Specific~~ Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History–New 11-25-08, Amended _____.

9K-9.007 Ranking of Applications.

(1) Prior to preparing the ranking report of projects, Trust staff shall conduct site visits as needed to verify the conditions represented by the Applicants in the SMWW-2 ~~SMWW-1~~.

(2) through (3)(b) No change.

(c) Any Application that does not contain a Business Summary or an Application that contains an insufficient Business Summary will not be considered by the Trust for recommendation to the Board of Trustees.

(d) Any Applicant that does not provide documentation from the Department of Environmental Protection by the application deadline that all facilities or structures owned by the Applicant are fully compliant with Chapters 253, 258, 373, Part IV and 403, Florida Statutes, and the state sovereignty submerged leases and applicable fees or wetslip certification forms are current, or that the structures are not located on state sovereignty submerged land, will not be considered by the Trust for recommendation to the Board of Trustees.

(e) Any Applicant that does not provide documentation from the Department of Environmental Protection within 48 hours of the FCT Governing Board meeting that any facilities or structures located on the Project Site are fully compliant with Chapters 253, 258, 373, Part IV and 403, Florida Statutes, and the state sovereignty submerged leases and applicable fees or wetslip certification forms are current, or that the structures are not located on state sovereignty submerged land, will not be considered by the Trust for recommendation to the Board of Trustees.

(4) The Governing Board shall develop and approve a list of all Projects in rank order for consideration by the Board of Trustees. In the event of tied scores, the Governing Board shall rank the Applications in the order in which Applications were received prior to the Application Deadline. Each Applicant shall be provided with the recommended ranking list prior to the Board of Trustees' meeting.

(5) through (7) No change.

Rulemaking ~~Specific~~ Authority 380.507(11), 380.5105(2) FS. Law Implemented 259.105, 380.501-.515 FS. History–New 11-25-08, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ken Reecy, Community Program Manager, Department of Community Affairs, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1711

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Thomas G. Pelham, Secretary of Department of Community Affairs and Chair of the Florida Communities Trust Governing Board

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

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

DEPARTMENT OF TRANSPORTATION

RULE NOS.:	RULE TITLES:
14-61.0011	Florida's Turnpike System
14-61.0012	Definitions
14-61.0013	Tolls
14-61.0014	Limitation on Use of Turnpike System
14-61.0015	Prohibitions on the Turnpike System
14-61.0016	Turnpike Tandem Access
14-61.0017	Other Regulations
14-61.0018	Tractor Requirements
14-61.0019	Tire Requirements
14-61.0020	Brake Requirements
14-61.0021	Emergency Equipment
14-61.0022	Lead Trailer Requirements
14-61.0023	Converter Dolly Requirements
14-61.0024	Lamps, Etc.
14-61.0025	Inspection by Driver
14-61.0026	Coupling Devices/Hitch Connections
14-61.0027	Staging
14-61.0028	Speed Limits, Minimum Distances, Passing, and Operations Under Hazardous Conditions

PURPOSE AND EFFECT: This is a substantial amendment of Rule Chapter 14-61, F.A.C., consisting of a new Part I, Part II, and Part III structure. Part I – General will be based upon the current rule. However, because it will be broken into three separate rules, the existing Rule 14-61.0011, F.A.C., is being repealed and the three new rules, based upon portions of the existing rule, are adopted as new. Part II – Turnpike Tandems and Part III – Regulations Covering the Operation and Safety of Turnpike Tandems are based upon existing rules in Rule Chapter 14-54, F.A.C. Upon adoption of these new rules, the existing Rule Chapter 14-54, F.A.C., will be repealed.

SUMMARY: This is a revision of Rule Chapter 14-61, F.A.C., to include repeal of the existing rule and adoption of 17 new rules with a three part structure. The new rules being adopted in Part I are based upon the existing Rule 14-61.0011, F.A.C., which is being repealed. The new rules being adopted in Part II and Part III amend and replace existing rules currently in Rule Chapter 14-54, 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.

RULEMAKING AUTHORITY: 316.515(12), 334.044(2), 338.239 FS.

LAW IMPLEMENTED: 316.515, 316.655, 338.22-.241, 338.239 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

14-61.0011 Florida's Turnpike System.

Rulemaking ~~Specific~~ Authority 316.515(12), 334.044(2), 338.239 FS. Law Implemented 338.01, 338.22-.241 ~~338.239~~ FS. History–New 8-5-96, Amended 10-30-96, Repealed _____.

14-61.0012 Definitions.

(1) Unless defined below, words, phrases, or terms contained herein shall have the definitions set forth in Florida Statutes, including Chapters 316 and 338, F.S. As used in these rules and regulations, the following words, phrases, or terms shall have the following meanings, where context will permit:

(a) "Department" means the State of Florida Department of Transportation.

(b) "Turnpike System" means as defined in Section 338.221(6), F.S.

(c) "Turnpike Tandem" means any combination of truck tractor, semitrailer, and trailer combination coupled together so as to operate as a single unit, in which either the semitrailer or the trailer unit exceeds 28 feet in length but in which neither the semitrailer nor the trailer unit exceeds 48 feet in length and which are operated in compliance with Parts II or III of this rule chapter.

(d) "Turnpike Tandem Permit" means a authorization issued by the Department's Road Use Permits Office for the specific and limited purpose of allowing combinations known as turnpike tandems to operate on the Turnpike System.

(e) "Tandem Trailer Truck" means as defined in Section 316.03(71), F.S.

Rulemaking Authority 334.044(2), 338.239 FS. Law Implemented 316.515, 338.239 FS. History–New _____.

14-61.0013 Tolls.

(1) Vehicle Classifications for Toll Schedule Purposes. For purposes of determining tolls payable under the Toll Schedule fixed by the Department for use of the Turnpike System, the base fare shall be based on two-axle vehicles and increased by an equal amount for each additional axle.

(2) Toll Rules and Rates on the Florida Turnpike System.

(a) Evasion of Tolls. This includes entering or leaving the Turnpike System or any part of its right of way, except through the regular toll lanes (except in emergency cases, and then only under the control and supervision of the Florida Highway Patrol or Toll Collectors), or committing any other act with the intent to defraud or evade payment of tolls is prohibited. Enforcement of toll violations shall be in accordance with Rule Chapter 14-100, F.A.C., and all applicable toll enforcement statutes.

(b) Loss of Toll Ticket. The operator of a vehicle on the ticket system portion of the Turnpike System who, for any reason, does not have a toll ticket upon reaching an exit toll station, shall be charged the toll for the appropriate vehicle classification from the most distant toll station within the closed ticket portion of the Turnpike System.

(c) Exit of Vehicle at Point of Entry.

1. The operator of a vehicle on the ticket system portion of the Turnpike System who presents a toll ticket for payment to a toll collector at the same toll station at which such toll ticket was issued, shall be charged the toll for the appropriate vehicle classification from the nearest legal U-Turn point.

2. The operator of a vehicle on the electronic toll collection portion of the Turnpike System who exits the electronic toll collection portion of the Turnpike System at the same toll station at which such vehicle entered the electronic toll collection portion of the Turnpike System, shall be charged the toll for the appropriate amount for the vehicle classification from the nearest legal U-turn point.

(3) Upon entering the Turnpike System a Turnpike Tandem will be treated as two units and charged according to the current classification schedules and method of toll collection;

(a) The first unit will be the tractor and lead trailer; and

(b) The second unit will be the converter dolly and the second trailer.

Rulemaking Authority 334.044(2), 338.239 FS. Law Implemented 316.1001, 338.155, 338.165(3), 338.239 FS. History–New _____.

14-61.0014 Limitations on Use of Turnpike System.

In addition to the prohibitions and limitations of Chapters 316 and 338, F.S., use of the Turnpike System and entry thereon by the following is prohibited:

(1) Vehicles, including any load thereon, exceeding the maximum dimensions of Section 316.515, F.S., except under special hauling permit issued by the Department or vehicles operated under Tandem Permits issued by the Department.

(2) Vehicles carrying explosives, except under a special hauling permit issued by the Department, and in compliance with the rules and regulations promulgated by the State Insurance Commissioner and Section 316.302, F.S.

Rulemaking Authority 316.550(5), 334.044(2), 338.239 FS. Law Implemented 316.550(1), 324.044(14), 338.239 FS. History–New _____.

14-61.0015 Prohibitions on the Turnpike System.

(1) Hitchhiking – Loitering. The solicitation of a ride, commonly known as "hitchhiking," on any portion of the Turnpike System, including toll plazas, is strictly prohibited. Loitering in or about the toll plazas, bridges, overpasses, underpasses, or any other structure, or any other portion of the Turnpike System, is prohibited.

(2) Soliciting or Carrying on Commercial Activity. No person shall:

(a) Engage in any commercial activity on the Turnpike System without the written permission of, or unless under contract with, the Department or Turnpike Enterprise. Nor shall any person solicit business or funds for any purpose on the Turnpike System without written permission granted by the Department or Turnpike Enterprise. No person shall at any time or in any manner electioneer on any part of the Turnpike System for or against any party ticket or any candidate for nomination, or officer on any party ticket, or for or against any proposition of any kind or nature to be voted upon at any election.

(b) Post, distribute, or display signs, advertisement, circulars, printed or written matter on the Turnpike System without written permission from, or written contract with, the Department or Turnpike Enterprise.

(c) Throw, cast, fling, heave, hurl, toss, shoot or discharge any pellet, rock, stone, bomb, gun, firearm or any other article, or item over, across, under or along any road, bridge, overpass, underpass, or any other structure of the Turnpike System.

(d) No person shall disturb, tamper with or attempt to destroy, injure or deface, damage, mutilate, or remove any sign, delineator, structure, building, fence, trees, flowers, shrubs, or any other property or equipment of the Turnpike System, or any of its concessionaires.

(e) Fail, neglect or refuse to comply with the collectors at toll booths and such other officials as may be employed by the Turnpike system for such purposes.

(3) Alcoholic Beverages. The consumption of alcoholic beverages is prohibited on the Turnpike System.

(4) Weapons. Brandishing of weapons by any person is prohibited on the Turnpike System.

(5) Operation of Vehicles. Except for those provisions which are inconsistent with or modified by these rules, the provisions of Chapter 316, F.S., State Uniform Traffic Control, shall apply on the Turnpike System.

(6) Speed Limits. All vehicles shall comply with the posted speed limit. No vehicles shall be operated on the Turnpike System less than 50 miles per hour, except where a lesser speed is posted, or when necessary to do so under the conditions of the road, inclement weather, or with regard to the actual and potential hazards then existing upon the Turnpike System.

(7) Use of Median Strip. No person shall operate a vehicle on the median strip. Driving a vehicle on the median strip is prohibited.

(a) Exceptions. Prohibition on use of the median strip shall not apply to Turnpike construction vehicles, Florida Highway Patrol, Turnpike Maintenance or official Department vehicles, or to their emergency service vehicles; nor to fire vehicles or ambulances, when operated in the performance of their official duties, provided that the operator thereof uses caution so as not to interfere with or endanger traffic.

(b) Prohibition on use of the median strip shall not apply to other emergency-service vehicles, if the crossing or use of the median strip is necessary for the purpose of towing, repairing or otherwise servicing a disabled vehicle provided that such crossing of the median strip shall be made only under the supervision and with the consent of the Florida Highway Patrol or an employee, agent, or contractor of the Department. Such crossing or use on the Turnpike System shall be further restricted to emergency service vehicles, not operated by garages under contract with the Department, coming to the assistance of a disabled trucking or bus company vehicle, provided that such emergency service vehicle is owned and operated by, or under contract with, the subject company whose vehicle is disabled. Disabled vehicles in tow by any emergency service vehicles operating under these conditions shall be allowed to cross or use the median strip.

(c) Upon the recommendation of the Florida Highway Patrol the Department will authorize parking in the median strip. Parking shall, however, be permitted only if such parking will not interfere with maintenance operations. Such parking in the median strip shall be authorized only if considered by the Florida Highway Patrol to not be dangerous or impractical.

(8) No U Turns. The making of a U turn at any point on the Turnpike System is prohibited unless authorized by the Florida Highway Patrol or the Department. Excepted from the provisions of this paragraph are such authorized vehicles as described under subsection 14-61.015(6), F.A.C., above, and then only under such conditions as are described therein.

(9) Overtaking a Vehicle. The provisions of the Florida Uniform Traffic Control Law shall be applicable to the overtaking and passing of vehicles on the Turnpike System except in areas posted to the contrary.

(10) Parking, Stopping or Standing of Vehicles on Traffic, Deceleration or Acceleration Lanes. No vehicle on the Turnpike System shall be parked, stopped, or allowed to stand on the traffic lanes, acceleration lanes, deceleration lanes, bridges, structures, access ramps, or on shoulders in front of service areas between the traffic lane and the service area, or at any other place where posted to the contrary. Parking, standing, or stopping on the shoulders of the Turnpike System shall be permitted only in an emergency, or when authorized by the Department, or as directed by the Florida Highway Patrol, and then only on the shoulder to the right of the traffic lane facing in the direction of travel and only on condition that all wheels and projecting parts of the vehicle and load shall be completely clear of the travel lanes. In the event that it is necessary for the operator of a truck or tractor-trailer to leave a vehicle on the Turnpike System unattended and it is impossible or impractical to have such vehicle towed off the Turnpike System, the operator shall obtain a parking permit from the Florida Highway Patrol before leaving the Turnpike System. The provisions of this paragraph shall not apply to vehicles owned by the Department.

(11) Impounding of Vehicles. Vehicles illegally parked or abandoned on the Turnpike System may be towed off the Turnpike System and impounded. Such vehicles may not be removed from the storage compound until after the payment of towing, storage and other charges.

(12) Penalty. The penalty provisions of the laws of the State of Florida, and Section 316.655, F.S., where applicable, shall apply to any person violating any of the above rules and regulations.

Rulemaking Authority 334.044(2), 338.2216(1)(b), 338.235, 338.239 FS. Law Implemented 316.083, 316.090, 316.183, 316.655, 338.234, 338.237, 338.239 FS. History–New .

PART II TURNPIKE TANDEMS

14-61.0016 Turnpike Tandem Access.

The Turnpike Enterprise will allow turnpike tandems access to the Turnpike System, consistent with the provisions specified herein:

(1) Size, Weight, and Safety Enforcement.

(a) The Motor Carrier Compliance Office, the Turnpike Enterprise, the Florida Highway patrol, or their respective staffs are authorized to inspect all equipment used in the tandem operation and to reject any defective equipment.

(b) The Motor Carrier Compliance Office has primary responsibility for enforcing commercial vehicle size, weight, and safety laws and rules on the Turnpike System.

(c) The Florida Highway Patrol has primary responsibility for enforcing the State's general traffic safety on the Turnpike System.

(2) Turnpike Tandem Permits and Certifications.

(a) The Department's Road Use Permits Office is responsible for issuing oversize/overweight Turnpike Tandem permits. All other certifications must be obtained from the Turnpike Enterprise.

(b) The permittee is responsible for any vehicle operating with an oversize/overweight permit and other certifications and for complete compliance with all terms of the permit and certification, including:

1. Ensuring that the driver is qualified to operate the vehicle and understands the terms and conditions of the permit, certifications, and the provisions of this rule chapter.

2. Ensuring that the vehicle is inspected and maintained in a safe and reliable condition; and

3. Ensuring that the vehicle operates in conformity with the permit, certifications, and the provisions of this rule chapter.

(c) Turnpike tandem permits are issued for the Turnpike system only. No authority is given to Turnpike Tandems to travel on routes off the Turnpike System.

(3) Original Application. To operate Turnpike Tandems on the Turnpike System, submit the following certifications to:

Florida Turnpike Enterprise Director of Highway Operations

Pompano Service Area, M.P. 65

Post Office Box 9828

Fort Lauderdale, Florida 33310-9828.

Form Number	Revision Date	Title
800-040-01	04/09	Certification of Turnpike Tandem Trailer Equipment (Tractor)
800-040-02	04/09	Certification of Turnpike Tandem Trailer Equipment (First or Lead Trailers)
800-040-03	04/09	Certificate of Insurance
800-040-04	04/09	General Certification Covering Turnpike Tandem Trailer Operations by Permittee
800-040-05	04/09	Certification for Special Permit to Operate Turnpike Tandem Trailer Vehicle
800-040-06	04/09	Certification of Turnpike Tandem Trailer Equipment (Dolly Converters)
800-040-07	04/09	Certification for Special Certificate to Operate Turnpike Tandem Trailer Vehicle

The above listed forms are hereby incorporated by reference and made a part of these rules. Copies of these forms are available at: http://formserver.dot.state.fl.us/capture/listings/FormListing.aspx?ListType=FormNumber.

(4) All tractors, laden first semi-trailer, and dollies must be approved and authorized by the Turnpike Enterprise before operating under a Turnpike Tandem certification. Authorization will be withdrawn by the Turnpike Enterprise when it determines that there is a material inconsistency between the provisions of the certification and the equipment in question, or that the continued operation on the Turnpike System would constitute an unsafe operation.

(5) Identification Numbers and Certification.

(a) An identification number will be issued by the Turnpike Enterprise. A decal displaying the identification number must be purchased by the Permittee and shall be placed on the left side of each tractor, lead trailer, and dolly approved for use in tandem trailer operations. The numerals must be white on green background; at least three inches in height; and, must be visible to a person standing at ground level.

(b) The Permittee must complete Form 800-040-01, Certification of Turnpike Tandem Trailer Equipment (Tractor), bearing a description of the tractor. Upon review and approval by the Department, this certification shall be carried in the cab of the tractor which it describes. Tractor certificates authorize only the vehicle described therein and shall be made available at any time for inspection by the Turnpike Enterprise, Motor Carrier Compliance Office, Florida Highway Patrol, or their respective staffs. Any discrepancy between the description on the tractor certificate and the actual description of the vehicle will result in the withdrawal of approval.

(c) The Permittee must complete Form 800-040-02, Certification of Turnpike Tandem Trailer Equipment (First or Lead Trailers), bearing a description of the lead trailer or dolly. Certificates for lead trailers and dollies are not required to be carried by the operator.

(6) Renewal of General Certification. Turnpike Tandem certifications may be renewed by submitting Form 800-040-04, General Certification Covering Turnpike Tandem Trailer Operations. The certificate is renewed and effective September 1st of each year, through August 31st of the following year. Request for certification renewal must be submitted at least 30 days prior to the expiration date. The Florida Turnpike Enterprise does not provide notification of certification expiration.

(7) Responsibility of Permittee.

(a) Each certificate to operate turnpike tandems shall be valid only when the Permittee has filed Form 800-040-03, Certificate of Insurance, attesting to the fact that the Permittee has secured public liability insurance maintained in compliance with Sections 627.7415 and 627.742, F.S., and 49 C.F.R., Part 387, Subpart A, where applicable. The named insured shown on all such applied policies shall include the Florida Highway Patrol, the Motor Carrier Compliance Office, the Turnpike Enterprise, and each of their respective officers, agents, and employees.

(b) Such public liability insurance certificate shall explicitly state that the Turnpike Tandem operations of the Permittee are expressly covered under the policy(ies) in effect, or in the alternative, that there is no exclusion in said policy

relative to Turnpike Tandem operations by the Permittee. Such certificate shall also provide that the coverage under the policy may not be canceled without 30 days prior notice, in writing, to the Executive Director of the Florida Turnpike Enterprise. In the event of cancellation of such public liability insurance policy, every Turnpike Tandem covered by that certificate shall be automatically cancelled.

(c) Certificates of self-insurance issued by the Florida Department of Highway Safety and Motor Vehicles will be accepted in fulfillment of the insurance requirements stated herein, providing such certificates satisfy all the specific requirements.

(d) Description of coverage shall include: Public liability arising in respect to all movement of tandem trailer units. This includes service trucks, wreckers, or any other vehicles used in the service of the tandem trailer operation, by the Permittee or by anyone acting by, through, or for the Permittee, including omissions and supervisory acts of the Motor Carrier Compliance office, the Turnpike Enterprise, the Florida Highway Patrol, and each of their respective officers, agents, or employees.

(8) Other Permittee information. The Permittee shall, upon request, furnish the Turnpike Enterprise with all data and information pertaining to an individual trip by a Turnpike Tandem or the overall tandem trailer operation of the Permittee on the Turnpike System.

(9) Voided Certifications and Permits. When in the interest of health, safety, or welfare of the citizens of the State, the Turnpike Enterprise determines that operation of a turnpike tandem constitutes a hazard to Turnpike System operations, certifications will be voided in whole or in part. A turnpike tandem oversize/overweight permit will be voided, in whole or in part, by the Road Use Permits Office or the Motor Carrier Compliance Office if the vehicle is in violation of the requirements of the oversize/overweight permit; or if the operation of the Turnpike Tandem is determined to be unsafe.

Rulemaking Authority 334.044(2), 334.044(14), 338.2216(1)(b), 338.239 FS. Law Implemented 316.515, 316.646, 321.05, 324.171, 334.044(14), 334.044(32), 338.22-.244, 338.239(2) FS. History–New_____.

PART III – REGULATIONS COVERING THE OPERATION AND SAFETY OF TURNPIKE TANDEMS

14-61.0017 Other Regulations.

(1) Driver Requirements.

(a) All drivers of Turnpike Tandem trailer must have a current Commercial Driver's License (CDL) with an endorsement for double trailers consistent with the provisions of Section 322.57, F.S.

(b) All drivers of Turnpike Tandems and all other individuals or companies operating turnpike tandems must comply with Section 316.302(1), F.S., except that driver exemptions as set forth in 49 C.F.R. 391.21 and 391.67 shall not apply to drivers of turnpike tandems.

(c) All drivers of Turnpike Tandems must have a minimum of five years' experience driving truck tractor semi-trailer combinations.

(d) A driver of a Turnpike Tandem must have had no suspension or revocation of driving privileges in any state or province during the past three years where such suspension arose out of operations of a commercial motor vehicle.

(2) Overall Length, Height, and Width.

(a) All overdimensional rules of the Turnpike Enterprise shall apply to Turnpike Tandems unless specifically excluded under the provisions of this rule chapter.

(b) The overall cargo carrying length of a Turnpike Tandem, as measured from the front of the first trailer to the rear of the second trailer including, the interval between the two trailers, shall not exceed 106 feet.

(c) Turnpike Tandems shall not exceed 13 feet 6 inches in height or 8 feet 6 inches in width.

(3) Weight and Axle Requirements.

(a) All overweight rules of Section 316.515, F.S., shall apply to Turnpike Tandems unless specifically excluded under the provisions of this rule chapter.

(b) The maximum gross weight of the truck tractor and the first semitrailer of a Turnpike Tandem shall not exceed 80,000 pounds.

(c) The maximum gross weight of the unit of dolly and second trailer of a Turnpike Tandem shall not exceed the lesser of:

1. 67,000 pounds, or

2. The weight provisions of the State's outer bridge formula set forth in Section 316.535(5), F.S., as measured between the center of the foremost axle of the dolly and the rearmost axle of the trailer.

(d) In the event that a Turnpike Tandem is composed of trailers of unequal gross weight, the heavier of the two shall be used as the lead trailer.

(e) The gross weight limits described in Chapter 316, F.S., may be exceeded with valid oversize/overweight permit issued by the Road Use Permits Office for a maximum gross weight not to exceed 147,000 pounds.

(f) A minimum of five load bearing axles are required unless stated otherwise in a valid oversize/overweight permit issued by the Road Use Permits Office.

Rulemaking Authority 334.044(2), 338.239 FS. Law Implemented 316.515(12), 322.57, 322.61, 338.239 FS. History–New_____.

14-61.0018 Tractor Requirements.

(1) A tractor used to propel a Turnpike Tandem shall be capable of traveling at a speed of not less than 50 mph except where lower speed limits are posted.

(2) Prior to approval, both the tractor manufacturer and the Permittee shall certify to the Turnpike Enterprise on Form 800-040-01, Certification of Tandem Trailer Equipment (Tractor), that the vehicles proposed to be furnished and used will meet the minimum speed requirements.

(3) A tractor engaged in Turnpike Tandem operations failing to meet such requirement shall not be used to haul a turnpike tandem on the Turnpike System until the gross loads are reduced, the tractor is modified, or other corrective measures have been taken.

(4) Upon a new certification by both the tractor manufacturer and the Permittee that corrective measures have been taken and the tractor meets the minimum speed requirement, the Turnpike Enterprise will reinstate its approval of the described Turnpike Tandem and it may be used in Turnpike Tandem operations.

(5) A tractor engaged in Turnpike Tandem trailer operations must also certify on Form 800-040-01, Certification of Tandem Trailer Equipment (Tractor), that the unit is qualified to haul a total gross weight of at least 147,000 pounds.

Rulemaking Authority 334.044(2), 338.239 FS. Law Implemented 316.183(2) FS. History–New _____.

14-61.0019 Tire Requirements.

(1) Each axle on a Turnpike Tandem must have tires of the same size and construction. Tires must be properly inflated for the load to be carried. In no event shall any tire, wheel, or rim exceed the manufacturer's maximum load-carrying limit. Tires and tire usage must be consistent with the requirements of 49 C.F.R., 393.75, as required by Section 316.302(1), F.S.

(2) A vehicle equipped with dual tires may have the dual tires replaced by a single tire so long as the vehicle, axle, and tire load ratings are not exceeded.

(3) No tire may exceed 550 pounds per inch of tire section width as defined by the rating molded in the tire sidewall. For example, a designation of 445/50R22.5 designates a tire section width of 445 mm (17.5 inches).

Rulemaking Authority 316.535(1), 334.044(2), 338.239(1) FS. Law Implemented 316.535(6), 338.239 FS. History–New _____.

14-61.0020 Brake Regulations.

(1) Every Turnpike Tandem shall be equipped with full air brakes or air activated hydraulic brakes on the tractor and either air or electric brakes on the dolly and trailers. All brakes shall equal or exceed both the equipment requirements and the performance standards cited in Chapter 316, F.S., and 49 C.F.R., 393.40 through 393.52, hereby incorporated by reference.

(2) The brakes on any vehicle, or combination of vehicles, used in the Turnpike Tandem operations shall be adequate to control the movement of, and to stop and hold, such vehicle, or combination of vehicles, and meet the general requirements of the provisions of the Florida Uniform Traffic Control Law, Section 316.262, F.S.

(3) The Permittee shall certify to the Turnpike Enterprise on Form 800-040-04, General Certification Covering Turnpike Tandem Operations by Permittee, that the brakes on any vehicle or combination of vehicles used as a Turnpike Tandem meet the specific requirements specified in this rule.

Rulemaking Authority 334.044(2), 338.239 FS. Law Implemented 316.261-.263, 338.239 FS. History–New _____.

14-61.0021 Emergency Equipment.

Each tractor used in Turnpike Tandem trailer operations shall be equipped with the following emergency equipment:

(1) A fire extinguisher having an Underwriters Laboratories rating of 5B:C or two or more fire extinguishers having an Underwriters Laboratories rating of 4B:C or more. For the purpose of this requirement, a vehicle deemed to be transporting hazardous materials must be placarded in accordance with Section 316.302, F.S. and 49 C.F.R. 393.95.

(2) Warning devices for stopped vehicles. At least three bi-directional reflective triangles which conform to the standard for such devices contained in 49 C.F.R. 393.95.

Rulemaking Authority 316.302(5), 334.044(2), 338.239 FS. Law Implemented 316.301, 338.239 FS. History–New _____.

14-61.0022 Lead Trailer Requirements.

Prior to approval, both the trailer manufacturer and the Permittee shall certify to the Turnpike Enterprise on Form 800-040-02, Certification of Tandem Trailer Equipment (First or Lead Trailers) that the vehicle proposed to be furnished will be adequate to meet all requirements of a first semi-trailer. Semi-trailers operated with this certification must comply with all requirements listed on that form.

Rulemaking Authority 334.044(2), 338.239 FS. Law Implemented 338.239 FS. History–New _____.

14-61.0023 Converter Dolly Requirements.

(1) A converter (fifth-wheel) dolly used in the Turnpike Tandem operations may have either a single or a double axle, according to its total gross weight. In addition to the tow bar(s), the dolly vehicle must be equipped with safety chains or cables for connecting the dolly to the lead semi-trailer and adequate to prevent breakaway.

(2) When the distance between the rear of the first semi-trailer and the front of the second semi-trailer is 10 feet or more, the dolly shall be equipped with a device, or the trailers shall be connected along the sides with suitable material, which will advise other motorists that the trailers are connected and are in effect one unit.

(3) The Permittee shall certify to the Turnpike Enterprise on Form 800-040-06, Certification of Turnpike Tandem Equipment (Dolly Converters), that the equipment proposed complies with all the requirements listed on that form.

Rulemaking Authority 334.044(2), 338.239 FS. Law Implemented 338.239 FS. History–New_____.

14-61.0024 Lamps, Etc.

(1) Lamps and Reflectors. Each tractor, trailer, and converter dolly in a Turnpike Tandem shall be equipped with electrical lamps and reflectors mounted on the vehicle in accordance with Chapter 316, F.S., 49 C.F.R. 393.9 through 393.33, as required by Section 316.302(1), F.S.

(2) Mud Flaps, splash, and spray suppressant devices. Each Turnpike Tandem shall be equipped with mud flaps and splash and spray suppressant devices meeting the requirements of and mounted on the vehicle in accordance with Section 316.252, F.S.

Rulemaking Authority 316.252, 334.044(2), 338.239 FS. Law Implemented 316.252, 338.239 FS. History–New_____.

14-61.0025 Inspection by Driver.

After all of the component vehicles in a Turnpike Tandem are completely hooked up and prior to the departure of the unit from the assembly area, the driver or a mechanic shall inspect the tandem unit to ensure that each item is in proper operating condition. No Turnpike Tandem shall be driven unless the driver thereof shall have satisfied the requirements of 49 C.F.R. 392.7 through 392.9, hereby incorporated by reference, as required by Section 316.302(1), F.S.

Rulemaking Authority 334.044(2), 338.239 FS. Law Implemented 338.239 FS. History–New_____.

14-61.0026 Coupling Devices/Hitch Connections.

(1) All coupling devices shall equal or exceed both the equipment requirements and the performance standards established in 49, C.F.R. 393.70, as required by Section 316.302(1), F.S.

(2) Vehicles in a Turnpike Tandem shall be designed, constructed, and connected as to ensure that shifting or swerving from side to side will not exceed two inches to each side of the path of the towing vehicle when it is moving in a straight line.

(3) All coupling devices/hitch connections shall be of a no-slack type which must be visible and operating. All drawbars, pickup plates, and fifth wheels must be rated to exceed the weight carried. Any kingpin must be rated to exceed the weight carried. Any kingpin must be solid and must be permanently fastened.

Rulemaking Authority 334.044(2), 338.239 FS. Law Implemented 338.239 FS. History–New_____.

14-61.0027 Staging.

(1) Turnpike Tandems shall be made and broken down only in designated Turnpike System staging areas. All movement across traffic while entering or leaving a staging area shall be made using extreme caution.

(2) Permittees shall assume all responsibility for their vehicles and equipment, as well as the contents thereof, while such vehicles and equipment are in a staging area.

(3) For the purposes of safety and meeting unforeseen local conditions, the Permittees' use of staging areas is subject to Turnpike Enterprise regulations at the staging areas, including the prohibition of staging during certain hours; temporary suspension of staging; and limitation of the time that equipment may be parked in the staging area.

Rulemaking Authority 334.044(2), 338.239 FS. Law Implemented 338.239 FS. History–New_____.

14-61.0028 Speed Limits, Minimum Distances, Passing, and Operations under Hazardous Conditions.

(1) Speed Limits. When the speed of a Turnpike Tandem drops to 20 mph less than the posted maximum speed limit, the driver must use emergency flashers to notify the passing traffic that they are approaching a vehicle traveling substantially slower than the rest of the traffic.

(2) Minimum Distances. A minimum distance of 100 feet for each 10 mph of speed shall be maintained between a Turnpike Tandem trailer and another vehicle traveling in front of it in the same travel lane, unless weather or other roadway conditions do not permit such distance.

(3) Passing. A Turnpike Tandem may pass another vehicle traveling in the same direction only if the speed differential will allow the Turnpike Tandem to complete the maneuver and return to the normal driving lane within a distance of one mile and be performed within the posted speed limit. Turnpike Tandems must stay in the right lane, or those lanes designated for travel by posted signs, unless they are in the act of passing.

(4) Operations under Hazardous Conditions.

(a) Drivers of Turnpike Tandems shall exercise extreme caution when hazardous conditions exist, such as fog, smoke, dust, mist, or rain. Speed shall be reduced when such conditions exist.

(b) When hazardous weather conditions become dangerous, the driver or Permittee shall discontinue operations, and such operations shall not be resumed until the vehicle can be safely operated. The Turnpike Enterprise, Motor Carrier Compliance Office, Florida Highway Patrol, or their respective staffs may restrict or prohibit operations during periods when traffic, weather, or other safety conditions make such operations unsafe or inadvisable.

Rulemaking Authority 334.044(2), 338.239 FS. Law Implemented 316.55, 338.239 FS. History–New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tim Lattner

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Stephanie Kopelousos

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 1, 2009

DEPARTMENT OF TRANSPORTATION

RULE NOS.:	RULE TITLES:
14-97.001	Purpose
14-97.002	Definitions
14-97.003	Access Control Classification System and Access Management Standards
14-97.004	Interim Access Management Standards
14-97.005	Review and Modification of Access Control Classification

PURPOSE AND EFFECT: Rule Chapter 14-97, F.A.C., is being revised to provide better organization and consistency with the State Highway System Access Management Act.

SUMMARY: Rule Chapter 14-97, F.A.C., is being substantially updated and amended, including revisions to the chapter title, titles of individual rules, revised definitions, and revised tables.

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.

RULEMAKING AUTHORITY: 334.044(2), 335.182, 335.188 FS.

LAW IMPLEMENTED: 334.044(10)(a), 335.18-.188 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

CHAPTER 14-97 STATE HIGHWAY SYSTEM ACCESS CONTROL ~~MANAGEMENT~~ CLASSIFICATION SYSTEM AND ACCESS MANAGEMENT STANDARDS

14-97.001 Purpose.

This rule chapter sets forth ~~adopts~~ an access control classification system and access management standards to implement the State Highway System Access Management Act of 1988 ~~for the regulation and control of vehicular ingress to, and egress from, the State Highway System~~. The implementation of the access control classification system and access management standards will ~~is intended to~~ protect the public health, safety and ~~general~~ welfare, provide for the mobility of people and goods, and preserve the functional integrity of the State Highway System. ~~All segments of the State Highway System shall be assigned an access classification and standard. The standards shall be the basis for connection permitting and the planning and development of Department construction projects.~~

Rulemaking ~~Specific~~ Authority 334.044(2), 335.182, 335.188 FS. Law Implemented 334.044(10)(a), 335.18-.188 FS. History–New 2-13-91, Amended _____.

14-97.002 Definitions.

For the purposes of this rule chapter the following definitions shall apply unless the context clearly shows ~~indicates~~ otherwise:

(1) "Area Type" means one of four specific land use categories reflecting certain land use and intensity characteristics used in specifying the interchange spacing standards for limited access facilities.

~~(2) "Central Business District (CBD)" means that portion of a municipality in which the dominant existing and projected land use, as documented in the current adopted Local Government Comprehensive Plan, is for intense business and commercial activity. This district is generally characterized by large numbers of pedestrians, on-street parking, and on-street truck loading. For the purpose of this rule chapter this term is only applicable for access classification 1 (limited access facilities) within Urbanized Areas.~~

~~(3) "Central Business District (CBD) Fringe" means the portion of a municipality immediately outside the Central Business District. This area predominantly exhibits a wide range of business activity with some concentrated residential areas. The area generally exhibits less pedestrian traffic and lower parking turnover than in the Central Business District, however, large parking areas serving the Central Business District might be present. For the purposes of this rule chapter this term is only applicable for Urbanized Areas.~~

(2)~~(4)~~ "Central Business District (CBD) and CBD Fringe ~~(Area Type 1)~~" mean~~s~~ the area~~s~~ contained within a boundary designated as CBD and CBD fringe area type in the adopted MPO Long Range Transportation Plan. For the purpose of this

rule chapter this area ~~term~~ is designated as Area Type I and only applies to Access Class ~~applicable for access classification~~ 1~~, limited access facilities for Urbanized Areas~~.

~~(5) "Collector - Distributor System" means a fully access controlled roadway, generally parallel to, and part of, but typically physically separated from the through or mainline lanes of the limited access facility and serving areas adjacent to the limited access facility.~~

(3)~~(6)~~ "Connection" means as defined in Section 335.182, F.S. ~~a driveway, street, turnout, or other means of providing for the right of access to or from controlled access facilities on the State Highway System.~~ For the purpose of this rule chapter, two one-way connections to a property may constitute a single connection.

(4) "Connection Spacing Standard" means the distance between connections, measured from the closest edge of pavement of the first connection to the closest edge of pavement of the second connection along the edge of the traveled way.

(5)~~(7)~~ "Controlled Access Facility" means as defined in Rule 14-96.002, F.A.C. ~~a transportation facility to which access is regulated through the use of a permitting process by the governmental entity having jurisdiction over the facility. Owners or occupants of abutting lands and other persons have a right of access to and from such facility at such points only and in such a manner as may be determined by the permitting authority(ies).~~

~~(8) "Corner Clearance" means the distance from an intersection of a public or private road to the nearest connection along a controlled access facility. This distance is measured from the closest edge of pavement of the intersecting road to the closest edge of pavement of the connection measured along the traveled way (through lanes). The projected future edge of pavement of the intersecting road should be used where available in an adopted five year transportation plan. The future edge of the through lane can be used for this measurement when an auxiliary lane will be built.~~

(6)~~(9)~~ "Corridor Access Management Plan" means a strategy ~~plan~~ defining site specific access management and traffic control features for a particular roadway segment, developed in coordination with the affected ~~appropriate~~ local government~~(s)~~ and adopted by the Department in cooperation with the affected ~~appropriate~~ local government(s).

(7)~~(10)~~ "Department" means the Florida Department of Transportation.

(8)~~(11)~~ "Directional Median Opening" means as defined in Rule 14-96.002, F.A.C. ~~an opening in a restrictive median which provides for U-turn only, and/or left-turn in movements.~~ Directional median openings for two opposing left or "U-turn" movements along one segment of road are considered one directional median opening.

(9)~~(12)~~ "Existing Urbanized Areas other than CBD and CBD Fringe ~~(Area Type 2)~~" means the area between the CBD and CBD Fringe area boundary and the existing Urban Area Boundary for Urbanized Areas as reflected in the MPO Long Range Transportation Plan ~~defined by the US Bureau of Census~~. For the purpose of this rule chapter, this area ~~term~~ is designated as Area Type 2 and only applies to Access Class ~~applicable for access classification~~ 1~~, limited access facilities~~.

~~(13) "Federal Highway Administration Urban Area Boundary" means the boundary developed by an MPO or local government, concurred in by the Department and approved by FHWA which is the basis for the designation of the Federal Aid Highway System. This boundary is an adjustment to the urban boundary as defined by the US Bureau of Census taking into consideration changes in land use densities subsequent to the last official census for a particular area.~~

(10)~~(14)~~ "FHWA" means Federal Highway Administration.

(11)~~(15)~~ "Full Median Opening" means as defined in Rule 14-96.002, F.A.C. ~~an opening in a restrictive median designed to allow all turning movements to take place from both the state highway and the adjacent connection.~~

(12) "Generally Accepted Professional Practice" means as defined in Rule 14-96.002, F.A.C.

(13) "Governmental Entities" means as set forth in Section 335.188, F.S.

(14)~~(16)~~ "Intersection" ~~as used in this rule chapter,~~ means an at-grade connection or crossing of a local road or ~~another~~ state highway with a state highway.

(15)~~(17)~~ "Limited Access Facility" means as defined in Section 334.03, F.S. ~~a street or highway especially designed for through traffic and over, from, or to which owners or occupants of abutting land or other persons have no right or easement of access, light, air, or view by reason of the fact that their property abuts such limited access facility or for any other reason. The right of access may have been donated by the property owner or purchased by the Department.~~

(16) "Local Governmental Entity" means as defined in Section 334.03, F.S.

(17) "Median" means as defined in Rule 14-96.002, F.A.C.

(18) "Median Opening Spacing Standard" means the distance between openings in a restrictive median. The distance is measured from centerline to centerline of the openings along the traveled way.

(19)~~(18)~~ "Metropolitan Planning Organization (MPO)" means ~~is~~ as described ~~defined~~ in Section 339.175~~(1)~~, F.S.

~~(19) "Minimum Connection Spacing" means the minimum allowable distance between conforming connections, measured from the closest edge of pavement of the first connection to the closest edge of pavement of the second connection along the edge of the traveled way.~~

~~(20) "Minimum Median Opening Spacing" means the minimum allowable spacing between openings in a restrictive median, to allow for crossing the opposing traffic lanes to access property or for crossing the median to travel in the opposite direction (U-turn). The minimum spacing or distance is measured from centerline to centerline of the openings along the traveled way.~~

~~(21) "Minimum Signal Spacing" means the minimum spacing or distance in miles between adjacent traffic signals on a controlled access facility measured from centerline to centerline of the signalized intersections along the traveled way.~~

~~(22) "MPO" means the Metropolitan Planning Organization.~~

(20)~~(23)~~ "Non-Restrictive Median" means as defined in Rule 14-96.002, F.A.C. ~~a median or painted centerline which does not provide a physical barrier between center traffic turning lanes or traffic lanes traveling in opposite directions. This includes highways with continuous center turn lanes and undivided highways.~~

~~(24) "Permitting Authority" means the Department or any county or municipality or transportation or expressway authority authorized to regulate access to the State Highway System.~~

(21)~~(25)~~ "Reasonable Access" means as defined in Rule 14-96.002, F.A.C. ~~the minimum number of connections, direct or indirect, necessary to provide safe ingress and egress to the State Highway System based on the Access Management Classification, projected connection and roadway traffic volumes, and the type and intensity of the land use. The applicant shall be allowed to submit any site specific information which the applicant deems to be pertinent to the Permitting Authority's review of the connection permit application.~~

(22)~~(26)~~ "Restrictive Median" means as defined in Rule 14-96.002, F.A.C. ~~the portion of a divided highway or divided driveway physically separating vehicular traffic traveling in opposite directions. Restrictive medians include physical barriers that prohibit movement of traffic across the median such as a concrete barrier, a raised concrete curb and/or island, and a grassed or a swaled median.~~

(23)~~(27)~~ "Rural Areas ~~(Area Type 4)~~" mean~~s~~ the area between the outer boundary of Area Type 3 and the next Area Type 3 outer boundary. For the purpose of this rule chapter, this term this area is designated as Area Type 4 and only applies to Access Class ~~applicable for limited access classification~~ 1 ~~facilities~~.

(24)~~(28)~~ "Service Road" means a public or private roadway providing ~~street or road, auxiliary to and normally located parallel to a controlled access facility, which has as its purpose the maintenance of local road continuity and provision of~~ access to parcels adjacent to a ~~the~~ controlled access facility.

(25) "Signal Spacing Standard" means the spacing or distance between adjacent traffic signals on a controlled access facility measured from centerline to centerline of the signalized intersections along the traveled way.

(26)~~(29)~~ "Significant Change" means as defined in Section 335.182, F.S. ~~a change in the use of the property, including land, structures or facilities, or an expansion of the size of the structures or facilities causing an increase in the trip generation of the property, based on the 4th Edition of the Institute of Transportation Engineers "Trip Generation Manual", incorporated by reference under Rule 14-96.005, exceeding 25% more trip generation (either peak hour or daily) and exceeding 100 vehicles per day more than the existing use. Where such additional traffic is projected, the property owner is required to contact the permitting authority to determine if a new permit application and modifications to existing connections will be required. If the permitting authority determines that the increased traffic generated by the property does not require modifications to the existing permitted connections, a new permit application shall not be required.~~

(27)~~(30)~~ "State Highway System (SHS)" means ~~the network of limited access and controlled access highways that have been functionally classified and which are under the jurisdiction of the State of Florida~~ as defined in Section 334.03, F.S.

(28)~~(31)~~ "Transitioning Urbanized ~~Urbanizing~~ Area" means the area between the existing Urbanized Area Boundary and the future projected Urbanized Area Boundary anticipated within the next 20 years as established by the MPO and the Department. ~~For non-urbanized areas this boundary will be established by the appropriate local government and the Department. These developing transitional areas will include those areas with~~ an existing population between 5,000 and ~~49,999.~~ For the purpose of this rule chapter, this area ~~term~~ is designated Area Type 3 and only applies to Access Class ~~applicable for access classification~~ 1 ~~limited access facilities~~.

(29)~~(32)~~ "Traveled Way" means the portion of roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

(30)~~(33)~~ "Urban Area" means an area defined by the US Census Bureau as ~~of Census~~ having a population of at least 5,000 at specific urban densities.

(31)~~(34)~~ "Urbanized Area" means an area defined by the US Census Bureau as ~~of Census,~~ having a population of at least 50,000 at specific urban densities. ~~Such designated areas are required by Federal and State law to have a formal transportation planning process administered by an MPO. The US Bureau of Census urbanized area boundary can be modified, subject to FHWA regulations for the purpose of the transportation planning process~~.

Rulemaking ~~Specific~~ Authority 334.044(2), 335.182, 335.188 FS. Law Implemented 334.044(10)(a), 335.182, 335.188 FS. History–New 2-13-91, Amended _____.

14-97.003 Access Control ~~Management~~ Classification System and Access Management Standards.

(1) The following tables contain the access control classification and access management standards to be used in the planning, design, and permitting of connections, and the planning and design of medians, median openings, and signal spacing for roads on the SHS. ~~Classification System and Standards. This section provides a seven classification access management system to be used for all roads on the State Highway System. Single Category I connections, as defined in Rule Chapter 14-96, F.A.C., with expected peak hour two way traffic of five vehicles or less may be exempt from the connection spacing requirements of this rule where the proposed connection can be shown, as part of the application process, as not creating a safety or operational hazard.~~ The Department ~~will, to the greatest extent possible,~~ encourages the use of joint access ~~use~~ driveways and service roads. ~~work with local governments to ensure individual residential driveways on State Highways are kept to a minimum. This exemption also means that these minor connections will not be considered in measuring the distance to other connections for their compliance with the spacing standards in this rule chapter. The classification system and standards for each access class are shown on Figures 1 and 2.~~

~~FIGURE 1~~

[Editorial Note: The following table completely replaces Figure 1 "Access Class Classification and Standards Limited Access Facilities Interchanges" published in the Florida Administrative Code.]

Table 1
Access Management Standards for Limited Access Facilities

Access Class	Segment Location	Applicable Interchange Spacing Standard
1.	Area Type 1 – CBD & CBD Fringe for Cities in Urbanized Areas	1 Mile
	Area Type 2 – Existing Urbanized Areas Other Than Area Type 1	2 Miles
	Area Type 3 – Transitioning Urbanized Areas and Urban Areas Other Than Area Type 1 OR 2	3 Miles
	Area Type 4 – Rural Areas	6 Miles

[Editorial Note: The following table completely replaces Figure 2 "Controlled Access Facilities" published in the Florida Administrative Code.]

Table 2
Access Management Standards for Controlled Access Facilities

Access Class	Median	Median Opening Spacing Standard (feet)		Signal Spacing Standard (feet)	Connection Spacing Standard (feet)	
		Full	Directional		Posted Speed Greater than 45 MPH	Posted Speed of 45 MPH or Less
2	Restrictive	2,640	1,320	2,640	1,320	660
3	Restrictive	2,640	1,320	2,640	660	440
4	Non-Restrictive			2,640	660	440
5	Restrictive	2,640 Posted Speed Greater than 45MPH	660	2,640 Posted Speed Greater than 45MPH	440	245
		1,320 Posted Speed of 45 MPH or Less		1,320 Posted Speed of 45 MPH or Less		
6	Non-Restrictive			1,320	440	245
7	Both Median Types	660	330	1,320	125	125

The i~~I~~nterim standards ~~as~~ contained in subsection 14-97.004(1), F.A.C., shall be used ~~effective~~ for any unclassified ~~all~~ segment~~s~~ of the SHS ~~State Highway System~~ until replaced ~~superseded~~ by an adopted access classification ~~of the highway segment into one of the six controlled access classifications in this rule chapter. Permit applications received after adoption of this rule chapter but before the classification of a highway segment is adopted, shall be reviewed for consistency with the interim standards.~~

(2) Access Control Classification. The seven access classes are described as follows:

(a) Access Class 1 consists of limited access facilities, which roadways do not provide direct property connections. These roadways provide for high speed and high volume traffic movements serving interstate, interregional, and intercity, and, to a lesser degree, intracity, travel needs. Interstate highways and Florida's Turnpike are typical of this class. The interchange spacing standards, based on the Area Type the highway is passing through, are for the through lanes or main

line of the facility. New interchanges to Access Class 1 facilities shall be based on an engineering analysis of the operation and safety of the system. These interchanges can only be approved through the interchange justification process. Approval by the Department and FHWA is required before any new interchange is constructed.

(b) Access Classes 2 through 7 consist of controlled access facilities and are arranged from the most restrictive (Access Class 2) to the least restrictive (Access Class 7) class based on development. Generally the roadways serving areas without existing extensive development are classified in the upper portion of the range (Access Class 2, 3, and 4). Those roadways serving areas with existing moderate to extensive development are generally classified in the lower portion of the range (Access Class 5, 6, and 7). The access management standards for each access class are further determined by the posted speed limit.

1. Access Class 2 roadways are highly controlled access facilities distinguished by the ability to serve high speed and high volume traffic over long distances in a safe and efficient manner. This access class is further distinguished by a highly controlled limited number of connections, median openings, and infrequent traffic signals. Segments of the SHS having this classification usually have access restrictions supported by local ordinances and agreements with the Department, and are generally supported by existing or planned service roads.

2. Access Class 3 roadways are controlled access facilities where direct access to abutting land is controlled to maximize the operation of the through traffic movement. The land adjacent to these roadways is generally not extensively developed and/or the probability of significant land use change exists. These roadways are distinguished by existing or planned restrictive medians.

3. Access Class 4 roadways are controlled access facilities where direct access to abutting land is controlled to maximize the operation of the through traffic movement. The land adjacent to these roadways is generally not extensively developed and/or the probability of significant land use change exists. These roadways are distinguished by existing or planned non-restrictive median treatments.

4. Access Class 5 roadways are controlled access facilities where adjacent land has been extensively developed and where the probability of major land use change is not high. These roadways are distinguished by existing or planned restrictive medians.

5. Access Class 6 roadways are controlled access facilities where adjacent land has been extensively developed, and the probability of major land use change is not high. These roadways are distinguished by existing or planned non-restrictive medians or centerlines.

6. Access Class 7 roadways are controlled access facilities where adjacent land is generally developed to the maximum feasible intensity and roadway widening potential is limited. This classification shall be assigned only to roadway segments where there is little intent or opportunity to provide high speed travel. Exceptions to access management standards in this access class may be allowed if the landowner substantially reduces the number of connections compared to existing conditions. These roadways can have either restrictive or non-restrictive medians.

(3) Access Management Standards.

(a) Connection permit applications, submitted pursuant to Rule Chapter 14-96, F.A.C., ~~on controlled access facilities of the State Highway System received after that particular segment of highway has been formally classified according to this rule chapter,~~ shall be reviewed subject to the standards ~~requirements~~ of this rule chapter ~~pursuant to the permit application process of Rule Chapter 14-96, F.A.C.~~

(b) Existing lawful connections, median openings, and signals are not required to meet the access management standards. ~~For the purpose of the interim standards and for the assignment of an access classification to a segment of highway by the Department pursuant to Rule 14-97.004, F.A.C., permitted connections and those unpermitted connections exempted pursuant to Section 335.187(1), F.S., and existing median openings, and signals are not required to meet the interim standards or the standards of the assigned classification.~~ Existing access management ~~Such~~ features will generally be allowed to remain in place, but~~. These features~~ shall be brought into ~~reasonable~~ conformance with access management ~~the~~ standards when significant change occurs ~~of the assigned classification or the interim standards where new connection permits are granted for significant changes in property use,~~ or as changes to the roadway design allow. ~~Applicants issued permits based on the interim standards as set forth in Rule 14-97.004, F.A.C., shall not have to reapply for a new permit after formal classification of the roadway segment unless significant change pursuant to Rule Chapter 14-96 and Rule 14-97.002, F.A.C., has occurred.~~

(c) A property that cannot meet ~~be permitted access consistent with~~ the access management ~~interim~~ standards for a connection, as set forth herein, is eligible to be permitted by the Department for a single connection pursuant to Rule Chapter 14-96, F.A.C., where there is no other reasonable access to the SHS and the connection will not create a safety or operational hazard ~~in Rule 14-97.004, F.A.C., or connection spacing standards of the classification assigned to that particular segment of highway and which has no reasonable access to the State Highway System, either directly or indirectly, as determined pursuant to the connection permit process, as defined in Rule Chapter 14-96, F.A.C., shall be issued a conforming permit by the Department or permitting authority for a single connection pursuant to Rule Chapter 14-96, F.A.C. If additional connections are requested and approved they shall be considered non-conforming and shall contain restrictions pursuant to Rule Chapter 14-96, F.A.C.~~

~~(d) Access class standards represent minimums for each access class. A more detailed, segment specific classification may be enacted by the Department in cooperation with the appropriate local government entities through the adoption of individual Corridor Access Management Plans pursuant to subsection 14-97.004(5), F.A.C.~~

(d)~~(e)~~ ~~The minimum connection and median opening spacings specified in this rule may not be adequate in some cases.~~ Greater distances between connections and median openings will ~~may~~ be required by the Department where necessary to meet operational ~~Permitting Authority to provide sufficient site specific traffic operations~~ and safety requirements. In these ~~such~~ instances, the Department ~~Permitting Authority~~ shall make such determination ~~document, as part of the response to an application submitted pursuant to Rule Chapter 14-96, a justification~~ based on generally accepted professional practice standards ~~traffic engineering principles as to why such greater distances are required~~.

~~(f) When a full median opening or non-restrictive median is reconstructed by the Department to allow for opposing left or U-turns only, these openings shall be considered as one opening.~~

(e)~~(g)~~ Adjacent properties under common ~~the same~~ ownership shall ~~not~~ be considered ~~as separate properties for the purpose of the standards associated with the access class of the highway segment but shall be deemed to be~~ one parcel for purposes of this rule. Persons ~~Applicants~~ requesting connections for one or more adjacent properties under common ~~the same~~ ownership may, however, as a part of the Rule Chapter 14-96, F.A.C., permit ~~application~~ process, request that the properties be considered individually for connection permitting purposes. Such requests shall be included as part of the permit application and shall provide specific analyses and justification of potential safety and operational hazards~~,~~ associated with the compatibility of the volume, type or characteristics of the traffic using the connection. ~~Such properties and single ownership properties with frontage exceeding the minimum standards of the assigned access class may not be permitted, pursuant to the permit application process in Rule Chapter 14-96, F.A.C., the maximum number of connections, median openings, or signals possible based on the spacing standards. The total number of connections permitted will be the minimum number necessary to provide reasonable access.~~ A ~~Lease hold interests existing prior to the effective date of this rule chapter or a bonafide~~ contract for sale, a long term lease, or similar document shall constitute ~~be considered as~~ separate ownership from the parent tract for the purpose of this rule chapter, if the sale would not result in common ownership. A connection permit issued based on a contract for sale will be conditioned on transfer of the property to the buyer.

(f)~~(h)~~ The speed criteria referred to in Table ~~Figure~~ 2, Access Management Standards for Controlled Access Facilities, and in the I~~i~~nterim Access Management S~~s~~tandards in Table 3, means the posted speed limit at ~~posted for~~ the proposed connection location ~~highway segment at the time of the highway access classification designation~~.

(g) Corridor Access Management Plans may be adopted by the Department in coordination with local governmental entities. These plans shall be based on an analysis by the Department using generally accepted professional practice standards and will provide corridor specific access management and traffic control features. Before the adoption of such plans, the Department shall notify affected local governments and abutting property owners and shall hold a public meeting, if requested. After consideration of public input, the Department shall, in cooperation with the affected local government, finalize the plan.

~~(i) Corner clearances for connections shall meet or exceed the minimum connection spacing requirements for the interim standards or for access classifications 2 through 7 where the roadway segment has been assigned a classification. However, a single connection may be placed closer to the intersection as follows: for the circumstances set forth in Rule subparagraph 14-97.003(1)(i)1., 2., and 3., and pursuant to the permit application process of Rule Chapter 14-96, F.A.C.~~

~~1. If, due to property size, corner clearance standards of this Rule Chapter cannot be met, and where joint access which meets or exceeds the applicable minimum corner clearance standards cannot be obtained with a neighboring property or in the determination of the permitting authority, is not feasible based on conflicting land use or conflicting traffic volumes/characteristics, then the following minimum corner clearance measurements can be used to permit connections. Such properties, for the purpose of this rule chapter will be called "isolated corner properties".~~

~~2. In cases where connections are permitted under the criteria of the following minimum corner clearance measurements, the permit will contain the following additional conditions:~~

~~a. There will be no more than one connection per state road frontage.~~

~~b. When joint or alternate access which meets or exceeds the applicable minimum corner clearance becomes available, the permittee will close the permitted connection, unless the permittee shows that such closure is not feasible because of conflicting land use or conflicting traffic volumes/ characteristics or existing structures which preclude a change in the existing connection.~~

~~3. The minimum corner clearance measurements for these isolated corner properties set forth in 1. above, shall be used for isolated corner properties, as defined in this section, classes 3~~

~~through 7, inclusive, defined in subsection 14-97.003(2), F.A.C. and the interim standards defined in subsection 14-97.004(1), F.A.C.~~

~~4. Corner Clearances for "isolated corner properties" are as follows:~~

[Editorial Note: The net result will be total deletion the "Corner Clearance at Intersection" table as published in the Florida Administrative Code.]

~~Corner Clearance at Intersections With Restrictive Median~~		
~~Position~~	~~Access Allowed~~	~~Minimum (Feet)~~
~~Approaching intersection~~	~~Right In/Out~~	~~115~~
~~Approaching intersection~~	~~Right In Only~~	~~75~~
~~Departing intersection~~	~~Right In/Out~~	~~230(125)*~~
~~Departing intersection~~	~~Right Out Only~~	~~100~~
~~Without Restrictive Median~~		
~~Position~~	~~Access Allowed~~	~~Minimum (Feet)~~
~~Approaching intersection~~	~~Full Access~~	~~230(125)*~~
~~Approaching intersection~~	~~Right In Only**~~	~~100~~
~~Departing intersection~~	~~Full Access~~	~~230(125)*~~
~~Departing intersection~~	~~Right Out Only**~~	~~100~~
~~*Access Class 7 and Interim "Special Case" at 35 MPH or less, may use the measurements in parenthesis.~~		
~~**Right In/Out, Right In Only, and Right Out Only connections on roads without restrictive medians shall, by design of the connection effectively eliminate unpermitted movements.~~		

(i)~~(j)~~ Interchange Areas. Connections and median openings on a controlled access facility located up to 1/4 mile from an interchange area or up to the first intersection with an arterial road, whichever distance is less, shall be more stringently regulated to protect ~~the~~ safety and operational efficiency of the SHS, as set forth below: ~~limited access facility and the interchange area~~.

1. The 1/4 mile distance shall be measured from the end of the taper of the ramp furthest from the interchange.

2.~~1.~~ With the exception of Access Class 2 facilities with posted speed limits over 45 MPH, t~~T~~he distance from the interchange ramp(s) to the first connection shall be at least 660 feet where the posted speed limit is greater than 45 MPH, or at least 440 feet where the posted speed limit is 45 MPH or less. This distance will be measured from the end of the taper for that particular quadrant of the interchange on the controlled access facility. For Access Class 2 facilities with posted speed limits over 45 MPH, the distance to the first connection shall be at least 1,320 feet. ~~A single connection per property not meeting this connection spacing standard shall be provided, pursuant to the connection permit process as defined in Rule Chapter 14-96, F.A.C., if no reasonable access to the property exists and if permitting authority review of the connection permit application provided by the applicant determines that the connection does not create a safety, operational or weaving hazard pursuant to Rule 14-96.007, F.A.C. In such cases, applications for more than a single connection shall be examined as non-conforming connections pursuant to Rule 14-96.009.~~

3.~~2.~~ The standard ~~minimum~~ distance to the first full median opening shall be at least 2,640 ~~1320~~ feet as measured from the end of the taper of the off ~~egress~~ ramp.

4.~~3.~~ Greater distances between proposed c~~C~~onnections and median openings will ~~meeting spacing standards still may not~~ be required ~~permitted in the location requested in the permit application pursuant to Rule 14-96.007 and the criteria in Rule 14-96.007, F.A.C.,~~ when the Department determines, based on generally accepted professional practice standards ~~traffic engineering principles~~, that the engineering and traffic information provided in the Rule Chapter 14-96, F.A.C., permit application shows that the safety or operation of the interchange or the limited access highway would be adversely affected.

(j)~~(k)~~ Traffic signals, ~~meeting signal warrants~~ which are proposed at intervals closer than the access management standard for the designated access class, will ~~for the highway segment shall be considered by the Permitting Authority but shall~~ only be approved where the need for such signal(s) is clearly demonstrated for the safety and operation of the roadway and approved through the signal warrant process ~~highway based on Permitting Authority review of the traffic and signal information provided by the applicant in the connection permit application pursuant to Rule Chapter 14-96, F.A.C.~~

~~(2) Access Class Description and Standards. The access classification system and standards are shown in Figures 1 and 2.~~

~~(a) Access Class 1, Limited Access Highways. These highways do not provide direct property connections. Highways in this class provide for efficient and safe high speed and high volume traffic movements, serving interstate, interregional, and intercity, and, to a lesser degree, intracity travel needs. Federal-Aid Interstate highways and Florida's Turnpike are typical of this Class. The interchange spacing standards, based on the Area Type the highway is passing~~

through, are for the through lanes or main line of the facility. Interchanges with limited access collector-distributor systems do not have to meet these standards, however such connections shall be approved by the Department and FHWA utilizing the Interchange Justification Report Process. In addition to meeting the spacing standards, new interchanges to the Interstate Highway System shall be to other public roads only and warranted based on an engineering analysis of the operation and safety of the system. An Interchange Justification Report pursuant to Section III, Title 23 USC, must be prepared by the applicant and approved by the Department and FHWA prior to any new connections to the Interstate Highway System being constructed.

1. New interchange requests must be consistent, to the maximum extent feasible, with adopted local government comprehensive plans and MPO transportation plans.

2. For proposed new interchanges on the Interstate Highway System, the applicant must update a Department and FHWA approved master plan (if applicable) if the interchange is not part of the plan or if the Department determines that a major change in the land use or traffic has occurred since approval of the master plan. After approval of the master plan update by the Department and FHWA, the applicant must prepare an Interchange Justification Report for concurrence by the Department and approval by FHWA prior to the new interchange being approved.

3. Based on an engineering study, prepared by the applicant, documenting why existing interchanges cannot be utilized, why alternative transportation system improvements are not economically, environmentally or socially acceptable and an analysis of the impact of the proposed new interchange on the safety and operation of adjacent interchanges and the limited access facility. Interchanges not meeting the spacing standards can be considered, however, such interchanges will only be approved by the Department and the Federal Highway Administration if the need for the interchange is clearly demonstrated, alternative transportation system improvements are determined not to be feasible, the use of existing interchanges including improvements to arterial roads leading to the interchange and necessary interchange improvements are shown as not feasible and the addition of the interchange does not cause an operational or safety problem on the limited access facility.

(b) Access Classes 2 through 7, General Description. The Access classes Management Classifications for controlled access highways (Classes 2 through 7) are arranged from the most restrictive (Class 2) to the least restrictive (Class 7). Generally the highways serving areas without existing extensive development or properties without subdivided frontages will be classified at the top of the range (Classes 2, 3, and 4). Those roadways serving areas with existing moderate to extensive development or subdivided properties will generally be classified in the lower classes of the range (Classes 5, 6, and 7). The standards for each class are further defined where the posted speed limit is greater than 45 MPH or where the posted speed limit is 45 MPH or less.

1. Access Class 2. These are highly controlled access facilities distinguished by the ability to serve high speed and high volume traffic over long distances in a safe and efficient manner. These highways are distinguished by a system of existing or planned service roads. This access class is distinguished by a highly controlled limited number of connections, median openings, and infrequent traffic signals. Segments of the State Highway System having this classification usually have the access restrictions supported by local ordinances and agreements with the Department.

2. Access Class 3 roadways. These facilities are controlled access facilities where direct access to abutting land will be controlled to maximize the operation of the through traffic movement. This class will be used where existing land use and roadway sections have not completely built out to the maximum land use or roadway capacity or where the probability of significant land use change in the near future is high. These highways will be distinguished by existing or planned restrictive medians and maximum distance between traffic signals and driveway connections. Local land use planning, zoning and subdivision regulations should be such to support the restrictive spacings of this designation.

3. Access Class 4. These facilities are controlled access highways where direct access to abutting land will be controlled to maximize the operation of the through movement. This class will be used where existing land use and roadway sections have not completely built out to the maximum land use or roadway capacity or where the probability of significant land use change in the near future is high. These highways will be distinguished by existing or planned non-restrictive median treatments.

4. Access Class 5. This class will be used where existing land use and roadway sections have been built out to a greater extent than those roadway segments classified as Access Classes 3 and 4 and where the probability of major land use change is not as high as those roadway segments classified Access Classes 3 and 4. These highways will be distinguished by existing or planned restrictive medians.

5. Access Class 6. This class will be used where existing land use and roadway sections have been built out to a greater extent than those roadway segments classified as Access Classes 3 and 4 and where the probability of major land use change is not as high as those roadway segments classified Access Classes 3 and 4. These highways will be distinguished by existing or planned non-restrictive medians or centers.

6. Access Class 7. This class shall only be used in urbanized areas where existing land use and roadway sections are built out to the maximum feasible intensity and where significant land use or roadway widening will be limited. This class shall be assigned only to roadway segments where there

~~is little intended purpose of providing for high speed travel. Access needs, though generally high in those roadway segments, will not compromise the public health, welfare, or safety. Exceptions to standards in this access class will be considered if the applicant's design changes substantially reduce the number of connections compared to existing conditions. These highways can have either restrictive or non-restrictive medians.~~

Rulemaking ~~Specific~~ Authority 334.044(2), 335.182, 335.188 FS. Law Implemented 334.044(10)(a), 335.182, 335.188, 338.001 FS. History–New 2-13-91, Amended _____.

14-97.004 Interim ~~Application of~~ Access Management ~~Classification System and~~ Standards.

(1) Interim access management standards shall ~~to~~ be applied to unclassified roadways on the SHS, such as when a local government transfers a roadway to the Department to become part of the SHS ~~State Highway System prior to classification. If a roadway segment has not been classified according to this rule the following standards shall be used to carry out the provisions of Section 335.18, F.S., The State Highway System Access Management Act. These standards shall be used by The Department for the review of all connection permit applications received after adoption of this rule chapter until the highway is classified in accordance with this rule chapter.~~ After a roadway ~~highway~~ has been classified pursuant to this rule chapter, the access management standards associated with the designated access control classification shall supersede these interim standards ~~for the classified roadway segment~~.

Table 3
INTERIM ACCESS MANAGEMENT STANDARDS

Posted Speed (MPH)	~~Minimum~~ Connection Spacing Standard (Feet)	~~Minimum~~ Median Opening Spacing Standard (Feet)		~~Minimum Signal Spacing (Miles)~~
		Full ~~(Miles)~~	Directional ~~(Feet)~~	
~~35 or less (Special Case)~~	~~125~~	~~0.125~~	~~330~~	~~0.25~~
35 or less	245	1,320 ~~0.25~~	660	~~0.25~~
36 to 45	440	1,320 ~~0.25~~	660	~~0.25~~
Over 45	660	1,320 ~~0.5~~	1320	~~0.25~~

~~(a) The 35 MPH or less (Special case) standards shall be used only where current connection development averages at least 50 connections per mile on the side of the highway for which the connection is requested, based on actual count of connections 1/4 mile in each direction (total 1/2 mile) from the proposed connection.~~

~~(b) The implementation of the interim standards shall be consistent with the provisions of subsection 14-97.003(1), F.A.C.~~

(2) ~~Coordination with Local Government Comprehensive Planning and Land Development Regulation. Local land use planning and regulation decisions must be considered in the access management classification process. Such decisions can impact on the Department's ability to meet the access standards assigned to a particular segment of highway. Effective access management must not only involve access permitting, but should also be coordinated with local government land use planning, development and subdivision regulation activities.~~ The ~~application of the access management classification system and standards and the~~ assignment of an access control classification to all segments of the SHS ~~State Highway System~~ shall be the responsibility of the Department. The Department shall provide ~~adequate~~ notice by publication in a newspaper of general circulation of proposed access control classification and shall coordinate with and consider the comments ~~and concerns~~ of the affected governmental entities ~~local governments~~ before assigning a final access control classification to a roadway segment. The Department will ~~shall~~ hold public meetings, if requested ~~hearing(s) as set out in subsection 14-97.004(4), F.A.C., below~~ to seek comment before ~~input into the assigned classifications prior to the~~ final access classification of a roadway segment ~~assignment~~. Upon assignment of access control classification, the Department will provide notice to affected governmental entities. ~~After the public hearing, local governments shall receive notification of the access classifications assigned to each segment of the State Highway System and shall be asked to coordinate land use planning and land development regulation activities with the classification. The access classification shall also apply to local governments or expressway authorities issuing connection permits pursuant to the dual permitting provisions, in Rule 14-96.013, F.A.C., and the delegation of permit authority provisions of Rule 14-96.014, F.A.C.~~

~~(3) Access Management Class Assignment to Highway Segments. The process to be followed in applying the classification system and standards and assigning a classification to all segments of the State Highway System is as follows:~~

~~(a) Defining Segments. The determination of the length and termini of segments shall be the responsibility of the Department working in cooperation with the appropriate local governmental entities.~~

1. The length and termini of segments of limited access facilities shall be defined by Area Type boundaries by the Department and the Metropolitan Planning Organization for urbanized areas and by the Department and appropriate local governments in urban areas with population between 5,000 and 50,000. Physical characteristics and boundaries will be used rather than imaginary lines.

2. Segments of controlled access facilities shall be defined by the Department in cooperation with local governments. The length and termini of segments shall take into consideration the mobility and access needs of the driving public, the access needs of the existing and proposed land use abutting the segment, and the existing and desired mobility characteristics of the roadway. The number of classification changes occurring along a particular highway shall be minimized to provide highway system continuity, uniformity, and integrity to the maximum extent feasible. The segments shall not necessarily be confined by local jurisdictional boundaries.

(b) Assignment of an Access Classification to All State Highway System Segments.

1. All limited access facilities shall be assigned to Access Management Class 1. Interchange spacing standards for that segment shall be based on the adopted Area Type of the particular highway segment's location.

2. All controlled access facilities on the State Highway System shall be assigned to one of the Access Management Classes 2 through 7. The assignment of a classification to a specific segment of the State Highway System shall be the responsibility of the Department. The designation shall be made in cooperation with the appropriate governmental entities. This classification decision shall take into consideration the potential for the desired access management classification and standards to be achieved based on existing land use, probability for land use change, adopted future roadway improvements and on the ultimate cross section of the roadway identified in adopted plans. The assignment of a classification shall specifically take into consideration the following factors:

a. The current and potential functional classification of the road;

b. Existing and projected future traffic volumes;

c. Existing and projected state, local and Metropolitan Planning Organization transportation plans and needs (including a consideration of new or improved parallel facilities);

d. Drainage requirements;

e. The character of the lands adjoining the highway (existing and projected);

f. Local land use plans, zoning and land development regulations as set forth in adopted comprehensive plans;

g. The type and volume of traffic requiring access;

h. Other operational aspects of access, including corridor accident history;

i. The availability of reasonable access to a state highway by way of county roads or city streets as an alternative to a connection to the state highway;

j. The cumulative effect of existing and projected connections on the State Highway System=s ability to provide for the safe and efficient movement of people and goods within the state.

(4) The Department shall make an initial access management classification assignment to all segments of the State Highway System. The Department shall coordinate this initial assignment with affected local governments and, to the greatest extent possible, incorporate local government recommendations on the assigned classification and standards. The Department shall advertise all public hearings in a newspaper of general circulation in the affected area at least 10 days prior to the scheduled public hearing. Prior to the assignment of a final classification, the Department shall hold at least one public hearing in each urbanized area and at least one public hearing for the remaining counties in each district to solicit public input. After the public input has been received, the Department shall, in cooperation with the local government finalize any changes to the initial access classification. The Department shall provide notice of its classification in a newspaper of general circulation for the affected area and shall notify all appropriate local governments in writing of this classification determination. All documentation used in determining the classification will be available to the public.

(5) Corridor Access Management Plans may be developed and adopted by the Department in cooperation with the appropriate local governments for specific segments of the State Highway System based on analysis of special circumstances for the particular segment location and adjacent land use. These plans shall be based on an engineering analysis by the Department and will allow for more site specific classifications. Prior to the adoption of such plans, the Department shall notify the local governmental entities and abutting property owners and shall hold a public hearing. After consideration of public input, the Department shall, in cooperation with the affected local government, finalize the plan. Upon adoption of the plan, the Department shall notify affected local government(s). These plans shall specify the highway, termini, and the specific standards for connections, medians, intersections, and signals, that shall apply.

(6) Interchange and Connection Review Process.

(a) Applications for new interchanges on limited access facilities shall be examined for consistency with the spacing standards based on the Area Type the segment is located in. The applicant shall prepare an engineering analysis including consideration of Transportation Systems Management techniques and documenting why existing interchanges cannot be used, including consideration of arterial road and interchange improvements, an analysis of the operation and safety of the interchange with respect to adjacent interchanges

~~and the operation of the mainline and a systems analysis of the impact of the additional traffic generated by the development using the interchange on the operation of the limited access facility. For additional interchanges on the Interstate Highway System, the interchange must be to a public road only and the applicant must update the adopted master plan (if applicable) and prepare an Interchange Justification Report for review and concurrence by the Department and approval by FHWA. For Turnpike or bond funded facilities, additional economic analysis to determine bond feasibility shall also be developed by the applicant. The Department has the responsibility to approve or deny new interchanges on the turnpike or other state (non-interstate) limited access facilities.~~

~~(b) Permit Applications for new or modified connections to controlled access facilities must follow Rule Chapter 14-96, F.A.C.~~

Rulemaking ~~Specific~~ Authority 334.044(2), 335.182, 335.188 FS. Law Implemented 334.044(10)(a), 335.188 FS. History–New 2-13-91, Amended_____.

14-97.005 Review and Modification of Access Control Classification~~s~~.

(1) The Department will ~~shall~~ review ~~the~~ access control ~~management~~ classifications for specific segments of the SHS in consideration of the criteria listed ~~State Highway System when a major change in any of the factors noted~~ in Section 335.188, F.S. ~~subsection 14-97.004(3), F.A.C., have occurred.~~ Roadside development does not, in and of itself, necessarily constitute a reason to lower the access control classification. If reclassification of a roadway segment is necessary,the Department shall, p~~P~~rior to ~~the initiation of~~ any change in classification, ~~for a roadway segment(s), the Department shall~~ notify ~~in writing~~ the affected governmental entities regarding the proposed reclassification and publish ~~appropriate local government(s) and owners or occupants of abutting properties. After publishing~~ its intent to reclassify ~~a roadway segment(s)~~ in a local newspaper of general circulation. ~~in the affected area,~~ T~~t~~he Department will ~~shall~~ hold a public meeting in the affected county, if requested, to seek comments on the proposed reclassification ~~hearing on the change(s) in classification in the affected county~~. The Department shall coordinate with, and will ~~shall~~ take into consideration, ~~any~~ comments or concerns of the affected governmental entities ~~local government~~ and/or members of the public regarding the reclassification ~~those comments received during the public hearing during the analysis of the classification modification(s)~~. The Department will ~~shall~~ notify the affected governmental entities ~~local government(s) in writing~~ of the final determination on the reclassification action(s).

(2) A written request may be made to the appropriate Department District Secretary~~,~~ that the Department review the access control classification of any specific segment(s) of the SHS ~~State Highway System at any time~~. Such written request shall specify ~~include specific justification~~ why the change of access control ~~roadway segment~~ classification is sought, ~~and shall indicate~~ the desired access classification, and justification for the access classification change, ~~roadway segment classification and specific justification therefore~~ based on the standards and criteria contained in Section 335.188, F.S., and in this rule chapter ~~subsections 14-97.003(2) and 14-97.004(3), F.A.C~~. The Department shall consider such requests, coordinating with the affected ~~appropriate~~ governmental entities ~~entity(ies),~~ and shall deny the request or publish notice of the Department's intent to reclassify the roadway segment(s) in a local newspaper of general circulation. If requested, the Department will hold a ~~and shall follow the~~ public meeting ~~hearing requirements in subsection 14-97.005(1), F.A.C., above~~.

~~(3) MPO or local government initiated changes in boundaries of Area Types which affect interchange spacing standards shall become effective when the Department concurs in such changes and notifies the MPO or local government in writing.~~

Rulemaking ~~Specific~~ Authority 334.044(2), 335.182, 335.188 FS. Law Implemented 334.044(10)(a), 335.182, 335.188 FS. History–New 2-13-91, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Gary Sokolow

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Stephanie C. Kopelousos

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 27, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 1, 2009

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF CORRECTIONS

RULE NO.:	RULE TITLE:
33-102.101	Public Information and Inspection of Records

PURPOSE AND EFFECT: The purpose and effect of the propsed rule is to clarify Form DC1-201, Invoice for Production of Records, to indicate the circumstances under which the Department will charge an "extensive use" fee and to add an exemption for personal identifying information of dependents of Department employees if those dependents are insured by an agency group insurance plan.

SUMMARY: The proposed rule clarifies Form DC1-201, Invoice for Production of Records, to indicate the circumstances under which the Department will charge an "extensive use" fee to locate, review, copy, and file public records. The rule is also amended to add an exemption, in accordance with House Bill 135 (effective June 1, 2009), for personal identifying information of dependents of Department employees if those dependents are insured by an agency group insurance plan.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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.

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 119.07, 120.53 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, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-102.101 Public Information and Inspection of Records.

(1) through (4) No change.

(5) When copies requested pursuant to this rule are available to be picked up or for mailing, the requestor shall be notified of the costs of reproduction as specified in subsections (2) and (3) on Form DC1-201, Invoice for Production of Records. Form DC1-201. Form DC1-201 shall also indicate if any information is redacted from the copies provided as required by state law. Form DC1-201 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of Form DC1-201 is _____ ~~12-25-08~~.

Rulemaking ~~Specific~~ Authority 944.09 FS. Law Implemented 119.07, 120.53 FS. History–New 10-8-76, Amended 2-24-81, Formerly 33-1.04, Amended 6-9-86, 2-9-88, Formerly 33-1.004, Amended 10-29-01, 12-5-05, 4-16-08, 12-25-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathleen Von Hoene, General Counsel

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 27, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 15, 2009

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE NOS.:	RULE TITLES:
40C-4.021	Definitions
40C-4.091	Publications Incorporated by Reference

PURPOSE AND EFFECT: The purpose and effect of these proposed rule amendments is: (1) to reflect that the bald eagle is no longer classified by the Florida Fish and Wildlife Conservation Commission (FWC) as a threatened species under its imperiled species regulations; (2) to continue to provide to the bald eagle, which is still protected under a federal statute known as the Bald and Golden Eagle Protection Act, protections afforded by the District's rules to wildlife species classified by FWC as endangered, threatened, or species of special concern; and (3) to update rule references to listed wildlife and plants in the definitions of "listed species," "endangered species," and "threatened species." The District proposes to amend Table 12.2.7-1 in the Applicant's Handbook: Management and Storage of Surface Waters to remove the bald eagle from the category of threatened species and to amend section 12.2.7 of the Applicant's Handbook to refer to the bald eagle so that bald eagles' existing nesting habitat in uplands would continue to be protected under the District's rules. The amendments also provide that secondary impacts to the functions of wetlands or uplands for nesting of bald eagles will not be considered adverse if a valid permit under Rule 68A-16.002, F.A.C., has been issued to a permit applicant by the FWC for the same activities the applicant is proposing under Part IV of Chapter 373, F.S., or if the applicant demonstrates compliance with the FWC Eagle Management Guidelines that were adopted by the FWC and became effective May 15, 2008.

SUMMARY: The proposed rules address the change in classification of the bald eagle in the FWC's imperiled species regulations. The proposed rules amend Sections 12.2.7 and 12.3.1.5 and Table 12.2.7-1 of the Applicant's Handbook: Management and Storage of Surface Waters, and Rule 40C-4.091, F.A.C., which incorporates these sections by reference. In addition, the proposed rules update the definitions of listed species, endangered species and threatened species by amending subsection 40C-4.021(20), F.A.C., and subsections 2.0(q), (cc), and (bbb) of the Applicant's Handbook.

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.

RULEMAKING AUTHORITY: 373.044, 373.113, 373.414, 373.418 FS.

LAW IMPLEMENTED: 373.016(2), 373.413, 373.414, 373.416, 373.418, 373.426 FS.

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

DATE AND TIME: August 11, 2009, Following the regularly scheduled Governing Board Meeting which begins at 1:00 p.m.

PLACE: St. Johns River Water Management District Headquarters, 4049 Reid Street, Palatka, Florida 32177

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: Sandy Bertram, Asst. District Clerk, (386)329-4159. 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: Wendy Gaylord, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)326-3026, email wgaylord@sjrwmd.com

THE FULL TEXT OF THE PROPOSED RULES IS:

40C-4.021 Definitions.

When appearing in this chapter or in Chapter 40C-40, 40C-41, 40C-42, 40C-44, or 40C-400, F.A.C., the following words shall mean:

(1) through (19) No change.

(20) Listed species" means those animal species which are endangered, threatened or of special concern and are listed in Rules 68A-27.003 (as amended December 16, 2003), 68A-27.004 (as amended May 15, 2008), and 68A-27.005 (as amended November 8, 2007) ~~39-7.003, 39-27.004, and 39-27.005~~, F.A.C., and those plant species listed in 50 Code of Federal Regulations 17.12 (as amended April 8, 2004), when such plants are found to be located in a wetland or other surface water.

(21) through (32) No change.

Rulemaking ~~Specific~~ Authority 373.044, 373.113, 373.414, 373.418 FS. Law Implemented 373.016, 373.019, 373.403, 373.413, 373.414, 373.416, 373.418, 373.426, 403.813(2) FS. History–New 1-31-77, Formerly 16I-4.02, 40C-4.02, Amended 2-3-81, 12-7-83, Formerly 40C-4.021, 40C-4.0021, Amended 9-25-91, 2-27-94, 10-3-95, 10-11-01, _____.

40C-4.091 Publications Incorporated by Reference.

(1) The Governing Board hereby adopts by reference:

(a) Part I "Policy and Procedures," Part II "Criteria for Evaluation," subsections 18.0, 18.1, 18.2, and 18.3 of Part III and Appendix K "Legal Description Upper St. Johns River Hydrologic Basin," "Legal Description Ocklawaha River Hydrologic Basin," "Legal Description of the Wekiva River Hydrologic Basin," "Legal Description of the Wekiva Recharge Protection Basin," "Legal Description of the Econlockhatchee River Hydrologic Basin," "Legal Description of the Sensitive Karst Areas Basin, Alachua County," "Legal Description Tomoka River Hydrologic Basin," "Legal Description Spruce Creek Hydrologic Basin," "Legal Description of the Sensitive Karst Areas Basin, Marion County," and "Legal Description of the Lake Apopka Hydrologic Basin," and Appendix M "Regional Watersheds for Mitigation Banking," of the document entitled "Applicant's Handbook: Management and Storage of Surface Waters," effective _____ ~~November 5, 2008~~.

(b) through (d) No change.

(2) No change.

Rulemaking ~~Specific~~ Authority 369.318, 373.044, 373.046(4), 373.113, 373.4136, 373.414, 373.415, 373.416, 373.418, 373.421, 373.461 FS. Law Implemented 120.60, 369.316, 369.318, 373.016(2), 373.042, 373.0421, 373.046, 373.085, 373.086, 373.103, 373.109, 373.146(1), 373.406, 373.413, 373.4135, 373.4136 373.414, 373.4141, 373.415, 373.416, 373.417, 373.418, 373.421(2)-(6), 373.423, 373.426, 373.461(3), 380.06(9), 403.813(2) FS. History–New 12-7-83, Amended 10-14-84, Formerly 40C-4.091, Amended 5-17-87, Formerly 40C-4.0091, Amended 8-20-87, 10-1-87, 10-11-87, 11-26-87, 8-30-88, 1-1-89, 8-1-89, 10-19-89, 4-3-91, 9-25-91, 11-12-91, 3-1-92, 7-14-92, 9-8-92, 9-16-92, 11-12-92, 11-30-92, 1-6-93, 1-23-94, 2-27-94, 11-22-94, 10-3-95, 8-20-96, 11-25-98, 12-3-98, 1-7-99, 1-11-99, 8-21-00, 7-8-01, 10-11-01, 4-10-02, 9-26-02, 3-7-03, 11-11-03, 2-1-05, 12-3-06, 7-1-07, 5-13-08, 11-05-08, _____.

APPLICANT'S HANDBOOK SECTIONS

2.0 Definitions

The following definitions are used by the District to clarify its intent in implementing its permitting programs pursuant to Part IV, Chapter 373, F.S. Many of these definitions are derived directly from Chapter 373, F.S., and are reproduced here for the convenience of applicants.

(a) through (p) No change.

(q) Endangered Species – Those animal species which are listed in Rule 68A-27.003 (as amended December 16, 2003) ~~39-27.003~~, F.A.C., and those plant species which are listed as endangered in 50 Code of Federal Regulations 17.12 (as amended April 8, 2004), when such plants are found to be located in a wetland or other surface water.

(r) through (bb) No change.

(cc) Listed species – Those animal species which are endangered, threatened or of special concern and are listed in Rules 68A-27.003 (as amended December 16, 2003), 68A-27.004 (as amended May 15, 2008), and 68A-27.005 (as amended November 8, 2007) ~~39-27.003, 39-27.004, and 39-27.005~~, F.A.C.; and those plant species which are listed in 50 Code of Federal Regulations 17.12 (as amended April 8,

2004), when such plants found to be are located in a wetland or other surface water (subsection 40C-4.021(20)~~(19)~~, F.A.C.).

(dd) through (aaa) No change.

(bbb) Threatened Species – Those animal species listed in Rule 68A-27.004 (as amended May 15, 2008) ~~39-27.004~~, F.A.C., and those plant species which are listed as threatened in 50 Code of Federal Regulations 17.12 (as amended April 8, 2004) when such plants are found to be located in a wetland or other surface water.

(ccc) through (hhh) No change.

12.2.7 Secondary Impacts

Pursuant to paragraph 12.1.1(f), an applicant must provide reasonable assurances that a regulated activity will not cause adverse secondary impacts to the water resource, as described in paragraphs (a) through (d) below. Aquatic or wetland dependent fish and wildlife are an integral part of the water resources which the District is authorized to protect under part IV, chapter 373, F.S. Those aquatic or wetland dependent species which are listed as threatened, endangered or of special concern and the bald eagle (*Halieaeetus leucocephalus*) which is protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d) are particularly in need of protection.

A proposed system shall be reviewed under this criterion by evaluating the impacts to: wetland and surface water functions identified in subsection 12.2.2, water quality, upland habitat for bald eagles (*Halieaeetus leucocephalus*) and aquatic or wetland dependent listed species, and historical and archaeological resources. De minimis or remotely related secondary impacts will not be considered. Applicants may propose measures such as preservation to prevent secondary impacts. Such preservation shall comply with the land preservation provisions of subsection 12.3.8. If such secondary impacts can not be prevented, the applicant may propose mitigation measures as provided for in subsections 12.3 – 12.3.8.

This secondary impact criterion consists of the following four parts:

(a) An applicant shall provide reasonable assurance that the secondary impacts from construction, alteration, and intended or reasonably expected uses of a proposed system will not cause violations of water quality standards or adverse impacts to the functions of wetlands or other surface waters as described in section 12.2.2.

Impacts such as boat traffic generated by a proposed dock, boat ramp or dry dock facility, which causes an increased threat of collision with manatees; impacts to wildlife from vehicles using proposed roads in wetlands or surface waters; impacts to water quality associated with the use of septic tanks or propeller dredging by boats and wakes from boats; and impacts associated with docking facilities as described in paragraphs 12.2.4.3(f) and (h), will be considered relative to the specific activities proposed and the potential for such impacts. Impacts of groundwater withdrawals upon wetlands and other surface waters that result from the use of wells permitted pursuant to chapter 40C-2, F.A.C., shall not be considered under rules adopted pursuant to part IV of chapter 373, F.S., since these impacts are considered in the consumptive use permit application process.

Secondary impacts to the habitat functions of wetlands associated with adjacent upland activities will not be considered adverse if buffers, with a minimum width of 15' and an average width of 25', are provided abutting those wetlands that will remain under the permitted design, unless additional measures are needed for protection of wetlands used by bald eagles (*Haliaeetus leucocephalus*) for nesting or listed species for nesting, denning, or critically important feeding habitat. The mere fact that a species is listed does not imply that all of its feeding habitat is critically important. Buffers shall remain in an undisturbed condition, except for drainage features such as spreader swales and discharge structures, provided the construction or use of these features does not adversely impact wetlands. Where an applicant elects not to utilize buffers of the above described dimensions, buffers of different dimensions, measures other than buffers, or information may be proposed to provide the required reasonable assurance.

(b) An applicant shall provide reasonable assurance that the construction, alteration, and intended or reasonably expected uses of a proposed system will not adversely impact the ecological value of uplands to bald eagles (*Haliaeetus leucocephalus*) and aquatic or wetland dependent listed animal species for enabling existing nesting or denning by these species, but not including:

1. areas needed for foraging; or

2. wildlife corridors, except for those limited areas of uplands necessary for ingress and egress to the nest or den site from the wetland or other surface water.

Table 12.2.7-1 identifies those aquatic or wetland dependent listed species that use upland habitats for nesting and denning.

For those aquatic or wetland dependent listed animal species for which habitat management guidelines have been developed by the U.S. Fish and Wildlife Service (USFWS) or the Florida Fish and Wildlife Conservation Commission (FWC) ~~Florida Game and~~

~~Fresh Water Fish Commission (FGFWFC)~~, compliance with these guidelines will provide reasonable assurance that the proposed system will not adversely impact upland habitat functions described in paragraph (b). For those aquatic or wetland dependent listed animal species for which habitat management guidelines have not been developed or in cases where an applicant does not propose to use USFWS or FWC ~~FGFWFC~~ habitat management guidelines, the applicant may propose measures to mitigate adverse impacts to upland habitat functions described in paragraph (b) provided to aquatic or wetland dependent listed animal species. Secondary impacts to the functions of wetlands or uplands for nesting of bald eagles *(Haliaeetus leucocephalus)* will not be considered adverse if a valid permit has been issued to the applicant pursuant to Rule 68A-16.002, F.A.C. (May 15, 2008) for the same activities proposed by the applicant under part IV of Chapter 373, F.S., or if the applicant demonstrates compliance with the FWC Eagle Management Guidelines incorporated by reference in Rule 68A-16.002, F.A.C. (May 15, 2008).

(c) through (d) No change.

TABLE 12.2.7-1

Listed Wildlife Species that are Aquatic or Wetland Dependent and That Use Upland Habitats for Nesting or Denning

Fishes

Species of special concern

Rivulus marmoratus (mangrove rivulus; rivulus)

Reptiles

Endangered

Chelonia mydas mydas (Atlantic green turtle)

Crocodylus acutus (American crocodile)

Dermochelys coriacea (leatherback turtle; leathery turtle)

Eretmochelys imbricata imbricata (Atlantic hawksbill turtle)

Kinosternon bauri (striped mud turtle) THIS SPECIES LISTED ONLY IN LOWER KEYS

Lepidochelys kempi (Atlantic ridley turtle)

Threatened

Caretta caretta caretta (Atlantic loggerhead turtle)

Thamnophis sauritus sackeni (Florida (Keys) ribbon snake) THIS SPECIES LISTED ONLY IN LOWER KEYS

Species of special concern

Alligator mississippiensis (American alligator)

Graptemys barbouri (Barbour's map turtle; Barbour’s sawback turtle)

Macroclemys temmincki (alligator snapping turtle)

Pseudemys concinna suwanniensis (Suwannee cooter)

Birds

Endangered

Ammodramus maritimus mirabilis (Cape Sable seaside sparrow)

Mycteria americana (wood stork)

Rostrhamus sociabilis (snail kite)

Threatened

Charadrius alexandrinus tenuirostris (southeastern snowy plover)

Charadrius melodus (piping plover)

Columba leucocephalus (white-crowned pigeon)

Grus canadensis pratensis (Florida sandhill crane)

~~Haliaeetus leucocephala (bald eagle)~~

Picoides borealis (red-cockaded woodpecker) THIS SPECIES ONLY WETLAND DEPENDENT IN LEE, COLLIER, AND CHARLOTTE COUNTIES

Polyborus plancus audubonii (Audubon's crested caracara)

Sterna antillarum (least tern)

Sterna dougallii (roseate tern)

Species of special concern

Ajaia ajaia (roseate spoonbill)

Ammodramus maritimus juncicolus (Wakulla seaside sparrow)

Ammodramus maritimus peninsulae (Scott's seaside sparrow)

Aramus guarauna (limpkin)

Cistothorus palustris griseus (Worthington's marsh wren)

Cistothorus palustris marianae (Marian's marsh wren)

Egretta caerulea (little blue heron)

Egretta rufescens (reddish egret)

Egretta thula (snowy egret)

Egretta tricolor (tricolored heron; Louisiana heron)

Eudocimus albus (white ibis)

Haematopus palliatus (American oystercatcher)

Pandion haliaetus (osprey) THIS SPECIES LISTED ONLY IN MONROE COUNTY

Pelecanus occidentalis (brown pelican)

Rhynchops niger (black skimmer)

Mammals

Endangered

Felis concolor coryi (Florida panther)

Microtus pennsylvanicus dukecampbelli (Duke’s saltmarsh vole; Florida saltmarsh vole)

Myotis grisescens (gray bat)

Myotis sodalis (Indiana bat)

Odocoileus virginianus clavium (Key deer; toy deer)

Oryzomys argentatus (silver rice rat)

Sylvilagus palustris hefneri (Lower Keys marsh rabbit)

Threatened

Mustela vison evergladensis (Everglades mink)

Sciurus niger avicennia (Big Cypress fox squirrel; mangrove fox squirrel)

Ursus americanus floridanus (Florida black bear) THIS SPECIES NOT LISTED IN BAKER AND COLUMBIA COUNTIES AND THE APALACHICOLA NATIONAL FOREST

Species of Special Concern

Oryzomys palustris sanibeli (Sanibel Island rice rat)

Sorex longirostris eionis (Homosassa shrew)

12.3.1.5 To offset adverse secondary impacts from regulated activities to habitat functions that uplands provide to bald eagles (*Haliaeetus leucocephalus*) for nesting and to listed species evaluated as provided in paragraph 12.2.7(b), mitigation can include the implementation of management plans, participation in a wildlife mitigation park established by the FWC ~~FGFWFC~~, or other measures. Measures to offset adverse secondary impacts on wetlands and other surface waters resulting from use of a system can include the incorporation of culverts or bridged crossings designed to facilitate wildlife movement, fencing to limit access, reduced speed zones, or other measures designed to offset the secondary impact.

NAME OF PERSON ORIGINATING PROPOSED RULE: Veronika Thiebach, Sr. Asst. General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)329-4488, email vthiebach@sjrwmd.com

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 20, 2008

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.:	RULE TITLE:
59G-13.132	Traumatic Brain and Spinal Cord Injury Waiver Disposable Incontinence Medical Supplies Procedure Codes and Fee Schedule

PURPOSE AND EFFECT: The purpose of the new Rule 59G-13.132, F.A.C., is to incorporate by reference in rule the Traumatic Brain and Spinal Cord Injury Waiver Services Disposable Incontinence Medical Supplies Procedure Codes and Fee Schedule and Quality Standards for Briefs and Diapers that are effective June 2009. The effect will be to incorporate by reference in rule the Traumatic Brain and Spinal Cord Injury Waiver Disposable Incontinence Medical Supplies Procedure Codes and Fee Schedule and Quality Standards for Briefs and Diapers, June 2009.

In the Notice of Rule Development, we stated that the Traumatic Brain and Spinal Cord Injury Waiver Disposable Incontinence Medical Supplies Procedure Codes and Fee Schedule and Quality Standards for Briefs and Diapers were effective January 2009. We changed this date to June 2009.

SUMMARY: The purpose of the new Rule 59G-13.132, F.A.C., is to incorporate by reference in rule the Traumatic Brain and Spinal Cord Injury Waiver Services Disposable Incontinence Medical Supplies Procedure Codes and Fee Schedule and Quality Standards for Briefs and Diapers that are effective June 2009.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will have an impact on small business. A SERC has been prepared by the agency. Providers of consumable medical supply services will experience a reduction in revenues as a result of reduced rates for disposable incontinence medical supplies. The degree of reduction will depend upon the number of recipients served and the intensity of the services provided. 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.

RULEMAKING AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 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: July 20, 2009, 2:00 p.m.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Arlene Walker, Bureau of Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308, (850)414-1570, walkerar@ahca.myflorida. com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-13.132 Traumatic Brain and Spinal Cord Injury Waiver Disposable Incontinence Medical Supplies Procedure Codes and Fee Schedule.

(1) This rule applies to all traumatic brain and spinal cord injury waiver services providers enrolled in the Medicaid program.

(2) All traumatic brain and spinal cord injury waiver services providers enrolled in the Medicaid program must be in compliance with the Traumatic Brain and Spinal Cord Injury Waiver Disposable Incontinence Medical Supplies Procedure Codes and Fee Schedule, June 2009, and Quality Standards for Briefs and Diapers, June 2009, which are incorporated by

reference. The Traumatic Brain and Spinal Cord Injury Waiver Disposable Incontinence Medical Supplies Procedure Codes and Fee Schedule and Quality Standards are available from the Medicaid fiscal agent's Web Portal at http://mymedicaid-florida.com. Click on Public Information for Providers, then on Provider Support, and then on Fee Schedules. Paper copies may be obtained from the Agency for Health Care Administration, Bureau of Medicaid Services, 2727 Mahan Drive, M.S. 20, Tallahassee, Florida 32308.

Rulemaking Authority 409.919 FS. Law Implemented 409.906, 409.908 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Arlene Walker

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

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

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: RULE TITLE

62-304.800 Caloosahatchee River Basin TMDLS

PURPOSE AND EFFECT: The purpose of the rule is to adopt Total Maximum Daily Loads (TMDL) and allocations for total nitrogen for Tidal Caloosahatchee River.

SUMMARY: This TMDL addresses nutrient impairments in the Tidal Caloosahatchee River. For these nutrient TMDLs, water quality targets were identified using the total nitrogen concentration that reduces algal growth such that there is an adequate percentage of light irradiance in the bottom layer to support a healthy seagrass meadow community in San Carlos Bay. Two computer models (EFDC and HSPF) simulated the Caloosahatchee load under various scenarios to determine the load reductions producing the nutrient reductions necessary to meet the critical light levels for submerged aquatic vegetation in the estuary.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Department has not prepared a Statement of Estimated Regulatory Cost (SERC) for this proposed Rule.

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

RULEMAKING AUTHORITY: 403.061, 403.067 FS.

LAW IMPLEMENTED: 403.031, 403.061, 403.062, 403.067 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: July 16, 2009, 10:00 a.m.

PLACE: Florida Department of Environmental Protection, 2600 Blair Stone Road, Room 609, Bob Martinez Center, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Ms. Pat Waters at (850)245-8449. 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: Jan Mandrup-Poulsen, Division of Environmental Assessment and Restoration, Bureau of Watershed Restoration, Mail Station 3555, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)245-8448

THE FULL TEXT OF THE PROPOSED RULE IS:

62-304.800 Caloosahatchee River Basin TMDLs.

(1) Fecal Coliform Total Maximum Daily Load (TMDL) for Nine Mile Canal. The fecal coliform TMDL ~~Total Maximum Daily Load~~ for Nine Mile Canal is 400 counts/100 mL, and is allocated as follows:

(a) The Wasteload Allocation (WLA) for wastewater point sources is not applicable,

(b) The WLA ~~Wasteload Allocation~~ for discharges subject to the Department's National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin to result in a 36 percent reduction of in-stream fecal coliform concentrations, based on the measured concentrations from the 1997 to June 30, 2004 period,

(c) The Load Allocation (LA) for nonpoint sources is a 36 percent reduction of in-stream fecal coliform concentrations, based on the measured concentrations from the 1997 to June 30, 2004 period, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is with the understanding that the combined reductions from anthropogenic point and

nonpoint sources should result in the required reduction of in-stream fecal coliform concentrations. However, it is not the intent of this TMDL to abate natural background conditions.

(2) The TMDL for the Tidal Caloosahatchee estuary downstream of the S-79 Franklin Lock is 9,086,094 pounds of Total Nitrogen (TN) per year, which represents, based on model simulated flows and concentrations from 2003 through 2005, a 22.8% reduction. This load reduction will be allocated as follows: ~~Unless specifically stated, the point from which the reduction of "in-stream fecal coliform concentrations" shall be the average loading for the year the Secretary adopted the verified list that first listed the waterbody as impaired for the parameter of concern.~~

(a) The WLA for point sources discharging to the estuary will remain unchanged from the permits currently in effect as of the date of this rule,

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program will have a 22.8% load reduction relative to its overall contribution to the anthropogenic load,

(c) The LA for nonpoint sources downstream of the S-77 lock will have a 22.8% load reduction relative to the contribution to the overall anthropogenic load,

(d) The Margin of Safety is both implicit and explicit (in the form of an added 3% reduction in total nitrogen).

Rulemaking ~~Specific~~ Authority 403.061, 403.067 FS. Law Implemented 403.061, 403.062, 403.067 FS. History–New 8-3-06, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Drew Bartlett, Deputy Director, Division of Environmental Assessment and Restoration

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael Sole, Secretary, Department of Environmental Protection

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 9, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 17, 2008

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: RULE TITLE:
64B8-8.011 Notice of Noncompliance

PURPOSE AND EFFECT: The proposed rule amendment is intended to set forth an additional violation which is appropriate for the issuance of a notice of noncompliance.

SUMMARY: The proposed rule amendment specifies that failure to complete the requirement for instruction on domestic violence in the appropriate biennium shall result in a notice of noncompliance.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board has determined that the proposed rule amendments will not have an impact on 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.

RULEMAKING AUTHORITY: 456.073(3), 458.309 FS.

LAW IMPLEMENTED: 456.073(3), 456.0575 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-8.011 Notice of Noncompliance.

(1) through (2) No change.

(3) The following violations are those for which the board authorizes the Department to issue a notice of noncompliance.

(a) through (d) No change.

(e) Failure to complete the requirement for instruction on domestic violence in the appropriate biennium as required by Section 456.031, F.S. A notice of noncompliance would be issued for this violation only if the licensee completed the domestic violence course, but completion of said course was not during the appropriate biennial renewal period.

Rulemaking ~~Specific~~ Authority 456.073(3), 458.309 FS. Law Implemented 456.073(3), 456.0575 FS. History–New 11-15-90, Formerly 21M-20.011, 61F6-20.011, 59R-8.011, Amended 1-27-00, 1-8-02, 1-12-03, 6-7-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Medicine

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 24, 2009

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE NO.: RULE TITLE:
64B18-16.005 Content of Residency Program – Reports

PURPOSE AND EFFECT: The purpose of this rule development is to adopt the Podiatric Resident Hospital Report form by reference.

SUMMARY: The proposed rule incorporates the Podiatric Resident Hospital Report form 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.

RULEMAKING AUTHORITY: 461.005, 461.014(4) FS.

LAW IMPLEMENTED: 456.072(1)(j), (k), (l), 461.013(1)(g), (h), (i), 461.014 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B18-16.005 Content of Residency Program – Reports.

On July 1 of each year, each Residency Program Director shall provide the Board with information regarding each podiatric resident using the Podiatric Resident Hospital Report form DH-MQA 1140 (revised 12/08), hereby adopted and incorporated by reference, that can be obtained from the Board of Podiatric Medicine's website at http://www.doh.state.fl.us/mqa/podiatry/index.html. ~~the following information to the Board:~~

~~(1) The name and current mailing address of each podiatric resident;~~

~~(2) The name and current mailing address of each podiatric resident who has successfully completed the program subsequent to the last preceding report, designating the date of completion;~~

~~(3) The name and current mailing address of each podiatric resident who has withdrawn from the program subsequent to the last preceding report, designating each person's status with respect to rights and qualifications for readmission to the program;~~

~~(4) A copy of the hospital's most recent residency program evaluation by the Council on Podiatry Education of the American Podiatric Medical Association;~~

~~(5) The name of the supervising podiatric physician.~~

Rulemaking ~~Specific~~ Authority 461.005, 461.014(4) FS. Law Implemented 456.072(1)(j), (k), (l), 461.013(1)(g), (h), (i), 461.014 FS., Chapter 2005-98, Laws of Florida. History–New 11-24-80, Formerly 21T-16.05, 21T-16.005, 61F12-16.005, Amended 1-4-96, Formerly 59Z-16.005, Amended 12-2-03, 11-27-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Podiatric Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 16, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 1, 2009

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE NO.: RULE TITLE:
65A-4.209 Income

PURPOSE AND EFFECT: The proposed rule amendment amends policy to exclude all Workforce Investment Act (WIA) income for a minor child, excludes all WIA income for an adult except for wages paid directly by an employer, includes the statutory reference for minor child, removes some verification requirements for a sponsoring agency or organization and clarifies verification is not required of a noncitizen who self-declares non-support from the sponsor. Included in this proposed rule amendment are some wording changes and technical changes of a non-substantive nature improving the overall content of the rule.

SUMMARY: The proposed rule amendment amends and clarifies income policy and its verification requirements for the Temporary Cash Assistance Program.

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

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

RULEMAKING AUTHORITY: 414.085(2), 414.095(18), 414.45 FS.

LAW IMPLEMENTED: 414.085, 414.095 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: July 13, 2009, 1:30 p.m.

PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Cindy Keil, ACCESS Florida Program Policy, 1317 Winewood Boulevard, Building 3, Tallahassee, Florida 32399-0700, (850)410-3291

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-4.209 Income.

(1) Income is cash received at periodic intervals from any source such as wages, benefits, contributions, rental property, etc. Cash is money or an ~~its~~ equivalent, such as a check, money order or other negotiable instrument. Income must be substantiated, verified or documented as a condition of eligibility for T~~t~~emporary C~~c~~ash A~~a~~ssistance (TCA) as in subsection 65A-1.205(5), F.A.C. ~~in accordance with Section 414.095, F.S.~~

(2) To be financially eligible for TCA ~~temporary cash assistance (TCA)~~, the total average gross monthly income~~,~~ less any applicable disregards~~,~~ of the standard filing unit cannot exceed the applicable payment standard for the assistance group. These standards and disregards are found in Sections 414.095(10) and (11), F.S. Monthly net income is calculated based on average gross monthly family income, earned and unearned, less any applicable disregards in accordance with Section 414.095(12)(a), F.S. The monthly amount of the TCA payment is determined by subtracting the monthly net income from the applicable payment standard.

(a) The earned monthly income of the minor child who is a full-time student in an elementary or secondary school or an equivalent level of career training does not count in the eligibility determination. ~~family member age 19 or younger and is a full-time high school student in a secondary school or the equivalent level of vocational or technical training is disregarded in the budget. The income of a child who is a family member age 19 or younger and is a full-time student also does not count toward the payment standard or toward calculation of eligibility against the consolidated need standard.~~ All income of the minor child received under the Workforce Investment Act (WIA) of 1998 does not count in the eligibility determination. The definition of minor child is in Section 414.0252(8), F.S. The definition of full-time attendance is in paragraph 65A-4.207(1)(b), F.A.C. Student refers to the minor child whose needs are included in the benefit as a minor child not as a parent or relative. The d~~D~~efinition of secondary school is ~~found~~ in Section 1003.413(1), F.S. ~~Definition of full-time attendance is found in paragraph 65A-4.207(1)(b), F.A.C.~~

(b) Total gross monthly income includes earned and unearned ~~non-earned~~ income from all sources. The countable net income of a stepparent living in the home with the TCA ~~temporary cash assistance~~ child, or of a parent living in the home with the minor mother payee, or of an ineligible noncitizen's parents during the five year disqualification period prescribed by the Personal Responsibility and Work Opportunity Act of 1996, and of the sponsor and the sponsor's spouse of certain noncitizens is considered in determining the gross unearned ~~non-earned~~ income of the assistance group.

(c) Income ~~which is~~ excluded from consideration in the TCA ~~temporary cash assistance~~ P~~p~~rogram does ~~is~~ not count in the eligibility determination ~~counted as gross income~~. All income of an adult received under the WIA Act does not count in the eligibility determination, except for wages paid directly by an employer.

(d) Infrequent or irregular unearned income ~~which does~~ not exceeding ~~exceed~~ $60 per calendar quarter such as gifts for Christmas, birthdays or graduation does not count in the eligibility determination ~~is excluded, such as gifts for Christmas, birthdays or graduation~~.

(3) The Department considers o~~O~~nly the income of the following individuals ~~is considered~~:

(a) All standard filing unit members.

(b) A ~~The~~ stepparent living in the home. The Department considers a temporarily absent stepparent to be part of the family unit~~, or if temporarily absent as determined by the department, is still considered part of the family unit~~.

(c) The sponsor(s) of a noncitizen.

1. The sponsoring agency or organization must ~~is expected to~~ fulfill its financial responsibilities to the noncitizen unless the agency or organization is no longer in existence at the time that the applicant or recipient applies or the sponsor does not have the financial ability to meet the noncitizen's needs. ~~Verification of the sponsor's inability to support must be obtained. If a noncitizen applying for temporary cash assistance states that the sponsoring organization or agency is no longer in existence, verification must be obtained.~~

2. A ~~Any~~ noncitizen who reports support from an individual sponsor ~~sponsorship, whether or not the sponsor remains involved with the noncitizen,~~ is required to have the sponsor and the sponsor's spouse provide information about their income and assets. If they do ~~the sponsor does~~ not give complete information and will not provide complete information upon request by the D~~d~~epartment, the noncitizen and other sponsored members of the assistance group ~~sponsored by that individual~~ will be found ineligible for TCA ~~temporary cash assistance~~ because available income and assets cannot be determined. Eligibility for the noncitizen and other sponsored members of the assistance group cannot be established when required verification ~~documentation~~ is not obtained. Verification is not required of a noncitizen who self-declares non-support from the sponsor.

3. This policy does not affect u~~U~~nsponsored members of the assistance group ~~are not affected by this policy~~. If the sponsor and spouse receive TCA ~~receives temporary cash~~

~~assistance~~ as a parent payee or receive Supplemental Security Income ~~receives SSI~~, none of the sponsor's income is considered to be ~~as being~~ available to the noncitizen ~~alien~~.

(d) The parent(s) of a teen ~~an unwed minor~~ parent, when the teen ~~minor~~ parent is a TCA ~~benefit~~ recipient minor child ~~under age 18,~~ who lives in the same household with the parent(s) ~~parents~~ who is ~~are~~ not included in the TCA benefit.

(e) The stepparent of a teen ~~an unwed minor~~ parent, when the teen ~~minor~~ parent is a TCA ~~benefit~~ recipient minor child ~~under age 18,~~ who lives in the same household with the stepparent who is not included in the TCA ~~temporary cash assistance~~ benefit.

(f) The IRCA parent (one that received legalization under the Immigration Reform and Control Act of 1986).

~~(4) Income of children who are students is disregarded in accordance with Section 414.095(11)(b), F.S.~~

~~(5) For children under 18 years of age, all non-earned income received under Workforce Investment Act (WIA) is disregarded. All earned income from WIA is disregarded for six months in a calendar year.~~

Rulemaking ~~Specific~~ Authority 414.085(2), 414.095(18), 414.45 FS. Law Implemented 414.085, 414.095 FS. History–New 1-11-98, Amended 5-17-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Nathan Lewis

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: George H. Sheldon

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 24, 2009

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.:	RULE TITLE:
69K-12.002	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 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.

RULEMAKING 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.

Rulemaking ~~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: Cemetery, and Consumer Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: 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.:	RULE TITLE:
69K-24.040	Licensure of Centralized Embalming Facilities

PURPOSE AND EFFECT: The rule was incorrectly noticed with respect to the annual inspection fee to be paid by Centralized embalming facilities.

SUMMARY: The rule amendment would correct the annual inspection fee to be paid by Centralized embalming facilities.

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 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.

RULEMAKING 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) through (2) No change.

(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 $225 ~~one hundred dollars ($100)~~ for each year for which the license will be issued.

(4) through (5) No change.

Rulemaking ~~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

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NOS.:	RULE TITLES:
69O-156.003	Definitions
69O-156.005	Policy Provisions
69O-156.006	Minimum Benefit Standards for Pre-Standarized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery Prior to January 1, 1992
69O-156.007	Benefit Standards for 1990 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued or Delivered on or After January 1, 1992, and with an Effective Date for Coverage Prior to June 1, 2010
69O-156.0075	Benefit Standards for 2010 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery with an Effective Date for Coverage on or After June 1, 2010
69O-156.008	Standard Medicare Supplement Benefit Plans for 1990 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery on or After January 1, 1992, and with an Effective Date for Coverage Prior to June 1, 2010
69O-156.0085	Standard Medicare Supplement Benefit Plans for 2010 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery with an Effective Date for Coverage on or After June 1, 2010
69O-156.0095	Guaranteed Issue for Eligible Persons
69O-156.011	Loss Ratio Standards and Refund or Credit of Premium
69O-156.012	Filing and Approval of Policies and Certificates and Premium Rates

PURPOSE AND EFFECT: To update this rule part, to allow for a new product generation by adopting revisions to the NAIC Model Regulation.

SUMMARY: On September 24, 2008, the National Association of Insurance Commissioners (NAIC) adopted revisions to the NAIC Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act. The revised NAIC model regulation includes major changes to Medicare Supplement plans and benefits first approved by the NAIC in March 2007, and authorized by the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA). In addition, the model revisions contain changes required by the Genetic Information Nondiscrimination Act of 2008 (GINA).

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.

RULEMAKING AUTHORITY: 624.308(1), 627.674(2) FS.

LAW IMPLEMENTED: 627.671-.675 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: July 15, 2009, 9:30 a.m.

PLACE: 116 Larson Building, 200 East Gaines Street, Tallahassee, Florida

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Gerry Smith, Office of Insurance Regulation, E-mail Gerry.Smith@floir.com

THE FULL TEXT OF THE PROPOSED RULES IS:

69O-156.003 Definitions.

For purposes of this rule:

(1) through (16) No change.

(17) “Pre-Standardized Medicare supplement benefit plan,” “Pre-Standardized benefit plan” or "Pre-Standardized plan” means a group or individual policy of Medicare supplement insurance issued prior to January 1, 1992.

(18) “1990 Standardized Medicare supplement benefit plan,” “1990 Standardized benefit plan” or “1990 plan” means a group or individual policy of Medicare supplement insurance issued on or after January 1, 1992, and with an effective date for coverage prior to June 1, 2010.

(19) “2010 Standardized Medicare supplement benefit plan,” “2010 Standardized benefit plan” or “2010 plan” means a group or individual policy of Medicare supplement insurance with an effective date for coverage on or after June 1, 2010.

(20)~~(17)~~ “Replacement” is any transaction wherein new Medicare supplement insurance is to be purchased and it is known to the agent, broker or insurer at the time of application that, as a part of the transaction, existing accident and health insurance has been or is to be lapsed or the benefits thereof substantially reduced.

(21)~~(18)~~ “Secretary” means the Secretary of the United States Department of Health and Human Services.

Rulemaking ~~Specific~~ Authority 624.308(1), 627.674(2), 627.6741(5) FS. Law Implemented 624.307(1), 627.674, 627.6741 FS. History–New 1-1-81, Formerly 4-51.03, Amended 11-7-88, 9-4-89, 12-9-90, Formerly 4-51.003, Amended 1-1-92, 7-14-96, 7-26-99, 3-4-01, Formerly 4-156.003, Amended 9-15-05, _____.

69O-156.005 Policy Provisions.

(1) Except for permitted preexisting condition clauses as described in paragraphs 69O-156.006(1)(b), ~~and~~ 69O-156.007(1)(a), and 69O-156.0075(1)(a), F.A.C., of this chapter, no policy or certificate may be advertised, solicited or issued for delivery in this State as a Medicare supplement policy if such policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare.

(2) through (4) No change.

Rulemaking ~~Specific~~ Authority 624.308(1), 627.674(2) FS. Law Implemented 624.307(1), 627.674(2) FS. History–New 1-1-81, Formerly 4-51.04, Amended 9-4-89, Formerly 4-51.004, Amended 1-1-92, Formerly 4-156.005, Amended 9-15-05, _____.

69O-156.006 Minimum Benefit Standards for Pre-Standarized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery Prior to January 1, 1992.

As it relates to Pre-Standarized Medicare Supplement Benefit Plan Policies or certificates issued for delivery prior to January 1, 1992, no policy or certificate may be advertised, solicited, issued, delivered or issued for delivery in this State as a Medicare supplement policy or certificate unless it meets or exceeds the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards.

(1) General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this regulation.

(a) Medicare supplement coverage shall provide at least, but not be limited to, the benefits provided in Section 627.674, F.S.

(b) A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

(c) A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

(d) A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible, ~~amount and~~ copayment, or coinsurance amounts ~~percentage factors~~. Premiums may be modified to correspond with such changes. ~~However, the changes and corresponding~~ The premium changes ~~charges~~ must be submitted to and approved by the Office pursuant to Sections 627.410, 627.411 and 627.674, F.S.

(e) A "noncancellable," "guaranteed renewable," or "noncancellable and guaranteed renewable" Medicare supplement policy shall not:

1. Provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium; or

2. Be cancelled or nonrenewed by the issuer solely on the grounds of deterioration of health.

(f)1. Except as authorized by the Office, an issuer shall neither cancel nor nonrenew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

2.a. If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in subparagraph 69O-156.006(1)(f)4., F.A.C., the issuer shall offer certificateholders an individual Medicare supplement policy. The issuer shall offer the certificateholder at least the following choices:

(I) An individual Medicare supplement policy currently offered by the issuer having comparable benefits to those contained in the terminated group Medicare supplement policy; and

(II) An individual Medicare supplement policy which provides only such benefits as are required to meet the minimum standards as defined in paragraph 69O-156.0075(2), ~~69O-156.008(5)(a) or (b)~~, F.A.C.

b. In either case, if the group policy was issued on an issue age basis, the individual Medicare supplement policy is issued at the original issue age of the terminated certificateholder, and is at the duration of the terminated certificate at the time of conversion.

3. If membership in a group is terminated, the issuer shall:

a. Offer the certificateholder such conversion opportunities as are described in subparagraph 69O-156.006(1)(f)2., F.A.C.; or

b. At the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

4.a. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the succeeding issuer shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

b. If the terminated group policy was issued on an issue age basis and the policy reserves are transferred to the new insurer, the new group certificates shall retain the original issue ages of the insureds and shall commence at the same duration as the terminated certificates.

(g) Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss.

(h) If a Medicare supplement policy eliminates an outpatient drug benefit as a result of requirements imposed by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, the modified policy shall be deemed to satisfy the guaranteed renewal requirements of this subsection.

(2) No change.

Rulemaking ~~Specific~~ Authority 624.308(1), 627.674(2) FS. Law Implemented 624.307(1), 627.410, 627.411, 627.674, 627.6741 FS. History–New 1-1-81, Formerly 4-51.05, Amended 9-4-89, 12-9-90, Formerly 4-51.005, Amended 1-1-92, 3-4-01, 3-31-02, Formerly 4-156.006, Amended 9-15-05, _____.

69O-156.007 Benefit Standards for 1990 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued or Delivered on or After January 1, 1992, and with an Effective Date for Coverage Prior to June 1, 2010.

The following standards are applicable to all 1990 standardized Medicare supplement benefit plan policies or certificates delivered or issued for delivery in this state on or after January 1, 1992, and with an effective date for coverage prior to June 1, 2010. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards.

(1) General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this regulation.

(a) through (b) No change.

(c) A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible, ~~amount and~~ copayment, or coinsurance amounts ~~percentage factors~~. Premiums may be modified to correspond with such changes.

The premium changes must be submitted to and approved by the Office pursuant to Sections 627.410, ~~and~~ 627.411 and 627.674, F.S.

(d) through (g) No change.

(h) If an issuer makes a written offer to the Medicare Supplement policyholders or certificateholders of one or more of its plans, to exchange during a specified period from his or her 1990 Standardized benefit plan, as described in Rule 69O-156.008, F.A.C., to a 2010 Standardized benefit plan, as described in Rule 69O-156.0085, F.A.C., the offer and subsequent exchange shall comply with the following requirements:

1. An issuer need not provide justification to the Office if the insured replaces a 1990 Standardized benefit plan policy or certificate with an issue age rated 2010 Standardized benefit plan policy or certificate at the insured's original issue age and duration. If an insured's policy or certificate to be replaced is priced on an issue age rate schedule at the time of such offer, the rate charged to the insured for the new exchanged policy shall recognize the policy reserve buildup, due to the pre-funding inherent in the use of an issue age rate basis, for the benefit of the insured. The method proposed to be used by an issuer must be submitted to and approved by the Office pursuant to Sections 627.410, 627.411 and 627.674, F.S.

2. The rating class of the new policy or certificate shall be the class closest to the insured's class of the replaced coverage.

3. An issuer may not apply new preexisting condition limitations or a new incontestability period to the new policy for those benefits contained in the exchanged 1990 Standardized benefit plan policy or certificate of the insured, but may apply preexisting condition limitations of no more than six (6) months to any added benefits contained in the new 2010 Standardized benefit plan policy or certificate not contained in the exchanged policy.

4. The new policy or certificate shall be offered to all policyholders or certificateholders within a given plan, except where the offer or issue would be in violation of state or federal law.

(2) No change.

(3) Standards for Additional Benefits. The following additional benefits shall be included in Medicare Supplement Benefit Plans "B" through "J" only as provided by Rule 69O-156.008, F.A.C.

(a) through (h) No change.

1.~~(i)~~ Preventive Medical Care Benefit: Coverage for the following preventive health services not covered by Medicare:

i.~~1.~~ An annual clinical preventive medical history and physical examination that may include tests and services from sub-subparagraph 69O-156.007(3)(i)1.ii., ~~subparagraph 69O-156.007(3)(i)2.,~~ F.A.C., and patient education to address preventive health care measures.

ii.~~2.~~ Preventive screening tests or preventive services, the selection and frequency of which is determined to be medically appropriate by the attending physician.

2.~~3.~~ Reimbursement shall be for the actual charges up to one hundred percent (100%) of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association Current Procedural Terminology (AMA CPT) codes, to a maximum of one hundred twenty dollars ($120) annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare.

(j) No change.

(4) No change.

Rulemaking ~~Specific~~ Authority 624.308, 627.674(2)(a) FS. Law Implemented 624.307(1), 627.410, 627.674, 627.6741 FS. History–New 1-1-92, Amended 7-26-99, 3-4-01, 3-31-02, Formerly 4-156.007, Amended 9-15-05, _____.

69O-156.0075 Benefit Standards for 2010 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery with an Effective Date for Coverage on or After June 1, 2010.

The following standards are applicable to all 2010 Standardized Medicare supplement policies or certificates delivered or issued for delivery in this state with an effective date for coverage on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered, or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards. No issuer may offer any 1990 Standardized Medicare supplement benefit plan for sale on or after June 1, 2010. Benefit standards applicable to Medicare supplement policies and certificates issued with an effective date for coverage prior to June 1, 2010, remain subject to the requirements of Rules 69O-156.006, 69O-156.007, and 69O-156.008, F.A.C.

(1) General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this rule.

(a) A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

(b) A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

(c) A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible,

co-payment, or coinsurance amounts. Premiums may be modified to correspond with such changes. The premium changes must be submitted to and approved by the Office pursuant to Sections 627.410, 627.411, and 627.674, F.S.

(d) No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

(e) Each Medicare supplement policy shall be guaranteed renewable.

1. The issuer shall not cancel or nonrenew the policy solely on the ground of health status of the individual.

2. The issuer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation.

3.a. If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under subparagraph 69O-156.0075(1)(e)5., F.A.C., the issuer shall offer certificateholders an individual Medicare supplement policy which, at the option of the certificateholder:

(I) Provides for continuation of the benefits contained in the group policy; or

(II) Provides for benefits that otherwise meet the requirements of this rule.

b. In either case, if the group policy was issued on an issue age basis, the individual Medicare supplement policy is issued at the original issue age of the terminated certificateholder, and is at the duration of the terminated certificate at the time of conversion.

4. If an individual is a certificateholder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall:

a. Offer the certificateholder the conversion opportunity described in subparagraph 69O-156.0075(1)(e)3., F.A.C.; or

b. At the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

5.a. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

b. If the terminated group policy was issued on an issue age basis and the policy reserves are transferred to the new insurer, the new group certificates shall retain the original issue ages of the insureds and shall commence at the same duration as the terminated certificates.

6. If an individual Medicare supplement policy/certificate is issued to replace an existing issue age rated policy/certificate of the same insurer, the replacing policy/certificate shall be issued at the original issue age of the policyholder/ certificateholder, and is at the duration of the terminated policy/certificate at the time of replacement.

(f) Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss.

(g)1. A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificateholder for the period (not to exceed twenty-four (24) months) in which the policyholder or certificateholder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificateholder notifies the issuer of the policy or certificate within ninety (90) days after the date the individual becomes entitled to assistance.

2. If suspension occurs and if the policyholder or certificateholder loses entitlement to medical assistance, the policy or certificate shall be automatically reinstituted (effective as of the date of termination of entitlement) as of the termination of entitlement if the policyholder or certificateholder provides notice of loss of entitlement within ninety (90) days after the date of loss and pays the premium attributable to the period, effective as of the date of termination of entitlement.

3. Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended (for any period that may be provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under Section 226 (b) of the Social Security Act and is covered under a group health plan (as defined in Section 1862 (b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificateholder loses coverage under the group health plan, the policy shall be automatically reinstituted (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within ninety (90) days after the date of the loss and pays the premium attributable to the period, effective as of the date of termination of enrollment in the group health plan.

4. Reinstitution of coverages as described in subparagraphs 2. and 3.:

1. Shall not provide for any waiting period with respect to treatment of preexisting conditions;

2. Shall provide for resumption of coverage that is substantially equivalent to coverage in effect before the date of suspension; and

3. Shall provide for classification of premiums on terms at least as favorable to the policyholder or certificateholder as the premium classification terms that would have applied to the policyholder or certificateholder had the coverage not been suspended.

(2) Standards for Basic (Core) Benefits Common to Medicare Supplement Insurance Benefit Plans A, B, C, D, F, F with High Deductible, G, M, and N. Every issuer of Medicare supplement insurance benefit plans shall make available a policy or certificate including only the following basic "core" package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare Supplement Insurance Benefit Plans in addition to the basic core package, but not in lieu of it.

(a) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

(b) Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used;

(c) Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of one hundred percent (100%) of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance;

(d) Coverage under Medicare Parts A and B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations;

(e) Coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a prospective payment system, the co-payment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible;

(f) Hospice Care: Coverage of cost sharing for all Part A Medicare eligible hospice care and respite care expenses.

(3) Standards for Additional Benefits. The following additional benefits shall be included in Medicare supplement benefit Plans B, C, D, F, F with High Deductible, G, M, and N as provided by Rule 69O-156.0085, F.A.C.

(a) Medicare Part A Deductible: Coverage for one hundred percent (100%) of the Medicare Part A inpatient hospital deductible amount per benefit period.

(b) Medicare Part A Deductible: Coverage for fifty percent (50%) of the Medicare Part A inpatient hospital deductible amount per benefit period.

(c) Skilled Nursing Facility Care: Coverage for the actual billed charges up to the coinsurance amount from the 21st day through the 100th day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A.

(d) Medicare Part B Deductible: Coverage for one hundred percent (100%) of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.

(e) One Hundred Percent (100%) of the Medicare Part B Excess Charges: Coverage for all of the difference between the actual Medicare Part B charges as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

(f) Medically Necessary Emergency Care in a Foreign Country: Coverage to the extent not covered by Medicare for eighty percent (80%) of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first sixty (60) consecutive days of each trip outside the United States, subject to a calendar year deductible of $250, and a lifetime maximum benefit of $50,000. For purposes of this benefit, "emergency care" shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset.

Rulemaking Authority 624.308, 627.674(2)(a) FS. Law Implemented 624.307(1), 627.410, 627.674, 627.6741 FS. History–New .

69O-156.008 Standard Medicare Supplement Benefit Plans for 1990 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery on or After January 1, 1992, and with an Effective Date for Coverage Prior to June 1, 2010.

The following applies to all 1990 Standardized Medicare Supplement Benefit Plan Policies or Certificates issued for delivery on or after January 1, 1992, and with an effective date for coverage prior to June 1, 2010.

(1) through (4) No change

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

(d) Standardized Medicare supplement benefit plan "D" shall include only the following: The Core Benefit (as defined in subsection ~~paragraphs~~ 69O-156.007(2)~~(a), (b), (h) and (j)~~, F.A.C., of this rule), plus the Medicare Part A Deductible, Skilled Nursing Facility Care, Medically Necessary Emergency Care in a Foreign Country and the At-Home Recovery Benefit as defined in paragraphs 69O-156.007(2)(a), (b), (h) and (j), F.A.C., respectively.

(e) through (l) No change.

(6) through (7) No change.

Rulemaking ~~Specific~~ Authority 624.308, 627.674(2) FS. Law Implemented 624.307(1), 627.674, 627.6741 FS. History–New 1-1-92, Amended 12-17-96, 7-26-99, Formerly 4-156.008, Amended 9-15-05, _____.

69O-156.0085 Standard Medicare Supplement Benefit Plans for 2010 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery with an Effective Date for Coverage on or After June 1, 2010.

The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state with an effective date for coverage on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit plan standards. Benefit plan standards applicable to Medicare supplement policies and certificates issued with an effective date for coverage before June 1, 2010, remain subject to the requirements of Rules 69O-156.006, 69O-156.007, and 69O-156.008, F.A.C.

(1)(a) An issuer shall make available to each prospective policyholder and certificateholder a policy form or certificate form containing only the basic (core) benefits, as defined in subsection 69O-156.0075(2), F.A.C.

(b) If an issuer makes available any of the additional benefits described in subsection 69O-156.0075(3), F.A.C., or offers standardized benefit Plans K or L as described in paragraphs 69O-156.0085(5)(h) and (i), F.A.C., then the issuer shall make available to each prospective policyholder and certificateholder, in addition to a policy form or certificate form with only the basic (core) benefits as described in paragraph (1)(a) above, a policy form or certificate form containing either standardized benefit Plan C as described in paragraph 69O-156.0085(5)(c), F.A.C., or standardized benefit Plan F as described in paragraph 69O-156.0085(5)(e), F.A.C.

(2) No groups, packages or combinations of Medicare supplement benefits other than those listed in this rule shall be offered for sale in this state, except as may be permitted in subsection 69O-156.0085(6) and Rule 69O-156.030, F.A.C.

(3)(a) Benefit plans shall be uniform in structure, language, designation and format to the standard benefit plans listed in this Subsection and as provided in Form OIR-B2-MSC2 (mm/yy), "Outline of Medicare Supplemental Coverage With Effective Dates on or After June 1, 2010", and shall conform to the definitions in Rule 69O-156.003, F.A.C.

(b) Form OIR-B2-MSC2 (mm/yy), "Outline of Medicare Supplemental Coverage With Effective Dates on or After June 1, 2010", is hereby adopted and incorporated by reference, and is available and may be printed from the Office's website: http://www.floir.com.

(c) Each benefit shall be structured in accordance with the format provided in subsections 69O-156.0075(2) and 69O-156.0075(3), F.A.C.; or, in the case of plans K or L, in paragraph 69O-156.0085(5)(h) or 69O-156.0085(5)(i), F.A.C. and list the benefits in the order shown. For purposes of this Section, "structure, language, and format" means style, arrangement and overall content of a benefit.

(4) In addition to the benefit plan designations required in subsection 69O-156.0085(3), F.A.C., an issuer may use other designations to the extent permitted by law.

(5) Make-up of 2010 Standardized Benefit Plans:

(a) Standardized Medicare supplement benefit Plan A shall include only the following: The basic (core) benefits as defined in subsection 69O-156.0075(2), F.A.C.

(b) Standardized Medicare supplement benefit Plan B shall include only the following: The basic (core) benefit as defined in subsection 69O-156.0075(2), F.A.C., plus one hundred percent (100%) of the Medicare Part A deductible as defined in paragraph 69O-156.0075(3)(a), F.A.C.

(c) Standardized Medicare supplement benefit Plan C shall include only the following: The basic (core) benefit as defined in subsection 69O-156.0075(2), F.A.C., plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, one hundred percent (100%) of the Medicare Part B deductible, and medically necessary emergency care in a foreign country as defined in paragraphs 69O-156.0075(3)(a), (c), (d), and (f), F.A.C., respectively.

(d) Standardized Medicare supplement benefit Plan D shall include only the following: The basic (core) benefit, as defined in subsection 69O-156.0075(2), F.A.C., plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in an foreign country as defined in paragraphs 69O-156.0075(3)(a), (c), and (f), F.A.C., respectively.

(e) Standardized Medicare supplement [regular] Plan F shall include only the following: The basic (core) benefit as defined in subsection 69O-156.0075(2), F.A.C., plus one hundred percent (100%) of the Medicare Part A deductible, the skilled nursing facility care, one hundred percent (100%) of the Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in paragraphs 69O-156.0075(3)(a), (c), (d), (e),and (f), F.A.C., respectively.

(f) Standardized Medicare supplement Plan F With High Deductible shall include only the following: one hundred percent (100%) of covered expenses following the payment of the annual deductible set forth in Subparagraph 2. below.

1. The basic (core) benefit as defined in subsection 69O-156.0075(2), F.A.C., plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, one hundred percent (100%) of the Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in paragraphs 69O-156.0075(3)(a), (c), (d), (e), and (f), F.A.C., respectively.

2. The annual deductible in Plan F With High Deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by [regular] Plan F, and shall be in addition to any other specific benefit deductibles. The basis for the deductible shall be $1,500 and shall be adjusted annually from 1999 by the Secretary of the U.S. Department of Health and Human Services to reflect the change in the Consumer Price Index for all urban consumers for the twelve-month period ending with August of the preceding year, and rounded to the nearest multiple of ten dollars ($10).

(g) Standardized Medicare supplement benefit Plan G shall include only the following: The basic (core) benefit as defined in subsection 69O-156.0075(2), F.A.C., plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, one hundred percent (100%) of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in paragraphs 69O-156.0075(3)(a), (c), (e), and (f), F.A.C., respectively.

(h) Standardized Medicare supplement Plan K is mandated by The Medicare Prescription Drug, Improvement and Modernization Act of 2003, and shall include only the following:

1. Part A Hospital Coinsurance 61st through 90th days: Coverage of one hundred percent (100%) of the Part A hospital coinsurance amount for each day used from the 61st through the 90th day in any Medicare benefit period;

2. Part A Hospital Coinsurance, 91st through 150th days: Coverage of one hundred percent (100%) of the Part A hospital coinsurance amount for each Medicare lifetime inpatient reserve day used from the 91st through the 150th day in any Medicare benefit period;

3. Part A Hospitalization After 150 Days: Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of one hundred percent (100%) of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance;

4. Medicare Part A Deductible: Coverage for fifty percent (50%) of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in subparagraph 10.;

5. Skilled Nursing Facility Care: Coverage for fifty percent (50%) of the coinsurance amount for each day used from the 21st day through the 100th day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A until the out-of-pocket limitation is met as described in Subparagraph 10.;

6. Hospice Care: Coverage for fifty percent (50%) of cost sharing for all Part A Medicare eligible expenses and respite care until the out-of-pocket limitation is met as described in Subparagraph 10.;

7. Blood: Coverage for fifty percent (50%), under Medicare Part A or B, of the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations until the out-of-pocket limitation is met as described in Subparagraph 10.;

8. Part B Cost Sharing: Except for coverage provided in subparagraph (i), coverage for fifty percent (50%) of the cost sharing otherwise applicable under Medicare Part B after the policyholder pays the Part B deductible until the out-of-pocket limitation is met as described in Subparagraph 10.;

9. Part B Preventive Services: Coverage of one hundred percent (100%) of the cost sharing for Medicare Part B preventive services after the policyholder pays the Part B deductible; and

10. Cost Sharing After Out-of-Pocket Limits: Coverage of one hundred percent (100%) of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of $4000 in 2006, indexed each year by the appropriate inflation adjustment specified by the Secretary of the U.S. Department of Health and Human Services.

(i) Standardized Medicare supplement Plan L is mandated by The Medicare Prescription Drug, Improvement and Modernization Act of 2003, and shall include only the following:

1. The benefits described in subparagraphs 69O-156.0085(5)(h)1., 2., 3., and 9., F.A.C.;

2. The benefit described in subparagraphs 69O-156.0085(5)(h)4., 5., 6., 7., and 8., F.A.C., but substituting seventy-five percent (75%) for fifty percent (50%); and

3. The benefit described in subparagraph 69O-156.0085(5)(h)10., F.A.C., but substituting $2000 for $4000.

(j) Standardized Medicare supplement Plan M shall include only the following: The basic (core) benefit as defined in subsection 69O-156.0075(2), F.A.C., plus fifty percent (50%) of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign country as defined in paragraphs 69O-156.0075(3)(b), (c), and (f), F.A.C., respectively.

(k) Standardized Medicare supplement Plan N shall include only the following: The basic (core) benefit as defined in subsection 69O-156.0075(2), F.A.C., plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care

in a foreign country as defined in paragraphs 69O-156.0075(3)(a), (c) and (f), F.A.C., respectively, with co-payments in the following amounts:

1. The lesser of twenty dollars ($20) or the Medicare Part B coinsurance or co-payment for each covered health care provider office visit (including visits to medical specialists); and

2. The lesser of fifty dollars ($50) or the Medicare Part B coinsurance or co-payment for each covered emergency room visit, however, this co-payment shall be waived if the insured is admitted to any hospital and the emergency visit is subsequently covered as a Medicare Part A expense.

(6) New or Innovative Benefits: An issuer may, with the prior approval of the Office, offer policies or certificates with new or innovative benefits, in addition to the standardized benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits shall include only benefits that are appropriate to Medicare supplement insurance, are new or innovative, are not otherwise available, and are cost-effective. Approval of new or innovative benefits must not adversely impact the goal of Medicare supplement simplification. New or innovative benefits shall not include an outpatient prescription drug benefit. New or innovative benefits shall not be used to change or reduce benefits, including a change of any cost-sharing provision, in any standardized plan.

Rulemaking Authority 624.308, 627.674(2) FS. Law Implemented 624.307(1), 627.674, 627.6741 FS. History–New _____.

69O-156.0095 Guaranteed Issue for Eligible Persons.

(1) No change.

(2) Eligible Persons. An eligible person is an individual described in any of the following paragraphs:

(a) The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare, which plan terminates or ceases to provide at least the minimum benefits as provided under a Medicare supplement plan "A" as defined in subsection 69O-156.0085(1), F.A.C., of the supplemental health benefits to the individual;

(b) through (g) No change.

(3) through (6) No change.

Rulemaking ~~Specific~~ Authority 624.308, 627.674(2), 627.6741(5) FS. Law Implemented 624.307(1), 627.410, 627.673, 627.674, 627.6745, 627.6746 FS. History–New 7-26-99, Amended 3-4-01, 3-31-02, Formerly 4-156.0095, Amended 9-15-05, _____.

69O-156.011 Loss Ratio Standards and Refund or Credit of Premium.

(1) Loss Ratio Standards.

(a) through (d) No change.

(e) For the purposes of this rule, the term "pre-standardized business" shall include:

1. All Medicare Supplement policies and certificates which do not comply with the benefit requirements for standardized policies as defined in Rule 69O-156.008 or 69O-156.0085, F.A.C., and

2. All policies and certificates which were marketed and issued as Medicare Supplement policies, and which have been redefined as limited benefit policies.

(f) No change

(2) Refund or Credit Calculation.

(a)1. No change.

2. Forms OIR-B2-MSB-I (Rev. 06/09 ~~7/02~~), OIR-B2-MSB-G (Rev. 06/09 ~~7/02~~), and OIR-B2-MSR (Rev. 7/02) are hereby adopted and incorporated by reference. Copies of forms are available and may be printed from the Office's website: http://www.floir~~dfs~~.com/.

3. Filings shall be submitted electronically to https://iportal.fldfs.com.

(b) through (c) No change.

(3) Annual Filing of Premium Rates.

(a)1. An issuer of Medicare supplement policies and certificates issued before or after January 1, 1992, shall file annually its rates, rating schedule and supporting documentation including ratios of incurred losses to earned premiums by policy duration for approval by the Department in accordance with Sections 627.410, 627.411 and 627.6745, F.S.

2. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. The demonstration shall exclude the change in active life reserves as a component of incurred claims or earned premiums. A projected third-year loss ratio which is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than three (3) years.

(b) through (c) No change.

(4) No change.

Rulemaking ~~Specific~~ Authority 624.308, 627.674(2) FS. Law Implemented 624.307(1), 627.410, 627.673, 627.674, 627.6745, 627.6746 FS. History–New 1-1-92, Amended 7-14-96, 12-17-96, 7-26-99, 3-4-01, 12-9-02, 6-19-03, Formerly 4-156.011, Amended 9-15-05, _____.

69O-156.012 Filing and Approval of Policies and Certificates and Premium Rates.

(1) through (2) No change.

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

(d) Acceptable rate classification criteria within a form include only age, gender, area and smoker status or tobacco usage.

(4) No change.

(5)(a) Except as provided in paragraph 69O-156.012(5)(b), F.A.C., the experience of all policy forms or certificate forms of the same type in a standard Medicare supplement benefit plan shall be combined for purposes of the refund or credit calculation prescribed in Rule 69O-156.011, F.A.C., and for all other rating purposes. The issue date of a standard Medicare supplement benefit plan is not a basis to separate experience of two or more plans of the same plan letter.

(b) Forms assumed under an assumption reinsurance agreement shall not be combined with the experience of other forms for purposes of the refund or credit calculation.

Rulemaking ~~Specific~~ Authority 624.308 FS. Law Implemented 624.307(1), 627.410, 627.411, 627.674 FS. History–New 1-1-92, Amended 7-14-96, 3-4-01, Formerly 4-156.012, Amended 9-15-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Gerry Smith, Office of Insurance Regulation, E-mail Gerry.Smith@floir.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 9, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 1, 2009

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.:	RULE TITLE:
12A-1.011	Food and Drink for Human Consumption; Sales of Food or Drinks Served, Cooked, Prepared, or Sold by Restaurants or Other Like Places of Business

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 41, October 12, 2007 issue of the Florida Administrative Weekly.

In response to written comments received from the Joint Administrative Procedures Committee, dated November 19, 2007, regarding the establishment of 25% of the value of the package as representing a taxable event, of subsection (10) of Rule 12A-1.011, F.A.C., has been withdrawn. Prior to withdrawal that subsection read as follows:

(10) MULTIPLE ITEMS PACKAGES.

(a) When a package contains both exempt food products and taxable tangible personal property (e.g., a basket of food and candy, a basket of nuts, or decorated cans or glasses filled with food items) and the tax-exempt food products are separately itemized and priced from the taxable tangible personal property, no tax is due on the tax-exempt food products.

(b) When the total charge for a package containing both exempt food products and taxable tangible personal property is a single charge, the application of tax depends upon the essential character of the complete package, as follows:

1. When the taxable tangible personal property represents more than twenty-five percent (25%) of the value of the package, the total charge is subject to tax.

2. When the taxable tangible personal property represents twenty-five percent (25%) or less of the value of the package, the total sale is exempt. The seller is required to pay tax on any taxable items included in the package that were purchased tax-exempt for the purposes of resale. The cost price of any promotional items included in the package is subject to tax.

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."

BOARD OF TRUSTEES OF INTERNAL IMPROVEMENT TRUST FUND

RULE NOS.:	RULE TITLES:
18-21.0051	Delegation of Authority
18-21.020	Aquacultural Activities
18-21.021	Applications for Aquacultural Activities
18-21.022	Payments and Fees for Aquacultural Activities

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 12, March 27, 2009 issue of the Florida Administrative Weekly.

18-21.001 through 18-21.0051(2) No change.

18-21.0051(3) The Commissioner of Agriculture is delegated the authority to review and take final agency action on behalf of the Board on applications to use sovereignty ~~Board owned~~ submerged lands and water columns for any activity for which the Department of Agriculture and Consumer Services has responsibility pursuant to sections 253.67-253.75, F.S., and Section 597.010, F.S., except the Board shall retain authority to grant the following:

(a) through (b) No change.

18-21.0051(4) through 18-21.011 No change.