

(a) The omission of any material part of a law enforcement record required to be disclosed pursuant to subsection (2) is a material misrepresentation or material misstatement on the application and the application shall be denied pursuant to Section 560.114(1)(k), F.S.

(b) Notwithstanding paragraph (3)(a), the Office shall not deny an application for failure to provide documentation listed in subsection (2) when the crime is not a class “A”, “B”, or “C” crime and the applicant has disclosed the crime on the application form.

(c) If the Office discovers the applicant’s failure to disclose after a license has been granted, the Office will suspend or revoke each license currently held by the applicant as follows:

1. Suspension for 12 months if, had the license application been accurate, the application would have been granted, based on the statutes and licensing rules applicable to the application at the time the Office issued the license, and the documentation in the applicant’s file at the time the Office issued the license.

2. Revocation if, had the license application been accurate, the application would have been denied, based on the statutes and licensing rules applicable to the application at the time the Office issued the license.

(4) through (19) No change.

Rulemaking Authority 560.105 FS. Law Implemented 112.011, 560.114, 560.1401, 560.141 FS. History—New 4-16-09, Amended

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Historical Resources

RULE NOS.:	RULE TITLES:
1A-39.001	Division of Historical Resources Grant Programs
1A-39.002	Definitions
1A-39.003	Grant Funding
1A-39.004	Grant Programs
1A-39.005	Non-Allowable Costs
1A-39.006	Match Contributions
1A-39.007	Application Procedures
1A-39.008	Application Review
1A-39.009	Grant Award Agreement
1A-39.010	Reporting Requirements
1A-39.011	Restrictive Covenant
1A-39.012	Preservation Agreement

PURPOSE AND EFFECT: The purpose of the rule is to establish administrative procedures for Division of Historical Resources historic preservation grant programs conducted

pursuant to Section 267.0617, F.S., and shall apply to all applications received for grant assistance and all grant awards made following the date of adoption.

SUMMARY: This rule will clarify procedures and requirements pertaining to the Small Matching and Special Category Grant Programs, including: explanation of the federal and state sources of grant funding, descriptions of the two grant programs and their respective project categories, identification of non-allowable grant expenditures, explanation of required match contributions (including Rural Economic Development waivers and reductions), description of application submission and review procedures and key provisions of the Historic Preservation Grant Award Agreement, explanation of Grantee reporting requirements (project progress and expenditure documentation, photographic documentation and compliance with the Florida Single Audit Act), and the restrictive covenants and preservation agreement required as a condition of receipt of grant funds.

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

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

RULEMAKING AUTHORITY: 267.031(1), 267.0617(5) FS.
LAW IMPLEMENTED: 267.0617(2), (3) 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, 10:00 a.m.

PLACE: Room 307, R. A. Gray Building, 500 South Bronough Street, Tallahassee, FL 32399-0250

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: Jennifer Patnode, (850)245-6341. 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: David Ferro, (850) 245-6363

THE FULL TEXT OF THE PROPOSED RULES IS:

1A-39.001 Division of Historical Resources Grant Programs.

The purpose of this chapter is to establish administrative procedures for all Division of Historical Resources (Division) grant programs conducted pursuant to Section 267.0617, F.S.,

and shall apply to all applications received for grant assistance and all grant awards made following the date of adoption. Grants awarded prior to the effective date of this rule shall continue to be subject to the provisions of Chapter 1A-35, F.A.C.

Rulemaking Authority 267.031(1), 267.0617(5) FS. Law Implemented 267.0617(2), (3) FS. History--New _____.

1A-39.002 Definitions.

The following words and terms shall have the following meanings:

(1) “Acquisition” means fee simple purchase of real property.

(2) “Acquisition & Development” means a project involving the purchase and/or improvement (restoration, rehabilitation, preservation or reconstruction) of a historic building, structure, site or object.

(3) “Applicant” means an eligible applicant as defined in subsection 1A-39.007(5), F.A.C., of this chapter.

(4) “Approved Scope of Work” means the work specified in Section I of the Historic Preservation Grant Award Agreement, or in a fully executed amendment thereto, as being authorized for expenditure of grant funds and for contribution to the required match. Expenditures for work not included in the Approved Scope of Work are not eligible for grant funding or contribution to match.

(5) “Bureau” means the Bureau of Historic Preservation within the Division of Historical Resources of the Department of State. The Bureau’s mailing address is 500 South Bronough Street, Tallahassee, Florida 32399-0250. Its telephone number is (850)245-6333, and its web address is www.flheritage.com.

(6) “Certified Local Government” means a historic preservation program established by county or municipal ordinance that is certified by the Secretary of the Interior pursuant to 36 CFR Part 61, the implementing regulations for the National Historic Preservation Act of 1966, as amended.

(7) “Development” means architectural and other planning and construction required to facilitate the preservation, rehabilitation or restoration of a historic property, or the reconstruction of such property that no longer exists.

(8) “Division” means the Division of Historical Resources of the Florida Department of State.

(9) “Effective Date” means July 1 of the state fiscal year in which requested grant funding is appropriated by the Florida Legislature. Neither grant funds nor match contributions may be expended before this date except as allowed in subsection 1A-39.009(3), F.A.C., of this chapter.

(10) “Encumbrance” means commitment of grant funds and match by binding contract.

(11) “Expenditure” means the outlay of cash or the amount due and owing after receipt of goods or services included in the Approved Scope of Work.

(12) “Expiration Date” means the date by which all grant funds and match must be expended.

(13) “Florida Historical Commission” means the eleven (11)-member advisory body created pursuant to Section 267.0612, F.S., to assist the director of the Division of Historical Resources in carrying out the purposes, duties, and responsibilities of the division.

(14) “Florida Master Site File” means the list maintained by the Division of Historical Resources, of all recorded historical and archaeological sites and properties in the State of Florida.

(15) “Florida Single Audit Act” means the uniform state audit requirements for state financial assistance provided by state agencies to nonstate entities as codified in Section 215.97, F.S. (see subsection 1A-39.010(4), F.A.C., of this chapter).

(16) “Furniture and Equipment” means features not physically attached to a structure, including but not limited to: desks, tables, chairs, area rugs, computers, kitchen appliances, portable lighting fixtures, and components of portable sound or projection systems.

(17) “Grantee” means the organization or governmental entity to which a grant is awarded, which has entered into a binding agreement (Historic Preservation Grant Award Agreement) with the Division of Historical Resources, Florida Department of State, and which is responsible and accountable both for the use of the funds provided and for the performance of the grant-assisted project.

(18) “Grant Period” means the period between “effective date” and “expiration date” of the Historic Preservation Grant Award Agreement during which time expenditure of all grant funds and all contributions to match must be made.

(19) “Historic District” means a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.

(20) “Historic Markers” means Official Florida Historic Markers as defined by subsection 1A-48.002(3), F.A.C., of this chapter.

(21) “Historic Preservation Grant Award Agreement” means the legal instrument which binds the Grantee and the Division of Historical Resources, Florida Department of State, to the terms, conditions, and limitations of the Division’s grants programs.

(22) “Historic Property” means any prehistoric or historic district, site, building, object, or other real or personal property of historical, architectural, or archaeological value, and folklife resources. These properties or resources may include, but are not limited to, monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, treasure trove, artifacts, or other

objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government, and culture of Florida. (Reference: Section 267.021(3), F.S.).

(23) “Indirect Costs” means grantee overhead, management expenses, general operating costs and other costs (excluding contractor’s overhead and profit, which are considered direct project costs) that are not readily identifiable as expenditures for the materials and services required to complete the work identified in the Approved Scope of Work in Section I of the Historic Preservation Grant Award Agreement. Examples of indirect costs include: rent/mortgage, utilities, janitorial services, insurance, accounting, non-grant related administrative and clerical staffing, and fundraising activities.

(24) “In-kind Contribution” means a non-monetary contribution of equipment, services, or labor provided by the grantee to meet match requirements. Items and services must be such that there would normally be a charge for them and must be essential to the implementation of the project and can be documented as to value.

(25) “Match” means cash, in-kind contributions or donated materials, which must be made by the grantee in order to receive the grant award. All match contributions, whether cash, in-kind contributions, or donated materials, must be consistent with the Approved Scope of Work and must be essential to the implementation of the project.

(26) “National Register of Historic Places” means the list of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering and culture, authorized by the National Historic Preservation Act of 1966, as amended through 2000, and administered by the U.S. Department of the Interior, National Park Service. Copies are available from the Bureau.

(27) “Non-profit Organization” means a corporate entity which is registered pursuant to Chapter 617, F.S., as a Florida non-profit corporation with the Division of Corporations, Florida Department of State. Grantees other than government entities must maintain active non-profit status with the Division of Corporations during the grant period. Exception: To qualify as a “non-profit organization,” organizations from outside of Florida must have been determined by the U.S. Department of the Treasury, Internal Revenue Service, to be exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code.

(28) “Planning” means research, testing, analysis and design required for implementation of an Acquisition & Development, Archaeological Excavation or Museum Exhibit project.

(a) Planning for an Acquisition & Development project may include: historical research, development of a Historic Structures Report, condition assessment, survey, hazardous materials survey and abatement plan, rehabilitation feasibility study, and construction documents (plans and specifications).

(b) Planning for an Archaeological Excavation project may include research, predictive modeling and remote sensing applications, as necessary for development of a research design for the project.

(c) Planning for a Museum Exhibit project may include historical research, conceptual and design documents and specifications.

(29) “Preservation” means the act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work (including accessibility and life safety requirements) to make properties functional is appropriate within a preservation project.

(30) “Preservation Agreement” means the notarized legal instrument by which a Grant Recipient and Owner commit to maintenance and preservation of the historic integrity of a historic property improved with Small Matching Grant assistance or a property other than real property improved with Special Category grant assistance. This legal instrument is applicable only to those Acquisition & Development projects for which recordation of Restrictive Covenants is not possible or required. Properties other than real property include but are not limited to: locomotives, railcars, marine vessels, aircraft and other movable objects. The term of the Preservation Agreement for Special Category grants is ten (10) years from the date of execution. The term of the Preservation Agreement for a Small Matching Grant Acquisition & Development project is five (5) years. The Preservation Agreement must be executed and submitted to the Department prior to any release of grant funding.

(31) “Preservation Standards” means the following standards promulgated by the National Park Service, United States Department of the Interior and the Division for the types of projects indicated:

(a) For projects involving individual historic buildings, the Secretary of the Interior’s Standards for the Treatment of Historic Properties;

(b) For projects involving archaeological investigation, the Secretary of the Interior’s Standards for Archaeological Documentation;

(c) For projects involving historical research, the Secretary of the Interior’s Standards for Historical Documentation;

(d) For projects involving documentation of a historic structure, the Secretary of the Interior’s Standards for Architectural and Engineering Documentation; and

(e) For survey projects, in addition to the Secretary of the Interior's Standards for Preservation Planning, the Florida Master Site File Guidelines for Users, Photo Submission Policy and How to Package Documents checklist.

(f) The National Park Service and Division standards referenced in paragraphs (a) through (e) above are available from the Bureau.

(32) "Project" means the undertaking that encompasses a set of tasks or activities defined by the scope of work and budget included in the Small Matching Historic Preservation Grant Application or Special Category Historic Preservation Grant Application and formalized in the Historic Preservation Grant Award Agreement. The project must begin on the grant effective date and end on or before the grant expiration date. A project may be a part of a larger effort undertaken in a series of distinct phases, which may have begun before the grant period and which may extend beyond the grant period.

(33) "Project Administrative Expenditures" means those expenditures directly attributable to management and oversight of the grant-assisted Project and meeting the reporting and associated requirements of the Historic Preservation Grant Award Agreement.

(34) "Project Budget" means the budget and project description included in the Small Matching Historic Preservation Grant Application or Special Category Historic Preservation Grant Application. The project budget must succinctly describe all major elements of project work, the estimated cost of each and clearly allocate requested grant funding and match contributions to each.

(35) "Project Manager" means the designated representative of the Grantee who is authorized to serve as liaison with the Department for all administrative requirements set forth in the Historic Preservation Grant Award Agreement.

(36) "Project Schedule" means the detailed timeline showing beginning and ending dates for all key elements of the Approved Scope of Work and all other major activities associated with project completion (e.g., draft report or construction document reviews, bidding, contract negotiation, and local permitting reviews).

(37) "Property Owner" means the owner(s) of land or building(s) or both, and of all improvements made with grant funds.

(38) "Real Property" means all land, structures, firmly attached and integrated equipment (e.g., light fixtures or a well pump), and anything growing on the land, as opposed to personal property (movable assets).

(39) "Reconstruction" means depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location and for which there is sufficient documentation available to accurately replicate the property.

(40) "Rehabilitation" means making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

(41) "Religious Property" means a building or portion of a building used as a place of worship. School facilities and residential buildings owned by religious institutions, except those portions of such buildings that may be used as places of worship, are not religious properties for the purpose of state funded grant awards.

(42) "Restoration" means accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

(43) "Restrictive Covenants" means the legal instrument by which a Grant Recipient and Owner commit to maintenance and preservation of the historic integrity of a property improved with Special Category grant assistance. This legal instrument is recorded at the appropriate county clerk's office in the county in which the property is located and is binding on the current and subsequent owners for a term of ten (10) years from the date on which the instrument is recorded. The Restrictive Covenants must be recorded and submitted to the Department for projects involving real property prior to any release of Special Category Grant funding.

(44) "Review Panels" means ad hoc groups appointed by the Secretary of State to review, rank and recommend funding levels for Small Matching Historic Preservation Grant Applications. Panel members may include architects, engineers, historians, architectural historians, archaeologists, educators and museum professionals with experience in historic preservation, as well as citizens with demonstrated interest and experience in historic preservation.

(45) "Stabilization" means applying measures designed to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present. Also see "Preservation" in subsection (29) above.

(46) "Survey" means the act or process of determining the location and identification of historical and archaeological sites and properties. An aspect of identification is evaluation, meaning determination of the historical significance or values represented by historical and archaeological sites and properties which have been located and otherwise described. For the purpose of this grant program, historic significance is evaluated on the basis of the criteria for evaluation for the National Register of Historic Places, which are available from the Bureau.

Rulemaking Authority 267.031(1), 267.0617(5) FS. Law Implemented 267.0617(2), (3) FS. History--New

1A-39.003 Grant Funding.

Source of Grant Funds.

(1) The Division of Historical Resources (Division) grants both state and federal funds to assist historic preservation activities authorized by Section 267.0617, F.S.

(2) Federal funds for historic preservation grants-in-aid are apportioned to the State of Florida by the U.S. Department of the Interior, pursuant to the National Historic Preservation Act. No Acquisition & Development projects for religious properties may be funded with these federal funds.

(3) The use of federal funds provided by the U.S. Department of the Interior for historic preservation grants-in-aid is subject to the policies, procedures, and guidelines set forth by that agency in the most recent edition of the Historic Preservation Fund Grants Manual, and to any special conditions required by the U.S. Department of the Interior in apportioning monies to the State of Florida from which such projects will be funded. Examples of special conditions include ending dates by which all costs charged against a federal grant must be incurred and any prohibitions against the use of federal grant funds for lobbying activities. A copy of the federal Historic Preservation Fund Grants Manual may be obtained by writing or calling the Bureau and paying the cost of photocopying.

(4) Should the Division receive federal funding for Acquisition & Development grant activities, federal regulations require that properties be listed in the National Register of Historic Places or listed as contributing to the significance of a historic district listed in the National Register of Historic Places to be eligible for such funding.

(5) State funds consist of funds which have been appropriated by the Florida Legislature, made available from dedicated sources, donated pursuant to Section 550.0351(2), F.S., or contributed from any other public or private source, except those federal funds for grants-in-aid received from the U.S. Department of the Interior, pursuant to the National Historic Preservation Act.

(6) State-funded Acquisition & Development activities for religious properties shall be limited to exterior work and only such interior work as is essential to the preservation of basic structural integrity.

(7) At least 80% of each donation made pursuant to Section 550.0351(2), F.S., shall be available for allocation to eligible projects within a 50-mile radius of the racetrack or fronton which held the Charity Day from which the donation is derived. The remaining 20% of each donation may be used for eligible projects in other areas of the state.

Rulemaking Authority 267.031(1), 267.0617(5) FS. Law Implemented 267.0617(2), (3) FS. History--New

1A-39.004 Grant Programs.

(1) Grant funds for historic preservation activities are awarded through two grant programs, the Small Matching Grant program and the Special Category Grant program, each with distinct program requirements and separate annual application cycles.

(a) Small Matching Grant Program. The purpose of this program is to provide funding to assist local, regional and state-wide efforts to preserve significant historic structures and archaeological sites, and promote knowledge and appreciation of the history of Florida. This program does not fund operational support for historic preservation organizations.

1. Small Matching Grant project categories include:

a. Acquisition & Development projects:

(i) Acquisition of historic properties or archaeological sites:

(ii) Development activities including: restoration, rehabilitation, preservation and reconstruction, and site-specific planning for these activities; and recordation of historic and archaeological properties threatened with damage or destruction:

b. Protection & Education projects:

(i) Community Education projects aimed at increasing public understanding and awareness of the importance of historic and archaeological resources and their preservation, in general and for specific sites and properties:

(ii) Survey & Planning projects, which identify and evaluate cultural resources and which contribute to processes and programs to protect those resources; and preparation of long-range historic preservation and management plans for historic and archaeological properties:

(iii) Main Street projects include those providing technical support to the statewide Florida Main Street Program and a one-time start-up grant to newly designated Florida Main Street communities pursuant to Chapter 1A-38, F.A.C.:

(iv) Marker projects assist with the acquisition of state markers for which texts have been approved by the State Historic Marker Council;

(v) Preparation of National Register nomination proposals for individual historic properties or archaeological sites, historic or archaeological districts, or thematic or multiple resource groups;

(vi) Statewide Special Projects, which address one or more statewide historic preservation needs identified by the Division. Applications for these projects are solicited by the Division within the regular grant cycle announcement; and

(vii) Florida Certified Local Governments (CLGs) (see subsection 1A-39.002(6), F.A.C., of this chapter) are eligible to compete for a minimum of 10% of the annual federal Historic Preservation Fund apportionment received by the Division from the National Park Service. These CLG grants are awarded for Community Education, Survey & Planning, Marker and National Register nomination projects.

2. Award Amount and Match Requirements. Except for projects providing technical support to the statewide Florida Main Street Program and Statewide Special Projects, the maximum award amount for the Small Matching Grant program is \$50,000. All Small Matching Grant awards require an equal match unless exempted as follows:

a. Match requirements may be waived by the Division for projects providing technical support to the statewide Florida Main Street Program and for Statewide Special Projects.

b. Rural Economic Development Initiative (REDI) Communities – For Small Matching Grants, the match requirement will be waived for applications for projects within communities designated as REDI qualified in accordance with Sections 288.0656 and 288.06561, F.S. Exceptions to this waiver allowance are funding requests for acquisition of historic properties or purchase of historic markers, both of which must meet the full match requirement. The community in which the project site is located must be a designated REDI community at the time of application. A list of REDI qualified counties and municipal governments is available from the Governor’s Office of Tourism Trade and Economic Development.

3. An applicant from the same organization shall submit no more than one (1) application under a single application deadline in any Small Matching Grant category. State, county or city governments, or universities may submit single applications from more than one division or department during any grant cycle provided that those divisions or departments are separate and distinct budgetary units and providing that applications do not address the same facility, project or site.

(b) Special Category Grant Program. The purpose of this program is to provide funding to assist major local, regional and state-wide efforts to preserve significant historic structures and archaeological sites, to assist major archaeological excavations, and assist in the development and fabrication of major museum exhibits that will promote knowledge and appreciation of the history of Florida. For the purpose of this program, the term “major” means projects with grant funding needs in excess of \$50,000. This program does not fund operational support for historic preservation organizations.

(c) Special Category Grant project categories include:

1. Acquisition of historic properties or archaeological sites;

2. Development activities, including: restoration, rehabilitation, preservation, and reconstruction, and site-specific planning required for these activities;

3. Archaeological excavation projects, including: research, field investigation, testing, analysis and publication of findings; and

4. Museum exhibit projects for Florida history museums, including: research, exhibit design, fabrication and installation.

(2) Award Amount and Match Requirements.

(a) The applicant shall request no more than \$350,000 in a single application. The minimum grant request amount for the Special Category Grant Program is \$50,000.

(b) The match requirement for the Special Category Grant Program shall be the greater of \$50,000 or 50% of the requested grant amount unless as reduced in subsection (3) below.

(3) Rural Economic Development Initiative (REDI) Communities. For Special Category Grants, the match requirement shall be reduced to 10% of the requested grant amount for projects within rural communities designated as REDI qualified in accordance with Sections 288.0656 and 288.06561, F.S. The community in which the project site is located must be a REDI community at the time of application. A list of REDI qualified counties and municipal governments is available from the Governor’s Office of Tourism Trade and Economic Development.

(4) An applicant from the same organization shall submit no more than one (1) Special Category Historic Preservation Grant Application under a single application deadline. State, county or city governments, or universities may submit single applications from more than one division or department during any grant cycle provided that those divisions or departments are separate and distinct budgetary units and providing that applications do not address the same facility, project or site.

(5) Grantees may have no more than one (1) previously awarded Special Category Grant open at the time of application. Applications from applicants with more than one open Special Category Grant shall be declared ineligible by staff and such applications shall be returned to the applicant with a written explanation.

Rulemaking Authority 267.031(1), 267.0617(5) FS. Law Implemented 267.0617(2), (3) FS. History–New _____.

1A-39.005 Non-Allowable Costs.

The following categories of expenditures are non-allowable for expenditure of grant funds and as contributions to required match:

(1) Expenditures for work not included in the Approved Scope of Work;

(2) Costs of goods and services not procured in accordance with procurement procedures set forth in the Historic Preservation Grant Award Agreement;

(3) Expenses incurred or obligated prior to or after the grant period;

(4) Expenditures for work not consistent with the applicable preservation standards (see subsection 1A-39.002(31), F.A.C., of this chapter);

(5) Expenditures for Furniture and Equipment, unless specifically authorized as a part of a grant project;

(6) Expenses associated with lobbying or attempting to influence federal, state, or local legislation, the judicial branch, or any state agency;

(7) Private entertainment, food, beverages, plaques, awards, or gifts;

(8) Costs or value of donations or in-kind contributions not documented in accordance with the provisions of the Historic Preservation Grant Award Agreement;

(9) Indirect costs, except indirect costs for Statewide Special Projects and grants providing technical assistance to the statewide Florida Main Street Program, which shall be considered on a case-by-case basis but shall not exceed 20% of the grant award amount;

(10) Project Administrative Expenditures, whether grant expenditures or match contributions, which in aggregate exceed 10% of the grant award amount;

(11) Costs for projects having as their primary purpose the fulfillment of federal or state historic preservation regulatory requirements, specifically, costs of consultation and mitigation measures required under Section 106 of the *National Historic Preservation Act of 1966*, as amended through 2000, or under Section 267.031, F.S.;

(12) Projects which are restricted to private or exclusive participation, which shall include restricting access on the basis of sex, race, color, religion, national origin, disability, age, handicap, or marital status;

(13) Grantee operational support (i.e., organization salaries, travel, supplies) (Note: project-specific travel costs may be allowed if requested and approved during the application review process and if included in the Approved Scope of Work);

(14) Vehicular circulation and parking (Exception: provision of code-required handicapped parking pad);

(15) Sidewalks, landscape features, planting, irrigation systems and site lighting (Exception: sidewalk required to link code-required handicapped parking pad to the accessible entry, planting required to halt erosion, and limited site lighting required for security, if included in the Approved Scope of Work);

(16) Capital improvements to non-historic properties (except as approved for Museum Exhibit projects);

(17) Capital improvements to the interior of religious properties (Exception: repairs to primary elements of the structural system. Examples include: foundation repairs, repairs to columns, load bearing wall framing, roof framing, masonry repairs, and window and exterior door repairs);

(18) Code-required accessibility improvements for religious properties;

(19) Insurance costs (Exception: costs for builder's risk, workers compensation and contractor's liability insurance); and

(20) Purchase of equipment (other than equipment incorporated as capital improvements into a historic building during restoration or rehabilitation, and equipment required for a museum exhibit). If special equipment is required for completion of the Project and said equipment is included in the

Approved Scope of Work for the Project as an eligible grant expense, it shall be rented for the grant term. If the value of special equipment is to be used as a match contribution, the value of the match contribution shall be limited to the cost of rental for the grant period at the market rate for such rental in the region.

Rulemaking Authority 267.031(1), 267.0617(5) FS. Law Implemented 267.0617(2), (3) FS. History--New _____.

1A-39.006 Match Contributions.

(1) For the purposes of this program, allowable match contributions must relate directly to the Approved Scope of Work and may include cash, the value of in-kind services, and donated property and materials directly involved in project work. The required match must include a minimum cash contribution of 25%.

(a) In-kind services must be valued at the current Florida minimum wage unless the donor is performing services for which he or she is regularly employed at a higher prevailing wage, in which case, their value may include salary and benefits. Donated materials must be valued at the actual cost or fair market value and must be documented as such.

(b) The full amount of the cash match contribution must be cash-on-hand and dedicated to the project as documented by resolution or documented board action. Availability of cash match contributions must be documented by a bank statement or letter from the grantee's financial institution. For the purpose of this program, cash-on-hand includes funds identified in executed award letters or contracts from third parties, provided that those funds are expressly for the project for which the grant application is submitted.

(c) Written Pledges committed to be paid by a donor over a defined time frame (e.g., two (2) \$1,000.00 cash payments, the first to be made on January 31, 2010 and the second on January 31, 2011), with a donor's signature will be accepted as contributions to the required match. Anonymous pledges shall not be accepted as match contributions.

(d) The value of donated property will be accepted as a contribution to the required match, with the following conditions:

1. The donated property must be the historic property or archaeological site that is the subject of the project for which grant funds are requested.

2. Donation of the property must take place during the grant period.

3. Only the value of the historic building and its footprint or the portion of the property occupied by the archaeological site is eligible for contribution to the required match. This value must be based on a complete summary appraisal prepared by a Florida State Certified General Real Estate Appraiser.

4. Legal fees and other costs associated with the donation are not eligible match contributions.

(e) All match contributions must be documented as prescribed in the application. Match contributions that are not so documented will be disallowed, potentially resulting in a determination of application ineligibility or in reduction of the amount of grant award.

(2) Non-allowable match contributions include:

(a) Funding requested but not yet approved through local or state government appropriation processes;

(b) Anticipated proceeds from fundraising activities;

(c) Expenditures made prior to or after the Grant Period;

(d) Grant funding from other sources applied for but not yet awarded;

(e) Cash pledges not meeting the requirements in paragraph 1A-39.006(1)(c), F.A.C., of this chapter;

(f) Other grant funds from the Department of State or resources contributing to match requirements for other Department of State grant awards;

(3) Municipalities and counties must submit a copy of the approved resolution or minutes from the commission meeting, with the required support material, which includes the dollar amount dedicated to the project and the date the funds will be available. Resolutions that have not been approved by the application deadline shall not be used as match documentation.

(4) State agencies and universities must document all match contributions in writing. Match commitment letters must be signed by the duly authorized representative of the applicant agency.

Rulemaking Authority 267.031(1), 267.0617(5) FS. Law Implemented 267.0617(2), (3) FS. History—New

1A-39.007 Application Procedures.

(1) The Division shall be responsible for the administration of all grant applications, procedures, and awards. Applicants shall meet all program deadlines as posted on the Division's website. Posted deadlines will appear at least sixty (60) days in advance of the deadline. Deadline dates are also available by contacting the Bureau at the address or telephone numbers indicated in subsection 1A-39.002(5), F.A.C., of this chapter.

(2) At least thirty (30) days prior to each grant solicitation period, the Division shall publish in the Florida Administrative Weekly notification of the impending grant application period. This notification shall include the address of the online site where a solicitation letter describing any Statewide Special Projects or technical assistance projects for the Florida Main Street Program to be considered for funding is posted, where applications may be found, and where a mailing address and telephone number may be found through which additional information and assistance may be obtained.

(3) Florida Historical Commission and Review Panel meetings shall be noticed in the Florida Administrative Weekly and on the Division's website. Application review meetings

shall be conducted in accordance with procedures outlined in this chapter and in Sections 112.313, 112.3143, 120.525 and 267.0617, F.S.

(4) Program guidelines shall be posted on the Division's website and shall contain information on eligibility requirements, application review procedures, evaluation criteria, disbursement of funds, and grant administration procedures.

(5) Applicant Eligibility. To be eligible to apply to the Division for grant funding, an applicant organization must:

(a) Be a public entity governed by a county, municipality, school district, community college, college, university, or an agency of state government; or a non-profit organization.

(b) Have ownership of the property for which grant funding is requested or have the concurrence of the property owner. Except for projects involving property acquisition or site-specific archaeological investigation, the owner must be a public entity governed by either a municipality, county, or a non-profit organization as defined in subsection 1A-39.002(27), F.A.C., of this chapter. For the purposes of this program, an eligible applicant may lease state-owned land or building(s) or both.

(c) Have satisfied the administrative requirements of previous grants received from the Division or other Divisions of the Department of State, including grants that may be open at the time of application.

(d) Agree to and be able to match the requested grant amount or portion thereof as required by the specific grant program.

(e) Submit a completed application. Except as allowed in paragraph 1A-39.007(8)(c), F.A.C., of this chapter, applications shall be submitted to the Division online with specified supporting documents submitted by mail or express delivery service (unless applicants are specifically directed to do otherwise for special historic preservation funding appropriated by the Florida Legislature or made available by the federal government), and

(f) Agree to comply with all legal and financial requirements as set forth in this chapter and the grant program guidelines.

(6) For Acquisition & Development grant assistance, projects must be limited to a single site, or group of sites in which all the properties have the same owner(s).

(7) Should an entity receive legislative funding outside the review of the Florida Historical Commission, Review Panel or Secretary of State, that entity shall not be eligible to receive historic preservation grant assistance from the Division for the same project within the same fiscal year in which the legislative funding is made available.

(8) Applications for historic preservation grant assistance shall be made on the appropriate historic preservation grant application form:

(a) Small Matching Historic Preservation Grant Application (DOS Form HR3E0410705SM, effective (date of adoption), 2009, incorporated by reference).

(b) Special Category Historic Preservation Grant Application (DOS Form HR3E0410705SC, effective (date of adoption), 2009, incorporated by reference).

(c) Online applications and instructions are available at the Division's web site. A copy of the application and all applicable supporting materials must be submitted to the attention of the Bureau by mail or express delivery service as specified in the instructions. If a prospective applicant does not have access to the internet, paper copies of the application may be obtained from the Bureau by writing to the address indicated in subsection 1A-39.002(5), F.A.C., of this chapter.

(d) For Acquisition projects:

1. In addition to the supporting documents referenced above, the application must include the following:

a. A copy of the complete summary appraisal prepared by a Florida State Certified General Real Estate Appraiser. Two appraisals are required if the first appraisal exceeds \$500,000.00;

b. A copy of a title search;

c. A copy of an executed option or purchase agreement;

d. A copy of the certified land survey; and

e. If applicable, a copy of the archaeological survey report justifying the archaeological site Acquisition project.

2. The maximum grant share for an Acquisition project shall not exceed 50% of the value of the property as determined by a complete summary appraisal prepared by a Florida State Certified General Real Estate Appraiser. If the appraisal exceeds \$500,000, a second appraisal must be obtained. In such case, the grant award shall not exceed 50% of the average of the two appraisals.

3. Only the purchase of the historic property or archaeological site is eligible for grant funding. All closing costs are the responsibility of the Grantee organization.

(9) Application Deadlines. There are two funding cycles annually; one for Special Category Grant funds, and one for state and federal Small Matching Grant funds. Applicants must submit separate applications for each cycle.

(a) To be considered for funding, online applications must be submitted by 12:00 midnight on the deadline specified in the grant solicitation notice for the given grant cycle. Paper applications and required supporting materials must be received in the Division offices on or before 5:00 p.m. on the deadline specified in the grant solicitation letter for the given grant cycle, or be clearly postmarked or show evidence of submission to an express mail service on or before the online application deadline.

(b) In addition to the annual Special Category and Small Matching Grant cycles, the Division may also conduct special grant cycles should additional grant funds become available.

Rulemaking Authority 267.031(1), 267.0617(5) FS. Law Implemented 267.0617(2), (3) FS. History--New _____.

1A-39.008 Application Review.

(1) Upon receipt of grant applications, the Division shall review and evaluate each application for completeness and eligibility according to the funding cycle and application deadline for which it is intended. Each complete and eligible application shall be assigned an identification number.

(2) Late, Incomplete and Ineligible Applications.

(a) If the online application is submitted after the established deadline or if the required supporting materials are postmarked or submitted to an express parcel service after the established deadline, the application will be declared ineligible by Division staff and will be returned to the applicant with a written explanation.

(b) Grants staff will perform a completeness review of each application received by the established submission deadline. If an application is found to be incomplete, the applicant will be notified in writing of the identified completeness deficiencies and will be given an opportunity, by a date certain deadline, to submit to the Division information and documentation necessary to render the application complete. If the identified completeness deficiencies are not corrected by the established deadline, the application will be declared ineligible by Division staff and will be returned to the sender with a written explanation of the Division's finding of ineligibility. Incomplete applications are those for which responses have not been provided for all required application questions, or applications lacking required supporting materials (as so indicated in the Application Checklist included with the application) such as documentation of match availability, and current photographs of the resource(s) involved in the project.

(c) Ineligible applications also include those from applicants that do not meet the eligibility requirements in subsection 1A-39.007(5), F.A.C., of this chapter, applications requesting funding amounts inconsistent with the maximum award amounts in paragraph 1A-39.004(1)(b), F.A.C., of this chapter for Small Matching Grants or paragraph 1A-39.004(2)(b), F.A.C., of this chapter for Special Category Grants, or those from applicants claiming the REDI match waiver or reduction provided by subparagraph 1A-39.004(1)(b)2. and subsection 1A-39.004(3), F.A.C., of this chapter but who are not eligible for such waiver or match reduction.

(3) All complete and eligible applications shall be reviewed by the Division professional staff for sufficiency and conformance with the evaluation criteria in subsection 1A-39.008(8), F.A.C., of this chapter.

(4) After initial staff technical review, if clarification is required, staff will request necessary additional information and establish a deadline for submission of that information by the applicant. Such request may be made of the applicant by

letter, facsimile, e-mail, or by telephone, based on contact information provided in the application. Additional information received after the established deadline will not be accepted.

(5) The Division shall send copies of the applications and submitted supporting materials to each member of the Historical Commission or the Review Panel or make these materials available online in sufficient time for members to review all applications prior to the Commission or Panel convening in a public meeting for the purpose of considering the applications for funding.

(6) The Division shall also provide the following information to the Historical Commission or the Review Panels, as applicable, during or prior to the public meeting at which applications are considered:

(a) An opinion as to whether or not the project is appropriate for the type of grant assistance requested in the application;

(b) An assessment of compliance of the proposed project with applicable preservation standards;

(c) Any additional information or clarification requested from an applicant and received within the specified timeframe;

(d) An assessment of the eligibility of claimed match contributions and the project budget, with recommendations for any grant funding level adjustments that may be justified by the findings of the staff technical review. Examples of the need for such adjustment would be a recommendation to delete work not consistent with the applicable preservation standards or to reduce the grant award in an amount commensurate with inadequately documented or non-allowable match contributions.

(e) Information regarding the applicant's administrative performance for open or previous Department grants. This information shall be considered in evaluating administrative capability and in development of funding recommendations. Among factors to be considered are:

1. Timeliness of Progress and Expenditure Report submissions;

2. Adequacy of expenditure documentation;

3. Compliance with interest reporting or payment requirements;

4. Compliance of previous project or project phases with applicable preservation standards;

5. Compliance with draft contract and product review submission requirements; and

6. Time required for project completion.

(f) For Florida Certified Local Government (CLG) applicants competing for the federal funding described in paragraph 1A-39.004(1)(a), F.A.C., of this chapter, information regarding the applicant's compliance with CLG reporting requirements will be provided.

(7) The Historical Commission and the Review Panels shall annually convene separate public meetings, either in person or by teleconference, to consider applications for federal or state Small Matching Grant assistance, and Special Category Grant assistance, within 150 days of the relevant application deadline.

(a) Applications for Small Matching Grant assistance shall be reviewed by a Review Panel.

(b) Applications for Special Category Grant assistance shall be reviewed by the members of the Historical Commission.

(c) The Division shall publish a notification of the time and place of the meeting and where a copy of the agenda may be obtained in the Florida Administrative Weekly at least thirty (30) days prior to the Historical Commission or Review Panel meeting.

(8) The Historical Commission and the Review Panels shall evaluate each application based on the criteria relating to the site involved, the prospective grantee, and the anticipated public benefit, as follows:

(a) Criteria related to the site:

1. Historic significance, meaning the relative importance of the site in connection with prehistory or historical events, developments or personalities.

2. Endangerment, meaning existing or potential threats of loss or damage through demolition, deterioration or encroaching development.

3. Appropriateness of the historic preservation treatment proposed in relation to the preservation of the historic appearance and character of the site and the protection to be provided against existing or potential threats.

(b) Criteria related to the grantee:

1. Administrative capability, including personnel, facilities and organization adequate to complete the project and meet the administrative requirements of the grant. Applicant administrative performance for previous or open grants awarded by the Division or other divisions of the Department of State shall be considered.

2. Financial resources adequate to meet grant match requirements and, as applicable, to carry project costs as necessary pending receipt of reimbursements from grant funds.

3. Availability of professional and technical services required to carry out the project work.

(c) Criteria related to public benefit:

1. Compatibility with statewide historic preservation priorities established by the Division, which include but are not limited to: equitable geographic and demographic distribution of available grant funds. These priorities are subject to change depending on regional or statewide concerns (e.g., disasters such as fire, flooding or hurricane damage). Further information about these priorities is available from the Bureau.

2. Educational potential or demonstration value for enhancing the public awareness of Florida history, Florida historic sites and properties, the objectives of historic preservation, and the application of historic preservation methods, materials and standards.

3. Anticipated economic benefits, including direct impact on the local economy and the stimulation of additional private sector interest and investment in historic preservation projects.

4. Public use or other public good resulting from the project.

(9) Overmatch (contribution of match resources in excess of the match requirements indicated in paragraphs 1A-39.004(1)(b) and 1A-39.004(2)(b) and subsection 1A-39.004(3), F.A.C., of this chapter) shall result in no special consideration or advantage in application ranking; however, the applicant shall be required to document the availability of funding sufficient to complete the project if completion requires more than the sum of the required match and the requested grant funding.

(10) The Historical Commission and the Review Panels shall each develop priority listings of all project applications reviewed by ranking each project relative to the others and shall recommend funding levels and any appropriate special conditions for each individual project. An example of a special condition is a requirement that the grantee must ensure that masonry repairs are undertaken in accordance with the guidance contained in National Park Service Preservation Brief No. 2: Repointing Mortar Joints in Historic Buildings, available from the Bureau.

(11) For the purpose of establishing priority listings and recommending funding levels within the Small Matching Grant program, two (2) Review Panels shall consider applications in two general categories, Acquisition & Development and Protection & Education. Applications within the Protection & Education category shall be considered by groups in the following sub-categories: Survey & Planning, Community Education, Main Street, Historical Markers, National Register Nominations, and Statewide Special Projects. The Review Panels shall rank individual projects within each sub-category, also recommending funding levels for each individual project.

(12) The recommendations of the Historical Commission and the Review Panels shall be submitted by the Division to the Secretary of State for review and approval. At a minimum, the written recommendations shall include a ranking of all proposed projects, however categorized, and the recommended funding level for each proposed project.

(13) The Division shall prepare a final priority listing of all project applications with an associated level of funding for each project, as approved by the Secretary, and shall notify all applicants in writing of the final decision on the priority order and the recommended funding level for their respective applications.

(14) Funding for state Small Matching Grants and Special Category Grants is contingent on an annual appropriation by the Florida Legislature.

(15) Grant funds shall be awarded in accordance with the final priority listing of the applications considered for grant assistance in a given funding cycle, unless otherwise provided by the Legislature. Funds shall not be provided for projects which were not applied for, reviewed and recommended in accordance with procedures outlined in this chapter.

(16) If reallocation of grant funds becomes necessary due to completion of a project at less than anticipated cost or project cancellation during the grant period for either a federal-funded or state-funded grant project:

(a) The Division Director shall increase the grant award amount for projects funded in the same grant cycle that received only a portion of the recommended funding amount; and

(b) If the funds available for reallocation exceed the amount needed to accomplish in paragraph (a) above, after funding the projects in paragraph (a), the Division Director shall allocate remaining additional funds to new grant awards in rank order at the recommended funding level for projects reviewed and ranked in the same grant cycle but not funded because of insufficient funding.

(c) Any funds remaining in any grant allocation as a result of completion of a project at less than anticipated cost or project cancellation that are not reallocated in accordance with paragraph (a) or (b) above, shall revert to the funding source from which the grant funds were appropriated.

(17) If additional grant funds become available during the grant year for either federal-funded or state-funded grants, the Director shall increase grant awards or award new grants for applications reviewed by the Historical Commission or Review Panel during the normal review processes as in subsection 1A-39.008(1), F.A.C., of this chapter, or establish a special process for awarding such additional funds.

Rulemaking Authority 267.031(1), 267.0617(5) FS. Law Implemented 267.0617(2), (3) FS. History--New _____.

1A-39.009 Grant Award Agreement.

(1) All grant awards which have been approved in accordance with subsection 1A-39.008(15), F.A.C., of this chapter shall be formalized through a Historic Preservation Grant Award Agreement by which the grantee enters into a contract with the State of Florida for the management of grant funds. The grant award agreement is specific to the type of project being assisted. The four types of grant award agreements are as follows:

(a) Special Category Grants Historic Preservation Grant Award Agreement, DOS Form HR3E1208GAASC, effective (date of adoption), 2009, incorporated by reference. This agreement shall be used for all Special Category Grant awards.

(b) Small Matching Grants Historic Preservation Grant Award Agreement, DOS Form HR3E1208GAASM, effective (date of adoption), 2009, incorporated by reference. This agreement shall be used for all Acquisition and Development, Survey and Planning, Community Education, and National Register Nomination projects for which a match is required.

(c) Non-Matching Grants Historic Preservation Grant Award Agreement, DOS Form HR3E1208GAANM, effective (date of adoption), 2009, incorporated by reference. This agreement shall be used for all Acquisition and Development, Survey and Planning, Community Education, National Register Nomination, and Statewide Special Projects and technical assistance projects for the Florida Main Street Program (solicited by the Division to meet statewide historic preservation needs) for which the match requirement has been waived.

(d) Abbreviated Historic Preservation Grant Award Agreement, DOS Form HR3E1208GAAAB, effective (date of adoption), 2009, incorporated by reference. This agreement shall be used for all local Main Street and Historic Marker projects.

(2) The project work may not be initiated prior to the effective date of the Historic Preservation Grant Award Agreement, except as allowed in subsection 1A-39.009(3), F.A.C.

(3) The Division shall authorize initiation of project work prior to the effective date of the Historic Preservation Grant Award Agreement if loss of the property would likely otherwise occur. Such authorization must be secured prior to the initiation of work and shall apply only to work to be undertaken during the period after the project has been recommended to the Legislature for funding by the Secretary of State and before legislative appropriation of grant funds. The grantee must request such authorization in writing and must document the imminent threat to the property by submission of a letter report from a Florida registered structural engineer clearly describing the conditions constituting the threat and proposed corrective measures. The Division shall review the documentation provided by the grantee and make a determination regarding justification for requested authorization. The written determination of the Division shall be final. Any authorization granted for work initiated prior to the effective date of the Historic Preservation Grant Award Agreement shall apply only to that work addressing the conditions contributing to the identified threat to the property. All proposed corrective measures shall meet applicable preservation standards. Division authorization for initiation of project work prior to the effective date of the Historic Preservation Grant Award Agreement shall impose no liability on the Division if anticipated grant funds are not appropriated by the legislature. All such work shall be undertaken solely at the applicant's risk.

(4) Grant Encumbrance Period and Expenditure Period:

(a) Encumbrance Period for Projects Requiring Contractual Services:

1. During the encumbrance period, but not later than the end date of the encumbrance period, the grantee shall execute all required contracts for all work to be accomplished with grant funds. Projects for which encumbrance is not accomplished by the established deadline may be cancelled by the Division and the grant funds may be reallocated in accordance with subsection 1A-39.008(16), F.A.C., of this chapter.

2. For the purpose of the Special Category Grant program, the encumbrance deadline is June 30 of the state fiscal year in which grant funds are appropriated by the Legislature.

3. For the purpose of the Small Matching Grant program (including: matching Acquisition & Development, Survey & Planning, Community Education, and National Register Nomination projects; non-matching Acquisition & Development, Survey & Planning, Community Education, National Register Nomination projects; and Main Street and Historic Marker projects), grant funds must be encumbered by November 1 of the state fiscal year in which the grant funds are appropriated by the Legislature.

4. Exception: The encumbrance period for a Special Category Grant project may be extended by written approval of the Division. To be eligible for this extension, the Grantee must demonstrate to the satisfaction of the Division that full encumbrance of grant funding and the required match by binding contract(s) is achievable by the end of the requested extended encumbrance period. The Grantee's written request for extension of the encumbrance deadline must be submitted to the Division no later than May 31 of the state fiscal year in which the grant funds are appropriated by the Legislature. For Special Category Grant projects, the maximum extension of the encumbrance period shall be 180 days.

5. Exception: A one-time thirty (30) day extension of the encumbrance period for Small Matching Grant projects may be granted by the Division if requested in writing by the Grantee. To be eligible for this extension, the Grantee must demonstrate to the satisfaction of the Division that full encumbrance of grant funding and the required match by binding contract(s) is achievable by December 1 of the state fiscal year in which the grant funds are appropriated by the Legislature. The Grantee's written request for extension of the encumbrance deadline must be submitted to the Division no later than October 1 of the state fiscal year in which the grant funds are appropriated by the Legislature. No further extension of the encumbrance period shall be granted.

6. Small Matching Grant projects for which full encumbrance of grant funding and the required match is not accomplished by the extended encumbrance deadline may be terminated by the Division. In such cases, all grant funds not expended in accordance with the provisions of the Historic

Preservation Grant Award Agreement by the extended encumbrance period end date will be reallocated in accordance with subsection 1A-39.008(16), F.A.C., of this chapter.

(b) For projects not involving contract services (e.g., archaeological or other research projects conducted by universities, projects conducted by staff within State Parks, or small development projects involving repairs undertaken by volunteers), the grantee and the Division shall consult on a case-by-case basis to develop an acceptable encumbrance schedule.

(c) The Division will not release more than 25% of the total grant amount until an executed contract with an architect, contractor, consultant or vendor has been submitted by the grantee and approved by the Division. Acquisition grants that were awarded for the purchase of real property are exempt from this provision. The Division shall maintain a copy of all such executed contracts in the grant files.

(d) Expenditure Period.

1. For Special Category Grant projects, grant funds and required match resources must be expended by June 30 of the fiscal year following the fiscal year in which grant funds were appropriated by the Legislature.

2. For Small Matching Grant projects, grant funds must be expended by June 30 of the fiscal year in which grant funds were appropriated by the Legislature.

3. Grant funds shall not be used for project expenditures that are incurred after the expenditure period end date, which is the termination date of the Historic Preservation Grant Award Agreement.

4. For Special Category Grant projects, the Division may extend the expenditure period by not more than 180 days provided that the grantee requests the extension in writing and:

a. Documents that all grant funds and match contributions are encumbered; and

b. Demonstrates to the satisfaction of the Division that project work is progressing at a rate such that completion is achievable within the extended expenditure period.

5. For Small Matching Grant Projects, a one-time thirty (30) day extension may be granted by the Division if requested in writing by the grantee. To be eligible for this extension, the grantee must demonstrate to the satisfaction of the Division that project work is progressing at a rate that completion is achievable within the extended grant period.

6. For Special Category and Small Matching Grant projects, the grantee's written request for extension shall be submitted to the Division no later than thirty (30) days prior to the termination date of the Historic Preservation Grant Award Agreement.

(5) Grant Funding Disbursement.

(a) Grantees may elect either Advance Disbursement or Reimbursement of grant funds in the Historic Preservation Grant Award Agreement. Once this election is made, it shall not be amended.

(b) All grantee payment requests must be submitted to the Division in writing on the Payment Request Form provided by the Division (DOS Form HR3E1208PRF, effective (date of adoption), 2009), incorporated by reference.

(c) Grant payments are contingent upon completion by the grantee of specific performance measures as prescribed in the Historic Preservation Grant Award Agreement.

(d) Reimbursement for expenditures shall be based on documentation provided in the Project Progress and Expenditure Reports described in Rule 1A-39.010, F.A.C., of this chapter.

(e) Release of grant funds for Advance Disbursement projects shall be as specified in the Historic Preservation Grant Award Agreement, subject to release of state appropriation to the Division. The release schedule may be adjusted by the Division with prior notice to the Grantee.

(f) The Final Payment (10% of the grant award amount) shall be retained by the Division until receipt, review and approval of a the Final Project Progress and Expenditure Report described in paragraphs 1A-39.010(1)(b) and (2)(c), F.A.C., of this chapter, documenting full expenditure of all grant funds and required match contributions. For the purpose of this provision, "expenditure" shall mean that all goods and services have been delivered, invoiced, and approved by the Division. While proof of payment is not required for request of the 10% retainage amount, such proof of payment must be submitted to the Division within 30 (thirty) days after the date of issuance of the state warrant for the final grant payment.

(g) The Department shall reduce total grant funding for the Project in direct proportion to match contributions not met by the end of the Grant Period. This reduction shall be calculated by dividing the actual match amount by the required match amount indicated in the Historic Grant Award Agreement and multiplying the product by the grant award amount indicated in the Historic Grant Award Agreement.

Rulemaking Authority 267.031(1), 267.0617(5) FS. Law Implemented 267.0617(2), (3) FS. History—New _____.

1A-39.010 Reporting Requirements.

(1) Special Category Grant Project Reporting Requirements.

(a) Special Category Grant Project Progress and Expenditure Reports (DOS Form HR3E1208PERSC, effective (date of adoption), 2009), incorporated by reference and available on the Division's web site, covering six (6) month reporting intervals shall be submitted until the project is complete. For the purpose of this program, a project is considered complete when all grant funding and required match resources have been expended, and all corresponding project work has been reviewed and approved by the Division. Reports are due thirty (30) days following the end date of each

reporting interval. The first Project Progress and Expenditure Report is due on January 31 of the state fiscal year in which the grant was awarded.

(b) A Final Special Category Grant Project Progress and Expenditure Report, contained in DOS Form HR3E1208PERSC, and photographs of completed project work or copies of final grant products shall be submitted within thirty (30) days following the expenditure of all grant and match funding, and contribution of all in-kind services, and donated materials included in the match documented in the grant application for the project, which is incorporated by reference in the Historic Preservation Grant Award Agreement.

(2) Small Matching Grant Project Reporting Requirements.

(a) For each type of Small Matching Grant Project, a Project Progress and Expenditure Report shall be submitted at three-month reporting intervals until the project is complete. For the purpose of this program, a project is considered complete when all grant funds and required match resources have been expended, and all project work or final grant-assisted products have been reviewed and approved by the Division. Reports are due thirty (30) days following the end date of each reporting interval. The first Project Progress and Expenditure Report is due on October 31 of the state fiscal year in which the grant was awarded.

(b) The following Project Progress and Expenditure Report forms, available on the Division's web site, shall be used for the corresponding Small Matching Grant project type:

1. Acquisition & Development Project Progress and Expenditure Report (DOS Form HR3E1208PERSMAD, effective (date of adoption), 2009), incorporated by reference);

2. Survey and Planning/Community Education Project Progress and Expenditure Reports (DOS Form HR3E1208PERSMSPCE, effective (date of adoption), 2009), incorporated by reference);

3. Non-Matching Grant Project Progress and Expenditure Reports (DOS Form HR3E1208PERNM, effective (date of adoption), 2009) (for special solicited projects and REDI waiver projects);

4. Abbreviated Historic Preservation Grant Project Progress and Expenditure Reports (DOS Form HR3E1208PERAB, effective (date of adoption), 2009) (for Historical Marker and Main Street projects); and

5. Certified Local Government Grant Project Progress and Expenditure Reports (DOS Form HR3E1208PERCLG, effective (date of adoption), 2009).

(c) Final Project Progress and Expenditure Reports for each type of Small Matching Grant (contained in each of the Project Progress and Expenditure Report forms listed in 2. above) shall be submitted within thirty (30) days following the expiration date but not later than July 31 of the year following the state fiscal year in which the grant was awarded. Final

Project Progress and Expenditure Reports shall include photographs of completed project work or copies of final grant products.

(3) All Project Progress and Expenditure Reports shall include the following:

(a) A written description of the work completed;

(b) Financial documentation showing the expenditure of grant funds and match resources including: a detail listing check number, amount of check, date of check, name of payee, a description of the expenditure, and copies of invoices and cancelled checks, copies of the paid invoices for all cash purchases, or alternative expenditure documentation as approved in writing by the Division.

(c) For all Acquisition & Development projects, photographs describing the current status of project work as related to the Approved Scope of Work. All photographs shall be captioned with property name, date of photograph, and description of feature and work described. Photographs shall be clear and sufficient to describe all completed elements of the Approved Scope of Work.

(4) All Project Progress and Expenditure Reports require completion of a grantee assessment to assist in identifying non-state entity grantees that are required to comply with the Florida Single Audit Act, Sections 215.97(2)(a) and 215.97(8)(a), F.S. Information provided by this grantee assessment shall be reported by grants staff to the Department's Office of Inspector General in accordance with the established procedures of that office.

Rulemaking Authority 267.031(1), 267.0617(5) FS. Law Implemented 267.0617(2), (3) FS. History—New _____.

1A-39.011 Restrictive Covenants.

(1) For Special Category Grant projects involving acquisition of or improvement to real property, the grantee and the property owner(s) shall execute and file a Restrictive Covenants, DOS Form HR3E1208RC, effective (date of adoption), 2009, with the Clerk of the Circuit Court in the county where the property is located, prior to release of the grant funds.

(2) The restrictive covenant shall include the following provisions:

(a) The Restrictive Covenants, incorporated herein by reference, shall run with the title of the property, shall encumber the property and shall be binding upon the grantee and the owner(s), if different, and the successors in interest for ten (10) years from the date of the recordation of the Restrictive Covenants.

(b) The grantee and owner(s) shall permit the Division to inspect the property at all reasonable times to determine whether the grantee and owner(s) are in compliance with the terms of the Restrictive Covenants.

(c) The grantee and owner(s) shall maintain the property in accordance with the Secretary of the Interior’s Standards for the Treatment of Historic Properties.

(d) The grantee and owner(s) agree that no modifications will be made to the property, other than routine repairs and maintenance, without advance review and approval of the plans and specifications by the Division’s Bureau of Historic Preservation.

(e) The Restrictive Covenants shall also contain an amortization schedule of the repayment of grant funds, should the grantee or owner(s) or their successors in interest violate the Restrictive Covenants.

(f) Other provisions as agreed upon by the Division and the grantee.

Rulemaking Authority 267.031(1), 267.0617(5) FS. Law Implemented 267.0617(2), (3) FS. History–New _____.

1A-39.012 Preservation Agreement.

(1) For Special Category and Small Matching Grant projects involving properties other than real property (e.g., an aircraft, locomotive or marine vessel), Division receipt of an executed and notarized Preservation Agreement, DOS Form HR3E1208PASC, effective (date of adoption), 2009, incorporated herein by reference, shall be required prior to the release of grant funds. Through this Preservation Agreement, the grantee and the property owner(s) shall commit to the following for a term of ten (10) years for Special Category Grant projects and five (5) years for Small Matching Grant projects:

(a) To assume the cost of the continued maintenance and repair of the property so as to preserve the architectural or historical integrity of the same.

(b) That no visual or structural alterations will be made to the property without prior written permission of the Division.

(c) That the Division, its agents and designees shall have the right to inspect the property at all reasonable times in order to ascertain whether or not the conditions of this agreement are being observed.

(d) The Preservation Agreement shall also contain an amortization schedule for the repayment of grant funds, should the grantee or owners or their successors in interest violate the Preservation Agreement.

(e) Other provisions as agreed upon by the Division and the grantee.

(2) For Small Matching Grant projects involving acquisition of or improvement to a historic property, Division receipt of an executed and notarized Preservation Agreement, DOS Form HR3E1208PASM, effective (date of adoption), 2009, incorporated herein by reference, shall be required prior to the release of grant funds. Through this Preservation Agreement, the grantee and the property owner(s) shall commit to the provisions indicated in subsection 1A-39.012(1), F.A.C., of this chapter for a term of five (5) years.

Rulemaking Authority 267.031(1), 267.0617(5) FS. Law Implemented 267.0617(2), (3) FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
David Ferro

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: JuDee Pettijohn, Deputy Secretary of State for Cultural, Historical and Information Programs

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 17, 2009

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards

RULE NO.: 5F-5.002
RULE TITLE: Weighing or Measuring Device Permits; Requirements and Fees

PURPOSE AND EFFECT: To create and administer a program to permit commercially operated weighing and measuring devices in the State of Florida, in accordance with the mandates of Sections 531.60-.66, F.S.

SUMMARY: Establishes requirements, fees and adopts such forms as are necessary to create and administer a program, in accordance with Sections 531.60-.66, F.S., for the permitting of commercially operated weighing and measuring devices in the State of Florida.

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: 531.66 FS.

LAW IMPLEMENTED: 531.60 -.66 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 24 hours before the workshop/meeting by contacting: Max Gray, (850)488-9140. 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: Max Gray, Chief, Bureau of Weights and Measures, 3125 Conner Blvd, Tallahassee, FL 32399, phone: (850)488-9140

THE FULL TEXT OF THE PROPOSED RULE IS:

5F-5.002 Weighing or Measuring Device Permits; Requirements and Fees.

(1) As used in this rule, the following definitions shall apply:

(a) Commercial Purpose. Any weighing and measuring device is used for a commercial purpose when it is: used or employed in commerce to establish the size, quantity, extent, area, or measurement of any commodity sold, offered, or submitted for sale or hire; used or employed in computing any basic charge or payment for services rendered on the basis of weight, measure, or count; or used or employed in determining the winner of any award based on weight, measure, or count.

(b) Department. The Florida Department of Agriculture and Consumer Services.

(c) Location. Any single structure, site, mobile unit or similar type establishment where commercial weighing and/or measuring activities are conducted by an owner or person in possession of a device for which a permit is required.

(d) Law Enforcement Purposes. Any weighing or measuring device is used for law enforcement purposes when it is: used or employed by a government agency for only the purposes of the enforcement of law and not for any commercial use. Examples of law enforcement purposes include, but are not limited to, the weighing of confiscated contraband by an agency as part of a criminal or civil case or investigation and the weighing of vehicles by a government agency to enforce highway weight restrictions.

(e) Owner. A person, as defined in this rule, that owns or uses, has primary possession or control over the use of, or otherwise employs a weighing or measuring device for use in conducting commercial transactions or for law enforcement purposes.

(f) Commercial Use Permit (Permit). A certificate issued by the Department that authorizes the holder to use or employ commercial weighing and/or measuring devices for an individual location for which the certificate is issued.

(g) Person. Includes both singular and plural, as the case demands, and includes individuals, partnerships, corporations, companies, societies, associations, and all other groups or combinations.

(h) Retail Establishment. A location, as defined above, in which scales with manufacturers' rated capacity of 100 pounds or less or the metric equivalent are utilized in conducting commercial weighing or measuring activities.

(2) No owner or person in possession shall operate any commercial weighing or measuring device listed in paragraph 5F-5.002(6)(e) or (f), F.A.C., without first obtaining a weighing or measuring device commercial use permit.

(3) Commercial Use Permits (Permits). Each permit shall be conspicuously displayed at the location for which it is issued. Permits shall be issued by the Department following

receipt and approval of a completed Weighing and Measuring Device Permit Application, DACS-03560, (Rev. 06/09), herein adopted and incorporated by reference, identifying the specific type of weighing and measuring devices for which the permit is sought. A copy of the Weighing and Measuring Device Permit Application can be obtained from the Florida Department of Agriculture and Consumer Services, Bureau of Weights and Measures, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650 or from the Department's web site at <http://www.doacs.state.fl.us/onestop/index.html>. The applicant shall provide the requested business information, the name and signature of the applicant or applicant's agent, shall complete the Permit Fee Worksheet (page two of application) providing the total number of each specific device type at the permit location, and shall pay a total fee based on the amounts specified in subsection 5F-5.002(6)(e) or (f), F.A.C.

(4) Exemptions. The provisions of this rule do not apply to measuring devices used exclusively for measuring petroleum products taxed under Section 525.09, F.S.; to a taximeter that is licensed, permitted, or registered by a municipality, county, or other local government and tested for accuracy and compliance with state standards by the local government in cooperation with the state as authorized in Section 525.421, F.S.; or to a device used exclusively for weighing railroad cars and is tested for accuracy and compliance with state standards by a private testing agency.

(5) Except for permits for additional devices put into service at a location with an existing permit which will be prorated on a quarterly basis as prescribed in subsection 5F-5.002(7), F.A.C., Weighing and Measuring Device Permits shall be valid for one year from the date of issuance. Fees paid for required weighing and measuring device permits are not refundable.

(6) Weighing and Measuring Device Commercial Use Permit Fees.

(a) One annual commercial use permit shall be issued to each location for all weighing and measuring devices at that location based on the total number, type, size and/or capacity of devices at that location. The permit shall expire one year following the date of issuance and must be renewed annually. The annual permit renewal fee shall be the same as the fees established in paragraphs 5F-5.002(6)(e) and (f), F.A.C.

(b) If the ownership of a permitted device(s) changes, the current permit for that device(s) will remain in effect until its original expiration date and will be transferred by the Department to the new owner if:

1. The device(s) for which the permit was issued remained in the same location; and

2. The new owner, or a representative of the new owner, notifies the Department of the change in ownership in writing within 30 days of the change in ownership by mail to the

Bureau of Weights and Measures, 3125 Conner Boulevard, L-2, Tallahassee, Florida 32399-1650, or by facsimile at (850)922-6064.

(c) If the ownership and location of a permitted device(s) changes, the current permit for that device(s) automatically expires and a new permit application must be submitted to the Department and a new permit shall be issued which will expire one year from the date of issuance. However, if the location of a permitted device(s) changes without a change in ownership, the current permit for that device(s) shall be transferred by the Department to the new location upon notification by the owner. The owner shall notify the Department in writing within 30 days of the change in location by mail to the Bureau of Weights and Measures, 3125 Conner Boulevard, L-2, Tallahassee, Florida 32399-1650, or by facsimile at (850)922-6064.

(d) The failure of an owner to notify the Department of the change in ownership or location of a permitted device(s) within thirty days of the change will subject the owner to paying the prescribed fees for a new permit and any applicable late fee as prescribed in subsection 5F-5.002(9), F.A.C.

(e) The following commercial use permit fees for weighing and measuring devices are based on the manufacturers' rated capacity or the device's design and use:

1. For weighing devices used during any portion of the period covered by the commercial use permit with a manufacturer's rated capacity of up to and including 100 pounds or the metric equivalent, the fees in Table 1 will apply:

Number of Devices per Single Retail Establishment	Fee per Single Retail Establishment
1 to 5	\$40
6 to 10	\$125
11 to 30	\$175
31 and Over	\$225

2. For weighing devices with a manufacturer's rated capacity of greater than 100 pounds up to and including 5,000 pounds or the metric equivalents, the annual permit fee shall be \$75 per device.

3. For weighing devices with a manufacturer's rated capacity of greater than 5,000 pounds up to and including 20,000 pounds or the metric equivalents, the annual permit fee shall be \$150 per device.

4. For weighing devices with a manufacturer's rated capacity of greater than 20,000 pounds or the metric equivalent, the annual permit fee shall be \$200 per device.

5. For wheel load weighing devices the annual permit fee shall be \$15 per device.

6. For static and in-motion railroad track scales used to weigh railway cars that are not tested for accuracy and compliance with state standards by a private testing agency, the annual permit fee shall be \$200 per device.

7. For belt conveyor scales, the annual permit fee shall be \$400 per device.

8. For weighing devices used only for law enforcement purposes by a government agency, the annual permit fee shall be \$0.

(f) The following are the commercial use permit fees for measuring devices:

1. For mass flow meters with a maximum flow rate of up to and including 150 pounds per minute or the metric equivalent, the annual permit fee shall be \$100 per device.

2. For mass flow meters with a maximum flow rate of greater than 150 pounds per minute or the metric equivalent, the annual permit fee shall be \$250 per device.

3. For volumetric flow meters with a maximum flow rate of up to and including 20 gallons per minute or the metric equivalent, the annual permit fee shall be \$40 per device.

4. For volumetric flow meters with a maximum flow rate of greater than 20 gallons per minute or the metric equivalent, the annual permit fee shall be \$80 per device.

5. For tanks used as measures with capacities of less than 500 gallons or the metric equivalent, with or without gage rods or markers, the annual permit fee shall be \$100 per device.

6. For tanks used as measures with capacities 500 gallons or greater or the metric equivalent, with or without gage rods or markers, the annual permit fee shall be \$200 per device.

7. For taximeters that are not tested for accuracy and compliance with state standards by a local government in cooperation with the state as authorized in Section 525.421, F.S., the annual permit fee shall be \$35 per device.

8. For grain moisture meters, the annual permit fee shall be \$25 per device.

9. For multiple dimension measuring devices, the annual permit fee shall be \$100 per device.

10. For measuring devices used only for law enforcement purposes by a government agency, the annual permit fee shall be \$0.

(g) The Department shall test weighing and measuring devices that are not used commercially, including devices used only for law enforcement purposes, only if the device is permitted and the appropriate fees are paid in accordance with this rule.

(7) Fees for Device(s) placed into Service at a Location with an Existing Commercial Use Permit. The Department shall be notified by the applicant about any non-replacement weighing or measuring device that is put into service during a permit year at a location with an existing permit using the Weighing and Measuring Device Permit Application, DACS-03560, (Rev. 06/09). The fee shall be prorated on a quarterly basis of the fee prescribed in paragraph 5F-5.002(6)(e) or (f), F.A.C., for every three month period or portion thereof remaining until the expiration of the existing permit for that location.

(8) Replacement Devices. Each device for which a permit has been issued may be replaced with a device of the same type, size and capacity and will not require additional fees to be paid until renewal of the permit providing the following conditions apply:

(a) The amount of the fee for the replacement device would have been the amount of the fee for the original device as prescribed in paragraph 5F-5.002(6)(e) or (f), F.A.C., and

(b) The replacement device shall be reported to the Department within 30 days of replacement in writing with the brand name and capacity of both the device(s) being replaced and the replacement device(s) by mail to the Bureau of Weights and Measures, 3125 Conner Boulevard, L-2, Tallahassee, Florida 32399-1650, or by facsimile at (850)922-6064.

(9) Late Fees. The Department shall not issue a Weighing and Measuring Device Permit until all applicable fees, including late fees, are received by the Department. A late fee of \$100 per location must be paid in addition to the annual commercial use permit fee required by subsections 5F-5.002(6)(e) and (f), F.A.C., if:

(a) The annual commercial use permit application and renewal fee is not received by the Department within thirty days after its annual due date (one year from the date of issuance); or

(b) A commercial use permit application and fee for a non-replacement device put into service at a permitted location is not received by the Department within thirty days after the device is placed into service.

(10) Enforcement Actions and Administrative Penalties.

(a) The Department shall impose administrative penalties against the owner or person in possession to enforce compliance with Sections 531.60-.66, F.S., and this rule.

(b) This section sets forth the guidelines the Department will follow in imposing the penalties authorized under Section 531.50 and Sections 531.60-.66, F.S. The purpose of the guidelines is to give notice of the range of penalties which normally will be imposed for a single violation. These guidelines list aggravating and mitigating factors that, if present, will reduce or increase penalties to be imposed. No aggravating factors will be applied to increase a fine imposed for a violation above the statutory maximum as provided in Section 531.50, F.S. The guidelines in this rule are based upon a single count violation of each provision listed. Multiple counts of the violated provision or a combination of the listed violations will be added together to determine an overall total penalty and will be grounds for enhancement of penalties.

(c) Nothing in this rule shall limit the ability of the Department to informally dispose of administrative actions by settlement agreement, consent order, or other lawful means.

(d) Rule Not All-Inclusive. This rule contains illustrative violations. It does not, and is not intended to, encompass all possible violations of the statutes or Department rules that

might be committed by any person. The absence of any violation from this rule shall in no way be construed to indicate that the violation is not subject to a penalty. In an instance where the violation is not listed in this rule, the penalty will be determined by consideration of:

1. The closest similar violation, if any, that is listed in this section; and

2. The mitigating or aggravating factors listed in this section.

(e) Aggravating and Mitigating Factors. The Department will consider aggravating and mitigating factors in determining penalties for violations of Sections 531.60-.66, F.S., and this rule. The factors shall be applied against each single count of the listed violation.

1. Aggravating Factors:

a. Degree and extent of potential harm caused by the violation.

b. The amount of money by which the violator benefited from noncompliance.

c. Whether the violation was committed willfully.

d. The compliance record of the violator including previous violations for the same or similar offenses that resulted in enforcement action.

e. The violation was repeated with 2 years of the first violation.

f. The violator impeded, or otherwise failed to cooperate with the Department's inspection or investigation.

g. The deterrent effect of the penalty imposed.

h. Undue delay in initiating or completing corrective action or failure to take affirmative or corrective action after receipt of notice of the violation.

i. The violator's prior knowledge of Sections 531.60-.66, F.S. and Rule 5F-5.002, F.A.C.

j. The cost of the enforcement action.

k. The number of other violations proven in the same proceeding.

2. Mitigating Factors:

a. Degree and extent of potential harm caused by the violation.

b. The amount of money by which the violator benefited from noncompliance.

c. Whether the violation was committed willfully.

d. The compliance record of the violator including previous violations for the same or similar offenses that resulted in enforcement action.

e. Any documented efforts by the violator to correct the violation.

f. Length of time operating location while out of compliance.

g. Reliance of written professional or expert counsel or advice.

h. Whether the intentional actions of another party prevented the violator from complying with the applicable law or rules.

i. Financial hardship.

j. Acts of God or nature that impairs the ability of the violator to comply Sections 531.60-.66, F.S. or Rule 5F-5.002, F.A.C.

k. The violator expeditiously took affirmative or corrective action after it received written notification of the violation.

l. The number of violations charged in the administrative complaint.

m. If a repeat violator, whether 2 years has passed since the last violation.

(f) The provisions of this rule shall not be construed so as to prohibit or limit any other civil action or criminal prosecution that may be brought. In addition to the penalties established in this rule, the Department reserves the right to seek to recover any other cost, penalties, attorney's fees, court costs, service fees, collection costs, and damages allowed by law. Additionally, the Department reserves the right to seek to recover any cost, penalties, attorney's fees, court costs, service fees, collection costs, and costs resulting from a payment that is returned for insufficient funds to the Department.

(g) Penalties.

1. Notification of Noncompliance. Any Department investigation or inspection which reveals a violation of Sections 531.60-.66, F.S., or this rule in which the Department determines the violator was unaware of the rule or unclear as to how to comply with it will result in the written notification informing the violator of the requirement to complete and submit the application for a Weighing and Measuring Device Permit and the required fee within 10 days of notification by the Department. For the purposes of this rule, the following violations shall result in the issuance of a notice of noncompliance for the first violation only:

a. Using a weighing or measuring device for commercial purposes without a valid Commercial Use Permit.

b. Failure to submit a Weighing and Measuring Device Permit Application for a location or facility using commercial weighing or measuring devices.

c. Failure to report a replacement device(s) placed into service at a permitted location that would result in an increase in the fee for the location or facility.

d. Failure to report a non-replacement device(s) placed into service at a permitted location that would result in an increase in the fee for the location.

e. Failure to renew an existing Weighing and Measuring Device Permit within 30 days after its due date for renewal.

2. Devices Placed Out of Service by the Department. Any investigation or inspection in which the Department determines that a device(s) is out of compliance with Sections 531.60-.66, F.S., or this rule shall result in the device(s) being

prohibited from further commercial use until the proper commercial use permit has been issued by the Department. The Department shall prevent the continued unauthorized use of the device(s) by attaching DACS Form 03562, "Out of Service" tag, (Rev. 06/09), to the device(s). DACS form 03562 (Rev. 06/09) is hereby adopted and incorporated by reference, a copy of which can be viewed on the Department's web site at www.doacs.state.fl.us/onestop/index.html. Upon compliance with the applicable requirement, the Out of Service tag shall be removed from the weighing and measuring device(s).

3. Minor Violations. A violation of Sections 531.60-.66, F.S., or this rule is a minor violation if it does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare or create a significant threat of such harm. In addition to placing the device(s) out of service, the Department may impose an administrative fine of \$250 per violation which may be adjusted upward for the existence of aggravating factors to statutory maximum of \$1,000 for a first violation or downward depending upon the existence of mitigating factors. For the purposes of this rule, the following violations shall be considered minor violations:

a. Using a weighing or measuring device for commercial purposes without a valid Commercial Use Permit.

b. Failure to submit a Weighing and Measuring Device Permit Application for a location or facility using commercial weighing or measuring devices.

c. Failure to report a replacement device(s) placed into service at a permitted location that would result in an increase in the fee for the location or facility.

d. Failure to report a non-replacement device(s) placed into service at a permitted location that would result in an increase in the fee for the location.

e. Failure to renew an existing Weighing and Measuring Device Permit within 30 days after its due date for renewal or within 10 days from receipt of a Notice of Noncompliance.

4. Major Violations. A violation of Sections 531.60-.66, F.S., or this rule is a major violation if it results in economic or physical harm to a person or adversely affects the public health, safety, or welfare or creates a significant threat of such harm. In addition to placing the device(s) out of service, major violations shall result in the imposition of an administrative fine of \$500 per violation, which may be adjusted upward to statutory maximum of \$1,000 for a first violation, \$2,500 for a second violation within two years of the first violation, \$5,000 for a third violation within two years of the first violation, or downward depending upon the existence of mitigating or aggravating factors. For the purposes of this rule, the following violations shall be considered major violations:

a. Using a device for commercial purposes after notifying the Department the device is not used commercially.

b. Removal of an "Out of Service" tag that was applied for violating provisions of this rule without approval from the Department.

c. Impeding, obstructing, or hindering, a Department employee during duties associated with enforcement of provisions of this ruler.

(11) Resolution of Violations, Settlement, and Additional Enforcement Remedies.

(a) The Department and any person charged with a violation may agree to resolve violations prior to administrative hearing, or to enter into settlement pursuant to Section 120.57(4), F.S. The penalties addressed in this rule shall not be construed to limit the authority of the Department to resolve violations prior to or after initiation of any administrative action or to settle with any party. The Department shall utilize all available remedies to ensure voluntary compliance including administrative action, civil actions, and referrals for criminal prosecution. The Department shall enforce a failure to comply with an agreement to resolve violations or a settlement agreement with the penalties and remedies provided in the agreement and as authorized by Chapter 120 or Chapter 531, F.S.

(b) Failure to respond to an administrative complaint shall result in the entry of a Default Final Order against the violator or entity responsible for the violation. The Department may impose administrative fines in a Default Final Order equal to the maximum amount allowed, not to exceed \$5,000 per violation.

(c) A failure to comply with either a Final Order or a Default Final Order of the Department shall result in permit revocation and an administrative fine of \$5,000 per violation.

(d) Nothing in this rule shall prohibit the Department from imposing additional sanctions for violations of Chapter 531, F.S., or the rules promulgated thereunder.

Rulemaking Authority 570.07(23), 531.66 FS. Law Implemented 531.60-.66 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Isadore Rommes, Director, Division of Standards

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles H. Bronson, Commissioner of Agriculture

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 17, 2009

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

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-4.00821
RULE TITLE: Florida Educational Leadership Examination

PURPOSE AND EFFECT: The purpose of this rule amendment is to adopt revisions to the registration form and to the examination fee structure. The effect of these changes will be a fee structure more aligned with the real cost of the examinations.

SUMMARY: The rule is proposed for amendment to adopt a revised registration form and a revised fee structure for the Florida Educational Leadership Examination.

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: 1012.59(1) FS.

LAW IMPLEMENTED: 1012.59 FS.

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

DATE AND TIME: July 14, 2009, 10:00 a.m.

PLACE: Conference Call 1(888)808-6959; conference code 4617163

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. Michael Jones, Chief, Bureau of Postsecondary Assessment, Office of Assessment, Accountability, Research, and Measurement, 325 W. Gaines Street, Suite 414, Tallahassee, FL 32399, (850)245-0513

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-4.00821 Florida Educational Leadership Examination.

(1) through (3) No change.

(4) Registration, late registration, and refunds.

(a) Registration for the examination shall be for the initial examination or for one (1) or more subtests not previously passed. To register to take the examination, an applicant shall submit a completed application to the test administration agency. The completed application shall be received by the test administration agency at least fifty (50) days preceding the examination date.

1. A completed application shall consist of the following:

a. A completed application Form CG-20-04, Registration Application: Certification Examinations for Florida Educators, which includes the applicant's signature. Form CG-20-04 is hereby incorporated by reference and made a part of this rule to become effective September 1, 2009 ~~August 1, 2008~~. This form may be obtained without cost from the Bureau of Educator Certification, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399 or ~~may be submitted~~ online via the Florida Teacher Certification Examinations/Florida Educational Leadership Examination Program Web site at <http://www.fldoe.org/edcert/apply.asp>.

b. ~~Before January 1, 2009, a fifty (50) dollar registration fee. Before September 1, 2009, Beginning January 1, 2009, an eighty-five (85) dollar first-time registration fee and a fee of one hundred (100) dollars fee for each retake registration; effective January 1, 2009. Beginning September 1, 2009, a four hundred thirty (430) dollar fee for each first-time registration and a four hundred fifty (450) dollar fee for each retake registration.~~

c. A charge of one hundred (100) dollars in addition to the fees described in sub-subparagraph 6A-4.0021(4)(a)1.b., F.A.C., for certification applicants taking a supplemental examination.

2. An incomplete application shall be returned to the applicant. Applications which are completed and resubmitted to the test administration agency after the fifty (50) day deadline shall be acceptable only if the applicant complies with requirements specified in paragraph 6A-4.00821(4)(b), F.A.C.

(b) through (c) No change.

(5) through (10) No change.

Rulemaking Specific Authority 1012.56, 1012.59 FS. Law Implemented 1012.56 FS. History--New 12-25-86, Amended 1-11-89, 5-19-98, 10-6-99, 7-17-00, 7-16-01, 3-24-02, 10-17-02, 3-24-03, 7-21-03, 6-22-04, 5-19-08, 7-21-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jeff Sellers, Deputy Commissioner, Accountability, Research, and Measurement

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 22, 2009

DEPARTMENT OF COMMUNITY AFFAIRS
Division of Housing and Community Development

RULE NO.: 9B-76.001
RULE TITLE: Administration

PURPOSE AND EFFECT: To incorporate administrative rules for the State of Florida's Neighborhood Stabilization Program (NSP) in order to enable the Department of Community Affairs to award and administer Neighborhood Stabilization Program (NSP) funds in accordance with the provisions of Title III of Division B of the Housing and Economic Recovery Act of 2008 (HERA), federal Public Law 110-289.

A rule development workshop was held on April 17, 2009, for which the notice referenced Rule 9B-43.0072, F.A.C. That rule has now been renumbered as 9B-76.001 in order to create a separate chapter for the NSP.

SUMMARY: Chapter 9B-76, F.A.C., has been established in order to provide administrative guidance and oversight for the State of Florida Neighborhood Stabilization Program (NSP).

This rule is only applicable to the jurisdictions funded under the State's Program for the purpose of carrying out NSP related activities in accordance with Public Law 110-289.

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: Chapter 2009-01, Laws of Florida.

LAW IMPLEMENTED: Chapter 2009-01, Laws of Florida.

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

DATE AND TIME: July 22, 2009, 2:00 p.m. – 5:00 p.m.

PLACE: Randall Kelly Training Center, Room 305, 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: Pat Harvey, Department of Community Affairs at (850)487-3644. 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: Jacquelyn Dupree, Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, FL, (850)487-3644, e-mail: jackie.dupree@dca.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

9B-76.001 Administration.

(1) The objective of this section is to establish administrative procedures for implementing and managing NSP funded projects in accordance with Public Law 110-289 and 24 CFR Part 570. This rule applies to all State-funded NSP grant recipients, whether Urban Entitlement or participants of the Florida Small Cities CDBG Program, located in the following jurisdictions:

- Alachua County
- Apopka
- Bay County
- Bradenton
- Charlotte County
- Citrus County
- Clay County
- Clearwater
- Davie
- Daytona Beach

Delray Beach
Ft. Pierce
Hernando County
Indian River County
Martin County
Melbourne
Miami Beach
Ocala
Okaloosa County
Osceola County
Palm Coast
Santa Rosa County
St. Johns County
St. Lucie County
Tallahassee
Titusville

Except as described in the Federal Register Notice (Vol. 73, No. 194), all statutory and regulatory provisions governing the Community Development Block Grant (CDBG) program for states, including 24 CFR part 570 subpart I, for CDBG entitlement communities, including those at 24 CFR part 570 subparts A, C, D, J, K and O, and applicable program guidance, shall apply to the use of these funds. In addition, the following provisions are applicable:

(2) Definitions.

(a) “Activity delivery costs” are non-administrative costs which can be directly associated with and required for an eligible NSP activity and may not exceed 10 percent of the housing construction budget. If paid to the developer, these costs shall be included in the developer’s proposal. Activity delivery costs must be consistent with the guidelines in Technical Memo CDBG-HCD-08-01.

(b) “Affordable rents” is defined as the Fair Market Rents (FMR) as published annually by HUD for the sub-grantees.

(c) “Blighted structure” means a structure that has substantial deterioration in which conditions are leading to economic distress or endangerment of life, the sub-recipient jurisdiction concurs that the structure is blighted, and one or more of the following factors are present:

1. Unsanitary or unsafe conditions;
2. Deterioration of site or other improvement; or
3. Faulty lot layout in relation to size, adequacy, accessibility, or usefulness.

(d) “CATF” means the Citizen Advisory Task Force which the State’s sub-recipient must create in order to provide public participation and comply with citizen participation requirements.

(e) “Current market appraised value” means the value of a foreclosed upon home or residential property that is established through an appraisal made in conformity with the appraisal requirements of the URA at 49 CFR 24.103 and completed

within sixty (60) days prior to an offer made for the property by a grantee, sub-recipient, developer, or individual homebuyer.

(f) “Day” means calendar day.

(g) “Developer” means an entity provided NSP funds for purchasing, rehabilitating and disposing of properties that have been abandoned or foreclosed upon including maintaining, assembling, and facilitating the redevelopment of vacant property, and/or marketing, and disposing of land-banked properties.

(h) “Developer Fee” is an amount in addition to activity costs paid to a developer in consideration of the developer’s efforts. This amount is considered “estimated profit.”

(i) “Foreclosed property” has been foreclosed upon at the point that, under state or local law, the mortgage or tax foreclosure is complete. The U.S. Department of Housing and Urban Development (HUD) generally will not consider a foreclosure to be complete until after the title for the property has been transferred from the former homeowner under some type of foreclosure proceeding or transfer in lieu of foreclosure, in accordance with state or local law.

(j) “Land bank” is a governmental or nongovernmental nonprofit entity established, at least in part, to assemble, temporarily manage, and dispose of land for the purpose of stabilizing neighborhoods and encouraging re-use or redevelopment of urban property. For the purposes of the NSP program, a land bank will operate in a specific, defined geographic area. It will purchase properties that have been abandoned or foreclosed upon and maintain, assemble, facilitate redevelopment of, market, and disposal of the land-banked properties. If the land bank is a governmental entity, it may also maintain abandoned or foreclosed property that it does not own, provided it charges the owner of the property the full cost of the service or places a lien on the property for the full cost of the service.

(k) “NSP Target Area” means a geographical area to be served by an NSP activity.

(l) “State Sub-recipient” refers to the unit of general purpose local government that is eligible to receive State NSP funds.

(m) “Sub-recipient” has the same meaning as in the first sentence of 24 CFR 570.500(c). This includes any nonprofit organization or unit of general purpose local government that the state awards NSP funding.

(n) “Subprime loan refers to an industry to describe loans with less stringent lending and underwriting terms and conditions. Due to the higher risk, sub-prime loans charge higher interest rates and fees. For the purposes of NSP, subprime loans are those loans which do not meet conventional underwriting guidelines for prime mortgages.

(o) “Revenue” for the purposes of section 2301(d)(4) of Title III of HERA has the same meaning as program income, as defined at 24 CFR 570.500(a), as amended.

(3) Interlocal Agreements. Housing acquisition and disposition, including homeownership assistance and counseling, will not require an interlocal agreement. NSP State sub-recipients proposing eligible public facility or infrastructure activities within the boundaries of another jurisdiction shall be required to enter into an Interlocal Agreement. Both jurisdictions must be eligible to participate in NSP. The Interlocal Agreement must include the following provisions, or submit documentation of an established relationship between jurisdictions, which includes the following provisions:

(a) Includes as parties all State sub-recipients whose jurisdictions are included in the project and/or target area(s);

(b) Authorizes the State's sub-recipient to undertake the activities in all jurisdictions included in the interlocal agreement; and

(c) Affirms that all activities are consistent with each sub-recipient's comprehensive plan and provides documentation which includes applicable excerpts of each sub-recipient's comprehensive plan in the supporting documentation section of the application.

(4) Expenditures and Limitations.

(a) State sub-recipients must submit at least one request for funds each month.

(b) State sub-recipients may maintain no more than \$100,000 cash-on-hand to meet daily cash needs. Amounts greater than \$100,000 shall be expended within fourteen (14) days or returned to the Department.

(c) Escrow Accounts. Recipients and/or sub-recipients may draw down NSP funds and deposit them into an interest-bearing escrow account for rehabilitation. The sub-recipient must separately track, for each housing unit, the receipt and disbursement of all escrowed funds, including funds escrowed by a sub-recipient.

1. Funds may be requested only after execution of the contract by the State sub-recipient or their sub-recipients.

2. Escrowed funds must be used in accordance with the escrow agreement. The Department may refuse to disburse funds for escrow accounts if the State's sub-recipient fails to comply with the terms of prior escrow accounts.

3. Any request for escrow funds shall be accompanied by information identifying the activity and the basis for the amount, i.e., address of the home and the cost for rehabilitation. Escrowed funds must be expended within ten (10) days from date of deposit in the escrow account or be returned to the Department. At the end of a calendar quarter during which escrow funds were received, the State's sub-recipient shall submit a report identifying the amount and date escrow funds were received, the amount expended during the quarter and escrow balance. If there is a balance at the end of the quarter, and the 10-day period has not expired, a final report shall be submitted within seven days after the 10-day period, along with any unexpended balance and interest.

4. Interest earned on escrow accounts shall be returned quarterly to the Department.

(d) A land bank may not hold property for more than ten years without obligating the property for a specific NSP eligible activity. Under no circumstances may NSP grant funds be used:

1. To pay more than the appraised value of the property, or

2. For activities that displace a tenant/homeowner.

(e) Up to 6.8 percent of the funds allocated to a jurisdiction may be used for administrative costs as specified in 24 CFR 570.206.

(f) Developer Fees are defined under Section (2) Definitions, and the amount paid from NSP funds shall be limited to a maximum of 12 percent of the total project cost. Unless a contract involving developer fees is procured by competitive bids, or no NSP funds are used for developer fees, recipients and sub-recipients shall negotiate fair and reasonable developer fees as required by 24 CFR 85.36 (f) (2), which shall include preparing a cost analysis. Written justification for the developer fee amount, based on a cost analysis and consideration of at least the elements identified in 24 CFR 85.36 (f) (2), shall be part of the procurement documentation.

(g) Architectural and Engineering Costs. The maximum percentage of subgrant funds allowed for architectural and engineering costs shall be based on the subgrant activities which require architectural design and engineering and shall not exceed the Rural Development (RD) Rural Utility Service (RUS) fee schedule (Form RD 1942-19) in Florida RUS Bulletin 1780-9, which can be obtained from the Department, and which is incorporated herein by reference, as effective on 5-23-06.

1. If more than one design professional is needed for an activity or activities the local government shall not exceed the appropriate RD/RUS fee curve for each activity covered by each design professional negotiated separately. For projects involving both Table I and II activities, engineering costs shall be pro-rated appropriately.

2. For each additional engineering service and for preliminary engineering, the local government shall negotiate a reasonable fee for the service following procurement procedures in 24 C.F.R. 85.36, as effective on 5-23-06. Preliminary engineering costs not to exceed one-half of one percent of the estimated construction cost may be paid with NSP funds over and above the amounts included in the RD/RUS fee schedule.

(5) No less than 25 percent of the State's NSP allocation shall be allocated to assist the NSP Low-Income (NSPLI) target population not exceeding 50 percent of area median income. These supplemental funds must be used to provide rental housing for those individuals and families whose incomes do not exceed 50 percent of area median income.

If the NSP sub-grantee does not have at least five years experience providing rental housing to a low-income target population, it must either partner with one or more local housing authorities or non-profit organizations in the county which have such experience, or designate one to be the eligible applicant for supplemental funding.

(6) Recapture and Re-allocation of NSP funds. The Department shall recapture unobligated NSP funds in accordance with the process outlined in the State of Florida's Action Plan Substantial Amendment as approved by HUD.

(7) Duration of assistance. NSP assistance may be provided for a maximum of four years based on the State's program and availability of funding.

(8) Program Income. Any program income earned as a result of activities funded under this grant shall be returned to the Department within thirty (30) days of receipt or as otherwise outlined in the State's substantial amendment to the 2008 Action Plan. Interest earned on escrow accounts shall be considered separately from program income.

(9) The Department shall conduct on-site monitoring visits to determine whether State's sub-recipients are complying with program requirements. Sub-recipients shall respond to any issues identified in a monitoring report within thirty (30) days after receiving the report. Failure to respond may result in the Department rejecting requests to draw funds.

(10) Amendments. All proposed amendments to the Subgrant Agreement must be approved by the Department.

(a) Documentation Required. All requests for subgrant agreement amendments shall include the following written documentation for review by the Department:

1. A cover letter signed by the Chief Elected Official or his or her designee which describes the need for the proposed changes and their effect upon the approved project.

2. A completed DCA Modification to Grant Agreement form signed by the CEO or designee.

3. All application forms that would be changed by the proposed amendment.

4. A revised activity work plans if activity accomplishments, schedules or expenditures will change as a result of the amendment.

5. A revised budget showing the current and amended budget if amounts for activities will be changed.

6. If there is a change in activity location, a legible map which indicates the proposed change.

7. For amendments involving addition of an activity, reduction or deletion of an activity, or a reduction in proposed beneficiaries, a copy of the minutes of the meeting of the Citizen's Advisory Task Force (CATF) when the proposed amendment was reviewed.

8. A public hearing to obtain citizen comments is required for any amendment involving addition of an activity, reduction or deletion of an activity, or a reduction in proposed

beneficiaries. This hearing is in addition to review by the CATF. A copy of this notice must be submitted with the request for an amendment.

9. Signature of the Chief Elected Official, or designee on Form DCA 07.02, Request for Amendment, (as adopted on March 28, 2002).

(b) The amendment must be received by the Department at least forty-five (45) days prior to the end of the subgrant agreement. If the amendment is extending the subgrant agreement period, it must be received by the Department at least ninety (90) days prior to the end of the subgrant agreement. No funds shall be obligated or expended on an activity until the Department approves the amendment if such funds are dependent on the amendment's approval.

(c) If the State's sub-recipient requests administrative closeout prior to the termination date of the subgrant agreement, any amendment affecting closeout and requiring Department approval must be included with the closeout.

(d) Time Extensions to Subgrant Agreements. Any proposed amendment extending the termination date of the subgrant agreement must be approved by the Department. The State's sub-recipient must explain any delay affecting project completion and must justify the need for the extension.

(11) Beneficiaries of Public Improvements. For activities where hookups or connections are required for beneficiary access to NSP-funded infrastructure, low-, moderate-, and middle income area benefit (LMMA) shall be determined by the number of low-, moderate-, and middle-income persons in households connected to and able to use the water, sewer or other infrastructure at the time of administrative closeout. For activities where hookups or connections are required as a condition for beneficiary access to a NSP funded infrastructure, no hookup or connection fees shall be charged to very-low, low-, moderate-, and middle-income beneficiaries. Further, no portion of the project construction costs shall be charged to low-, moderate-, and middle-income beneficiaries.

(12) Lead-Based Paint. The applicant shall adopt and implement procedures to fulfill regulatory and statutory requirements relating to Lead-Based Paint pursuant to 24 C.F.R. 570.487, 24 C.F.R. Part 35, and Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. Section 4822 et seq.), as effective on 00-00-09. The applicant is required to:

(a) Prohibit use of lead-based paint;

(b) Notify potential beneficiaries of the hazards of lead-based paint;

(c) Inspect properties prior to initiating rehabilitation to determine if lead-based paint is present;

(d) Take any necessary actions to ensure the protection of workers and occupants during abatement;

(e) Ensure that proper cleanup and disposal procedures are used; and

(f) Retain records of enforcement and monitoring for at least three years.

(13) Procurement. Grant funds shall be used to obtain commodities and services only in accordance with written procurement procedures adopted by the local government and shall comply with the provisions of 24 C.F.R. 85.36, as effective on 00-00-09, which is hereby incorporated by reference, and, for covered professional services contracts, Section 287.055, F.S., (Consultants Competitive Negotiation Act).

(a) Any procurement which requires public notice in a newspaper shall be published in a daily newspaper of general circulation in a nearby Office of Management and Budget (OMB) designated metropolitan statistical area (MSA). Alternatively, a local government may substitute such notice with a combination of local newspaper publication and mailed announcements to potential bidders, which generates at least three responsible and responsive bids or proposals. Such publication and/or mailing shall allow at least 12 days for receipt of the proposals or bids.

(b) The Department must provide written permission prior to the local government awarding any contract exceeding \$25,000 procured as a result of inadequate competition, a sole source or a noncompetitive procurement. For contracts below \$25,000, the local government's files must document the justification for such noncompetitive procurement which complies with 24 C.F.R. 85.36(b)(4).

(c) All contracts for professional services shall conform to the following:

1. Any Request for Proposals which includes more than one service shall provide that:

a. Proposals may be submitted for one or more of the services;

b. Qualifications and proposals shall be separately stated for each service;

c. The evaluation of the proposals shall be separate for each service.

2. A written evaluation, such as a ranking sheet or narrative, shall be prepared for each proposal, ranking or comparing each proposal to the criteria in the published Request for Proposals. Based on that criteria, the written evaluation will document why the successful proposal was selected.

3. A separate professional services contract must be procured and executed between the local government and any professional services consultant for each particular NSP subgrant and each service. Each advertisement for procurement of NSP professional services, except for subgrant application preparation, must identify either the NSP subgrant cycle by federal fiscal year or the NSP subgrant agreement number.

4. Each professional services contract must reference the NSP subgrant agreement to which it is applicable.

(d) Construction Contracts.

1. If NSP and other sources of funding are being jointly used to fund activities under a single contract, the activities to be paid for with NSP funds must be shown separately in the bid proposal so that the NSP activities and the amount of the contract to be paid from NSP funds are identifiable.

2. If, after applying any specified deductive alternates, construction bids exceed available funds, the local government shall not negotiate with the low bidder unless there is only one bidder or all bidders are allowed to submit revised bids for the revised project.

3. If the construction cost can be reduced by deleting entire line items or reducing quantities based on unit prices identified in the bid, the effect of such deletions or reductions on all bidders' prices shall be determined. Contract award shall be made to the low, responsive and responsible bidder for the revised project.

4. All contracts in excess of \$100,000 covered by Section 3 regulations shall contain the language required in 24 C.F.R. 135.38, as effective on 00-00-09, which is hereby incorporated by reference.

5. The provisions of this subsection shall not be construed to conflict with or supersede the requirements of Section 287.055, F.S., or any other applicable State or federal law.

(14) Housing Rehabilitation Standards. Upon completion of the housing rehabilitation program, all housing units addressed with NSP funds must be in compliance with the subgrantee's local housing code and the HUD Section 8, Housing Quality Standards. This requirement does not apply if the construction activity is limited to water hookups, sewer hookups, the abandonment of wells, or the abandonment of septic systems with no internal or external modifications to the housing structure.

(15) If manufactured housing units are used for replacement housing, they must meet the following specifications:

(a) Manufactured housing units must be built to HUD post-1994 construction standards.

(b) The units must be new, previously uninstalled manufactured housing units.

(c) Units must bear HUD compliance certification meeting HUD wind resistance construction standards for wind zone 3.

(d) The county shall inspect and approve the installation of all manufactured housing units.

(e) Units must be installed to the manufacturer's installation instructions.

(f) These funds may not be used for furniture or interior design costs, insurance, financing points, or add-on structures.

(g) Replacement units may be placed on leased land or resident-owned land.

(h) Site location must meet minimum safety criteria (e.g., not located in floodplain, not in high velocity wind zone, etc.).

(i) Units must be for owner-occupancy.

(j) The costs of each manufactured housing unit must not exceed the appraised value of the unit per the Fannie Mae/Freddie Mac manufactured housing appraisal guidelines currently in effect (e.g., Fannie Mae, Announcement 03-06, Appraisal Guidelines for Manufactured Housing).

(16) Adjustable Rate Mortgages. No adjustable rate mortgages can be obtained by persons acquiring houses assisted with state NSP funds. Mortgages must be for a fixed rate for a minimum of 15 years.

(17) Davis Bacon Labor Standards. Compliance with Davis Bacon Labor Standards will be required for construction, including rehabilitation, contracts that exceed \$2,000 unless the property where rehabilitation or construction will occur contains or, for new construction, will contain less than eight units.

(18) Eminent Domain. State NSP funds cannot be used in conjunction with properties acquired through eminent domain.

(19) Environmental Review. All activities and projects must comply with the requirements of 24 CFR Part 58. An environmental assessment must be submitted to the Department and a Release of Funds sent to the State's subgrantee prior to the obligation or expenditure of more than \$15,000 in administrative funds. No other funds can be obligated or expended prior to the Release of Funds being sent to the State's subgrantee.

(20) Housing Counseling. Each homebuyer assisted with NSP funds is required to receive and complete at least eight hours of homebuyer counseling from a HUD-approved housing counseling agency before obtaining a mortgage loan. The counseling may be funded with NSP funds.

(21) Property Acquisition. Each foreclosed property acquired with NSP funding must be acquired at a minimum discount of five percent below the current appraised value. The State encourages each applicant to obtain as much discount as possible. The overall portfolio of all properties purchased with the State's allocation must meet a minimum of 15 percent discount. Each transaction will require a current appraisal completed within sixty (60) days of an offer made for the property.

(22) Settlement Cost. Subgrantees are encouraged to minimize settlement costs when selling to eligible property owners.

(23) Relocation Activities. No NSP funds can be used on permanent relocation activities under the State NSP. Temporary relocation is eligible provided the sub-recipient has an approved Anti-Displacement Relocation Policy.

(24) Subprime Mortgages. No subprime mortgages may be obtained by persons acquiring houses assisted with NSP funds.

(25) Uniform Relocation Act. All property acquisition is subject to the requirements of the federal Uniform Relocation and Real Properties Act. This applies to both voluntary and involuntary transactions. NSP requires an exception to the

Uniform Relocation Act and purchase price requirements under CDBG regulations. URA requires that sellers of property acquired with CDBG funds be paid an amount equal to the appraised value of the property. Properties receiving NSP funds must be purchased at a minimum 15% discount from the current appraised value of the property. An appraisal by the purchasing entity is required and must be within 60 days of any offer. All other URA requirements, including relocation continue to apply.

(26) Subgrant Closeout.

(a) An administrative closeout may be submitted only after all activities have been completed and all documents required for final payment for all activities, including, but not limited to final inspections, release of liens, certificates of occupancy, and recording of liens has been received. If the sub-recipient has transferred funds from the NSP operating account or the escrow account and these funds remain under the control of the sub-recipient, the funds are not considered expended for purposes of administrative closeout unless they will be paid out as part of the closeout.

(b) At the time of submission of the closeout report, the State's sub-recipient must have available documentation which verifies its certification that all construction has been completed, inspected and approved by all parties prior to the subgrant agreement end date and submission of the administrative closeout.

(c) Upon completion of the activities contained in the State's sub-recipient NSP subgrant agreement, including any amendments, the State's sub-recipient shall submit to the Department a closeout which, at a minimum, gives the final statement of costs, certifies that the project and all non-administrative activities are completed and accepted, certifies that all costs except those reflected on the closeout have been paid, and reports the demographics of the program's beneficiaries.

(d) If any change has been made since the application map or the last map amendment, the closeout shall also contain a revised map of the activities completed during the term of the NSP subgrant agreement.

(e) The closeout shall include a list of the households assisted under the subgrant agreement, and certify that they met NSP household income eligibility requirements. HUD or DCA may require additional information to be submitted.

(f) For activities where hookups or connections are required for beneficiary access to the public improvement, evidence at the time of closeout must show:

1. The total number of persons in all households in the service area;

2. The number of low-, moderate-, and middle-income households (LMMH) connected to the infrastructure; and

3. Projects meeting the low-, moderate-, and middle-income area (LMMA) NSP national objective must document that the number of LMMA persons in households

connected to the infrastructure divided by the total number of beneficiaries in the service area equals at least 51 percent or higher.

(g) The closeout must contain original signatures from the authorized representative of the State's sub-recipient. Facsimile (FAX) submissions are not acceptable.

(h) If a State's sub-recipient fails to meet contractual requirements on time, the Department reserves the right to require that a State's sub-recipient financially (not administratively) close out a subgrant agreement in order to meet federal requirements for the timely distribution of funds set by HUD.

(i) The closeout is due within forty-five (45) days after expiration or termination of the subgrant agreement.

(27) Mitigation of fraud, waste and abuse.

(a) The Department will conduct oversight of the expenditure of NSP funds to prevent waste, fraud and abuse by monitoring, subgrantee monthly reporting and ensuring subgrantees are aware of federal financial recordkeeping and best practice methods for fraud prevention, through technical assistance and training.

(b) To prevent the opportunity for fraudulent activities or fiscal mismanagement related to real estate and financial transactions, sub-grantees are required to work with a third party management or accounting entity that can assist with proper asset valuation and secured transactions, unless they can demonstrate significant experience in these areas.

Rulemaking Authority Chapter 2009-01, Law of Florida. Law Implemented Chapter 2009-01, Law of Florida. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Jacquelyn Dupree, Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, FL, (850)487-3644, e-mail: jackie.dupree@dca.state.fl.us

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Thomas G. Pelham

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 17, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 17, 2009

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE NO.: 11B-18.004
RULE TITLE: Regional Training Areas

PURPOSE AND EFFECT: To update the names of Commission-certified training schools.

SUMMARY: To update the names of Commission-certified training schools.

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: 943.03(4), 943.12(1), (2) FS.
LAW IMPLEMENTED: 943.25(5) 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 21, 2009, 1:00 p.m.

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

11B-18.004 Regional Training Areas.

For the purposes of Officer Training Monies activities, there are established the following sixteen regional training areas:

(1) Region I.

(a) No change.

(b) Commission-certified training schools within Region I: George Stone Vo-Tech Criminal Justice Training Center and Northwest Florida State College Criminal Justice Training Center ~~Okaloosa Walton College Criminal Justice Training Center.~~

(2) through (3) No change.

(4) Region IV.

(a) No change.

(b) Commission-certified training schools within Region IV: Lake City Community College Criminal Justice Center, North Florida Community College Criminal Justice Academy, and Santa Fe ~~Community~~ College Institute of Public Safety.

(5) through (b) No change.

(7) Region VII.

(a) No change.

(b) Commission-certified training schools within Region VII: Brevard Community College Criminal Justice Division, Criminal Justice Institute at Valencia Community College, School of Emergency Services Institute at Daytona State College ~~Daytona Beach Community College Emergency~~

~~Services Institute~~, Criminal Justice Academy of Osceola, Lake Technical Center Institute of Public Safety, and Seminole Community College Criminal Justice Institute.

(8) No change.

(9) Region IX.

(a) No change.

(b) Commission-certified training schools within Region IX: Hillsborough Community College Yabor City Campus Criminal Justice Institute, Manatee Technical Law Enforcement Institute ~~Criminal Justice~~ Academy, Manatee Sheriff's Office Training Center, Pasco-Hernando Community College Public Service Technology Center, and St. Petersburg ~~Junior~~ College Southeastern Public Safety Institute.

(10) Region X.

(a) No change.

(b) Commission-certified training schools within Region X: Sarasota County Technical Institute/Sarasota Criminal Justice Academy and Southwest Florida Public Service Academy ~~Lee County Vo Tech Center (Central)/Southwest Florida Criminal Justice Academy~~.

(11) Region XI.

(a) No change.

(b) Commission-certified training school within Region XI: Indian River State ~~Community~~ College Criminal Justice Institute.

(12) No change.

(13) Region XIII.

(a) No change.

(b) Commission-certified training school within Region XIII: Broward ~~Community~~ College ~~Criminal Justice~~ Institute of Public Safety and Broward County Sheriff's Office Institute for Criminal Justice Studies.

(14) through (16) No change.

Rulemaking Specific Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.25(5) FS. (Supp. 1998). History—New 1-13-81, Amended 7-28-82, 1-7-85, Formerly 11B-18.04, Amended 7-13-87, 1-2-97, 7-7-99, 8-22-00, 11-5-02, 11-30-04, 3-27-06, 3-21-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Cabinet

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 17, 2009

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE NOS.:	RULE TITLES:
11B-20.001	Definitions and Minimum Requirements for General Certification of Instructors
11B-20.0014	Minimum Requirements for High-Liability and Specialized Topics Instructor Certification

PURPOSE AND EFFECT: To revise the requirements for obtaining a general, specialized, or high-liability instructor certification and changed the affiliation reporting requirements, and to revise forms CJSTC-10, CJSTC-61, CJSTC-71, and CJSTC-81 to correspond with the proposed rule revisions.

SUMMARY: Rule 11B-20.001: To revise the Speed Measurement Device Instructor Field Evaluation form CJSTC-10, Instructor Certification Application form CJSTC-71, and the Instructor Competency Checklist form CJSTC-81 to correspond with the proposed rule revisions. To retire the CMS Instructor Techniques Course number 1116 and replace it with the Florida General Instructor Techniques Course number 1186. To revise this rule section to require a training center director or agency administrators to report an instructor's change in affiliation by submitting a completed Affidavit of Separation form CJSTC-61 to Commission staff. To remove the permissive word "authorize," and restructure the sentence with more appropriate rule language.

Rule 11B-20.0014: To clarify that the timeline of four years is required to apply for a specialized instructor certification after completion of a specialized instructor course. To clarify the required training and internship requirements for instructors who do not comply with the four-year time line. To clarify existing rule language for obtaining a Law Topics, Speed Measurement, Canine Team, and Breath Test specialized instructor certification.

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: 943.03(4), 943.12(1), 943.14(3) FS.

LAW IMPLEMENTED: 943.12(3), (9), 943.13(6), 943.14(3) 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 21, 2009, 1:00 p.m.

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULE IS:

11B-20.001 Definitions and Minimum Requirements for General Certification of Instructors.

(1) No change.

(2) Instructor applicants applying for instructor certification shall:

(a) Complete the Instructor Certification Application, form CJSTC-71, revised October 30, 2008 ~~November 8, 2007~~, hereby incorporated by reference;

(b) through (c) No change.

(3) General Instructor Certification.

(a) Instructor applicants shall comply with the following requirements to obtain General Instructor Certification:

1. Instructor applicants shall successfully complete the Traditional Instructor Techniques Course (Retired 6/30/2004), ~~or CMS Instructor Techniques Course (Retired 11/14/08), or Florida General Instructor Techniques Course~~ delivered through a training school or complete equivalent instructor training. The training center director is authorized to have instructor applicants complete only those portions of the CMS Instructor Techniques Course for which the instructor applicant is deficient.

2. Instructor applicants who apply for General Instructor Certification shall have completed the required instructor training within four years of the date the instructor applicant applies for certification. Instructor applicants who apply more than four years from the date training was completed shall be required to complete the General Instructor Refresher Course.

3. After successful completion of the mandatory instructor training, instructor applicants shall complete an internship.

a. The instructor applicant shall be supervised by and have his or her instructional abilities evaluated by a training center director or agency administrator, who is currently an instructor, or a designee who is currently an instructor. The training center director, agency administrator, or designee shall complete the

Instructor Competency Checklist, form CJSTC-81, revised October 30, 2008 ~~November 8, 2007~~, hereby incorporated by reference.

b. The instructor applicant shall demonstrate the applicable competencies listed on form CJSTC-81, which shall be maintained in the instructor's file at the training school or agency.

c. The instructor applicant shall be evaluated by his or her students. Student evaluations shall be reviewed with the instructor applicant by a training center director, agency administrator, or an instructor designated by the training center director or agency administrator, and documented on form CJSTC-81.

4. Instructor applicants shall complete the Instructor Certification Application form CJSTC-71 and attach all required documentation prior to submitting the application for approval. The training center director, agency administrator, or designee is required to submit form CJSTC-71 to Commission staff or electronically transmit ~~transmitted~~ through the Commission's ATMS. Form CJSTC-71 and supporting documentation on each ~~all~~ affiliated instructor ~~instructors~~ shall be maintained in the instructor's file.

5. Instructor Separation or Change of ~~from~~ Affiliation.

a. When an instructor requests a change of affiliation, ~~or the training center director or agency administrator separates an instructor for administrative purposes~~, the training center director, agency administrator, or designee shall complete an Affidavit of Separation, form CJSTC-61, revised November 8, 2007, hereby incorporated by reference, and submit ~~submitted~~ to Commission staff, or immediately transmit through the Commission's ATMS. A copy shall be maintained in the instructor's file.

b. When a training center director or agency administrator separates an instructor for administrative purposes, the training center director, agency administrator, or designee shall notify the instructor of the separation and submit form CJSTC-61 to Commission staff or transmit through the Commission's ATMS. A copy of form CJSTC-61 shall be maintained in the instructor's file.

c. If the separation involves a violation of Section 943.13(4), F.S., or moral character violation, the training center director, agency administrator, or designee shall also complete the Affidavit of Separation Supplement, form CJSTC-61A, revised November 8, 2007, hereby incorporated by reference and form CJSTC-61 and submit to Commission staff.

(b) Equivalent Instructor Training.

1. Instructor applicants who request an exemption from the required instructor training shall be evaluated by the training center director for completion of equivalent instructor training by documenting the instructor applicant's qualifications. Documentation shall include the instructor applicant's training in all of the following competencies, or the training center director may authorize the instructor applicant

to complete only those portions of the Florida General Instructor Techniques Course ~~CMS Instructor Techniques Course~~ for which the instructor applicant is deficient:

- a. Training liability.
- b. Ethics.
- c. Human diversity training required by Section 943.1758, F.S.
- d. Adult learning theory.
- e. Communication skills.
- f. Instructional aids ~~Learning aids~~.
- g. Principles of instruction.
- h. Lesson plan preparation.
- i. Evaluation, measurement, and simulation and measurement.
- j. Demonstration of instructional ability.
- k. Group management.
- l. Facilitation skills.
- m. Applied Learning Concepts.

2. Instructor applicants shall complete an internship.

a. The instructor applicant shall be supervised by and have his or her instructional abilities evaluated by a training center director or agency administrator, who is currently an instructor, or a designee who is currently an instructor. The training center director, agency administrator, or designee, shall complete the Instructor Competency Checklist form CJSTC-81.

b. The instructor applicant shall demonstrate the applicable competencies listed on form CJSTC-81, which shall be maintained in the instructor's file at the training school or agency.

c. The instructor applicant shall be evaluated by his or her students. Student evaluations shall be reviewed with the instructor applicant by a training center director, agency administrator, or an instructor designated by the training center director or agency administrator, and documented on form CJSTC-81.

3. Instructor applicants shall complete the Instructor Certification Application form CJSTC-71 and attach all required documentation prior to submitting the application for approval. The training center director, agency administrator, or designee is required to submit form CJSTC-71 to Commission staff or electronically transmit through the Commission's ATMS. Form CJSTC-71 and supporting documentation on each affiliated instructor shall be maintained in the instructor's file ~~shall electronically transmit through the Commission's ATMS, or submit form CJSTC-71 to Commission staff. The supporting documentation for affiliated instructors shall be maintained in the instructor's file.~~

(c) Exemption from Instructor Techniques Courses.

1. Instructor applicants are exempt from the Florida General Instructor Techniques ~~Traditional General Instructor Techniques Course (Retired 6/30/2004) or CMS General Instructor Techniques Course~~ when the instructor applicant is a

full-time instructor at a vocational technical institution or an accredited community college, college, or university. The instructor applicant shall provide documentation of his or her full-time status and identify the name and location of the vocational technical institution, ~~college~~, community college, college, or university.

2. Instructor applicants shall complete an internship pursuant to subparagraph (3)(b)2. of this rule section.

3. Instructor applicants shall complete the Instructor Certification Application form CJSTC-71 and attach all required documentation prior to submitting the application for approval.

(4) through (6) No change.

Rulemaking Specific Authority 943.03(4), 943.12(1), 943.14(3) FS. Law Implemented 943.12(3), (9), 943.14(3) FS. History—New 7-21-82, Formerly 11B-20.01, Amended 10-26-88, 5-14-92, 12-8-92, 1-10-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, _____.

11B-20.0014 Minimum Requirements for High-Liability and Specialized Topics Instructor Certification.

(1) No change.

(a) through (b) No change.

(c) Complete the instructor training requirements set forth in subsection (2) of this rule section, for High-Liability Instructor Topics for which the instructor applicant is requesting certification. The High-Liability Training Courses and proficiency requirements are outlined in Rule 11B-35.0024, F.A.C.

(d) through (f) No change.

(2) No change.

(3) Specialized Topics Instructor Certifications. Instructor applicants who apply for a Specialized Topics Instructor Certification shall have completed the applicable specialized instructor course within four years of the date the instructor applicant applies for certification. Instructor applicants who apply for a Specialized Topics Instructor Certification more than four years from the date training was completed, shall meet the requirements for completing an internship and demonstration of proficiency skills if applicable to the specialized topic. Instructor applicants shall meet the requirements for each Specialized Instructor Topics Certification requested.

(a) Law Topics Instructor Certification. Instructor applicants ~~Individuals~~ who request certification to instruct legal topics as outlined in subparagraphs (3)(a)6.-8. of this rule section shall comply with the following requirements to obtain Law Topics Instructor Certification:

1. Possess a General Instructor Certification or be eligible for General Instructor Certification and apply for General Instructor Certification at the same time the instructor requests a Law Topics Instructor Certification; and

2. Possess three years of criminal justice experience and a minimum of fifteen semester hours of college law courses, to include both a constitutional law course and a criminal law course with a grade of "C" or above from an accredited college or university; or

3. Possess a juris doctorate from an accredited college or university defined in Section 943.22, F.S.

4. ~~Successfully complete a Law Topics internship supervised by a certified instructor and document on the Instructor Competency Checklist form CJSTC-81. The instructor applicant shall be supervised by and have his or her instructional abilities evaluated by a certified instructor and shall complete the Instructor Competency Checklist form CJSTC-81. The instructor applicant shall demonstrate the applicable competencies listed on form CJSTC-81, which shall be maintained in the instructor's file at the training school or agency.~~

5. ~~Be The instructor applicant shall be evaluated by his or her students. Student evaluations shall be reviewed with the instructor applicant by a training center director, agency administrator, or an instructor designated by the training center director or agency administrator, and documented on form CJSTC-81.~~

6. through 8. No change.

(b) Speed Measurement Instructor Certification. Instructor applicants who request certification To be certified to instruct speed measurement training courses an instructor applicant shall:

1. Possess a General Instructor Certification or be eligible for General Instructor Certification and apply for General Instructor Certification at the same time the applicant is requesting Speed Measurement Instructor Certification; and

2. Possess three years experience as a speed measurement device operator; and

3. Successfully complete at a training school, the Speed Measurement Instructor Course for Law Enforcement Officers, course number 1159 or the Radar Speed Measurement Instructor Course for Law Enforcement Officers, course number 1108, retired December 31, 2006, and the Laser Speed Measurement Device (LSMD) Instructor Transition Course for Radar Instructors, course number 1109, to be retired December 31, 2008; and

4. Complete the Speed Measurement Device Instructor Field Evaluation, form CJSTC-10, revised October 30, 2008 ~~November 8, 2007~~, hereby incorporated by reference.

5. Successfully complete a speed measurement internship supervised by a certified Speed Measurement Instructor and document on the Instructor Competency Checklist form CJSTC-81. The instructor applicant shall be supervised by and have his or her instructional abilities evaluated by a certified speed measurement instructor and shall complete the Instructor Competency Checklist form CJSTC-81. The instructor

~~applicant shall demonstrate the applicable competencies listed on form CJSTC-81, which shall be maintained in the instructor's file at the training school or agency.~~

6. ~~Be The instructor applicant shall be evaluated by his or her students. Student evaluations shall be reviewed with the instructor applicant by a training center director, agency administrator, or an instructor designated by the training center director or agency administrator, and documented on form CJSTC-81.~~

(c) Canine Team Instructor Certification. Instructor applicants who request to obtain certification to instruct Commission-approved canine team training courses shall An instructor applicant shall:

1. Possess a General Instructor Certification or be eligible for General Instructor Certification and apply for a General Instructor Certification at the same time the applicant requests Canine Team Instructor Certification.

2. Possess a minimum of three years criminal justice canine team experience documented in the instructor applicant's file at the training school or agency.

3. Successfully complete Successful completion of the Canine Team Training Course number 1112 or an equivalent course pursuant to subsection 11B-27.013(4), F.A.C.

4. Successfully complete the Canine Team Training Instructor Course through a training school.

5. Successfully complete a Canine Team internship supervised by a certified Canine Team Instructor and document on the Instructor Competency form CJSTC-81. An Complete an internship documented on a Competency Checklist form CJSTC-81. As part of the required internship, an instructor applicant shall instruct any topic of the Canine Team Training Course or Canine Team Training Instructor Course and shall be evaluated by a certified canine team instructor.

6. Be evaluated by his or her students. Student evaluations shall be reviewed with the instructor applicant by a training center director, agency administrator, or an instructor designated by the training center director or agency administrator, and documented on form CJSTC-81.

7. Provide verification that there is not a sustained "excessive use-of-force" complaint against the instructor applicant, involving the use of the canine at the time a canine was under his or her command, at the agency(s) where the instructor applicant obtained experience as a canine officer. The verification shall be documented on agency letterhead and signed by the agency administrator or designee.

(d) Breath Test Instructor Certification. Instructor applicants who request certification A Breath Test Instructor shall be certified by the Commission to instruct the Breath Test Operator Course, Breath Test Operator Renewal Course, Agency Inspector Course, and the Agency Inspector Renewal Course, pursuant to subsection 11B-35.007, F.A.C., shall: Only certified breath test instructors shall instruct such courses.

1. Breath test instructor applicants shall:

~~1.a.~~ Possess a General Instructor Certification or be eligible for General Instructor Certification and apply for a General Instructor Certification at the same time the applicant requests a Breath Test Instructor Certification.

~~2.b.~~ Successfully complete the Breath Test Instructor Course through a training school and complete the required Alcohol Testing Program proficiencies.

~~3.e.~~ Have a minimum of three years experience as a certified breath test operator and agency inspector.

~~4.d.~~ Possess a valid Breath Test Operator Permit and a valid Agency Inspector Permit at the time the application for breath test instructor certification is submitted.

~~5.e.~~ Successfully complete a Breath Test internship supervised by a certified Breath Test Instructor and document on the Instructor Competency Checklist form CJSTC-81. ~~Be supervised by and have his or her instructional abilities evaluated by a Commission certified Breath Test Instructor and complete the Instructor Competency Checklist form CJSTC 81. The instructor applicant shall successfully demonstrate the competencies listed on form CJSTC 81, which shall be maintained in the instructor's file at the training school.~~

~~6.f.~~ Be evaluated by his or her students. Student evaluations shall be reviewed with the instructor applicant by a training center director, agency administer, or an instructor designated by the training center director or agency administrator, and shall be documented on form CJSTC-81, which shall be maintained in the instructor's file at the training school or agency.

~~7.2.~~ Alcohol Testing Program staff shall possess a General Instructor Certification pursuant to sub-subparagraph (3)(d)1.a. of this rule section, and shall be exempt from the requirements of sub-subparagraphs (3)(d)1.b.-f. of this rule section.

Rulemaking Specific Authority 943.03(4), 943.12(1), 943.14(3) FS. Law Implemented 943.12(3), (9), 943.13 (6), 943.14(3) FS. History—New 7-29-01, Amended 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Cabinet

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 17, 2009

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE NOS.:	RULE TITLES:
11B-21.002	Criminal Justice Training Schools' Request for Certification, Expansion of Certification, and Re-certification
11B-21.005	Criminal Justice Training School Requirements for Certification and Re-certification

PURPOSE AND EFFECT: To revise the Commission-certified training school staffing and equipment requirements in rule and to revise forms CJSTC-29, CJSTC-203, CJSTC-204, and CJSTC-205 to correspond with the proposed rule revisions.

SUMMARY: 11B-21.002: To revise the Criminal Justice Training School Certification and Re-certification Application form CJSTC-29 to require at least one full-time instructor or instructor coordinator that reports solely to the training center director for training schools with a Type "B" or "C" certification. To revise the reference to "Medical First Responder" to "First Aid" to correspond with the current course name.

11B-21.005: To revise the Defensive Tactics Facility and Equipment Requirements form CJSTC-203 to allow outdoor chemical agent exposure. To revise the Staffing Requirements form CJSTC-204 to reflect the new staffing requirements for training schools with a Type "B" or "C" certification required in Rule 11B-21.002, F.A.C. To revise the Training School Classroom Facility and Equipment Requirements form CJSTC-205 to update the required instructional aid equipment.

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: 943.03(4), 943.12(1), (2) FS.
LAW IMPLEMENTED: 943.12(3), (7), 943.14, 943.17(1)(g) 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 21, 2009, 1:00 p.m.
PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Donna Hunt at (850)410-8615 or

donnahunt@fdle.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice). THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULES IS:

11B-21.002 Criminal Justice Training Schools' Request for Certification, Expansion of Certification, and Re-certification.

(1) Training organizations requesting Commission certification, re-certification, or expansion of a current certification shall apply to the Commission by submitting to Commission staff a completed Training School Certification, Re-certification, or Expansion of Certification Application, form CJSTC-29, revised October 30, 2008 ~~February 7, 2002~~, hereby incorporated by reference. Form CJSTC-29 shall reflect that certification is for the training organization requesting the certification, re-certification, or expansion of a current certification.

(2) through (6) No change.

Rulemaking Specific Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.12(3), (7), 943.14 FS. History—New 7-21-82, Amended 1-28-86, Formerly 11B-21.02, Amended 12-13-92, 1-2-97, 7-7-99, 8-22-00, 11-5-02, 11-30-04, 3-21-07, 6-9-08,_____.

11B-21.005 Criminal Justice Training School Requirements for Certification and Re-certification.

Training Schools certified by the Commission shall comply with the following requirements:

(1) through (2) No change.

(3) Classroom Facility and Equipment Requirements. Comply with the classroom facility and equipment requirements set forth in the Training School Classroom Facility Requirements, form CJSTC-205, revised October 30, 2008 ~~May 6, 2004~~, hereby incorporated by reference.

(4) No change.

(5) Defensive Tactics Facility, Equipment, and Instructor to Student Ratio Requirements. When conducting Commission-approved defensive tactics training, comply with the defensive tactics equipment, facility, and instructor to student ratio requirements set forth in subsection 11B-35.0021(4), F.A.C., and in the Defensive Tactics Facility and Equipment Requirements, form CJSTC-203, revised October 30, 2008 ~~November 8, 2007~~, hereby incorporated by reference.

(6) through (7) No change.

(8) Staffing Requirements. Comply with the personnel requirements set forth in the Staffing Requirements, form CJSTC-204, revised October 30, 2008 ~~May 6, 2004~~, hereby incorporated by reference. The following specifications shall be met:

(a) through (c) No change.

(9) Comply with the instructor certification requirements set forth in Rule Chapter 11B-20, F.A.C., when delivering Commission-approved training.

(10) through (11) No change.

Rulemaking Specific Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.12(3), (7), 943.14, 943.17(1)(g) FS. History—New 7-21-82, Formerly 11B-21.05, Amended 1-28-86, 8-30-89, 12-24-89, 6-3-91, 12-13-92, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Cabinet

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 17, 2009

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE NOS.:	RULE TITLES:
11B-27.00212	Maintenance of Officer Certification
11B-27.00213	Temporary Employment Authorization
11B-27.013	Canine Team Certification

PURPOSE AND EFFECT: To revise the requirements for complying with the Commission's Firearms Qualification Standard, Firearms performance evaluation, equivalent canine team training evaluations, and agency or training school affiliation reporting requirements for canine team evaluators, and to revise forms CJSTC-86A, CJSTC-70, and CJSTC-4 CMS to correspond with the proposed rule revisions.

SUMMARY: 11B-27.00212: To revise form CJSTC-86A. To revise the Law Enforcement Officer Firearms Qualification Standard form CJSTC-86A to permit the use of a reduced sized target to demonstrate proficiency (with a handgun only) on the Commission's Firearms Qualification Standard Course of Fire pursuant to Rule 11B-27.014, F.A.C. To revise the Commission's Firearms Qualification Standard Course of Fire for officers injured in the line of duty. To revise the to grant a two-year extension, to officers who have been injured in the line of duty, to satisfy the Commission's Firearms Qualification Standard Course of Fire pursuant to Rule 11B-27.014, F.A.C.

11B-27.00213: To revise form CJSTC-4 CMS. To revise the CMS Firearms Performance Evaluation form CJSTC-4 CMS to remove the proficiency skills designated as "CMS New" pursuant to the revisions in Rule 11B-35.0023, F.A.C. To clarify rule language. 11B-27.013 To clarify the process for canine team evaluators to evaluate canine team equivalent training. To require that Equivalent training shall be reviewed

and approved by a Commission-approved evaluator, however, a canine team evaluator shall not approve equivalent canine team training for they delivered. To revise form CJSTC-70. To revise the Patrol Canine Team Certification Application form CJSTC-70 to require the first and second canine team evaluator to include their agency or training school affiliation.

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: 943.03(4), 943.12(1) FS.

LAW IMPLEMENTED: 943.11, 943.12, 943.12(3), 943.12(17), 943.13, 943.13(11), 943.131, 943.133, 943.135, 943.139, 943.1395, 943.1395(3), 943.17(1)(a), 943.1701, 943.1715, 943.1716, 943.253 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 21, 2009, 1:00 p.m.

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Donna Hunt at (850)410-8615 or donnahunt@FDLE.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

11B-27.00212 Maintenance of Officer Certification.

(1) through (13) No change.

(14) Law Enforcement Officer Firearms Qualification Standard. Beginning July 1, 2006, a law enforcement officer shall be required to qualify on the Commission's approved course of fire with the proficiency skills documented on the Law Enforcement Officer Firearms Qualification Standard, form CJSTC-86A, revised January 29, 2009 ~~November 8, 2007~~, hereby incorporated by reference, and maintained in the officer's employment file.

(a) A certified law enforcement officer who fails to demonstrate proficiency skills on the required firearms qualification standard shall not perform the duties of a sworn officer.

(b) Reporting of the compliance with this standard shall be June 30, 2008, and every two years thereafter. Documentation supporting the demonstration of proficiency skills shall be reported on the Mandatory Firearms Training Report, form CJSTC-86, revised November 8, 2007, hereby incorporated by reference, and maintained in the officer's file. The employing agency shall submit or electronically transmit to Commission staff through the Commission's ATMS, the date of completion.

(c) In the event a certified law enforcement officer fails to meet this standard by June 30 of each reporting year, the officer's certificate shall become inactive until the employing agency provides documentation to Commission staff establishing that the firearms qualification standard has been satisfied.

(d) The certificate of a law enforcement officer shall become inactive if the officer has separated from employment or appointment and is not reemployed or reappointed within the two-year reporting cycle. The officer will be required to comply with the firearms qualification standard upon employment or appointment.

(e) In the event a certified law enforcement officer is injured in the line of duty and fails to meet this standard by June 30 of a reporting year, the agency administrator or designee shall complete the Injury in the Line of Duty, form CJSTC-86B, created January 29, 2009, hereby incorporated by reference. The agency shall submit form CJSTC-86B and the supporting documentation to Commission staff prior to the June 30 deadline to ensure the officer's certificate does not become inactive on the reporting deadline for that two-year reporting cycle.

(15) No change.

Rulemaking Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12, 943.13(11), 943.135, 943.1395(3), 943.1701, 943.1715, 943.1716, 943.253 FS. History—New 11-5-02, Amended 12-3-03, 11-30-04, 3-27-06, 3-21-07, 6-9-08, _____.

Editorial Note: See 11B-27.0023, F.A.C.

11B-27.00213 Temporary Employment Authorization.

A Certificate of Compliance shall not be issued to officers employed on a Temporary Employment Authorization (TEA) prior to meeting the requirements of Sections 943.13(1)-(10), F.S.

(1) No change.

(2) An officer employed on a TEA, shall be excused from the firearms training requirement upon placement of a statement. An agency administrator is authorized to request to waive the firearms training requirement for a TEA by placing a statement in the officers file at the employing agency. The statement shall be, which has been signed by the agency administrator; confirming that the TEA-appointed officer shall not be permitted to carry a firearm until the following classroom training requirements have been fulfilled:

(a) No change.

(b) Firearms Range Training. The trainee’s proficiency demonstration shall be documented on a CMS Firearms Performance Evaluation, form CJSTC-4 CMS, revised October 30, 2008 ~~November 8, 2007~~, hereby incorporated by reference, and maintained in the trainee’s file at the employing agency. The instructor shall qualify the trainee with a handgun (revolver or semi-automatic pistol) and long gun (shotgun or semiautomatic rifle/carbine) using the Commission’s Basic Recruit Training Firearms Course of Fire, pursuant to form CJSTC-4 CMS, and the form shall be maintained in the trainee’s file at the employing agency. Trainees shall fire a long gun as prescribed in the Commission-approved Basic Recruit Training Program.

(3) through (5) No change.

Rulemaking Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12(3), 943.13, 943.131, 943.133, 943.139, 943.1395, 943.17(1)(a) FS. History–New 11-5-02, Amended 11-30-04, 3-27-06, 6-9-08,_____.

11B-27.013 Canine Team Certification.

(1) No change.

(2) Patrol canine team certification requirements. Commission certification of a patrol canine team is not required. Prior to submitting a Patrol Canine Team Certification Application, form CJSTC-70, revised October 30, 2008 ~~November 8, 2007~~, hereby incorporated by reference, the agency employing the patrol canine team shall collect, verify, and have on file documents establishing compliance with the requirements of this rule section, regardless of where canine training takes place.

(3) No change.

(4) Equivalent Training. Equivalent training shall be reviewed and approved by a Commission-approved evaluator. Equivalent training for a canine team, with a handler who has never been certified, shall comply with the objectives of the Canine Team Training Course, which is a minimum of 400 hours. Equivalent training for a previously certified handler, who is assigned a new canine, shall comply with the objectives of the Canine Team Training Course with the exception of the administrative block of instruction. It is the responsibility of the employing agency submitting the Patrol Canine Team Certification Application form CJSTC-70, to provide documentation of training to the Commission-approved evaluator for review and approval as equivalent training. A Commission-approved evaluator shall not approve equivalent training that the evaluator delivered.

(5) through (8) No change.

Rulemaking Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12(17) FS. History–New 3-29-89, Amended 12-13-92, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Donna Hunt at (850)410-8615 or donnahunt@FDLE.state.fl.us
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Cabinet
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 9, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 17, 2009

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE NO.: 11B-30.007
RULE TITLE: Application for the State Officer Certification Examination and Notification Process

PURPOSE AND EFFECT: Currently an injured applicant must request a rule waiver in order to obtain a refund of the \$100 examination fee. This change will refund the injured applicant’s \$100 examination fee without the need to go through the rule waiver process.

SUMMARY: To allow an applicant to reschedule the State Officer Certification Examination if injured in a basic recruit training program and the injury prevents the applicant from taking the scheduled examination.

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: 943.03(4), 943.12(1) FS.

LAW IMPLEMENTED: 943.12(17), 943.1397(3) 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 21, 2009, 1:00 p.m.

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULE IS:

11B-30.007 Application for the State Officer Certification Examination and Notification Process.

- (1) No change.
- (2) through (5) No change.

(6) An applicant who has been scheduled to take the SOCE and is unable to take the certification examination on the date scheduled, shall be given the opportunity to submit a request to reschedule the SOCE within sixty days of the missed examination date. Rescheduling shall be subject to all requirements for eligibility, pursuant to Rule 11B-30.006, F.A.C. An additional application fee shall not be charged. Rescheduling of the SOCE, pursuant to this rule section, does not constitute a re-examination, pursuant to Section 943.1397, F.S. The following conditions shall be documented in the applicant’s request to reschedule the SOCE date:

- (a) through (e) No change.

(f) Injury During Training. An applicant shall be permitted to reschedule an SOCE if the applicant is injured while in an academy and the injury prevents the applicant from completing the basic recruit training program prior to the scheduled SOCE examination date. The applicant’s injury must occur as a result of participating in activities required in a basic recruit training program. Documentation of the applicant’s injury and how the injury occurred shall be submitted to Commission staff on training school letterhead and signed by the training center director.

Rulemaking Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12(17), 943.1397(3) FS. History–New 1-10-94, Amended 1-2-97, 7-7-99, 7-29-01, 11-5-02, 11-30-04, 3-21-07, 6-9-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Cabinet
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 9, 2009
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 17, 2009

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE NOS.:	RULE TITLES:
11B-35.001	General Training Programs; Requirements and Specifications
11B-35.002	Basic Recruit Training Programs for Law Enforcement, Correctional, and Correctional Probation
11B-35.0021	Courses for Basic Recruit Training and Instructor Training Requiring Proficiency Demonstration
11B-35.0023	Student Transfers within Basic Recruit Training Programs

11B-35.0024	Student Performance in Commission-approved High-Liability Basic Recruit Training Courses and Instructor Training Courses Requiring Proficiency Demonstration
11B-35.003	Basic Recruit Training Programs for Law Enforcement, Correctional, and Correctional Probation Auxiliary Training
11B-35.006	Advanced Training Program
11B-35.007	Specialized Training Program

PURPOSE AND EFFECT: To revise the general training requirements and specifications for competency-based training. To revise the required demonstration of proficiency skills in basic recruit training programs for students transferring from one training school to another. To revise the performance requirements for basic recruit training courses and instructor training courses. To revise the required demonstration of proficiency skills and student to instructor ratio requirements for basic recruit training, specialized instructor training, and specialized training courses. To revise basic recruit training program courses, specialized training program courses, specialized instructor training courses. To revise/create performance evaluation forms CJSTC-3, CJSTC-4 CMS, CJSTC-5 CMS, CJSTC-6 CMS, CJSTC-7 CMS, CJSTC-10, CJSTC-13, and to revise form CJSTC-70.

SUMMARY: Rule 11B-35.001: To increase the written end-of-course examination passing scores and clarify the requirements to retake an academy examination. To increase the written end-of-course examination passing score for Advanced and Specialized Training Courses from 75% to 80%. To increase the written end-of-course examination passing score for Specialized Instructor Training Courses from 75% to 85%. To clarify the process for granting a “first attempt” and “second attempt” for passing a written end-of-course examination and demonstration of proficiency skills in the high-liability topics. To clarify the use of “competency-based instruction” for basic recruit training programs and Commission-approved specialized instructor training program courses. To clarify the use of “competency-based instruction” for basic recruit training programs and Commission-approved specialized instructor training program courses. To revise form CJSTC-3. To revise the Role-Play Practicum Check Sheet form CJSTC-3 and add the Dart-Firing Stun Gun course # CJK_0422 and the role-play practicum scenarios, to add the Department of Education’s common course numbers to each of the role-play course names, and to update the instructions on the form.

Rule 11B-35.002 and 11B-35.0023: To revise the process for a student who transfers to another training school. To revise the CMS Firearms Performance Evaluation form CJSTC-4 CMS and Rule 11B-27.0023, F.A.C., to remove the requirement that an individual complete the proficiency skills designated as

“CMS New,” and requires that the student demonstrate the required proficiency skills at the time of the requested transfer. The training center director shall evaluate the student’s completed performance evaluation form(s) and ensure the student meets the current proficiency standards. This will ensure that a student completes the most current proficiency skills prior to transferring to a different training school. To add a new basic recruit training course and course number. To add the new DUI Traffic Stops course number CJK_0083 in the Florida CMS Law Enforcement Basic Recruit Training Program number 1177, and to the Florida CMS Law Enforcement Basic Recruit Training Program cross-over courses, numbers 1178 and 1179. To add new CJK numbers required by the Department of Education. To add a new CJK number, required by the Department of Education, for Criminal Justice Legal 1, Criminal Justice Legal 2, Criminal Justice Communications, Interpersonal Skills 1, Interpersonal Skills 2, Emergency Preparedness, and Correctional Operations, in the Traditional Correctional Basic Recruit Training Program number 502.

Rule 11B-35.0021: To revise the title of Rule 11B-35.0021, F.A.C., to better describe the rule language contained in that rule section. To add the new DUI Traffic Stops course to the Law Enforcement Basic Recruit Training Programs. To add the new DUI Traffic Stops course number CJK_0083 to the Florida CMS Law Enforcement Basic Recruit Training Program number 1177, and add the Florida CMS Law Enforcement Basic Recruit Training Program cross-over courses numbers 1178 and 1179. Housekeeping revisions. To add course numbers to existing course names for ease of finding the correct course. To add the new category of “Specialized Instructor Courses.” To add the required demonstration of proficiency requirements for the Speed Measurement Instructor Course number 1159. To revise the student to instructor ratio for defensive tactics and to add a student to instructor ratio for instruction of the Speed Measurement Instructor Course. To revise the student to instructor ratio for instruction of defensive tactics from 10 to 8 with the lead instructor included in the ratio. To add a student to instructor ratio for instruction of the Speed Measurement Instructor Course number 1159.

Rule 11B-35.0024: To revise the rule section title. To revise the title of the Rule 11B-35.0024, F.A.C., to better describe the rule language contained in that rule section. To clarify existing rule language. To change “cognitive knowledge” to “written end-of-course examination,” throughout all rules sections for consistency with terminology used by the training schools. To change “demonstration of high-liability proficiency skills” to “demonstration of proficiency skills” throughout all rule sections to clarify the proficiency skills process, i.e., “demonstration of proficiency skills in the high-liability topics of vehicle operations, defensive tactics, first aid, and firearms.”

To increase the written end-of-course examination passing score for specialized instructor training courses and the passing score for demonstration of proficiency skills. To increase the written end-of-course examination for Specialized Instructor Training Courses listed in Rule 11B-35.007, F.A.C., from 75% to 85%. To increase the proficiency demonstration for firearms instructors from 80% to 85%. To clarify the process for granting a “first attempt” and “second attempt” for successfully passing a written end-of-course examination and demonstration of proficiency skills in the high-liability topics. To add proficiency demonstrations for the DUI Traffic Stops course number CJK_0083 in a basic recruit training program and for the Speed Measurement Instructor course number 1159 (specialized instructor course). To add rule language to require that a basic recruit student achieve a score of no less than 80% on the required written end-of-course examination and demonstrate the required proficiency skills at 100% for the DUI Traffic Stops course number CJK_0083. To add rule language to require that an instructor student achieve a score of no less than 85% on the required written end-of-course examination and demonstrate the required proficiency skills at 100% for the Speed Measurement Instructor course number 1159. To revise and add CJSTC forms. To revise the CMS Firearms Performance Evaluation form CJSTC-4 CMS; CMS First Aid Performance Evaluation form CJSTC-5 CMS; CMS Defensive Tactics Performance Evaluation form CJSTC-6 CMS; CMS Vehicle Operations Performance Evaluation form CJSTC-7 CMS; Speed Measurement Device Instructor Field Evaluation form CJSTC-10; and to create the DUI Traffic Stops Performance Evaluation form CJSTC-13.

Rule 11B-35.003: To clarify the curriculum and high-liability training requirements for completing Auxiliary Officer Basic Recruit Training. To add detailed curriculum and high-liability training requirements for becoming a certified auxiliary officer. To clarify that the Auxiliary Officer Prerequisite Course shall be taught at a Commission-certified training school. Housekeeping revisions. To update rule references.

Rule 11B-35.006: Housekeeping revisions. To retire the Laser Speed Measurement Operators Course for Law Enforcement. To remove redundant rule language. To repeal form CJSTC-8. To repeal the Radar Operator Performance Report form CJSTC-8 because the form is no longer needed.

Rule 11B-35.007: To update the Specialized Instructor Training Program Course list and the Specialized Training Program Course list. To transfer the CMS General Instructor Update Course and the CMS Defensive Tactics and Firearms Instructor Update Course from the Specialized Instructor Training Courses list to the Specialized Training Program Course list. The transferred courses are Commission-approved Specialized Training Program Courses developed and approved by the Commission that have not been designated as Commission-approved Advanced Training Program Courses. To change the name of the Speed Measurement Instructor

Course for Law Enforcement Officers number 1159 to Speed Measurement Instructor Course number 1159. To add the new Florida General Instructor Techniques Course number 1186 (specialized instructor training course). To update the Specialized Training Program Course List. To add the Elder Abuse Investigations number 1185 (specialized training program course) to the Specialized Training Program Course List. To reduce the required hours in the Breath Test Operator Course from 24 to 16 hours and reduce the Breath Test Operator Renewal Course from 6 to 4 hours.

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: 943.03(4), 943.12(1), (2), 943.14(3), 943.17 FS.

LAW IMPLEMENTED: 943.12, 943.12(5), 943.17, 943.17(1), 943.17(1)(a), 943.175, 943.25 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 21, 2009, 1:00 p.m.

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULES IS:

11B-35.001 General Training Programs; Requirements and Specifications.

(1) through (5) No change.

(6) For the Florida CMS Law Enforcement Basic Recruit Training Program, Cross-Over Programs to Florida CMS Law Enforcement Basic Recruit Training Program, and CMS Law Enforcement Auxiliary Prerequisite Course effective April 1, 2008, the training center director shall:

(a) No change.

(b) Conduct student role-play practicums, as required in the curriculum, and report the results on a Role-Play Practicum Check Sheet, form CJSTC-3, revised October 30, 2008 ~~created November 8, 2007~~, hereby incorporated by reference. This form shall be completed by an instructor and maintained in the ~~student~~ student or course file at the training school.

(7) through (8) No change.

(9) Student academic performance in courses.

(a) Each training center director shall make available to its students and Commission staff a written copy of its performance standards.

(b) A student enrolled in a Commission-approved Basic Recruit Training Program shall achieve a score of no less than 80% on each of the written cognitive end-of-course examinations, exclusive of demonstration of proficiency skills in the ~~High Liability~~ Basic Recruit Training Courses. A student enrolled in a Commission-approved Advanced or Specified Specialized Training Program Course pursuant to subparagraphs (d)1.-13. of this rule section shall achieve a score of no less than ~~80%~~ 75% on the written cognitive end-of-course examination, ~~exclusive of demonstration of proficiency skills~~. A student enrolled in a Specialized Instructor Training Course shall achieve a score of no less than 85% on the written end-of-course examination, exclusive of demonstration of any proficiency skills.

(c) The training center director or designee is responsible for the development, maintenance, and administration of comprehensive end-of-course examinations. The training center director is authorized to develop, maintain, and administer additional academic tests for courses and is not limited to only the utilization of a comprehensive end-of-course examination. Training schools shall maintain examinations for Commission-approved Basic Recruit, Advanced, Specialized Instructor Training, and Specified Specialized Training Program Courses, pursuant to subparagraph (d)1.-13. of this rule section and in compliance with the administration, confidentiality, and security requirements of subsections 11B-35.0085(2)-(5), F.A.C.

(d) Specialized Instructor Training Courses outlined in subsection 11B-35.007(3), F.A.C., and the following Specified Specialized Training Program Courses require an end-of-course examination:

	Course Number	Course Title	Course Hours
1.	1112	Canine Team Training Course	400
2.	1113	Laser Speed Measurement Device (LSMD) Transition Operators Course for Radar Operators (Retired To be retired 12/31/08)	12
3.	1132	Parking Enforcement Specialist for Civilians	16
4.	1133	Selective Traffic Enforcement Program for Civilians	80
5.	732	Traffic Control Officer for Civilians	8
6.	851	Breath Test Operator Course	24
7.	951	Breath Test Operator Renewal Course	6
8.	850	Agency Inspector Course	24
9.	950	Agency Inspector Renewal Course	6
10.	1134	Criminal Justice Officer Ethics Course	8
11.	1135	Crimes Against Children	24
12.	1136	Domestic Violence	8
13.	1137	Violent Crime Investigator Training Course	40

(e) End-of-course examinations shall be developed and administered for each course in a basic recruit training program based on the learning objectives in each course.

(10) through (11) No change.

(12) Student attendance requirements for Commission-approved Basic Recruit Training Programs outlined in subsection 11B-35.002(1), F.A.C., Specialized Training Programs outlined in subsection 11B-35.007(1), F.A.C., and Advanced Training Program Courses outlined in paragraph 11B-35.006(1)(b), F.A.C.

(a) The training center director or designee shall maintain daily student attendance records for each training course. A training school shall have a written copy of its attendance policy available for review by students and Commission staff.

(b) Each student shall attend all sessions of a training course except for absences approved by the training center director. The training center director shall maintain in the student or course file at the training school, documentation specifying the reason for excused absence(s). Students shall be responsible for class work missed during absences. The training center director shall determine the content and quantity of makeup work. Documentation of the student's make-up work shall be signed by the training center director and maintained in the student or course file at the training school.

(c) The Commission approves competency-based instruction in the delivery of basic recruit training and instructor training courses defined in subparagraph (12)(c)1. of this rule section ~~the delivery of High Liability Basic Recruit Training High Liability Courses and CMS Instructor Courses as "competency-based" instruction. Competency-based instruction is defined as "curriculum that uses specific objectives and performance-based learning to achieve performance standards, in lieu of established contact hours."~~

1. Competency-based instruction is defined as "curriculum that uses specific objectives and performance-based learning to achieve performance standards, in lieu of established contact hours" in a delivery format that ensures that the training school delivers all curriculum materials.

2. Training schools are permitted to use competency-based instruction for courses within the basic recruit training programs except the Criminal Justice Officer Physical Fitness Training Course. Basic recruit students shall participate in 100% of the required hours in the Criminal Justice Officer Physical Fitness Course. The delivery of basic recruit training programs shall adhere to total program hours.

3. Training schools are permitted to use competency-based instruction for Commission-approved Instructor Courses.

~~(d) The Commission approves the delivery of courses within its Basic Recruit Training Programs in a delivery format that ensures the training school delivers all curriculum materials and adheres to the required program hours, however, basic recruit students shall participate in 100% of the required hours in the Criminal Justice Officer Physical Fitness Training course.~~

(13) Student Re-examination Policy for Commission-approved Basic Recruit Training Program Courses.

(a) A student shall achieve a passing score, pursuant to subsection 11B-35.001(9), F.A.C., on all end-of-course examinations in a Commission-approved Basic Recruit Training Program to successfully complete a program. A student who has failed a written ~~cognitive~~ end-of-course examination may be granted a re-examination by the training center director if:

1. There is technical difficulty in the administration of the test.

2. A condition of the student adversely impacts the student's ability to achieve a passing score on an end-of-course examination.

3. The end-of-course testing instrument is shown to be invalid.

(b) Exclusive of the Commission's Basic Recruit Training Courses requiring proficiency demonstration ~~high liability training courses~~ and re-examinations in paragraph (13)(a) of this rule section, a student may be granted one written end-of-course ~~cognitive~~ re-examination during a single Basic Recruit Training Program. Students, who have failed the written end-of-course examination to successfully demonstrate the required cognitive knowledge ~~the required cognitive knowledge~~ after a second attempt, shall be deemed to have failed the course.

(c) The training center director is authorized to approve a student's request for re-examination.

(14) Student re-examination policy for Commission-approved Advanced and Specialized Training Program Courses. A student who has failed a written ~~cognitive~~ end-of-course examination in a Commission-approved Advanced or Specialized Training Program Course may be granted a re-examination of the course by the training center director as set forth in paragraph (13)(a) of this rule section. Each training school shall develop its own administrative procedures for processing a student's request for a re-examination as set forth in subsection (13) of this rule section. Training school procedures for processing student requests for re-examination shall be documented and maintained on file at the training school for review by Commission staff and the student.

(15) through (17) No change.

Rulemaking Specific Authority 943.03(4), 943.12(1), (2), 943.17 FS. Law Implemented 943.12, 943.17 FS. History—New 12-13-92, Amended 8-7-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08,_____.

11B-35.002 Basic Recruit Training Programs for Law Enforcement, Correctional, and Correctional Probation.

(1) There are established by the Criminal Justice Standards and Training Commission, Basic Recruit Training Programs (BRTP) that provide the minimum required knowledge and

proficiency skills necessary for officer employment and certification pursuant to Sections 943.10(1)-(3), F.S. Individuals who apply for employment as a Florida law enforcement, correctional, or correctional probation officer, shall successfully complete one of the following Commission-approved Basic Recruit Training Programs:

(a) Law Enforcement Discipline					
	Program Number	Basic Recruit Training Programs	Program Hours	Retired (R) Effective(E)	
1.	002	Traditional Law Enforcement BRTTP	672-	R-6/30/04	
2.	224	CMS Application-Based Law Enforcement BRTTP	770	R-3/31/08	
3.	1177	Florida CMS Law Enforcement BRTTP	770	E-4/1/08	
4.	222	Traditional Correctional Cross-Over to Traditional Law Enforcement BRTTP	172	R-3/31/05	
5.	1143	Traditional Correctional Cross-Over to CMS Application-Based Law Enforcement BRTTP	444	R-3/31/08	
6.	1178	Correctional Officer Cross-Over Training to Florida CMS Law Enforcement BRTTP	457	E-4/1/08	
7.	223	Traditional Correctional Probation Cross-Over to Traditional Law Enforcement BRTTP	412	R-3/31/06	
8.	1157	Traditional Correctional Probation Cross-Over to CMS Application-Based Law Enforcement BRTTP	554	R-3/31/08	
9.	1179	Correctional Probation Officer Cross-Over Training to Florida CMS Law Enforcement BRTTP	529	E-4/1/08	
10.	211	Law Enforcement Auxiliary Officer BRTTP	317	R-3/31/08	
11.	1180	CMS Law Enforcement Auxiliary Officer BRTTP	319	E-4/1/08	

(b) Correctional Discipline				
	Program Number	Basic Recruit Training Programs	Program Hours	Retired (R) Effective(E)
1.	502	Traditional Correctional BRTTP	552	E-4/1/08
2.	555	Traditional Law Enforcement Cross-Over to Traditional Correctional BRTTP	156	R-3/31/06
3.	556	Traditional Correctional Probation Cross-Over to Traditional Correctional BRTTP	256	R-3/31/08
4.	1155	CMS Application-Based Law Enforcement Cross-Over to Traditional Correctional BRTTP	199	R-3/31/08
5.	1181	Law Enforcement Officer Cross-Over Training to Traditional Correctional BRTTP	199	E-4/1/08
6.	1182	Correctional Probation Officer Cross-Over Training to Traditional Correctional BRTTP	256	E-4/1/08
7.	501	Correctional Auxiliary Officer BRTTP	254	E-1/1/97

(c) Correctional Probation Discipline					
	Program Number	Basic Recruit Training Programs	Program Hours	Retired (R) Effective(E)	
1.	602	Traditional Correctional Probation BRTTP	412	R-8/31/07	
2.	1176	Florida Correctional Probation BRTTP	465	E-4/1/08	
3.	667	Traditional Correctional Cross-Over to Traditional Correctional Probation BRTTP	172	R-3/31/08	
4.	660	Traditional Law Enforcement Cross-Over to Traditional Correctional Probation BRTTP	134	R-3/31/06	
5.	1156	CMS Application-Based Law Enforcement Cross-Over to Traditional Correctional Probation BRTTP	112	R-3/31/08	
6.	1183	Correctional Officer Cross-Over Training to Florida Correctional Probation BRTTP	172	E-4/1/08	
7.	1184	Law Enforcement Officer Cross-Over Training to Florida Correctional Probation BRTTP	112	E-4/1/08	
8.	NA	Correctional Probation Auxiliary BRTTP; there is no course. To become certified as a Correctional Probation Auxiliary Officer, pursuant to subsection 11B-35.003(7), F.A.C., a basic recruit student shall complete the Correctional Probation BRTTP, pursuant to paragraph (8)(c) of this rule section.	NA	NA	

(2) through (4) No change.

~~(5) High Liability Basic Recruit Training Courses, pursuant to Rule 11B 35.0024, F.A.C., successfully completed at a training school, shall be transferable from one training school to another, or from one Commission approved Basic Recruit Training Program to another, pursuant to Rule 11B 35.0024, F.A.C. A basic recruit student who requests transfer of successfully completed High Liability Basic Recruit Training Course(s) shall have completed the high liability training designated as "CMS New in the High Liability Basic Recruit Training Course for which the training is requested.~~

(5)(6) Commission-approved Basic Recruit Training Programs. Pursuant to Section 943.12, F.S., Commission-approved Basic Recruit Training Programs establish the minimum required entry-level training for law enforcement, correctional, and correctional probation officers. Individuals who are requesting employment as an officer, and have not had previous basic recruit training or have not been certified as an officer in the discipline for which certification is sought, and have met the requirements of Sections

943.13(1)-(8) and (11), 943.14(7), and 943.17(1)(g), F.S., shall successfully complete a Commission-approved Basic Recruit Training Program pursuant to this rule section. The Commission’s Basic Recruit Training Programs are:

(a) No change.

(b) Traditional Correctional Basic Recruit Training Program number 502:

	Course Name	Course Number	Course Hours
1.	Criminal Justice Legal 1	<u>CJK_0270</u> CJD_770	46.0
2.	Criminal Justice Legal 2	<u>CJK_0271</u> CJD_771	22.0
3.	Criminal Justice Communications	<u>CJK_0272</u> CJD_772	42.0
4.	Interpersonal Skills 1	<u>CJK_0283</u> CJD_773	62.0
5.	Interpersonal Skills 2	<u>CJK_0101</u> CJD_750	50.0
6.	CMS Criminal Justice Defensive Tactics	CJK_0051	80.0
7.	CMS Criminal Justice Firearms	CJK_0040	80.0
8.	CMS First Aid for Criminal Justice Officers	CJK_0031	40.0
9.	Emergency Preparedness	<u>CJK_0480</u> CJD_741	26.0
10.	Correctional Operations	<u>CJK_0102</u> CJD_752	64.0
11.	Criminal Justice Officer Physical Fitness Training	CJK_0280	40.0
	Total		552.0

(c) through (d) No change.

(e) Florida CMS Law Enforcement Basic Recruit Training Program number 1177 (Effective April 1, 2008):

	Course Name	Course Number	Course Hours
1.	Introduction to Law Enforcement	CJK_0007	11.0
2.	Legal	CJK_0008	69.0
3.	Communications	CJK_0017	76.0
4.	Human Issues	CJK_0011	40.0
5.	Patrol 1	CJK_0061	58.0
6.	Patrol 2	CJK_0062	40.0
7.	Crime Scene Investigations	CJK_0076	24.0
8.	Criminal Investigations	CJK_0071	56.0
9.	Traffic Stops	<u>CJK_0082</u> CJK_0081	24.0 48.0
10.	DUI Traffic Stops	CJK_0083	24.0
11. 10.	Traffic Crash Investigations	CJK_0086	32.0
12. 11.	CMS Law Enforcement Vehicle Operations	CJK_0020	48.0
13. 12.	CMS First Aid for Criminal Justice Officers	CJK_0031	40.0
14. 13.	CMS Criminal Justice Firearms	CJK_0040	80.0
15. 14.	CMS Criminal Justice Defensive Tactics	CJK_0051	80.0
16. 15.	Dart-Firing Stun Gun	CJK_0422	8.0
17. 16.	Criminal Justice Officer Physical Fitness Training	CJK_0096	60.0
	Total		770.0

(f) No change.

(7) through (c) No change.

(d) Law Enforcement Cross-Over Basic Recruit Training Programs.

1. through 2. No change.

3. Correctional Officer Cross-Over Training to Florida CMS Law Enforcement Basic Recruit Training Program number 1178 (Effective April 1, 2008). An individual who has successfully completed the Correctional Officer Basic Recruit Training Program and passed the SOCE, shall complete the following courses to satisfy the training requirements to become a law enforcement officer:

	Course Name	Course Number	Course Hours
a.	Correctional Cross-Over to Law Enforcement Introduction and Legal	CJK_0221	47.0
b.	Correctional Cross-Over to Law Enforcement Communications	CJK_0222	56.0
c.	Correctional Cross-Over to Law Enforcement Human Issues	CJK_0223	32.0
d.	Patrol 1	CJK_0061	58.0
e.	Patrol 2	CJK_0062	40.0
f.	Crime Scene Investigations	CJK_0076	24.0
g.	Criminal Investigations	CJK_0071	56.0
h.	Traffic Stops	<u>CJK_0082</u> CJK_0081	24.0 48.0
i.	DUI Traffic Stops	CJK_0083	24.0
j. f.	Traffic Crash Investigations	CJK_0086	32.0
k. j.	CMS Law Enforcement Vehicle Operations	CJK_0020	48.0
l. k.	Dart-Firing Stun Gun	CJK_0422	8.0
m. f.	Cross-Over Correctional to Law Enforcement CMS High-Liability. (End-of-course examination is not required for CJK_0212)	CJK_0212	8.0
	Total		457.0

4. Correctional Probation Officer Cross-Over Training to Florida CMS Law Enforcement Basic Recruit Training Program number 1179 (Effective April 1, 2008). An individual who has successfully completed the Correctional Probation Officer Basic Recruit Training Program and passed the SOCE, shall complete the following courses to satisfy the training requirements to become a law enforcement officer:

	Course Name	Course Number	Course Hours
a.	Correctional Cross-Over to Law Enforcement Introduction and Legal	CJK_0221	47.0
b.	Correctional Cross-Over to Law Enforcement Communications	CJK_0222	56.0
c.	Correctional Cross-Over to Law Enforcement Human Issues	CJK_0223	32.0
d.	Patrol 1	CJK_0061	58.0
e.	Patrol 2	CJK_0062	40.0
f.	Crime Scene Investigations	CJK_0076	24.0
g.	Criminal Investigations	CJK_0071	56.0
h.	Traffic Stops	<u>CJK_0082</u> CJK_0081	24.0 48.0
i.	DUI Traffic Stops	CJK_0083	24.0
j. f.	Traffic Crash Investigations	CJK_0086	32.0
k. j.	CMS Criminal Justice Vehicle Operations	CJK_0020	48.0
l. k.	Dart-Firing Stun Gun	CJK_0422	8.0
m. f.	CMS Criminal Justice Firearms	CJK_0040	80.0
	Total		529.0

(e) No change.

(f) through (e) No change.

Rulemaking Specific Authority 943.03(4), 943.12(1), (2), 943.17 FS. Law Implemented 943.12, 943.17 FS. History—New 12-13-92, Amended 1-10-94, 8-7-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08,_____.

11B-35.0021 ~~High-Liability Proficiency~~ Courses for Basic Recruit Training and Instructor Training Requiring Proficiency Demonstration.

(1) High-Liability Basic Recruit ~~High-Liability~~ Training Courses:

(a) CMS Criminal Justice Firearms, course number CJK 0040 ~~Course~~.

(b) CMS Law Enforcement Vehicle Operations, course number CJK 0020 ~~Course~~.

(c) CMS Criminal Justice Defensive Tactics, course number CJK 0051 ~~Course~~.

(d) CMS First Aid for Criminal Justice Officers, course number CJK 0031 ~~Course~~.

(2) DUI Traffic Stops, course number CJK 0083.

(3)(2) High-Liability Instructor ~~High-Liability~~ Training Courses:

(a) CMS Firearms Instructor Course, number 801.

(b) CMS Vehicle Operations Instructor Course, number 800.

(c) CMS Defensive Tactics Instructor Course, number 802.

(d) CMS First Aid Instructor Course, number 1114.

(4) Specialized Instructor Training Courses: Speed Measurement Instructor Course, number 1159.

(5)(3) Applicants shall complete the training requirements set forth in subsections subsection 11B-20.0014(2)-(3), F.A.C., to become certified by the Commission to instruct in the ~~high-liability~~ topics of firearms, vehicle operations, defensive tactics, ~~and first aid, and speed measurement~~.

(6)(4) Instructor to student ratios for instruction of proficiency skills in ~~High-Liability~~ Basic Recruit Training Courses and Instructor Training Courses requiring proficiency demonstration ~~courses~~.

(a) For instruction of the CMS Criminal Justice Firearms Course or CMS Firearms Instructor Course, there shall be no more than six students actively engaged on a firearms range for each Commission-certified firearms instructor. One rangemaster shall supervise all range activity while training is actively engaged. The rangemaster shall be a Commission-certified firearms instructor and shall not be included as an instructor to comply with the instructor to student ratio requirements. Discretionary course of fire shall be conducted with a one-to-one instructor to student ratio. Actively engaged is defined as “a student on the firing range handling a weapon.”

(b) For instruction of the CMS Law Enforcement Vehicle Operations Course or CMS Vehicle Operations Instructor Course, there shall be at least one Commission-certified

vehicle operations instructor for each vehicle actively engaged on a driving range. One rangemaster shall supervise all range activity while training is actively engaged. Actively engaged is defined as “a vehicle that is at the point between the start and end of an exercise.” Returning from or being in route to a driving range or course shall not be considered as actively engaged. The rangemaster shall be a Commission-certified vehicle operations instructor and shall not be included as an instructor to comply with the instructor to vehicle ratio requirements.

(c) For instruction of the CMS Criminal Justice Defensive Tactics Course or CMS Defensive Tactics Instructor Course, there shall be one lead defensive tactics instructor that shall be counted in the instructor to student ratio of for each class plus one Commission-certified defensive tactics instructor for every eight ~~ten~~ students actively engaged in defensive tactics. Actively engaged is defined as “a student engaged in the practical performance of any one of the approved defensive tactics techniques.”

(d) For instruction of the CMS First Aid for Criminal Justice Officers Course and CMS First Aid Instructor Course, at least one Commission-certified CMS First Aid Instructor shall be required for every ten students actively engaged in the practical and performance areas of the training. Actively engaged is defined as “a student involved in the practical performance of any first aid skills training.” CPR Instructors, who possess a valid CPR Instructor Certification from an entity referenced in Rule 64J-1.022, F.A.C., are permitted to instruct CPR in the CMS First Aid for Criminal Justice Officers Course and the CMS First Aid Instructor Course, or be used to meet the required instructor to student ratio for demonstration of proficiency in these courses. The instructor to student ratio shall match the prerequisites set forth in the approved CPR course certification requirements. A copy of the Instructor Exemption Application form CJSTC-82 and a copy of the instructor’s valid CPR Instructor Certification shall be maintained in the instructor’s file.

(e) For instruction of the Speed Measurement Instructor Course, there shall be one Commission-certified Speed Measurement Instructor for each class. Speed Measurement Device Operators are authorized to instruct the practical exercises in the Speed Measurement Instructor Course under the supervision of a certified Speed Measurement Instructor, pursuant to Rule 11B-35.006, F.A.C. A copy of the Instructor Exemption form CJSTC-82 shall be maintained in the course file.

Rulemaking Specific Authority 943.03(4), 943.12(1), (2), 943.14(3), 943.17 FS. Law Implemented 943.12(5), 943.17 FS. History—New 12-13-92, Amended 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-21-07, 6-9-08,_____.

11B-35.0023 Student Transfers within Basic Recruit Training Programs.

(1) No change.

(2) A student enrolled in a Commission-approved Basic Recruit Training Program may transfer courses to another training school, provided the courses have been successfully completed and the student has not been dismissed from the previous training school. Verification shall be made by reviewing the student's course score in item number 12 of the Training Report form CJSTC-67 to determine if the student was dismissed from the previous training school.

(a) Courses completed in a Traditional Basic Recruit Training Program shall be recognized and transferable to a Traditional Basic Recruit Training Program in a different training school.

(b) Courses completed in the CMS Application-Based Law Enforcement Basic Recruit Training Program shall be transferable to a CMS Application-Based Law Enforcement Basic Recruit Training Program in a different training school.

(c) Courses completed in the Florida CMS Law Enforcement Basic Recruit Training Program shall be transferable to a Florida CMS Law Enforcement Basic Recruit Training Program in a different training school.

(d) Courses completed in the Florida Correctional Probation Basic Recruit Training Program shall be transferable to a Florida Correctional Probation Basic Recruit Training Program in a different training school.

(e) Basic recruit training courses requiring proficiency demonstrations that were successfully completed shall be transferable. Demonstration of proficiency skills required by the rule at the time of the requested transfer shall be met by the student. The training center director or designee shall evaluate the student's completed performance evaluation form(s) and ensure the student meets the current proficiency standards. Demonstration of the new skills shall be documented on the applicable performance evaluation form pursuant to Section 11B-35.0024, F.A.C. ~~High Liability Basic Recruit Training Courses successfully completed shall be transferable provided the student requesting the transfer has successfully demonstrated the high liability proficiency skills designated as "CMS New" in the high liability basic recruit training course requested.~~

(3) Both the transferring student and the receiving training school shall request the transferring training school to complete and submit the appropriate student records. Upon receipt of such request, the transferring training school is responsible for submitting the transferring student's records to the receiving training school.

(4) When a student has successfully completed courses included in a Commission-approved Basic Recruit Training Program at two or more training schools, and has met all requirements for completion of the program set forth in the requirements of this rule section, the training school where the student has successfully completed the greatest number of courses in that program, shall upon receipt of the student records from the other training school(s), submit a Training

Report form CJSTC-67 to Commission staff. The training school submitting form CJSTC-67, may require the student to demonstrate the required ~~high liability~~ proficiency skills ~~in a High Liability Basic Recruit Training Course(s)~~ not completed at that school, pursuant to subsection 11B-35.0024(1), F.A.C. The training school submitting form CJSTC-67 shall provide the student with written evidence of the student's successful completion of the Basic Recruit Training Program.

(5) Nothing in this rule section shall be construed to prevent a training school from admitting a student for the limited purpose of completing a course(s) required for completion of a Commission-approved Basic Recruit Training Program at another training school where the student is enrolled.

Rulemaking Specific Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.17 FS. History--New 12-13-92, Amended 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 6-9-08,_____.

11B-35.0024 Student Performance in Commission-approved High-Liability Basic Recruit Training Courses and ~~High-Liability~~ Instructor Training Courses Requiring Proficiency Demonstration.

(1) Students enrolled in a Commission-approved Basic Recruit Training Program ~~or and a High-Liability~~ Instructor Training Course, shall qualify through demonstration of proficiency skill(s) in the applicable course(s) and pass a written end-of-course examination of proficiency skill(s) in the applicable High-Liability Basic Recruit Training Courses and instructor courses high liability proficiency skill(s), and a written examination.

(2)(a) A basic recruit student shall be given the opportunity for one additional attempt at the required demonstration of ~~high liability~~ proficiency skill(s), or one re-examination of required written end-of-course examination in DUI Traffic Stops and each cognitive knowledge in each of the four high-liability topics of firearms, vehicle operations, defensive tactics, and first aid. A basic recruit student, who has failed to pass the written end-of-course examination successfully demonstrate the cognitive knowledge or the required demonstration of the ~~high liability~~ proficiency skill(s) after a second attempt, shall be deemed to have failed the training course High Liability Training Course.

(b) An instructor student shall pass a written end-of-course examination and demonstrate proficiency skill(s) during the first attempt. An instructor student, who has failed to pass the written end-of-course examination or successfully demonstrate the proficiency skill(s) during the first attempt, shall be deemed to have failed the instructor training course. An instructor student who has failed a written end-of-course examination or the proficiency skills(s) during the first attempt, shall be granted a re-examination by the training center director if: ~~An instructor student shall successfully demonstrate cognitive knowledge and proficiency skill(s) during the initial qualification. An instructor student, who has~~

~~failed to successfully demonstrate the cognitive knowledge or the high liability proficiency skill(s) during the first attempt, shall be deemed to have failed the High-Liability Instructor Training Course. An instructor student who has failed a cognitive end-of-course examination of the high liability proficiency skill(s) during the first attempt, shall be granted a re-examination by the training center director if:~~

1. There is technical difficulty in the administration of the test, such as a power failure or evacuation of the building; ~~or-~~

2. A condition of the student adversely impacts the student's ability to achieve a passing score on an end-of-course examination. A condition of the student that adversely impacts the student's ability could include illness or death of a family member; ~~or-~~

3. The end-of-course testing instrument is determined to be invalid by the training school.

(3) Successful completion and demonstration of proficiency skills ~~Completion of a high liability course and demonstration of proficiency in the high liability topics~~ is required for each of the following high-liability courses: CMS Criminal Justice Defensive Tactics Course, CMS Defensive Tactics Instructor Courses, CMS Criminal Justice Firearms Course, CMS Firearms Instructor Courses, CMS Law Enforcement Vehicle Operations Course, CMS Vehicle Operations Instructor Courses, CMS First Aid for Criminal Justice Officers Course, and CMS First Aid Instructor Courses.

(a) CMS Criminal Justice Defensive Tactics Course.

1. The CMS Criminal Justice Defensive Tactics Course shall be delivered to students enrolled in a Commission-approved Basic Recruit Training Program.

2. A basic recruit student shall achieve a score of no less than 80% on the required written end-of-course examination and demonstrate at 100% proficiency, defensive tactics skills taught by a training school, with the results recorded on the required CMS Defensive Tactics Performance Evaluation, form CJSTC-6 CMS, revised October 30, 2008 November 8, 2007, hereby incorporated by reference. Form CJSTC-6 CMS shall be maintained in the student or course file.

3. A basic recruit student shall be subject to chemical agent contamination as described in the CMS Criminal Justice Defensive Tactics Course. Prior to beginning a Florida CMS Law Enforcement, Traditional Correctional, or Florida Correctional Probation Basic Recruit Training Program, a student shall complete the Physical Fitness Assessment form CJSTC-75B. This form verifies that there are no known medical conditions that would prevent a student from participating in chemical agent contamination. A student who has provided the training school with documentation of prior chemical agent exposure that includes chemical agent contamination and working through the effects of chemical agent contamination in a training environment, shall be exempt from this requirement.

(b) CMS Defensive Tactics Instructor Course.

1. An instructor student shall complete the ~~CMS~~ Defensive Tactics Instructor requirements Course pursuant to Rule 11B-20.0014, F.A.C., to instruct the following courses: The CMS Criminal Justice Defensive Tactics Course in a Commission-approved Basic Recruit Training Program or the CMS Defensive Tactics Instructor Course.

2. A defensive tactics instructor student shall achieve a score of no less than 85% on the required written end-of-course examination and demonstrate all the required Defensive Tactics High-Liability Proficiency Skills, at 100% for all proficiency skills, with the results recorded on the required CJSTC-6 CMS form. A copy of the completed form CJSTC-6 CMS shall be provided to the student and the original form CJSTC-6 CMS shall be maintained in the student or course file.

(c) CMS Criminal Justice Firearms Course.

1. The CMS Criminal Justice Firearms Course shall be delivered to students enrolled in a Commission-approved Basic Recruit Training Program.

2. A basic recruit student shall achieve a score of 80% on the required written end-of-course examination and demonstrate the required Firearms High-Liability Proficiency Skills, using the B-21E Target or equivalent, at 80% or higher using a handgun (revolver or semi-automatic pistol for both daylight and night) and a long gun (shotgun or semiautomatic rifle/carbine). The results shall be recorded on the required CMS Firearms Performance Evaluation form CJSTC-4 CMS, revised October 30, 2008 November 8, 2007, hereby incorporated by reference. The B-21E target is commercially available through retailers. Form CJSTC-4 CMS shall be maintained in the student or course file.

(d) CMS Firearms Instructor Course.

1. An instructor student shall complete the ~~CMS~~ Firearms Instructor requirements Course pursuant to Rule 11B-20.0014, F.A.C., to instruct the following courses: ~~The~~ CMS Criminal Justice Firearms Course in a Commission-approved Basic Recruit Training Program or ~~the~~ CMS Firearms Instructor Course.

2. A firearms instructor student shall achieve a score of no less than 85% on the required written end-of-course examination and demonstrate the required Firearms High-Liability Proficiency Skills, using the B-21E Target or equivalent, at 85% 80% or higher using a handgun (revolver or semi-automatic pistol for both daylight and night) and a long gun (shotgun or semi-automatic rifle/carbine) for daylight and night for all proficiency skills, with the results recorded on the required CJSTC-4 CMS form. A copy of the completed form CJSTC-4 CMS shall be provided to the student and the original form CJSTC-4 CMS shall be maintained in the student or course file.

(e) CMS First Aid for Criminal Justice Officers Course.

1. The CMS First Aid for Criminal Justice Officers Course shall be delivered to students enrolled in a Commission-approved Basic Recruit Training Program.

2. A basic recruit student shall achieve a score of no less than 80% on the required written end-of-course examination and demonstrate the required First Aid High-Liability Proficiency Skills at 100%, with the results recorded on the required CMS First Aid Performance Evaluation, form CJSTC-5 CMS, revised ~~October 30, 2008~~ ~~November 8, 2007~~, hereby incorporated by reference. Form CJSTC-5 CMS shall be maintained in the student or course file.

(f) CMS First Aid Instructor Course.

1. An instructor student shall complete the CMS First Aid Instructor Course pursuant to Rule 11B-20.0014, F.A.C., to instruct the following courses: The CMS First Aid for Criminal Justice Officers Course in a Commission-approved Basic Recruit Training Program or the CMS First Aid Instructor Course.

2. An instructor student shall achieve a score of no less than 85% on the required written end-of-course examination and demonstrate the required First Aid High-Liability Proficiency Skills, at 100% for all proficiency skills, with the results recorded on the required CJSTC-5 CMS form. A copy of the completed form CJSTC-5 CMS shall be provided to the student and the original form CJSTC-5 CMS shall be maintained in the student or course file.

(g) CMS Law Enforcement Vehicle Operations Course.

1. The CMS Law Enforcement Vehicle Operations Course shall be delivered to students enrolled in a Commission-approved Basic Recruit Training Program.

2. A basic recruit student shall achieve a score of no less than 80% on the required written end-of-course examination and demonstrate the required Vehicle Operations High-Liability Proficiency Skills, with four out of five runs (80%) for each exercise, with the results recorded on the required CMS Vehicle Operations Performance Evaluation, form CJSTC-7 CMS, revised ~~October 30, 2008~~ ~~November 8, 2007~~, hereby incorporated by reference. Form CJSTC-7 CMS shall be maintained in the student or course file.

(h) CMS Vehicle Operations Instructor Course.

1. An instructor student shall complete the ~~CMS~~ Vehicle Operations Instructor requirements ~~Course~~ pursuant to Rule 11B-20.0014, F.A.C., to instruct the following courses: The CMS Law Enforcement Vehicle Operations Course in a Commission-approved Basic Recruit Training Program or the CMS Vehicle Operations Instructor Course.

2. An instructor student shall achieve a score of no less than 85% on the required written end-of-course examination and demonstrate the required Vehicle Operations High-Liability Proficiency Skills, with four out of five runs (80%) for each exercise, with the results recorded on the required CJSTC-7 CMS form. A copy of the completed form

CJSTC-7 CMS shall be provided to the student and the original form CJSTC-7 CMS shall be maintained in the student or course file.

(4) Successful completion and demonstration of proficiency skills is required for each of the following basic recruit or specialized training courses

(a) DUI Traffic Stops Course, number CJK 0083.

1. The DUI Traffic Stops Course shall be delivered to students enrolled in a Commission-approved Law Enforcement Basic Recruit Training Program.

2. A basic recruit student shall achieve a score of no less than 80% on the required written end-of-course examination and demonstrate the required DUI Traffic Stops proficiency skills at 100% proficiency, with the results recorded on the required DUI Traffic Stops Performance Evaluation, form CJSTC-13 CMS, created ~~October 30, 2008~~, hereby incorporated by reference. Form CJSTC-13 CMS shall be maintained in the student or course file.

(b) Speed Measurement Instructor Course, number 1159.

1. An instructor student shall complete the Speed Measurement Instructor requirements, pursuant to Rule 11B-20.0014, F.A.C., to instruct speed measurement courses and the speed measurement instructor course.

2. An instructor student shall achieve a score of no less than 85% on the required written end-of-course examination and demonstrate the required proficiency skills at 100%, with the results recorded on the required Speed Measurement Device Instructor Field Evaluation form CJSTC-10, revised ~~October 30, 2008~~, hereby incorporated by reference. A copy of the completed form CJSTC-10 shall be provided to the student and the original form CJSTC-10 shall be maintained in the student or course file.

Rulemaking Specific Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.12, 943.17 FS. History—New 2-17-93, Amended 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08,_____.

11B-35.003 Basic Recruit Training Programs for Law Enforcement, Correctional, and Correctional Probation Auxiliary Training.

(1) No change.

(2) To become certified as an auxiliary officer, an applicant shall meet the requirements outlined in Sections 943.13(1)-(9), and (11), 943.14(7), and 943.17(1)(g), F.S., and successfully complete the following Auxiliary Officer Basic Recruit Training Program requirements; ~~outlined in this rule section, complete the applicable Commission-approved CMS High-Liability Basic Recruit Training Courses for vehicle operations, defensive tactics, and firearms, and shall be taught by a Commission-certified high-liability instructor at a training school or agency.~~

(a) Auxiliary Officer Prerequisite Course taught at a Commission-certified training school using Commission-certified instructors; and

(b) High-liability Training Courses for vehicle operations, defensive tactics, and firearms, taught by a Commission-certified instructor and applicable to the discipline for which certification is sought. The vehicle operations, defensive tactics, and firearms courses shall be taught at a Commission-certified training school or criminal justice agency.

(c) Instruction of the CMS Law Enforcement Vehicle Operations Course is based on employing agency requirements. Auxiliary officers operating an agency vehicle are required to complete this training.

(3) A training school shall submit form CJSTC-67 to Commission staff upon an individual's successful completion of a CMS Law Enforcement or Correctional Auxiliary Officer Prerequisite Course. The training school or agency shall document the student's successful completion of the applicable ~~Basic Recruit Training High-Liability Basic Recruit Training~~ Courses, pursuant to subsection 11B-35.0024(3), F.A.C. Regardless of where the ~~Basic Recruit Training High-Liability Basic Recruit Training~~ Course is completed, the employing agency shall maintain the training documentation in the officer's file.

(4) Commission-approved ~~Basic Recruit Training High-Liability Basic Recruit Training~~ Courses instructed at a Commission-certified training school shall be recognized by the Commission for applicants requesting certification as a law enforcement, correctional, or correctional probation officer, if the applicant has maintained active employment within ~~the~~ a discipline as an auxiliary officer, or has completed training within the past four years pursuant to subsection 11B-35.002(2), F.A.C. Recognition of completed ~~Basic Recruit Training High-Liability Courses high liability courses~~ shall comply with ~~paragraph 11B-35.0023(2)(e), F.A.C. subsection 11B-35.002(5), F.A.C.~~

(5) CMS Law Enforcement Auxiliary Officer Basic Recruit Training Program number 1180 (Effective April 1, 2008).

(c)	CMS Criminal Justice Defensive Tactics This course shall be taught by a Commission-certified high-liability instructor at a training school or agency.	CJK_0051	80.0
(d)	CMS Law Enforcement Vehicle Operations **CMS Law Enforcement Vehicle Operations is optional and is based on employing agency requirements. If required, the course shall be taught by a Commission-certified high-liability instructor at a training school or agency. If CMS Law Enforcement Vehicle Operations is not instructed, the total program hours will be reduced to 271 hours.	CJK_0020	48.0
	CMS Law Enforcement Auxiliary Officer Program	Total	**319.0

(6) Correctional Auxiliary Officer Basic Recruit Training Program number 501 (Effective January 1, 1997).

(a)	Correctional Auxiliary Officer Prerequisite Course	Course Number	Minimum Hours
1.	Administration	NA	1
2.	Legal	NA	24
3.	Report Writing	NA	4
4.	Safety Issues	NA	4
5.	Interpersonal Skills	NA	5
6.	Security Procedures and Inmate Supervision	NA	4
7.	Equipment	NA	2
8.	Facility Movement	NA	4
9.	Correctional Operation and Intake Procedures	NA	1
10.	Inmate Property	NA	2
11.	Search Procedures	NA	3
12.	CMS First Aid for Criminal Justice Officers	CJK_0031	40
	Correctional Auxiliary Officer Prerequisite Course	Sub-total	94
(b)	CMS Criminal Justice Firearms	CJK_0040	80
(c)	CMS Criminal Justice Defensive Tactics	CJK_0051	80
	Correctional Auxiliary Officer Program	Total	254

(7) No change.

~~Rulemaking Specific~~ Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.12(5), 943.17(1)(a) FS. History—New 12-13-92, Amended 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, _____.

11B-35.006 Advanced Training Program.

(1) No change.

(b) The following is a complete list of active Advanced Training Program Courses:

(a)	CMS Law Enforcement Auxiliary Officer Prerequisite Course	Course Number	Course Hours
1.	Law Enforcement Auxiliary Introduction	CJK_0240	27.0
2.	Law Enforcement Auxiliary Patrol and Traffic	CJK_0241	19.0
3.	Law Enforcement Auxiliary Investigations	CJK_0242	17.0
4.	Dart-Firing Stun Gun	CJK_0422	8.0
5.	CMS First Aid for Criminal Justice Officers	CJK_0031	40.0
	CMS Law Enforcement Auxiliary Officer Prerequisite Course	Sub-total	111.0 109.0
(b)	CMS Criminal Justice Firearms This course shall be taught by a Commission-certified high-liability instructor at a training school or agency.	CJK_0040	80.0

	Course Number	Course Name	Course Hours
1.	006	Line Supervision	80
2.	011	Developing and Maintaining a Sound Organization	40
3.	012	Planning the Effective Use of Financial Resources	40
4.	013	Building and Maintaining a Sound Behavioral Climate	40
5.	016	Narcotics and Dangerous Drugs Investigations	40
6.	019	Criminal Law	40
7.	020	Case Preparation and Court Presentation	40
8.	032	Special Tactical Problems	40
9.	033	Sex Crimes Investigation	40
10.	036	Injury and Death Investigation	40
11.	047	Interviews and Interrogations	40
12.	050	Stress Management Techniques	40
13.	053	Crisis Intervention	40
14.	054	Organized Crime	40
15.	057	Discipline and Special Confinement Techniques	40
16.	058	Supervision of the Youthful Offender	40
17.	068	Advanced Report Writing and Review	40
18.	072	Firefighting for Correctional Officers	40
19.	073	Community and Human Relations	40
20.	074	Substance Abuse and Awareness Education	40
21.	077	Underwater Police Science and Technology	80
22.	080	Computers and Technology in Criminal Justice	40
23.	085	Emergency Preparedness for Correctional Officers	40
24.	087	Advanced Traffic Accident Investigations	80
25.	088	Traffic Accident Reconstruction	80
26.	090	School Resource Officer	40
27.	091	Domestic Intervention	40
28.	093	Hostage Negotiations	40
29.	094	Drug Abuse Resistance Education (D.A.R.E.) - FDLE instructed only	80
30.	096	Drug Abuse Resistance Education (D.A.R.E.)	40
31.	094 & 097	Drug Abuse Resistance Education (D.A.R.E.)	40
32.	098	Traffic Homicide Investigation	80
33.	100	Crimes Against the Elderly	40
34.	107	Middle Management (Effective 10/1/06)	40
35.	809	*CMS Field Training Officer Program Course (This course is not mandated for field training officers)	40
36.	1100	*Field Training Officer Course for Correctional and Correctional Probation Officers	40
37.	1151	Conducting Background Investigations	40
38.	1152	Investigation and Supervision of Officer Involved Shootings	40
39.	1153	Computer Crimes Investigations	40
40.	1154	Financial Fraud Investigations	40
41.	1158	Speed Measurement Course (Effective 1/1/07)	40
42.	1161	Managing and Communicating with Inmates and Offenders (Effective 11/16/06)	40
43.	1163	Gangs and Security Threat Groups	40
44.	1164	Inmate Manipulation (Effective 11/16/06)	40
45.	1165	Spanish for Criminal Justice Professionals (Effective 2/1/07)	40
45.	1166	Advanced Investigative Techniques of Human Trafficking Offenses (Effective 5/10/07)	40

*Officers who are currently receiving salary incentive payment for completion of the Field Training Officer Course number 051, are not eligible to receive additional salary incentive credit for course number 809 or 1100.

Officers who are currently receiving salary incentive payment for completion of the Radar Speed Measurement Training Course for Law Enforcement Officers number 055 and Laser Speed Measurement Operators Course for Law Enforcement Officers number 095 are not eligible to receive additional salary incentive credit for course number 1158.

(2) through (3) No change.

(4) To successfully complete an Advanced Training Program Course, a student shall comply with student attendance, performance, and course documentation requirements pursuant to Rule 11B-35.001, F.A.C.

~~(a) A Radar Operator Performance Report, form CJSTC-8, revised November 8, 2007, hereby incorporated by reference, shall be completed for the Radar Speed Measurement Training Course for Law Enforcement Officers.~~

~~(a)(b) A Speed Measurement Operator Performance Report form CJSTC-11, revised November 8, 2007, hereby incorporated by reference, shall be completed for the Speed Measurement Course number 1158, and for the Laser Speed Measurement Operators Course for Law Enforcement Officers number 095 (Retired 12/31/06).~~

~~(b)(e) Speed Measurement Device Operators are authorized to instruct the practical exercises in the Speed Measurement Course with a certified Speed Measurement Instructor. A copy of the Instructor Exemption form CJSTC-82 shall be maintained in the course file.~~

(5) No change.

~~Rulemaking Specific Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.12(5), 943.17(1) FS. History-New 12-13-92, Amended 1-10-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, _____.~~

11B-35.007 Specialized Training Program.

(1) through 10. No change.

(3) Specialized Instructor Training Courses. Courses developed and approved by the Commission for instructor training shall be delivered in their entirety by a training school for an individual to qualify to apply as a Commission-certified instructor. Commission-approved Specialized Instructor Training Courses are:

	Course Number	Course Names	Course Hours
(a)	1115	General Instructor Refresher Course	8
(b)	1116	CMS Instructor Techniques Course (Retired 11/14/08)	80
(c)	803	CMS General Instructor Transition Course (Retired 3/31/08)	12
(d)	1167	CMS General Instructor Update Course	4
(d)(e)	800	CMS Vehicle Operations Instructor Course	40
(e)(f)	805	CMS Vehicle Operations Instructor Transition Course (Retired 3/31/08)	16
(f)(g)	801	CMS Firearms Instructor Course	44

(g)(h)	806	CMS Firearms Instructor Transition Course (Retired 3/31/08)	12
(h)(+)	802	CMS Defensive Tactics Instructor Course	80
(l)(+)	807	CMS Defensive Tactics Instructor Transition Course (Retired 3/31/08)	32
(k)	1169	CMS Defensive Tactics and Firearms Instructor Update Course	6
(j)(+)	1114	CMS First Aid Instructor Course	40
(k)(m)	804	CMS First Aid Instructor Transition Course (Retired 3/31/08)	8
(l)(+)	1107	Canine Team Training Instructor Course	40
(m)(+)	1109	Laser Speed Measurement Device (LSMD) Instructor Transition Course for Radar Instructors (Retired To be retired 12/31/08)	24
(n)(p)	1110	Breath Test Instructor Course	40
(o)(+)	1111	Breath Test Instructor Renewal Course	8
(p)(+)	1159	Speed Measurement Instructor Course for Law Enforcement Officers (Effective 1/1/07)	40
(q)	1186	Florida General Instructor Techniques Course	64

(4) Commission-approved Specialized Training Program Courses developed and approved by the Commission that have not been designated as Commission-approved Advanced Training Program Courses:

	Course Number	Course Names	Course Hours
(a)	1125	Contraband Forfeiture	40
(b)	1126	Human Diversity In-service Training for Professionalism and Ethics	4
(c)	1127	Human Diversity In-service Training for Interdependent Relationships	8
(d)	1128	Human Diversity In-service Training for Reducing Inter-group Conflict	4
(e)	1129	Human Diversity In-service Training for Sexual Harassment in the Workplace	4
(f)	1130	Human Diversity In-service Training for Specialized Topics in Diversity	4
(g)	1144	CMS Human Interaction Course	16
(h)	1131	Human Diversity In-service Training for Discriminatory Profiling and Professional Traffic Stops	4
(i)	1112	Canine Team Training Course	400
(j)	1113	Laser Speed Measurement Device (LSMD) Transition Operators Course for Radar Operators (Retired To be retired 12/31/08)	12
(k)	1132	Parking Enforcement Specialist for Civilians	16
(l)	1133	Selective Traffic Enforcement Program for Civilians	80
(m)	732	Traffic Control Officer for Civilians	8
(n)	851	Breath Test Operator Course	16 24
(o)	951	Breath Test Operator Renewal Course	4 6
(p)	850	Agency Inspector Course	24
(q)	950	Agency Inspector Renewal Course	6
(r)	1134	Criminal Justice Officer Ethics Course	8
(s)	1135	Crimes Against Children	24
(t)	1136	Domestic Violence	8
(u)	1137	Violent Crime Investigator Training Course	40
(v)	808	CMS Field Training Officer Transition Course	8
(w)	1140	Basic Incident Command System (ICS) Course	6

(x)	1141	Intermediate Incident Command System (ICS) Course	21
(y)	1142	Advanced Incident Command System (ICS) Course	16
(z)	1149	CMS Special Populations Course	32
(aa)	1150	CMS Problem-Solving Model: SECURE Specialized Training Course	6
(bb)	1160	Dart-Firing Stun Gun	36
(cc)	1167	CMS General Instructor Update Course	4
(dd)	1169	CMS Defensive Tactics and Firearms Instructor Update Course	6
(ee)	1185	Elder Abuse Investigations	No Mandate

(5) No change.

~~(6) Training schools shall report the satisfactory completion of training pursuant to paragraph 11B 35.001(11)(b), F.A.C., by transmitting a completed Training Report form CJSTC 67 within 30 days of course completion through the Commission's ATMS.~~

~~(6)(7) Criminal Justice Standards and Training Trust Fund Officer Training Monies may be expended to conduct Commission-approved Specialized Training Program Courses pursuant to subsection (1) of this rule section. Officer Training Monies shall be expended pursuant to the requirements of Rule Chapter 11B-18, F.A.C.~~

Rulemaking Specific Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.175, 943.25 FS. History—New 12-13-92, Amended 8-7-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Cabinet
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 9, 2009
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 17, 2009

DEPARTMENT OF LAW ENFORCEMENT

Division of Criminal Justice Information Systems

RULE NO.: 11C-6.010
 RULE TITLE: Retention of Applicant Fingerprints
 PURPOSE AND EFFECT: To update rule language pursuant to Chapter 120, F.S.

SUMMARY: Removes a reference to an outdated alternative invoicing method.

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: 943.05(2)(g), (h), 1012.32(3), 1012.465, 1012.56 FS.

LAW IMPLEMENTED: 220.187(6)(b), 551.107 (7)(c), 744.3135(4)(b), 943.13(5), 985.644(5)(b), 1002.421(3)(a) 1012.32(3), 1012.465, 1012.56 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 21, 2009, 10:00 a.m.

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Martha Wright at (850)410-8113 or e-mail: marthawright@fdle.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Martha Wright at (850)410-8113

THE FULL TEXT OF THE PROPOSED RULE IS:

11C-6.010 Retention of Applicant Fingerprints.

(1) through (7) No change.

(8) As a condition of participation in the AFRNP, the agency must inform the Department in writing and receive written confirmation from the Department of all persons with retained fingerprints who are no longer employed, licensed, certified, or otherwise associated with the agency in order that such persons may be removed from the AFRNP database. Without regard to whether an applicant fingerprint entry is retained in the AFRNP database, data from an applicant fingerprint entry which would improve the quality or clarity of an arrest fingerprint entry will be merged with the arrest fingerprints, and the applicant print will be retained as part of the criminal history record database. An applicant fingerprint entry which is found to match a latent fingerprint taken from a crime scene will be retained as part of the criminal history database unless an arrest fingerprint offers a match that is at least as demonstrable. ~~With respect to any person previously entered in the database for whom the Department does not receive notification of removal by September 29 in the case of the first billing option above at subsection (7), or by two days prior to the anniversary date in the case of the second billing option, the annual fee must be paid.~~

Rulemaking Specific Authority 943.05(2)(g), (h), ~~987.407(4)~~, 1012.32(3), 1012.465, 1012.56 FS. Law Implemented 220.187(6)(b), 551.107 (7)(c), 744.3135(4)(b), 943.13(5), 985.644(5)(b), 1002.421(3)(a) ~~987.407~~, 1012.32(3), 1012.465, 1012.56 FS. History—New 11-30-04, Amended 6-9-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha Wright at (850)410-8113

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Governor and Cabinet

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 17, 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."

WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

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

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

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

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

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

RULEMAKING AUTHORITY: 373.044 FS.

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

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

40B-4.1090 Publications and Agreements Incorporated by Reference.

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

(g) Taylor County, Florida and Incorporated Areas, Effective May 4, 2009;

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

Rulemaking Authority 373.044 FS. Law Implemented 373.083, 373.084, 373.085, 373.086, 373.413, 373.416 FS. History--New 11-21-02, Amended 5-13-07, 4-21-08, 4-30-09,_____.

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

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

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

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

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

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NO.:	RULE TITLE:
40E-400.315	No Notice General Permit for Activities in Uplands

PURPOSE AND EFFECT: To delete partial delegation to Collier County for projects less than 40 acres total land area.

SUMMARY: Collier County has requested to relinquish its delegated authority for all projects less than 40 acres. This delegation was approved on September 17, 1980. Permit applicants in Collier County will now need to submit an application to the South Florida Water Management District for projects less than 40 acres which do not qualify for a No Notice General Permit.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The proposed revision to relinquish Collier County's delegation authority for projects less than 40 acres with a surface water management system in Collier County has in the past impacted fewer than 10 applicants per year. Applicants can be individual, business, agricultural interest, or local and/or state government. Only minimal additional staff time will be required to review/approve these permit applications.

Permit application processing fees are assessed in order to defray the cost of evaluating, processing, monitoring, and inspecting for compliance, and as a result, the District's total projected revenue is expected to increase by up to \$2,000.00 per application submitted. The application fees currently used by Collier County for processing applications pursuant to paragraph 40E-400.315(2)(c), F.A.C., are not directly equivalent to the application fees assessed by the District. The proposed rule will impose no new capital and equipment or

operating and maintenance costs, nor will it require hiring of new employees or contractors. Individual and Entities, including local governments, could potentially be required to pay an application fee of up to \$2,000.00 to submit the application to the District. However, some of the projects that previously qualified for the No Notice provision of paragraph 40E-400.315(2)(c), F.A.C., will also qualify for a No Notice General Permit under subsection 40E-400.315(1), F.A.C., and thus would not incur additional costs.

It is anticipated that the proposed rule revision will have a minimal affect on small businesses and small cities, since any of those entities that qualified for the existing No Notice General Permit likely would have needed to apply to the County for their various local government authorizations. Those who do not qualify will be required to pay \$2,000 per application submitted to the District.

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, 373.118, 373.171, 403.813, 403.814 FS.

LAW IMPLEMENTED: 373.118, 373.413, 373.416, 373.426 FS.

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

DATE AND TIME: August 13, 2009, 9:00 a.m.

PLACE: South Florida Water Management District, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

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: South Florida Water Management District Clerk, (800)432-2045, ext. 6080 or (561)682-6080. 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: Anita R. Bain, Director, Environmental Resource Permitting Division, Environmental Resource Regulation Department, South Florida Water Management District, P. O. Box 24680, West Palm Beach, FL 33416-4680, (800)432-2045, ext. 6866 or (561)682-6866, email: abain@sfwmd.gov. For procedural questions, contact Jan Sluth, Senior Paralegal, Office of Counsel, South Florida Water Management District, P. O. Box 24680, West Palm Beach, FL 33416-4680, (800)432-2045, ext. 6299 or (561)682-6299, email: jsluth@sfwmd.gov

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-400.315 No Notice General Permit for Activities in Uplands.

- (1) No change.
- (2) through (2)(b) No change.

~~(c) Thresholds and Additional Conditions Within Collier County:~~

- ~~1. The project must have less than 40 acres total land area.~~
- ~~2. The project and surface water management system must have been approved by Collier County subsequent to September 17, 1980.~~

~~Rulemaking Specific Authority 373.044, 373.113, 373.118, 373.171, 403.813, 403.814 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History-New 10-3-95, Amended 4-14-03,_____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:
Anita R. Bain, Director, Environmental

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 14, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 31, 2008

DEPARTMENT OF MANAGEMENT SERVICES

Division of Purchasing

RULE NO.: RULE TITLE:
60A-1.044 State Term Contracts

PURPOSE AND EFFECT: To update Rule 60A-1.044, Florida Administrative Code, to reflect requirements for use of state term contracts by state agencies.

SUMMARY: Repeal paragraphs (2) and (3) and amend (5) to remove exceptions to use of state term contracts by state agencies.

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: 287.042(12) FS.

LAW IMPLEMENTED: 287.056(1) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kelley Scott, Department of Management Services, 4050 Esplanade Way, Suite 360, Tallahassee, Florida 32399-0950, (850)488-3049, Kelley.Scott@dms.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

~~60A-1.044 State Term Contracts; Usage and Exclusivity; Exceptions.~~

~~(1) State Term Contracts. State term contracts are indefinite quantity contracts competitively procured by the Department pursuant to Section 287.057, F.S., available for use by eligible users.~~

~~(2) Usage and Exclusivity. Section 287.056(1), F.S., mandates state term contract usage and exclusivity as follows:~~

~~(a) Agencies. Agencies are required to use state term contracts, except as provided in this rule.~~

~~(b) Other Entities. The Department encourages its vendors to offer state term contract pricing to additional entities, particularly charitable entities recognized under Section 501(c)(3) of the Internal Revenue Code. These entities are encouraged to review state term contracts and request identical pricing, which the vendor may grant at its discretion. Other entities purchasing from state term contracts assume and bear complete responsibility with regard to performance of any contractual obligation or term.~~

~~(3) Exceptions. An agency may purchase commodities or contractual services from other than the state term contract vendor(s) if:~~

~~(a) The purchase amount does not exceed the greater of \$250 or any threshold amount established in the state term contract; or~~

~~(b) The agency determines in writing that the state term contract item cannot meet an agency need because of one of these factors: unavailability of the contract item within agency schedule or delivery requirements; need for compatibility with existing equipment or systems; or the contract item fails to meet agency required specifications, quality levels or technical requirements; or~~

~~(c) The state term contract expressly designates that it is a non-exclusive contract, which designation may be conditional, e.g., require any off contract vendors to match or beat the contract price.~~

~~(2)(4) State Agency Standard Configuration and Options. State term contracts for commodities may provide cost-effective standard configuration products, i.e., those that meet most or a significant portion of agency requirements at a reduced cost. A state term contract offering standard configuration products may also list specific options or additions to the standard configuration products, which agencies or eligible users may elect to add to the standard configuration product as needed. If an agency determines that a standard configuration product will not meet the agency's needs and that it is therefore necessary for the agency to purchase specific product options or additions to the standard configuration product, the agency shall, in writing, specify why the standard configuration product(s) cannot meet the agency's needs due to: unavailability of the product within agency schedule or delivery requirements; need for compatibility with~~

existing equipment or systems; or failure to meet agency-required specifications, quality levels or technical requirements.

~~(3)(5)~~ The agencies' written determination for state term contract or standard configuration exceptions required by (2) ~~(3)~~ and (4) above shall also include the price impact, both as a dollar amount and as a percentage of the price of the state contract or standard configuration item(s), that results because of the exception or deviation.

Rulemaking Specific Authority 287.042(12) FS. Law Implemented 287.056(1) FS. History—New 7-26-04, Amended 10-15-06, _____.

Editorial Note: Formerly 60A-1.008(3)(a), (4), (5), F.A.C.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kelley Scott, Governance Manager, Division of State Purchasing, Department of Management Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles Covington, Director, Division of State Purchasing, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 17, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 26, 2009

DEPARTMENT OF MANAGEMENT SERVICES

Division of Telecommunications

RULE NO.: 60FF-5.001
 RULE TITLE: Requirements for Sworn Invoices Submitted by or on Behalf of Wireless Service Providers

PURPOSE AND EFFECT: The Board proposes to promulgate and adopt the new rule to clarify the requirements and procedures for reimbursement for actual cost incurred to provide 911 or E911 services.

SUMMARY: The new rule will clarify the requirements and procedures for reimbursement for actual cost incurred to provide 911 or E911 services.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this 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: 365.172(6)(a)11., 365.173(2)(d) FS.

LAW IMPLEMENTED: 365.173(2)(d) 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: John C. Ford, Chair, E911 Board, 4030 Esplanade Way, Suite 235M, Tallahassee, Florida 32399-0950

THE FULL TEXT OF THE PROPOSED RULE IS:

60FF-5.001 Requirements for Sworn Invoices Submitted by or on Behalf of Wireless Service Providers.

All wireless service providers seeking reimbursement for actual costs incurred to provide 911 or E911 service pursuant to Section 365.173(2)(d), F.S., shall complete and submit a sworn invoice containing the following:

- (1) The service provider's name and address;
- (2) The date of the invoice;
- (3) The service period for which reimbursement is sought;
- (4) Itemization of non-recurring charges for which reimbursement is sought, including:
 - (a) Description of each item;
 - (b) Quantity of each item provided;
 - (c) Unit cost of each item; and
 - (d) Total cost of each item.
- (5) Itemization of monthly recurring charges for which reimbursement is sought, including:
 - (a) Description of each item;
 - (b) Quantity of each item provided;
 - (c) Unit cost of each item; and
 - (d) Total cost of each item.
- (6) Itemization of other recurring charges for which reimbursement is sought, including:
 - (a) Timing of each recurring item, e.g., annual, quarterly, bi-monthly, etc.;
 - (b) Description of each item;
 - (c) Quantity of each item provided;
 - (d) Unit cost of each item; and
 - (e) Total cost of each item.
- (7) Totaled Phase I recurring charges, Phase I non-recurring charges, Phase II recurring charges and Phase II non-recurring charges.
- (8) Total amount of reimbursement sought in the invoice;
- (9) The following certification: "I hereby certify that the foregoing statements are true and correct, and that no material fact has been withheld or concealed from the Wireless 911 Board"; and
- (10) The dated and notarized signature of the person submitting the invoice.
- (11) Payment will be made to the order of the provider only.
- (12) Vendors need to register at the myfloridamarketplace.com as a vendor doing business with the State of Florida in order for the Board to generate a warrant.

(13) Each wireless provider shall submit to the E911 Board (Board), by August 1 of each year, a detailed estimate of the capital and operating expenses (cost recovery proposal) for which it anticipates that it will seek reimbursement under Section 365.173(2)(d), F.S., during the ensuing state fiscal year.

(14) In order to be eligible for cost recovery during any ensuing state fiscal year, a wireless provider must submit all sworn invoices for allowable purchases made within the previous calendar year not later than March 31 of the fiscal year.

(15) The Board shall submit to the Legislature, by September 15 of each year, its legislative budget request for funds to be allocated to wireless providers under section 365.173(2)(d), F.S., during the ensuing state fiscal year.

(a) The Board's legislative budget request shall be based on the cost recovery proposals submitted by the wireless providers and estimated surcharge revenues.

(b) The requirement that a wireless provider timely submit its cost recovery proposal by August 1 of each year is mandatory in order to enable the Board to timely prepare and submit its legislative budget request to the Legislature by September 15 of each year.

(c) Accordingly, in order to be eligible for cost recovery during any ensuing state fiscal year, a wireless provider must submit its cost recovery proposal no later than August 1 of each year.

(16) A wireless provider that fails to timely submit its cost recovery proposal for the ensuing state fiscal year shall be deemed ineligible for and thereby precluded from any cost recovery during the ensuing state fiscal year.

(17) A wireless provider deemed ineligible for cost recovery in the ensuing state fiscal year for failure to timely file its cost recovery proposal may request reinstatement of its eligibility by showing good cause in writing explaining in detail the facts and circumstances purporting to excuse its noncompliance. The wireless provider's representative shall be required to appear either in person or via teleconference at the next ensuing Board meeting to present its position and answer any questions from the Board. The Board, in the exercise of its powers enumerated in Section 365.172(6), F.S., shall consider the facts and circumstances and determine whether relief is justified to avoid imposition of a substantial hardship or a violation of the principles of fairness, and whether relief would serve the purpose of Sections 365.172, 365.173, 365.174, F.S., and, particularly, Section 365.173(2)(d), F.S.

Rulemaking Authority 365.172, 365.173 FS. Law Implemented 365.173(2)(d) FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
E911 Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: E911 Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 14, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 29, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.: 61H1-22.011 RULE TITLE: Standards for Business Valuations

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to provide the standard for licensees performing business valuations for clients.

SUMMARY: The standard for licensees performing business valuations for clients will be updated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule 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: 473.304, 473.315 FS.

LAW IMPLEMENTED: 473.315 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Veloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-22.011 Standards for Business Valuations.
Licensees performing business valuations for clients shall comply with "Statement on Standards for Valuation Services No. 1," as published by the American Institute of Certified Public Accountants, in effect as of January 1, 2008. (Available from the AICPA's + Resource Online at: <http://bvfls.aicpa.org/Resources/Laws+Rules+Standards+and+Other+Related+Guidance/AICPA+valuation+Standard+and+implementation+Toolkit.htm> or call 1(888)777-7077) ~~"Consulting Services Practice Aid 93-3, Conducting a Valuation of A Closely Held Business,"~~ published by the American Institute of CPAs. The rule does not encompass consulting engagements wherein a licensee provides written or oral advisory services in which the client is informed in writing that the services provided were not performed in accordance with "Statement on Standards for Valuation Services No. 1," ~~Consulting Services Practice Aid 93-3~~ established by the AICPA.

Rulemaking Specific Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 11-2-95, Amended 2-18-96, 9-30-97,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Accountancy
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Accountancy
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 22, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 15, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.: 61H1-28.0052
RULE TITLE: Number of Sitzings, and Granting of Credit, Release of Grades and Completion of Examination, Transition Rules

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to clarify the requirements of the CPA examination.

SUMMARY: The requirements for the CPA examination will be clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule 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: 455.217(1), 473.304, 473.306 FS.

LAW IMPLEMENTED: 455.217(1), 473.306 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Veloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-28.0052 Number of Sitzings, and Granting of Credit, Release of Grades and Completion of Examination, Transition Rules.

(1) No change.

(2) A candidate shall be deemed to have passed the CPA Examination when the candidate has been granted credit for all sections of the CPA Examination. Upon certification by the

Board to the Department that the applicant has met all licensure requirements as imposed by Chapters 455 and 473, F.S., and the rules promulgated pursuant thereto, the Department shall issue a license to practice public accounting to such individual. However, in no event shall an initial license be issued if the initial licensure fees and all required documents are not received within 36 months of the date of certification by the board; in such case, the certification expires and the applicant may reapply for licensure by endorsement, pursuant to Section 473.308(3)(a), F.S.

Rulemaking Specific Authority 455.217(1), 473.304, 473.306 FS. Law Implemented 455.217(1), 473.306 FS. History—New 1-1-04, Amended 2-24-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Accountancy
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Accountancy
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 22, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 15, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.: 61H1-28.007
RULE TITLE: Law and Rules Examination

PURPOSE AND EFFECT: The Board proposes the repeal of the rule due to a statutory change.

SUMMARY: The rule will be repealed due to a statutory change.

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: 473.304, 473.306 FS.

LAW IMPLEMENTED: 473.306 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Veloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-28.007 Laws and Rules Examination.

At the time of application for licensure, the applicant must pass the examination on Chapters 455 and 473, F.S., and related administrative rules approved by the Board. A grade of at least 80 is a passing grade.

Rulemaking Specific Authority 473.304, 473.306 FS. Law Implemented 473.306 FS. History-New 4-8-86, Formerly 21A-28.007, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Accountancy
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 10, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.: 61H1-31.001
RULE TITLE: Fees

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to update the licensure application process.

SUMMARY: The licensure application process will be updated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule 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: 455.213(2), 455.219(4), 455.271, 473.305, 473.312 FS.

LAW IMPLEMENTED: 119.07, 455.219(4), 455.271, 473.305, 473.312, 473.313 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Voloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-31.001 Fees.

(1) Applicants to sit for the Uniform CPA Examination, as a first time candidate or for candidates transferring partial credits from another state, a fifty dollar (\$50.00) application fee will be owed prior to processing the application. Once the

applicant has been approved to sit for the exam as a Florida candidate, it is the applicant's responsibility to complete the examination process with the national vendor and pay any examination fee required by the vendor the following initial examination fee will be charged to take each section of the exam: Auditing \$159.25, Accounting \$148.00, Regulation \$125.50, and Business E & C \$114.25.

(2) through (8) No change.

~~(9) The CPE reporting form must be postmarked by or on July 15. If it is postmarked or completed on-line after July 15 but by December 31, a \$50.00 delinquency fee will be imposed by the Board. No CPE reporting form will be accepted if it is postmarked or completed on-line after December 31.~~

~~(9)(10) Duplicate licensee fee – If a licensee requests a duplicate license or wall certificate, the Board will issue the duplicate if the request is made in writing and is accompanied by a payment of \$25.00.~~

~~(10)(11) For verification of licensure to other states; fifty dollars (\$50.00).~~

~~(11)(12) For initial licensure, fifty dollars (\$50.00). However, in no event shall an initial license be issued if the initial licensure fees and all required documents are not received within 12 months of the date of certification by the board; in such case, the certification expires and the applicant may reapply for licensure by endorsement, pursuant to Section 473.308(3)(a), F.S.~~

~~(12)(13) For approval of continuing education provider status, one hundred dollars (\$100.00), valid for two years.~~

~~(13)(14) For approval of a continuing education course in ethics, meeting the requirements of Section 473.312(1)(c), F.S., two hundred fifty dollars (\$250.00).~~

Rulemaking Specific Authority 455.213(2), 455.219(4), 455.271, 473.305, 473.312 FS. Law Implemented 119.07, 455.219(4), 455.271, 473.305, 473.312, 473.313 FS. History-New 12-4-79, Amended 2-3-81, 3-4-82, 11-6-83, 3-29-84, Formerly 21A-31.01, Amended 6-4-86, 9-16-87, 2-1-88, 8-30-88, 2-6-89, 12-18-89, 12-28-89, 8-16-90, 4-8-92, 12-2-92, Formerly 21A-31.001, Amended 11-4-93, 2-14-95, 11-3-97, 6-22-98, 10-28-98, 7-15-99, 4-3-02, 1-27-04, 1-31-05, 7-14-05, 4-9-06, 12-3-06, 4-29-07, 9-24-07, 2-24-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 22, 2009

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

<p>RULE NO.: 62-341.417</p>	<p>RULE TITLE: General Permit for Construction, Alteration, Operation, and Maintenance of Boat Ramp Facilities</p>
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PURPOSE AND EFFECT: This proposed rule amends an existing noticed general environmental resource permit under Part IV of Chapter 373, F.S., for boat ramps and their associated accessory docks. The amendments will conform the general permit with the requirements of Section 373.118(5), F.S. (as amended by Chapter 2005-158, Laws of Florida), including authorizing certain upland improvements associated with a boat ramp facility that is constructed, operated, and maintained by a governmental entity, provided the ramp and associated facilities remain open to the general public for the life of the facility. The amendments also will make the general permit more useable by expanding the geographical area where it applies.

SUMMARY: The proposed rule authorizes the construction, alteration, maintenance, and operation of a single boat ramp serving an individual, single-family dwelling unit, a multi-family dwelling unit, a commercial entity, or a governmental entity. The boat ramp for a multi-family residence or a commercial or governmental entity will be authorized to contain a maximum of two accessory docks having a maximum cumulative size of either 500 square feet within Outstanding Florida Waters (as listed in Rule 62-302.700, F.A.C.) or 1,000 square feet in other waters. The general permit also authorizes a maximum of 1.2 acres of impervious surface in uplands subject to vehicular traffic associated with a governmental entity's boat ramp, provided: 1) that any such impervious surface exceeding 4,000 square feet must have a fully operational stormwater management system completed in conformance with the terms and conditions of the general permit prior to operation of any portion of the boat ramp facility; and 2) the ramp and associated facilities remain open to the general public for the life of the facility.

The existing general permit is not allowed to be used in waters that are accessible to manatees within 27 counties. The geographic applicability of the general permit is proposed to be expanded to all counties in Florida, except for waters that are accessible to manatees within Charlotte, Hillsborough, Levy, Manatee, and Pinellas Counties or the St. Johns River and its tributaries in Lake and Seminole Counties. However, construction or expansion of a multi-family, commercial, or

governmental boat ramp in waters that are accessible to manatees must be consistent with applicable state approved manatee protection plans.

Boat ramp facilities authorized under the proposed noticed general permit cannot be associated with a larger plan of development that requires a permit under Part IV of Chapter 373, F.S. Boat ramps and accessory docks authorized under the general permit cannot adversely impede navigation or create a navigational hazard in the water body, and a minimum navigational access of two feet below mean low water in tidal waters or mean annual low water in non-tidal waters must already exist to the proposed ramp. The general permit does not authorize any filling of wetlands or other surface waters, other than for construction of the actual boat ramp surface, incidental filling associated with recontouring the land under the ramp to create a smooth grade, and placement of pilings for associated accessory docks. The general permit contains additional conditions and limitations to ensure that it does not allow significant adverse impacts to occur individually or cumulatively, as required by Sections 373.118, 373.406(5), and 373.414(9), F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared by the Agency. There are several groups who will be affected by the revisions to the NGP. Single-family, multi-family, commercial, governmental interests, boat ramp users, companies who design and build ramps, businesses operating in the vicinity, and surrounding property owners near a boat ramp constructed under the revised NGP will all receive a positive externality from the increased water access or the related increase in boater traffic. In the case of property owners (including single-family, multi-family, commercial, and surrounding property owners), this benefit stems primarily from increases in property values and increased utility derived from water access. In the case of affected businesses (including commercial interests, companies who design and build boat ramps, and businesses operating in the vicinity) and government interests, the benefits are related to the increased fee for use and retail sales income derived from increased boater traffic.

Costs from the NGP are primarily from negative environmental impacts, increased maintenance and enforcement costs, and transactional costs. The environmental impact costs are shared among all affected parties in the form of increased water and air pollution as well as increased erosion from the increased boat traffic. The increased costs of maintenance and enforcement are borne by those who build a new ramp under the NGP. Transactional costs for this rule change are expected to be minor and directly impact those who build ramps.

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: 373.026(7), 373.043, 373.118(1), 373.406(5), 373.414(9), 373.418, 403.805(1) FS.

LAW IMPLEMENTED: 373.118(1), 373.118(5), 373.406(5), 373.413, 373.414(9), 373.416, 373.418, 373.426 FS.

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

DATE AND TIME: August 3, 2009, Monday, 1:30 p.m., EDT
PLACE: Department of Environmental Protection, Bob Martinez Center, Room 609, 2600 Blair Stone Road, Tallahassee, FL

Toll Free Teleconference Number (888)808-6959, Conference Code 2458486

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: VanTassel at (850)245-8486 or Mary.VanTassel@dep.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ann Lazar, Environmental Supervisor, Department of Environmental Protection, Office of Submerged Lands and Environmental Resources at 2600 Blair Stone Road, MS 2500, Tallahassee, FL 32399-2400, by e-mail at ann.lazar@dep.state.fl.us, or (850)245-8495. (OGC No. 05-1659)

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 62-341.417 follows. See Florida Administrative Code for present text.)

62-341.417 General Permit for Construction, Alteration, Operation, and ~~or~~ Maintenance of Boat Ramp Facilities ~~Ramps and Associated Accessory Docks.~~

(1) A general permit is hereby granted, except in waters that are accessible to manatees within Charlotte, Hillsborough, Levy, Manatee, and Pinellas Counties or the St. Johns River and its tributaries in Lake and Seminole Counties, for construction, alteration, maintenance, and operation of a single boat ramp for the following entities or facilities:

(a) An individual, detached single-family dwelling unit or two adjacent detached single-family dwelling units, provided the ramp is located on the shared property line.

(b) A multi-family dwelling unit, which, for the purpose of this rule, shall include attached multi-family dwelling units, regardless of the legal subdivision of the underlying property.

(c) A commercial entity, provided such ramp is open to the general public for the life of the ramp, with or without a fee and without any membership or qualifying requirements.

(d) A governmental entity, such as a federal, state, county, or municipal agency, or a water management or inland navigation district, provided the boat ramp is open to the general public for the life of the facility, with or without a fee. The following associated facilities are also authorized for governmental entities in accordance with the terms and conditions of this general permit, provided the ramp and associated facilities remain open to the general public for the life of the facility, with or without a fee: ingress and egress traffic lanes, boat trailer parking spaces, an access road, and associated accessory docks.

(2) The boat ramp and associated facilities must meet all of the following conditions:

(a) The work does not qualify for an exemption under Part IV of Chapter 373, F.S., or Part V of Chapter 403, F.S.

(b) The work is not part of a larger plan of development that requires a permit under Part IV of Chapter 373, F.S.

(c) A minimum navigational access of two feet below mean low water in tidal waters or mean annual low water in non-tidal waters must already exist to the proposed ramp. Depth indicators shall be installed at the ramp to identify the controlling depths of the navigational access.

(d) The construction, alteration, or use of the boat ramp, including any accessory docks, shall not adversely impede navigation or create a navigational hazard in the water body.

(e) There shall be no dredging or filling of submerged grassbeds or coral communities.

(f) There shall be no filling of wetlands or other surface waters, other than for construction of the actual boat ramp surface, incidental filling associated with recontouring the land under the ramp to create a smooth grade, and placement of pilings for associated accessory docks.

(g) No part of the accessory docks shall be located over submerged grassbeds or coral communities.

(h) Dredging shall be limited to no more than 100 cubic yards, and in no case shall be more than is necessary to construct the boat ramp surface or restore the ramp to its original configuration and dimension.

(i) All dredged material that results from activities authorized by this general permit shall be deposited in an upland spoil site designed and located to prevent the escape of dredged material into wetlands or other surface waters.

(j) The above-water portion of the boat ramp shall be stabilized to prevent turbidity.

(k) The work shall not cause or contribute to violations of state water quality standards.

(l) Work under this general permit shall not commence until the Department has provided written confirmation that the applicant qualifies to use the general permit.

(m) This general permit is limited to one use per parcel of property and cannot be combined with other noticed general permits or exemptions.

(3) Construction of the boat ramp is limited as follows:

(a) The boat ramp for a single-family or multi-family dwelling unit, pursuant to paragraph (1)(a) or (b), is limited to a single lane and must not exceed a width of 20 feet, including the side slopes, with the boat ramp surface not to exceed a width of 12 feet.

(b) The boat ramp for a commercial or governmental entity pursuant to paragraph (1)(c) or (d) is limited to a maximum of two lanes and must not exceed a width of 60 feet, including the side slopes, with the ramp surface not to exceed a width of 36 feet.

(c) Construction or expansion of a multi-family, commercial, or governmental boat ramp pursuant to paragraph (1)(b), (c), or (d) in waters that are accessible to manatees must meet the following criteria:

1. The proposed boat ramp facility must be consistent with the state approved manatee protection plan in counties required to have a manatee protection plan adopted under Section 379.2431(2) F.S., or counties that have voluntarily completed a state approved manatee protection plan. Documentation of plan consistency must be submitted concurrently with the notice to use the general permit in the form of a letter of consistency concurrence from the Florida Fish and Wildlife Conservation Commission.

2. The proposed boat ramp facility must have a kiosk or permanent information display board providing information on manatee protection or the manatee zones in Chapter 68C-22, F.A.C., for that county and must follow the standard manatee construction conditions for in-water work.

(d) A boat ramp for a multi-family residence or for commercial or governmental entities pursuant to paragraph (1)(b), (c), or (d) can have a maximum of two accessory docks, abutting either one or both sides of the boat ramp, provided that the cumulative square footage of accessory docks over wetlands or other surface waters does not exceed 500 square feet in Outstanding Florida Waters or 1,000 square feet outside Outstanding Florida Waters. In addition, the accessory docks shall not be used for overnight mooring.

(4) The following criteria only apply to governmental entities. Any new upland parking or other impervious surface associated with boat ramps for single-family, multi-family, and commercial entities pursuant to paragraph (1)(a), (b), or (c) is subject to the permitting requirements and criteria in Chapter 40B-4, 40B-400, 40C-4, 40C-40, 40C-42, 40D-4, 40D-40, 40E-4, 40E-40, 62-330, or 62-346, F.A.C. The total impervious surface in uplands that is subject to vehicular traffic associated with a boat ramp for a governmental entity pursuant to paragraph (1)(d) shall not exceed 1.2 acres. Before operating any portion of such a boat ramp facility that contains 4,000 square feet or more impervious surface subject to vehicular

traffic, a stormwater management system meeting all of the following requirements must be constructed and fully operational.

(a) Each system must be designed by a registered professional in accordance with Chapter 471, 472, 481, or 492, F.S., as applicable, and must be constructed, operated, and maintained to serve the total project area of the boat ramp facility.

(b) No system shall accept or treat offsite runoff.

(c) The system must provide treatment for a minimum stormwater retention volume of one-half inch of runoff. Recovery of the specified retention volume must occur within 72 hours by percolation through the sides and bottom of the retention basin.

(d) Impervious traffic lanes and parking areas must be graded such that runoff is directed to the stormwater treatment system.

(e) The system must include a continuous vegetated buffer strip adjacent to the downstream side of impervious areas subject to stormwater treatment. The buffer strip must be at least 25 feet wide and stabilized by well-established natural vegetation.

(f) The permittee must maintain the integrity of the treatment system and buffer strips at all times for the life of the system.

(g) Upon completing construction of the stormwater management system, the system must be operated and maintained by the permittee in accordance with the terms of this general permit for the life of the system. The permittee shall perform routine inspections of the buffer to check for development of concentrated flow through it, gully erosion, or loss of vegetation, and must repair the buffer as soon as practical to restore shallow overland flow conditions and prevent further concentration of flow and damage to the buffer.

(5) Commercial or governmental entities proposing to construct a boat ramp pursuant to paragraph (1)(c) or (d) shall execute and record in the public land records of the county in which the boat ramp is located a binding agreement in favor of and acceptable to the Department ensuring that the facility will remain open to the general public for the life of the facility.

(6) The construction or alteration of a boat ramp or accessory docks does not obligate the Department to approve any subsequent request to dredge for navigational access.

Rulemaking Specific Authority 373.026(7), 373.043, 373.118(1), 373.406(5), 373.414(9), 373.418, 403.805(1) FS. Law Implemented 373.118(1), 373.118(5), 373.406(5), 373.413, 373.414(9), 373.416, 373.418, 373.426 FS. History—New 10-3-95, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Janet G. Llewellyn, Director, Division of Water Resource Management

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael W. Sole, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 22, 2008
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 18, 2008

DEPARTMENT OF HEALTH

Board of Nursing

RULE NO.: 64B9-3.0085
RULE TITLE: State Requirements Not Substantially Equivalent

PURPOSE AND EFFECT: The purpose of this repeal is to remove New Mexico as a state which has licensure requirements not substantially equivalent to Florida.

SUMMARY: The rule is being repealed.

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: 464.009(2) FS.

LAW IMPLEMENTED: 464.009(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rick Garcia, Executive Director, Board of Nursing, 4052 Bald Cypress Way, Bin #C02, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B9-3.0085 State Requirements Not Substantially Equivalent.

Rulemaking Specific Authority 464.009(2) FS. Law Implemented 464.009(2) FS. History--New 3-11-09, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing

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

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

DEPARTMENT OF HEALTH

Office of Statewide Research

RULE NO.: 64H-2.002
RULE TITLE: Institutional Review Board Applications

PURPOSE AND EFFECT: The purpose of this rule is to provide an application mechanism and fee schedule requesting Institutional Board review, pursuant to the provisions of Section 381.86(5), F.S.

SUMMARY: Rule 64H-2.002, F.A.C., adopts a fee schedule for review of human subjects research pursuant to Section 381.86(5), F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: Number of people affected: 43; Number of entities affected: 10; Dollar impact \$27,500; Cost to agency: \$5,000 a year;

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: 381.86 FS.

LAW IMPLEMENTED: 381.86(5) FS.

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

DATE AND TIME: Wednesday, July 15, 2009, 1:00 p.m. – 2:00 p.m.

PLACE: Department of Health, 4030 Esplanade Way, 2nd Floor, Room 258, 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 2 days before the workshop/meeting by contacting: Ronique Hall, (850)245-4444, x3927. 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: Ronique Hall, Office of Public Health Research, Department of Health, 4052 Bald Cypress Way, Mail Bin A #24, Tallahassee, FL 32399, (850)245-4444, x3927

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 64H-2.002 follows. See Florida Administrative Code for present text.)

64H-2.002 Institutional Review Board Applications.

(1) Requests for Institutional Review Board review shall be submitted electronically using the Department’s electronic system. Instructions are available at <http://FLpublichealthETHICS.net/instructions>. The website address is also available by contacting: Office of Public Health Research, Department of Health, 4052 Bald Cypress Way, Bin #A-24, Tallahassee, Florida 32399, (850)245-4585.

(2) Fees are waived for any student who is a candidate for a degree at a university located in Florida.

(3) Fees do not apply to Department of Health employees, including contracted employees, or investigators conducting research involving human subjects at the request of the Department under a contract, memorandum of understanding, or similar agreement, unless the study is industry sponsored, or sponsored by a for-profit organization. If so, then the fees listed in subsection (5) shall apply.

(4) Requests for review of studies involving Department electronic databases (such as, but not limited to Vital Statistics, Florida Cancer Data System) shall be charged according to the following schedule:

- (a) Initial Requests \$250.
- (b) Amendments \$100.
- (c) Continuing Reviews \$250.
- (d) Studies that expire will be assessed an additional \$250.
- (e) Requests for study closure shall not be charged a fee.
- (f) Requests for Continuing Review are due 60 days prior to study expiration.

(5) Requests for review of studies that are industry sponsored, or sponsored by a for-profit organization, shall be charged according to the following schedule:

- (a) Initial Requests \$2,000.
- (b) Amendments \$100.
- (c) Continuing Reviews \$1,000.
- (d) Studies that expire will be assessed an additional \$2,000 fee.
- (e) Requests for study closure shall not be charged a fee.
- (f) Requests for Continuing Review are due 60 days prior to study expiration.

(6) Requests for review of all other studies shall be charged according to the following schedule:

- (a) Initial Requests \$500.
- (b) Amendments \$100.
- (c) Continuing Reviews \$500.
- (d) Studies that expire will be assessed an additional \$500 fee.
- (e) Requests for study closure shall not be charged a fee.
- (f) Requests for Continuing Review are due 60 days prior to study expiration.

(7) Fees do not apply for non-research determinations or studies that are exempt per 45 CFR 46.101 (b).

(8) Fees are due at the time a request for review is made. IRB determinations will not be granted until payment is received by the Department.

(9) Fees do not apply to studies that are requesting continuing review during the grants no-cost extension period or afterward when the study remains with no funding.

(9) Fees are nonrefundable, except if a fee is paid when none is due. Specific instructions on how to pay the fee are available at the website indicated in subsection (1).

Rulemaking Specific Authority 381.86 FS. Law Implemented 381.86(5) FS. History—New 9-2-08, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Ronique Hall
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jean Kline
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 5, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 9, 2009

DEPARTMENT OF FINANCIAL SERVICES

Division of Risk Management

RULE NO.: 69H-2.008
 RULE TITLE: Other Forms Adopted

PURPOSE AND EFFECT AND SUMMARY: The proposed rule is necessary in order to comply with federal mandates that will become effective on July 1, 2009. Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Section 1862(b) of the Social Security Act (42 U.S.C. 1395(y)(b)) adds mandatory reporting requirements with respect to Medicare beneficiaries who receive settlements, judgments, awards, or other payments from liability insurance (including self-insurance), no-fault insurance, or workers' compensation. The Division of Risk Management, as a required reporting entity, must identify any Medicare beneficiaries that have existing claims with the Division of Risk Management and collect certain data that will be reported to the Center for Medicare and Medicaid Services (CMS). The data collected under federal law will be used by CMS in processing claims billed to Medicare for reimbursement of items and services furnished to Medicare beneficiaries and for Medicare as a Secondary Payer recovery effort, as appropriate.

The simplest and most effective means to collect this data is to promulgate a form that will be sent to all applicable claimants. SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

RULEMAKING AUTHORITY: 284.17, 284.39 FS.

LAW IMPLEMENTED: 284.30, 284.40, 284.41 FS.

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

DATE AND TIME: Monday, July 20, 2009, 9:30 a.m.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: George Rozes, Senior Management Analyst II, Division of Risk Management, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0336, (850)413-4754.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed above.

THE FULL TEXT OF THE PROPOSED RULE IS:

69H-2.008 Other Forms Adopted.

(1) The following forms are hereby adopted and incorporated by reference. These forms shall be used to aid the Division in the performance of its administrative duties by securing pertinent facts and information on claims filed against the Fund, as the circumstances of particular cases may require.

(a) DFS-D0-261, "Automobile Accident Report," rev. 11/05;

(b) DFS-D0-866, "Mileage Reimbursement," rev. 11/05;

(c) DFS-D0-1403, "General Liability Loss Report", rev. 11/05;

(d) DFS-D0-1404, "Lien Disclosure Statement", rev. 11/05;

(e) DFS-D0-1406, "Insurer's Disclosure Statement Pursuant to Section 627.4137, F.S.", rev. 11/05;

(f) DFS-D0-1407, "Medical Authorization", rev. 11/05; **and**

(g) DFS-D0-1410, "Substitute Form W9", new 11/05;-

(i) DFS-D0-1990, "Medicare Secondary Payer Reporting Questionnaire", new 5/09; and

(h) DFS-D0-1991, "Medicare Beneficiary/Eligibility Information", new 5/09.

(2) Copies of each form adopted and incorporated by reference in this rule are available from the Division of Risk Management, Department of Financial Services, Larson Building, Tallahassee, Florida 32399-0336.

Rulemaking Specific Authority 284.17, 284.39 FS. Law Implemented 284.30, 284.40, 284.41 FS. History--New 1-7-92, Amended 6-28-01, Formerly 4H-2.008, Amended 7-4-04, 5-4-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Rozes, Senior Management Analyst II, Division of Risk Management, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink, Chief Financial Officer, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 29, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 26, 2009

DEPARTMENT OF FINANCIAL SERVICES

Division of Worker's Compensation

RULE NOS.:	RULE TITLES:
69L-24.001	Purpose
69L-24.002	Scope
69L-24.003	Definitions
69L-24.004	Monitoring, Examining and Investigating
69L-24.005	Maintaining and Providing Records
69L-24.006	Administrative Penalties and Fines

69L-24.007	Patterns or Practices
69L-24.021	Minimum Performance Standards
69L-24.0211	Monitoring
69L-24.022	Auditing
69L-24.0222	Re-Audit and Certification for Noncompliance
69L-24.0231	Benefits and Administration Trust Fund Penalties Improper Filing Practices
69L-24.024	Medical Penalties
69L-24.0241	Employee Failure to Appear for Independent Medical Examination

PURPOSE AND EFFECT: Rule Chapter 69L-24, F.A.C., is being amended to concurrently repeal and replace all existing rules with new rules which have been restructured and renumbered to promote clarity regarding the establishment of uniform guidelines under which the Department of Financial Services, Division of Workers' Compensation will monitor, audit and investigate regulated entities to ensure compliance with statutory obligations under Chapter 440, Florida Statutes. The proposed rules provide guidance to regulated entities regarding requirements to provide timely payment of workers' compensation benefits to injured workers, to timely pay medical bills to providers, and to timely report workers' compensation data to the Department. Regulated entities include but are not limited to insurers, service companies, third-party administrators, self-serviced self-insured employers or funds, managing general agents, and data submitters that are responsible for adjusting workers' compensation claims or submitting information and data regarding those claims to the Department. The purpose and effect is also to establish uniform guidelines to penalize regulated entities for failure to provide timely payment of workers' compensation benefits to injured workers, for failure to timely pay medical bills to providers, and for failure to timely report workers' compensation information or data to the Department, based on findings made during the process of monitoring, auditing and investigating those regulated entities.

SUMMARY: Repeal of all existing rules in Rule Chapter 69L-24, F.A.C., and replacement of those rules with new rules which establish guidelines to monitor, audit and investigate regulated entities for compliance with the requirements of Chapter 440, Florida Statutes, regarding timely payment of benefits to injured workers, timely payment of medical bills, and timely reporting of data to the Department, and establish penalty guidelines for assessment of penalties for failure to comply with the statutory requirements.

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

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

RULEMAKING AUTHORITY: 440.13(11), 440.185, 440.20(6), 440.525(4), 440.591, 440.593(5) FS.

LAW IMPLEMENTED: 440.13(11), 440.185, 440.20(6), (8), 440.525, 440.593 FS.

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

DATE AND TIME: Wednesday, August 5, 2009, 10:00 a.m.

PLACE: 104 J Hartman Bldg., 2012 Capital Circle S.E., Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Robin Ippolito, Bureau Chief, Bureau of Monitoring and Audit, Division of Workers' Compensation, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4224, (850)413-1775.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed above.

THE FULL TEXT OF THE PROPOSED RULES IS:

WORKERS' COMPENSATION INSURERS' STANDARDS AND PRACTICES

69L-24.001 Purpose.

The purpose and intent of this rule chapter is to promote the self execution of the workers' compensation system through monitoring and enforcement of a regulated entity's fulfillment of its statutory obligations to provide timely payment of workers' compensation benefits to injured workers, to timely pay medical bills to providers, and to timely report workers' compensation medical data to the Department. The timely and accurate reporting of medical data is critical in that it enables the Department to provide current information about medical costs to policymakers and stakeholders so they can make qualitative and objective decisions relating to reimbursements to health care providers. Timely and accurate reporting of first reports of injury or illness is critical in that it allows the Department to monitor claims to ensure that regulated entities are fulfilling their statutory and rule obligations regarding the claims. The purpose of this rule chapter is also to establish performance standards and uniform guidelines for administrative fines and penalties assessed upon regulated entities for violations of Chapter 440 and other applicable Florida Statutes and Department Rules.

Rulemaking Authority 440.13(11), 440.185(10), 440.20(6), 440.525(4), 440.591, 440.593(5) FS. Law Implemented 440.13(11), 440.185, 440.20(6), (8), 440.525, 440.593 FS. History—New _____.

69L-24.002 Scope.

This rule chapter applies to all regulated entities as defined in this rule chapter and applies to all violations discovered through monitoring, examining, or investigating. This rule chapter shall not be construed as creating any substantive violations not otherwise prescribed by statute or rule.

Rulemaking Authority 440.13(11), 440.185(10), 440.20(6), 440.525(4), 440.591, 440.593(5) FS. Law Implemented 440.13(11), 440.185, 440.20(6),(8), 440.525, 440.593 FS. History—New _____.

69L-24.003 Definitions.

The following definitions shall apply in the rule chapter:

(1) "Action" – an event or events leading to the commission of a violation.

(2) "Audit" – a process whereby the practices of regulated entities are examined to verify compliance with Chapter 440 and other applicable Florida Statutes and Administrative Rules. The term "audit" is synonymous with the term "examination".

(3) "Batch" – a group of data records that is created and evaluated by CPS from manually or electronically submitted data received by the Department.

(4) "Centralized Performance System (CPS)" – a system that evaluates payment and filing data submitted to the Department.

(5) "Department" – the Florida Department of Financial Services.

(6) "Department Rules" – any and all rules adopted by the Department of Financial Services in its administration of Chapter 440 that apply to insurers or other regulated entities.

(7) "Division" – the Division of Workers' Compensation within the Florida Department of Financial Services.

(8) "Examination" – a process whereby the practices of regulated entities are examined to verify compliance with Chapter 440 and other applicable Florida Statutes and Department Rules. The term "examination" is synonymous with the term "audit".

(9) "F.A.C." – Florida Administrative Code.

(10) "F.S." – Florida Statutes.

(11) "Form DFS-F2-DWC-1" – Form DFS-F2-DWC-1 (First Report of Injury or Illness) or an electronic equivalent as required in Chapter 69L-56, F.A.C.

(12) "Investigation" – a Department review that is conducted to verify compliance with Chapter 440 and other applicable Florida Statutes and Department Rules.

(13) "Pattern or Practice" – a repeated or customary act(s) of non-compliance with any single provision of Chapter 440 or other applicable Florida Statutes or Department Rules on an individual claim or on multiple claims.

(14) "Regulated Entity" – any insurer as defined in Section 440.02(4), F.S., employer, service company, servicing agent, third-party administrator, claims handling entity, self-serviced self-insured employer or fund, submitter of forms or data on behalf of an insurer, or managing general agent that is responsible for handling or adjusting claims, or fulfilling an insurer's responsibility to transmit workers' compensation data to the Department.

(15) "Violation" – any finding of non-compliance with Chapter 440 or other applicable Florida Statutes or Department Rules.

Rulemaking Authority 440.13(11), 440.185(10), 440.20(6), 440.525(4), 440.591, 440.593(5) FS. Law Implemented 440.13(11), 440.185, 440.20(6), (8), 440.525, 440.593 FS. History– New _____.

69L-24.004 Monitoring, Examining and Investigating.

(1) The Department shall monitor, examine, or investigate the performance of regulated entities to ensure compliance with Chapter 440 and other applicable Florida Statutes and Department Rules as often as is deemed necessary.

(a) Monitoring includes, but is not limited to, the ongoing review of data provided to the Department by regulated entities.

(b) Examining or investigating includes, but is not limited to, the review of a regulated entity's processes and may be based upon:

1. The regulated entity's performance in prior examinations and/or investigations, or
2. Information obtained through the monitoring process, or
3. Information obtained through other methods utilized by the Department.

(2) Monitoring, examining, or investigating includes, but is not limited to, the review of the following:

- (a) Timeliness and accuracy of indemnity and/or medical payments,
- (b) Timeliness and accuracy of the filing of medical bill data,
- (c) Timeliness and accuracy of all forms required to be reported pursuant to Chapter 69L-3, F.A.C.,
- (d) Timeliness and accuracy of electronic transactions required by Chapter 69L-56, F.A.C.,
- (e) Denial of claims,
- (f) Delay in provision of benefits,
- (g) Harassment, coercion or intimidation of any party,
- (h) Evidence of the mailing and wording of the fraud statement pursuant to Section 440.105(7), F.S.,
- (i) Timeliness of the response to a Petition for Benefits,
- (j) Timeliness of the compliance with a Judge of Compensation Claim's order,
- (k) Timeliness of the compliance with a Department rule, order or directive,

(l) Compliance with CPS batch timeframes,

(m) Claims-handling practices,

(n) Timeliness of medical authorizations,

(o) Mailing of Form DFS-F2-DWC-65 (Important Workers' Compensation Information for Florida's Employers) or Form DFS-F2-DWC-66 (Informacion Importante Del Seguro De Indemnizacion Por Accidentes De Trabajo Para Los Empleadores De La Florida) to the employer.

(p) The date that Forms DFS-F2-DWC-60 or 61 (Important Workers' Compensation Information for Florida's Workers' brochure or Informacion Importante De Seguro De Indemnizacion Por Accidentes De Trabajo Para Los Trabajadores De La Florida) were mailed to the injured worker, and

(q) Mailing of the Employee Notification Letter to the injured worker.

(3) Reports resulting from an examination or investigation conducted under Chapter 440 and other applicable Florida statutes and Department rules, are confidential and exempt from Section 119.07(1), F.S., pursuant to Section 624.319, F.S., until the examination or investigation ceases to be active.

Rulemaking Authority 440.13(11), 440.185(10), 440.20(6), 440.525(4), 440.591, 440.593(5) FS. Law Implemented 440.13(11), 440.185, 440.20(6),(8), 440.525, 440.593(5) FS. History– New _____.

69L-24.005 Maintaining and Providing Records.

(1) Pursuant to Section 440.525(1), F.S., the Department may examine and investigate regulated entities as often as is warranted to ensure that they are fulfilling their obligations under Chapter 440, F.S. The Department shall have the power to conduct onsite inspections of claims records and documentation of an insurer, third-party administrator, servicing agent, or other claims-handling entity, and conduct interviews, both sworn and un-sworn, of claims-handling personnel. Insurers, third-party administrators, servicing agents, and other claims-handling entities shall make all claims records, documentation, communication, and correspondence available to Department personnel during regular business hours, pursuant to Section 440.525(3), F.S. All regulated entities shall provide to the Department all information and documentation that is requested for the purposes of monitoring, examining, or investigating the regulated entity's operations and processes. Such information and documentation, including specific data, shall be made available to the Department within 14 calendar days of receipt of any request by the Department unless the Department allows an extension of time.

(2) For examinations or investigations, if the regulated entity maintains hard-copy files, the hard-copy files shall be made available to the Department on or before the date requested by the Department. If the regulated entity maintains electronic files and an examination or investigation is

conducted at the regulated entity's offices, a sufficient number of functioning computers shall be made available to the Department for access to the electronic claims documents and information. Requests for information may include, but are not limited to:

(a) The date of notification or knowledge of the injury as defined in subsections 69L-3.002(23) and 69L-56.002(35), F.A.C.

(b) The date of initial disability, the eighth day of disability and knowledge of the eighth day of disability.

(c) The date each indemnity payment was mailed to the injured worker, the amount of the payment, and the period of time that was covered in the payment.

(d) The date that Forms DFS-F5-DWC-9 (Health Insurance Claim Form/CMS-1500), DFS-F5-DWC-10 (Statement of Charges for Drugs and Medical Supplies Form and Instructions), DFS-F5-DWC-11 (American Dental Association Dental Claim Form), and DFS-F5-DWC-90 (Hospital Billing Form (UB-04)), or their electronic equivalents, were received from the health care provider pursuant to Rule 69L-7.602, F.A.C.

(e) The date that Forms DFS-F5-DWC-9 (Health Insurance Claim Form/CMS-1500), DFS-F5-DWC-10 (Statement of Charges for Drugs and Medical Supplies Form and Instructions), DFS-F5-DWC-11 (American Dental Association Dental Claim Form), and DFS-F5-DWC-90 (Hospital Billing Form (UB-04)), or their electronic equivalents, were paid, disallowed, or denied.

(f) The date that Forms DFS-F5-DWC-9 (Health Insurance Claim Form/CMS-1500), DFS-F5-DWC-10 (Statement of Charges for Drugs and Medical Supplies Form and Instructions), DFS-F5-DWC-11 (American Dental Association Dental Claim Form), and DFS-F5-DWC-90 (Hospital Billing Form (UB-04)), or their electronic equivalents, were mailed or transmitted to the Department.

(g) The date that Forms DFS-F2-DWC-60 or 61 (Important Workers' Compensation Information for Florida's Workers' brochure or Informacion Importante De Seguro De Indeminzacion Por Accidentes De Trabajo Para Los Trabajadores De La Florida) were mailed to the injured worker.

(h) The date that Form DFS-F2-DWC-65 or 66 (Employer Informational Brochure) was mailed to the employer.

(i) The date that the Employee Notification Letter was mailed to the injured worker.

(j) the date that any written request for medical authorization was received and the date that the medical authorization was granted in response to the written request.

(k) Electronic Data Interchange (EDI) transactions and requirements pursuant to Chapter 69L-56, F.A.C.,

(l) the date that the 120-day notice required under Section 440.20(4), F.S. was mailed,

(m) all diary notes, claim notes, and correspondence available for review during an examination, audit or investigation.

Rulemaking Authority 440.13(11), 440.185(10), 440.20(6), 440.525(4), 440.591, 440.593(5) FS. Law Implemented 440.13(11), 440.185, 440.20(6), (8), 440.525, 440.593 FS. History—New _____.

69L-24.006 Administrative Penalties and Fines.

The Department shall utilize the monitoring, examination, or investigation processes to ensure compliance with Chapter 440 and other applicable Florida statutes and Department rules. The Department may assess administrative penalties and fines for violations. Violations within this rule are described in general language. The use of general language shall not be construed to expand or modify the statute. Violations are not necessarily described herein using the language that would be used to formally assert the violation in any specific case.

(1) Indemnity Violations.

(a) Late payments of compensation. In order to ensure insurer compliance under Chapter 440, F.S., the Department shall monitor, examine, and investigate the performance of insurers. The Department shall assess penalties for late payments of compensation that are below a minimum 95 percent timely payment performance standard. The insurer shall pay to the Workers' Compensation Administration Trust Fund a penalty of:

1. Fifty dollars per number of installments of compensation below the 95 percent timely payment performance standard and equal to or greater than a 90 percent timely payment performance standard.

2. One hundred dollars per number of installments of compensation below a 90 percent timely payment performance standard.

(b) Late filing of forms.

1. Employers shall be fined for each Form DFS-F2-DWC-1 which is not filed timely with the insurer or claims-handling entity as follows:

<u>Number of Days Late</u>	<u>Penalty for Untimely Filing</u>
<u>1-7 calendar days late</u>	<u>\$100 per form</u>
<u>8-14 calendar days late</u>	<u>\$200 per form</u>
<u>15-21 calendar days late</u>	<u>\$300 per form</u>
<u>22-28 calendar days late</u>	<u>\$400 per form</u>
<u>Over 28 calendar days late</u>	<u>\$500 per form</u>

2. The Division, through CPS, will calculate the penalties in order starting with the form with the greatest number of days late first. Insurers shall be fined for each DFS-F2-DWC-1 form which is not timely filed with the Department. Penalties shall be calculated for all the DFS-F2-DWC-1 forms that have been received by the Department in a specific CPS batch month as follows:

<u>Number of Days Late</u>	<u>Penalty for Untimely Filing</u>
<u>1-7 calendar days late</u>	<u>\$100 per form</u>
<u>8-14 calendar days late</u>	<u>\$200 per form</u>
<u>15-21 calendar days late</u>	<u>\$300 per form</u>
<u>22-28 calendar days late</u>	<u>\$400 per form</u>
<u>Over 28 calendar days late</u>	<u>\$500 per form</u>

3. After the insurer has accepted all penalties and submitted the batch to the Division for a specific month and the total amount of untimely filing penalties for that month exceeds \$10,000 as calculated under subparagraph (1)(b)1. and 2. herein, the penalty for each untimely filing not included in the calculation of the penalty up to \$10,000, shall be recalculated and assessed a penalty of \$25.00 per untimely filing for that specific month.

4. Insurers that incur untimely filing penalties issued through CPS in excess of \$10,000 for three or more specific months in a calendar year shall, in addition to penalties assessed, conduct quarterly self audits of their Form DFS-F2-DWC-1 filings to the Department documenting compliance by the insurer with the reporting requirements for Form DFS-F2-DWC-1, and submit the results of those audits to the Department documenting compliance with the reporting requirements for Form DFS-F2-DWC-1 for a one year period.

5. Any insurer that has been assessed penalties in excess of \$10,000 for a calendar month since January 1, 2008, until the effective date of this rule chapter, for untimely filing of Form DFS-F2-DWC-1, will have their penalty amount recalculated pursuant to subparagraph (1)(b)3. herein. If the insurer has already paid penalties to the Department for the untimely filing of Form DFS-F2-DWC-1, the Department shall refund the difference between the penalties paid and those recalculated under subparagraph (1)(b)3. herein, to the insurer, unless the insurer owes any outstanding, unpaid penalties to the Department. The outstanding, unpaid penalties must be paid in full prior to any refund being issued by the Department.

6. If the electronic First Report of Injury or Illness is assigned an Application Acknowledgement Code of Transaction Accepted (TA) within 30 days after the Claim Administrator, as defined in Rule 69L-56.002, F.A.C., is first approved and required by the Division to send electronic First Reports of Injury or Illness to the Division pursuant to paragraph 69L-56.300(1)(d), F.A.C., the insurer, as defined in Section 440.02(4), F.S., shall not be assessed a filing penalty pursuant to Rule 69L-24.006 F.A.C., based on the filing requirements established in subsections 69L-56.301(1) and (2), F.A.C. After the completion of the 30 day period referenced above, all electronic First Reports of Injury or Illness must be assigned an Application Acknowledgement Code of Transaction Accepted (TA) by the Division within the required filing timeframes established in subsections 69L-56.301(1) and (2), F.A.C., to be considered timely filed.

(2) Medical Violations.

(a) Insurer Administrative Penalties and Administrative Fines for Untimely Health Care Provider-Payment or Disposition of Medical Bills.

1. The Department shall assess administrative penalties for failure to comply with the payment, adjustment, disallowance, or denial requirements pursuant to Section 440.20(6)(b), F.S. To evaluate the data for timely performance standards for timely payments, adjustments and payments, disallowances or denials, reported on Forms DFS-F5-DWC-9 (Health Insurance Claim Form/CMS-1500), DFS- F5-DWC-10 (Statement of Charges for Drugs and Medical Supplies Form and Instructions), DFS-F5-DWC-11 (American Dental Association Dental Claim Form), and DFS-F5-DWC-90 (Hospital Billing Form (UB-04)), or their electronic equivalents, the Department shall calculate penalties on a monthly basis for each separate form/category type that was received and accepted by the Department within a specific calendar month.

2. Pursuant to Section 440.20(6)(b), F.S., the Department shall calculate and assess administrative fines according to the following guidelines:

a. For medical services provided on or after January 1, 2004, insurers shall pay, disallow, or deny all medical, dental, pharmacy, and hospital bills properly submitted to the insurer pursuant to Department rule no later than 45 calendar days after the insurer's receipt of the bill pursuant to Rule 69L-7.602, F.A.C. The Department shall assess penalties for payments, disallowances, or denials of medical, dental, pharmacy, and hospital bills that are below a minimum 95 percent timely performance standard. The insurer shall pay a penalty of:

i. \$25 for each bill below the 95 percent timely performance standard, but meeting a 90 percent timely performance standard.

ii. \$50 for each bill below a 90 percent timely performance standard.

(b) Insurer Administrative Penalties and Fines for Untimely Filing of Medical Bills.

1. Insurers that fail to submit a minimum of 95% of all medical bills timely for a specific month are subject to an administrative fine. Insurers shall be fined for medical bills which are not timely filed with the Department in accordance with the following procedure. For all untimely medical bills falling below the 95% requirement for a specific month, the Division, through CPS, will calculate the penalties for the untimely medical bills in order starting with the greatest number of days late first. Penalties for late filed medical bills shall be calculated in the batch month in which the medical bills are actually received by the Department, not the batch month in which the medical bills were required to be timely submitted, as follows:

Number of Days Late	Penalty for Untimely Filing
1-30 calendar days late	\$5
31-60 calendar days late	\$10
61-90 calendar days late	\$25
91 or greater calendar days late	\$50

2. After the insurer has accepted all penalties and submitted the batch to the Division for a specific month and the total amount of untimely filing penalties for that month exceeds \$10,000 as calculated under subparagraph (2)(b)1., herein, the penalty for each untimely filing not included in the calculation of the penalty up to \$10,000 shall be recalculated and assessed a penalty of \$5.00 per untimely filing for that specific month.

3. Insurers that incur untimely filing penalties issued through CPS in excess of \$10,000 for three or more specific months in a calendar year shall, in addition to penalties assessed, conduct quarterly self audits of their medical bill filings to the Department documenting compliance by the insurer with the reporting requirements for medical bills, and submit the results of those audits to the Department documenting compliance with the reporting requirements for medical bills for a one year period.

4. Any insurer that has been assessed penalties in excess of \$10,000 for a calendar month since January 1, 2008, until the effective date of this rule chapter, for untimely filing of medical bills, will have their penalty amount recalculated in accordance with subparagraph (2)(b)2., herein. If the insurer has already paid penalties to the Department for the untimely filing of medical bills, the Department shall refund the difference between the penalties paid and those recalculated under subparagraph (2)(b)2., herein, to the insurer, unless the insurer owes any outstanding, unpaid penalties to the Department. The outstanding, unpaid penalties must be paid in full prior to any refund being issued by the Department.

(c) Insurer Administrative Penalties and Fines for Rejected and not Resubmitted Medical Bills.

1. Insurers are required to timely correct medical bills that are rejected by the Department.

2. If the medical bill remains rejected and the insurer does not correctly resubmit the bill within 90 calendar days of the original rejected date, an administrative fine shall be assessed against the insurer in the amount of \$50 for each such medical bill.

(d) The provisions of subsection 69L-7.602(7), F.A.C., become null and void and are supplanted by penalty provisions in this amended rule Chapter 69L-24, F.A.C., effective upon adoption of this amended rule Chapter 69L-24, F.A.C.

Rulemaking Authority 440.13(11), 440.185(10), 440.20(6), 440.525(4), 440.591, 440.593(5) FS. Law Implemented 440.13(11), 440.185, 440.20(6), (8), 440.525, 440.593 FS. History—New

69L-24.007 Pattern or Practice.

(1) A pattern or practice constitutes a willful violation if the regulated entity that committed the pattern or practice:

(a) Did so intentionally and with knowledge of the act's unlawfulness or with disregard to the unlawfulness of the act;
or

(b) Failed to comply with an order of the Department and the insurer has exhausted all appellate rights.

(2) The penalties assessed under subsection (1) of this rule shall be \$20,000 for a single willful violation and not exceed an aggregate of \$100,000 for all pattern or practice violations arising out of the same action.

(3)(a) The Department may issue a non-willful violation for a pattern or practice of unreasonable claims handling for any monitoring, examining, or investigating review activity listed in subsection 69L-24.004(2), F.A.C., or for any other pattern or practice identified by the Department. For each such non-willful violation, a penalty of \$2,500 shall be assessed against the insurer by the Department, with such fines not exceeding an aggregate of \$10,000 for all pattern or practice violations arising out of the same action. Any penalty imposed under this paragraph for a non-willful violation shall not duplicate a penalty imposed under another provision of Chapter 440, F.S., or Department Rules.

(b) The Department will calculate a regulated entity's performance in order to determine if a non-willful violation will be assessed for a pattern or practice of unreasonable claims handling. If the performance falls below 90% compliance during an audit, examination or investigation, except as otherwise stated in Chapter 440, F.S., and other applicable Florida Statutes and Department Rules, the Department may assess a penalty pursuant to subsection (3) herein.

Rulemaking Authority 440.13, 440.185(10), 440.20(6), 440.525(4), 440.591, 440.593(5) FS. Law Implemented 440.13(11), 440.185, 440.20(6), (8), 440.525, 440.593 FS. History—New

69L-24.021 Minimum Performance Standards.

A ninety percent (90%) rate of compliance is the minimum standard of performance for insurers, self-insurers, employers and servicing agents in each of the following areas: timeliness in which they report and handle claims; promptness of payment of compensation benefits; and payment and disposition of medical bills. The 90% performance rate applies to all applicable insurers, self-insurers, employers, and servicing agents who are subject to the following rules: Chapter 69L-3, F.A.C.; Chapter 69L-7, F.A.C.; or Chapter 38F-8, F.A.C.

Rulemaking Specific Authority 440.20(8)(c), 440.13(11)(b), 440.591 FS. Law Implemented 440.20, 440.13(11) FS. History—New 8-29-94, Formerly 38F-24.021, 4L-24.021, Repealed

69L-24.0211 Monitoring.

~~(1) The Division shall continually monitor the performance of insurers, self insurers, employers and servicing agents to ensure compliance with the performance standards prescribed in Rule 69L 24.021, F.A.C., and to assist these entities in improving their overall performance.~~

~~(2) Such monitoring will include the automated insurer performance system indicators as listed below:~~

- ~~(a) Timeliness and accuracy of all indemnity and medical payments;~~
- ~~(b) Timely and accurate reporting of required information;~~
- ~~(c) Volume and nature of employee complaints regarding the workers' compensation injury;~~
- ~~(d) Timeliness and accuracy of reporting coverage and changes in coverage;~~
- ~~(e) Compliance with rehabilitation status reviews and reporting requirements;~~
- ~~(f) Timeliness and accuracy of refunding overpayments;~~
- ~~(g) Effectiveness of utilization review program;~~
- ~~(h) Volume and cost of litigation in processing initial claims;~~
- ~~(i) Effectiveness in returning employees to work;~~
- ~~(j) Employee customer service ratings;~~
- ~~(k) Employer customer service ratings; and~~
- ~~(l) Amount of average medical costs and average total costs per claim.~~

~~In addition to the data in the Automated Insurer Performance System, review will be based on data received on referrals of questionable insurer practices received from other units of the Division, governmental entities, the Department of Financial Services, claimants, and other interested parties.~~

~~Rulemaking Specific Authority 440.20(15)(f), 440.591 FS. Law Implemented 440.20(15) FS. History—New 8-29-94, Amended 5-14-95, Formerly 38F-24.0211, 4L-24.0211, Repealed _____.~~

69L-24.022 Auditing.

~~(1) The audits by the Division will encompass all indicators covered by the Division's Automated Insurer Performance System as provided in Rule 69L-24.0211, F.A.C. However, insurers, self insurers or servicing agents shall not be penalized for performance below 90 percent based on the following Automated Insurer Performance System indicators:~~

- ~~(a) Volume and cost of litigation in processing initial claims;~~
- ~~(b) Effectiveness in returning employees to work;~~
- ~~(c) Employee customer service ratings;~~
- ~~(d) Employer customer service ratings;~~
- ~~(e) Amount of average medical costs and average total costs per claim; and~~
- ~~(f) Volume and nature of employee complaints regarding the workers' compensation injury.~~

The Division will make recommendations to assist these entities to improve performance in the aforementioned areas for the specific purpose of rendering the Workers' Compensation system more effective and efficient.

(2) The Automated Insurer Performance System indicators and the other sources identified in this rule shall be reviewed by the Division to determine whether and how often to conduct audits of each insurer, self insurer or servicing agent's practices. For purposes of this determination, substandard performance on any category outlined in Rule 69L 24.021, F.A.C., shall subject the entity to consideration for audit. No prior notice is required if the Division determines an audit is necessary. However, nothing set forth in these rules shall prohibit the Division from auditing all insurers, self insurers and servicing agents at least once every three (3) years. Audits conducted under the three (3) year requirement shall cover the preceding three (3) fiscal years of the insurer, self insurer or servicing agent's operation and must commence within twelve (12) months after the end of the most recent fiscal year being covered by the audit. The audit may cover any period of the entity's operations since the Division's last audit.

(3) If the Division conducts an on-site audit of any insurer's, self insurer's or servicing agent's practices, the audit report shall be utilized to recommend changes in such entity's behavior and to ensure its continuing compliance with the minimum performance standards set forth in this rule.

(4) For purposes of this rule:

(a) On Site audits will be conducted at the physical location of the entity being audited. The Division shall issue a written audit report within thirty (30) days after conclusion of an on site audit conducted pursuant to this rule. This report shall include the Division's recommendations for improving the entity's overall performance in all categories as specified by the Automated Insurer Performance System.

(b) Desk audits will be conducted at the Division's office based on data reported to the Division. A written audit report shall be issued at any time the entity's performance is below the minimum performance standard.

(5) All insurers, self insurers or servicing agents shall provide the Division with all information relevant to each case file and the Automated Insurer Performance System indicators, as needed, to permit a complete review of the entity's operations and processes during an audit. Such information may be furnished through hard copy or through a computerized format, as long as the information is made available to the Division at the time of the audit. In the event the information is kept in a format other than hard copy, such format shall be accessible by the Division without unreasonable delay caused by access codes or the programming of access codes for entry into the entity's database by the Division.

Rulemaking Specific Authority 440.13(11)(b), 440.20(8)(c), (17), 440.591 FS. Law Implemented 440.13(11), 440.20 FS. History—New 8-29-94, Amended 5-14-95, Formerly 38F-24.022, 4L-24.022, Repealed.

69L-24.0222 Re-Audit and Certification for Noncompliance

(1) Any insurer, self insurer or servicing agent who fails to achieve at least 90 percent compliance on any initial audit shall be audited again within twelve (12) months of the date of the initial audit. During the re-audit, the Division shall examine the entity's performance based on the deficiencies identified in the initial audit report and the specific action proposed for eliminating the deficiencies in the entity's Statement of Objectives. Once the entity has been re-audited and determined not to satisfy the 90 percent compliance rate, that entity shall be subject to the following sanctions:

(a) If the entity's performance is below 90 percent compliance due to its failure to carry out the specific action proposed, it shall be certified to the Department of Financial Services or this Division, as applicable, under Section 440.20(15)(a), Florida Statutes, in addition to any penalty or fine authorized under Rule 69L-24.0221, F.A.C.

(b) All insurers, self-insurers, or servicing agents failing to submit a Statement of Objectives and who do not achieve at least 90 percent compliance on re-audit shall be certified to the licensing authority, in addition to any penalty or fine authorized under Rule 69L-24.0221, F.A.C.

(2) Any insurer, self insurer or servicing agent whose initial audit indicates a failure to achieve at least 50 percent compliance, shall be certified to the Department of Financial Services or this Division, as applicable, under Section 440.20(15)(a), Florida Statutes.

(3) Upon conclusion of any on-site audit, the Division's personnel conducting the audit shall review the preliminary findings of such audit with the claims manager or the individual in charge of the office being audited or his designee. Insurers that will be sanctioned under subsection (2) of this rule may request that Division personnel hold, or cause to be held, a workshop which shall include, but not be limited to, the areas of deficiency identified in the audit.

(4) The Division shall not re-audit a insurer, self insurer, or servicing agent for failure to achieve 90 percent compliance with the Automated Insurer Performance System indicators set forth in paragraphs 69L-24.0221(1)(a)-(f), F.A.C.

Rulemaking Specific Authority 440.13(11)(b), 440.20(15)(f), 440.591 FS. Law Implemented 440.20 FS. History—New 8-29-94, Amended 5-14-95, Formerly 38F-24.0222, 4L-24.0222, Repealed.

69L-24.0231 Benefits and Administration Trust Fund Penalties Improper Filing Practices.

(1)(a) Failure to timely file, by electronic or paper submission, legible and complete forms, reports, or documents as required by Chapter 440, F.S., Chapter 69L-3, F.A.C., or

other Division rules implementing Chapter 440, F.S., shall subject the party required to file such form, report or document to assessment by the Division of an Administrative fine. For purposes of this rule, a paper form, report or document is timely filed when it is postmarked and mailed prepaid prior to the expiration of the time periods prescribed in this rule, and Chapter 69L-3, F.A.C. For purposes of this rule, if disability is immediate and continuous for 8 or more calendar days after the injury, an electronic equivalent of a First Report of Injury or Illness will be considered timely filed with the Division when it is received by the Division on or before the 21st day after the insurer's knowledge of the injury and is assigned an acknowledgement code of Transaction Accepted (TA). If the first 7 days of disability are nonconsecutive or delayed, the electronic equivalent of a First Report of Injury or Illness will be considered timely filed with the Division when it is received by the Division on or before the 13th day after the insurer's knowledge of the 8th day of disability and is assigned an acknowledgement code of Transaction Accepted (TA). Penalties shall be assessed as follows:

(b) DWC 1, First Report of Injury or Illness. Employers shall be penalized for each DWC 1 that is not timely filed with the insurer or servicing agent as follows:

1. \$100 for one through seven days of untimely filing;
2. \$200 for eight through 14 days of untimely filing;
3. \$300 for 15 through 21 days of untimely filing;
4. \$400 for 22 through 28 days of untimely filing; or
5. \$500 for over 28 days of untimely filing.

(c) Insurers shall be penalized for each DWC 1 that is not timely filed with the Division as follows:

1. \$100 for one through seven days of untimely filing;
2. \$200 for eight through 14 days of untimely filing;
3. \$300 for 15 through 21 days of untimely filing;
4. \$400 for 22 through 28 days of untimely filing; or
5. \$500 for over 28 days of untimely filing.

(d) If the electronic First Report of Injury or Illness is assigned an Application Acknowledgement Code of Transaction Accepted (TA) within 30 days after the Claim Administrator, as defined in Rule 69L-56.002, F.A.C., is first approved and required by the Division to send electronic First Reports of Injury or Illness to the Division pursuant to paragraph 69L-56.300(1)(d), F.A.C., the Insurer, as defined in Rule 69L-56.002, F.A.C., shall not be assessed a filing penalty pursuant to paragraph 69L-24.0231(1)(c), F.A.C., based on the filing requirements established in subsections 69L-56.301(1) and (2), F.A.C. After the completion of the 30-day period referenced above, all electronic First Reports of Injury or Illness must be assigned an Application Acknowledgement Code of Transaction Accepted (TA) by the Division within the required filing timeframes established in subsections 69L-56.301(1) and (2), F.A.C., to be considered timely filed.

~~(2) Improper Disposition of Medical Bill Penalties. Any penalty imposed on a insurer or self insured for the improper disposition of medical bills when such disposition is below 90 percent compliance, after 7-1-94, shall be assessed, per quarter, as follows:~~

80% through 89.99%	1/4 percent of the prior year's assessment levied under Section 440.51, F.S., against the entity being fined.
70% through 79.99%	1/2 percent of the prior year's assessment levied under Section 440.51, F.S., against the entity being fined.
60% through 69.99%	3/4 percent of the prior year's assessment levied under Section 440.51, F.S., against the entity being fined.
0% through 59.99%	1 percent of the prior year's assessment levied under Section 440.51, F.S., against the entity being fined.

~~(3)(a) Penalty to the Administration Trust Fund. Any fine imposed on any insurer or servicing agent that is payable to the Administration Trust Fund for untimely payment of compensation benefits which were paid on or after 1-1-94 shall be as follows:~~

~~(b) \$50 for each late payment of compensation which is below 90 percent compliance not to exceed one percent of the prior year's assessment levied under Section 440.51, F.S.;~~

~~(4) Benefit Penalty without an Award. Any penalty payable to the employee for the untimely payment of compensation benefits, on dates of accident on or after 1-1-94, payable without an award, shall be as follows:~~

~~(a) 20 percent on the first of any late installments of compensation not paid within seven days after it becomes due;~~

~~(b) \$5 per subsequent installment of compensation not paid within seven days after it becomes due; and~~

~~(c) For dates of accident prior to 1-1-94, the penalty shall be the greater of 10 percent or \$5 for any installment of compensation not paid within 14 days after it becomes due.~~

~~(5) Benefit Penalty with an Award. Any penalty for the untimely payment of compensation for dates of accident on or after 1-1-94 payable under the terms of an award shall be 20 percent of such unpaid compensation not paid within 37 days after the date the order is mailed to the parties, unless review of the compensation order making such award is taken as provided in Section 440.25, F.S. For dates of accidents prior to 1-1-94, the penalty shall be 20 percent of such unpaid compensation not paid within 60 days after the date the order is mailed to the parties, unless review of the compensation order making such award is taken as provided in Section 440.25, F.S.~~

~~(6) When a servicing agent is under contract with a insurer to fulfill the insurer's administrative responsibilities under this chapter, the payment practices of the servicing agent are deemed the payment practices of the insurer, in which case the insurer shall be the responsible party for any penalties assessed under this section.~~

~~Rulemaking Specific Authority 440.13(11)(b), 440.185, 440.591, 440.593(5) FS. Law Implemented 440.13(11)(b), 440.185(9), 440.20(8)(a) FS. History--New 8-29-94, Amended 5-14-95, 6-4-97, 11-28-01, Formerly 38F-24.0231, 4L-24.0231, Amended 1-8-04, 5-8-08, Repealed _____.~~

~~69L-24.024 Medical Penalties.~~

~~(1) Penalty for Willful Refusal to Provide Medical Records or to Discuss Medical Condition. The Division, pursuant to Chapter 69L-7, F.A.C., shall assess a penalty against a health care provider who willfully refuses to provide medical records or to discuss the medical condition of the injured employee, after a reasonable request is made by the Division, employer, insurer or attorney for either of them for such medical records or to discuss the medical condition of the injured employee.~~

~~(2)(a) Failure to Timely Compensate a Certified Expert Medical Advisor. The Division shall assess a penalty which shall not exceed \$500 against any insurer, self insurer or servicing agent that fails to timely compensate a certified expert medical advisor for services rendered, pursuant to Section 440.13(9), Florida Statutes. In accordance with Section 440.13(9)(f), Florida Statutes, the Division establishes the following penalty schedule, with \$500 being the maximum penalty for each failure to timely compensate such advisor.~~

~~(b) Payment by the insurer, self insurer or servicing agent to a certified expert medical advisor is deemed timely when such payment is made within 45 calendar days after the date the insurer, self insurer or servicing agent receives the expert medical advisor's bill for services rendered.~~

~~1. One through five calendar days of untimeliness in payment will result in a penalty of \$200;~~

~~2. Six through ten calendar days of untimeliness in payment will result in a penalty of \$400;~~

~~3. Over 10 calendar days of untimeliness in payment will result in a penalty of \$500.~~

~~(3) Failure of Health Care Provider To Refund Overpayment Within 30 Days After Notification. The Division, pursuant to Chapter 69L-7, F.A.C., shall assess a penalty against any health care provider who fails to refund an overpayment made by the insurer, self insurer or servicing agent within 30 days after receipt of written notification with substantiation of the overpayment by either the insurer, self insurer, servicing agent or the Division of Workers' Compensation.~~

~~Rulemaking Specific Authority 440.13(11)(a), 440.20(8)(c), 440.591 FS. Law Implemented 440.13(9)(f), (11) FS. History--New 8-29-94, 5-14-95, Formerly 38F-24.024, 4L-24.024, Repealed _____.~~

~~69L-24.0241 Employee Failure to Appear for Independent Medical Examination.~~

~~The insurer may contact the injured employee directly to schedule a reasonable time for an independent medical examination. The insurer has an obligation to confirm, in~~

~~writing, the date and time of such examination to the injured employee within five days of the date and time the insurer and employee agreed to such examination. The insurer must also notify the injured employee's counsel, if any, of such examination no later than seven days prior to the date such examination is scheduled.~~

~~(1) For purposes of this section, "reasonable time" means a time acceptable to both parties.~~

~~(2) Injured employees are required to appear for all properly scheduled independent medical examinations, unless the injured employee can provide good cause for his absence. For purposes of this section, good cause can be established by showing that an immediate illness, injury, unforeseen event or intervening circumstances prevented the injured employee's appearance. An injured employee who does not properly provide at least 24 hours' notice of cancellation and cannot demonstrate good cause for his/her nonappearance for the independent medical examination shall not be excused from the sanctions of subsections (3) and (4) below.~~

~~(3) An injured employee who fails without good cause, as set forth above, to appear for the scheduled independent medical examination shall reimburse the insurer 50 percent of the cancellation or no show fee. The insurer may withhold no more than 20 percent of each bi-weekly installment amount payable to the injured employee when recouping from the injured employee a cancellation or no show fee that has been paid by the insurer. The insurer shall not recoup more than 50 percent of the actual cancellation or no show fee.~~

~~(4) An injured employee who fails, without good cause as set forth in subsection (2), to appear for the scheduled independent medical examination is barred from recovering compensation for any period during which the injured employee has refused to submit to such examination. Compensation under this paragraph means indemnity benefits.~~

Rulemaking Specific Authority 440.591 FS. Law Implemented 440.13(5)(d) FS. History—New 8-29-94, Amended 5-14-95, Formerly 38F-24.0241, 4L-24.0241, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Robin Ippolito, Bureau Chief, Bureau of Monitoring and Audit, Division of Workers' Compensation, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink, Chief of Financial Officer, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 25, 2009

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

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NO.: 69O-189.003
 RULE TITLE: Workers' Compensation: Application and Audit Procedures

PURPOSE AND EFFECT: Allows but does not require electronic signatures in the application for workers compensation coverage. Makes explicit those audit procedures that under the old rule were incorporated by reference to NCCI publications. Adds additional audit procedures.

SUMMARY: The National Council on Compensation Insurance (NCCI) is a U.S. insurance rating and data collection bureau specializing in workers' compensation. Operating with a not-for-profit philosophy and owned by its member insurers, NCCI annually collects data covering more than four million workers' compensation claims and two million policies. NCCI provides data and analysis to insurance companies, state workers' compensation insurance funds, regulatory authorities, employers needing information on workers' compensation issues, and non-governmental workers' compensation agencies.

Pursuant to Section 440.381, F.S., the Financial Services Commission is to promulgate rules for applications for workers' compensation coverage, and for audits of payroll and classifications of workers. In 2008, NCCI filed with the Office, on behalf of its carriers, a proposal for a rule addressing these matters. This proposed rule is based on NCCI's proposal.

The proposed rule allows electronic signatures in the application for workers' compensation coverage and in the annual audit so long as the electronic signature process complies with Florida's Uniform Electronic Transaction Act as provided in Chapter 668, F.S. The current rule incorporates NCCI publications by reference. The proposed rule explicitly provides the procedures for the audits required by the current rule.

The proposed rule also raises the threshold for an onsite audit from \$5,000 to \$10,000. Any audit for under \$10,000 will be handled by a mail audit, to save costs both for the employer and the carrier.

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 FS.

LAW IMPLEMENTED: 440.381 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 21, 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: Theresa Eaton, Office of Insurance Regulation, E-mail Theresa.Eaton@flor.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Theresa Eaton, Office of Insurance Regulation, E-mail Theresa.Eaton@flor.com

THE FULL TEXT OF THE PROPOSED RULE IS:

690-189.003 Workers' Compensation: Application and Audit Procedures.

(1) No change.

(2)(a) An application complying with this rule is required for all policies having covered Florida exposure. For new business effective after the implementation of this rule, a carrier shall use an application which complies with this rule. When this new business policy is renewed, the carrier is not required to obtain another application. These requirements also apply to policies written in other states where there is covered Florida exposure other than incidental Florida exposure.

(b) The applicant's signature on the applicant form shall be notarized. The carrier is authorized to require the producer's signature to be notarized.

(c) It is permissible for insurers to accept electronic signatures in satisfaction of the application signature requirements to the extent that such acceptance of electronic signatures complies with Parts I and II of Chapter 668, F.S.

(d) It is permissible for insurers to accept electronic notarizations in satisfaction of the application notarization requirements to the extent that such acceptance of electronic notarizations complies with Parts I and II of Chapter 668, F.S.

(3) No change.

(4)(a) In order to ensure that the appropriate premium is charged for workers' compensation coverage, each employer and carrier shall comply with:

1.a. The requirements of Section 440.381, F.S.; and

2.b. As applicable, the voluntary market minimum audit requirements and FWCJUA minimum audit requirements as set forth in paragraphs (4)(b) and (4)(c) below. ~~"Florida State Special Audit Rules", (rev. 7/02) and "Part Three Service Providers D. Performance Standards for Service Providers" (rev. 7/02) which are hereby adopted and incorporated by reference.~~

~~2.a. Copies of the "Florida State Special Audit Rules" (rev. 7/02) are contained in the workers' compensation manual issued by the National Council on Compensation Insurance, Inc., 901 Peninsula Corporate Circle, Boca Raton, FL 33487.~~

~~b. Copies of Part Three Service Providers D. Performance Standards for Service Providers" (rev. 7/02) are contained in the operations manual of the Florida Workers' Compensation Joint Underwriting Association, Inc., P. O. Box 48957, Sarasota, FL 34230 5937.~~

(b) Each voluntary market carrier and each employer covered by a voluntary market carrier shall comply with the following minimum audit requirements at the expiration of each policy:

1. Final audits shall be conducted for both new and renewal policies as follows:

a. For policies with an estimated annual premium of \$10,000 and over, a final physical audit shall be completed annually on all risks regardless of governing classification code;

b. For policies with an estimated annual premium of \$9,999 to \$1, a final mail or physical audit shall be completed annually on all risks regardless of governing classification;

c. For all new business policies having construction classifications, regardless of premium range a final physical audit shall be completed annually;

d. For all renewal business policies having construction classifications, a final physical audit shall be conducted annually if the estimated annual premium is \$5,000 and over; and

e. Per capita policies shall have a final mail or physical audit not less than biennially.

2. Physical audits will be made whenever requested by the employer with reasonable grounds.

3. Mail audit reports by the employer are permitted only where a physical audit is not required.

4. Records examined during the physical audit shall include, but not be limited to, the use of the following as applicable:

a. Unemployment Compensation Tax (UCT) forms;

b. Federal reports of employee income;

c. Payroll records;

d. Cash disbursement journals;

e. Other acceptable accounting records;

f. Certificates of insurance covering subcontractors; and

g. Independent contractor documents.

5. Each voluntary market carrier or the National Council on Compensation Insurance shall conduct audits to ensure the accurate classification assignments for duties of employees.

(c) The FWCJUA or its service provider and each employer covered by the FWCJUA shall comply with the following minimum audit requirements at the expiration of each policy:

1. Final physical audits shall be conducted as follows:

a. For all policies producing an estimated annual premium of \$4,000 and over regardless of governing classification code;

b. For all policies producing an estimated annual premium of \$3,999 to \$3,000, at least once every three years;

c. For all policies with a governing classification code of 2702, 2710, 5022, 5403, 5437, 5445, 5474, 5551, 5606, 5645, 6217, 7219, 8829, 8835, 8861 and 9110, regardless of premium range;

d. For all policies for employers engaged in leasing employees to others or in providing temporary help to others, regardless of premium range;

e. For all new business policies having construction classification codes, regardless of premium range;

f. For all policies with a loss ratio of 120% or greater the first year the employer qualifies and thereafter, subject to the FWCJUA's or its service provider's underwriting judgement, regardless of premium range;

g. Whenever requested by the employer on reasonable grounds; and

h. Whenever otherwise warranted in the FWCJUA's or its service provider's judgement by the type of business, or by questions concerning the amount of exposure, the accuracy of classifications, or the reliability of previous mail or physical audits.

2. Mail audit reports by the employer are permitted only where a physical audit is not required.

3. Records examined during the physical audit shall include, but not be limited to, the use of the following as applicable:

a. Unemployment Compensation Tax (UCT) forms;

b. Federal reports of employee income;

c. Payroll records;

d. Cash disbursement journals;

e. Other acceptable accounting records;

f. Certificates of insurance covering subcontractors; and

g. Independent contractor documents.

4. The FWCJUA, its service provider or the National Council on Compensation Insurance shall conduct audits to ensure the accurate classification assignment for duties of employees.

~~(d)~~(b)1. In addition, each employer shall submit a copy of the quarterly earning report required by Chapter 443, F.S., to the carrier at the end of each quarter.

2. Each carrier shall develop its own procedures for terminating coverage when the quarterly earning report forms are not received. However, such forms shall be considered timely if received within 45 days of the end of the quarter reported.

~~(e)~~(e) The carrier shall retain new or renewal applications, monthly change sheets, and the quarterly earning reports for a minimum of three years from the date the applications, sheets, or reports were received.

~~(f)~~(d) Telephone audits are not permitted in lieu of mail or physical audits.

~~(e)~~ An initial application is required only at the inception of a three-year fixed rate policy or at renewal, if the inception date was prior to the effective date of this rule. Audit procedures are required at the expiration of each policy.

~~(g)~~(f) Signatures.

1.a. A carrier, in order to comply with the signature requirements as provided in Section 440.381(3), F.S., shall use, as applicable:

(I) Form OIR-B1-1562 (rev. 7/03), "Partner's, Sole Proprietor's or Corporate Officer's Statement";

(II) Form OIR-B1-1561 (rev. 7/03), "Statement of Individual Providing Audit Information (other than Partner, Sole Proprietor or Corporate Officer)"; and

(III) Form OIR-B1-1560 (rev. 7/03), "Auditor's Statement".

b. The forms in this subsection (4) are hereby adopted and incorporated by reference and may be obtained from the Office's web site at www.floir.fldfs.com/pcfr/forms_list.aspx.

c. These forms shall be signed by the appropriate party and submitted to the carrier at the completion of an audit.

2.a. A carrier wishing to use its own signature forms shall submit the forms electronically to Property and Casualty Product Review at <https://iportal.fldfs.com>, and receive approval prior to use.

b. At a minimum the forms shall contain all text as it appears on:

(I) Form OIR-B1-1562 (rev. 7/03), "Partner's, Sole Proprietor's or Corporate Officer's Statement";

(II) Form OIR-B1-1561 (rev. 7/03), "Statement of Individual Providing Audit Information (other than Partner, Sole Proprietor or Corporate Officer)"; and

(III) Form OIR-B1-1560 (rev. 7/03), "Auditor's Statement".

3. It is permissible for insurers to accept electronic signatures in ~~Electronic signature(s) shall be accepted in~~ satisfaction of the signature requirements of Section 440.381(3), F.S. to the extent that such acceptance of electronic signatures complies with Parts I and II of Chapter 668, F.S. For purposes of this section, "electronic signature(s)" shall mean an electronic identifier, including a digital signature, which is:

a. ~~Unique to the person using it;~~

b. ~~Capable of verification;~~

c. ~~Under the sole control of the person using it;~~

~~d. Attached to or associated with data contained within the audit document in such a manner that authenticates the attachment of the signature to particular data and integrity of the data transmitted;~~

~~e. Intended by the party using it to have the same force and effect as the use of a signature affixed by hand; and~~

~~f. Compliant with all applicable state and federal laws governing electronic signatures.~~

Rulemaking Specific Authority 440.381, 624.308(1) FS. Law Implemented 440.105(4)(b)5., 440.381, 624.307, 624.424(1)(c) FS. History—New 8-1-91, Formerly 4-28.007, Amended 10-3-95, 10-10-96, 1-15-98, 11-21-00, 11-5-02, 9-22-03, Formerly 4-189.003, Amended 3-29-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Theresa Eaton, Office of Insurance Regulation, E-mail Theresa.Eaton@flor.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: March 6, 2009

Section III

Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Development

RULE NO.: 9B-3.047 RULE TITLE: State Building Code Adopted

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 19, May 15, 2009 issue of the Florida Administrative Weekly.

The following is a summary of changes which are being made to the material incorporated by reference as a result of the June 9, 2009 hearing:

The changes consist of amendments clarifying that construction documents must be prepared by a registered design professional where required by Florida Statutes; amendments relating to public swimming pool provisions for consistency with the latest revisions to the Department of Health (DOH) Chapter 64E-9, F.A.C.; amendment to the energy code to clarify the treatment of multiple heating fuel types for consistency with the computer compliance tool; amendments regarding standard for supporting brick, stone or other veneer; and amendments to correct reference sections and unintended omissions of Florida specific amendments as appropriate.

Additionally, a Statement of Estimated Regulatory Cost (SERC) has been prepared in regard to this rule, a copy of which may be obtained by contacting: Mo Madani, Program Manager, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)921-2247.

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 BUSINESS AND PROFESSIONAL REGULATION

Barbers' Board

RULE NO.: 61G3-21.012 RULE TITLE: Notice of Non-Compliance

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule published in Vol. 35, No. 16, April 24, 2009 issue of the Florida Administrative Weekly.

The changes are being made in response to comments received from the Joint Administrative Procedures Committee. The changes are as follows:

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Costs has been prepared. Approximately 101 notices of non-compliance will be issued for barbers, restricted barbers, and barber assistants not having their current license laminated within a 12 month period after the rule became effective. The following reflects the number of notices of non-compliance that were issued to barbers for minor violations for the last Fiscal Years:

Fiscal Year 2005 to 2006, 230 notices of non-compliance was issued;

Fiscal Year 2006 to 2007, 191 notices of non-compliance was issued and;

Fiscal Year 2007 to 2008, 251 notices of non-compliance was issued.

The number of barbers who failed to comply with the new lamination requirement, pursuant to Rule 61G3-19.009, F.A.C., which became effective July 1, 2008, is expected to decrease after the first year as barbers become more familiar with the new requirement. The Board determined the proposed change to the rule is not expected to have an impact on small businesses unless a citation is issued. If a citation is issued the fine will be \$50.00 to \$250.00 per violation, and costs.

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