

## Section I Notices of Development of Proposed Rules and Negotiated Rulemaking

### BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

### DEPARTMENT OF CORRECTIONS

RULE NO.:                    RULE TITLE  
33-602.210                Use of Force

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the procedures for reporting and recording use of force incidents and to amend Form DC4-711A for clarity.

SUBJECT AREA TO BE ADDRESSED: Use of Force.

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 776.07, 944.09, 944.35 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-602.210 Use of Force.

(1) through (4) No change.

(5) Physical force shall be employed only as a last resort when it reasonably appears that other alternatives are not feasible to control the situation and will not be used solely in response to verbal abuse that does not rise to a level of a disturbance. When the use of force is justified, only that amount and type of force that reasonably appears necessary to accomplish the authorized objective shall be used. Utilization of the custodial touch, with the hand firmly grasped around the inmate's triceps or elbow, during internal transport of restrained inmates shall not be considered a use of force when the transport hold is for the safety of the inmate and resistance is not met.

(a) through (d) No change.

(6) through (7) No change.

(8) The warden or, in his absence, the duty warden will be consulted and give ~~her or his~~ permission prior to use of physical force. In spontaneous use of force incidents when circumstances do not permit prior approval, the warden or, in his absence, the duty warden will be notified immediately following any use of force incident. Whenever force is authorized, the employee who was responsible for making the decision to use force pursuant to subsection (2) shall prepare, date and sign Form DC6-232, Authorization for Use of Force Report, either during, or immediately after, the tour of duty when force was used. If the authorization for force is given after normal working hours, the person authorizing the force shall complete and sign Form DC6-232 within one working day (Monday through Friday) following the incident. Form DC6-232 is incorporated by reference in subsection ~~(29)~~~~(25)~~ of this rule.

(9) Whenever force is used the employee initially using force shall complete Form DC6-230, Institutions Report of Force Used. ~~The, and the~~ completed form shall include a detailed written report of force used providing exact circumstances leading to the use of force (i.e., who, what, when, where, how, and why), the officer's personal behavior in the use of force, specific information regarding the type, brand, and amount of any chemical agents used (number and length of bursts), as well as the dispenser and method of disbursement. If more than one employee was involved in the initial use of force, the highest ranking official involved or the most senior employee shall complete the report. Each additional employee involved in the use of force who agrees with the facts and circumstances as reported on Form DC6-230 Section I shall prepare Form DC6-231, Institutions Report of Force Used Staff Supplement. The report shall describe in detail the type and amount of force used by him or her. Each employee shall individually write his or her own report, then submit the completed report to the clerical personnel designated by the warden to type all the reports onto one form to be signed by each employee. Any additional employee who does not agree with the facts and circumstances as reported in Form DC6-230 Section I shall prepare a separate Form DC6-230, Institutions Report of Force Used. Forms DC6-230 and DC6-231 are incorporated by reference in subsection ~~(29)~~~~(25)~~ of this rule.

(10) No change.

(11) The warden or acting warden shall immediately conduct a preliminary review of the video tape(s) and all associated reports for signs of excessive force or procedural deviation. If signs of excessive force or procedural deviation are noted by the warden or assigned inspector, she or he will notify the Office of the Inspector General directly, so that there is no undue delay in initiating an investigation. The warden shall then appoint a staff member of equal or higher rank than those involved in the use of force to collect all pertinent information and required documentation. This information will include the reports of all involved staff and the statements of

staff witnesses, inmate witnesses, the inmate subject, and the completed Form DC1-813, Use of Force File Checklist. Form DC1-813 is incorporated by reference in subsection (29) of this rule. All inmate statements (subject and witnesses) shall be made in writing using Form DC6-112C, Witness Statement. Form DC6-112C is incorporated by reference in Rule 33-601.313, F.A.C. All employees who witness but do not participate in the use of force shall complete, Form DC6-210, Incident Report. Form DC6-210 is incorporated by reference in subsection (29) of this rule. This process will be completed within 5 working days (Monday through Friday). The warden shall review the information and note any inappropriate actions. The warden shall review Form DC1-813, Use of Force File Checklist and shall forward the videotape(s) and associated reports on the use of force and the warden's review to the institutional inspector within five working days. The warden shall keep a copy of the completed Form DC6-230 pending the response from the Office of the Inspector General. The institutional inspector will ensure that all documentation is complete, note any preliminary finding, including anything missing from the documentation and the reason why, complete the appropriate sections on Form DC1-813, and then will forward all materials to the Use of Force Unit within the Office of the Inspector General (OIG) within 5 working days. The Use of Force Unit within the OIG, following its review, will either approve the use of force action or disapprove it. If necessary, it will be referred for investigation before final approval or disapproval. If the Use of Force Unit finds that the use of force was appropriate, the OIG's written determination of the appropriateness of the force used and the reasons therefor, shall be forwarded to the circuit administrator or warden upon completion of the review. If the Use of Force Unit finds that the use of force was inappropriate, the OIG shall conduct a complete investigation into the incident and forward the findings of fact to the appropriate regional director. The OIG shall also advise the warden in writing of the reason for the disapproval so that the warden can take any needed corrective action. If employee disciplinary action appears warranted, the warden shall prepare Form DC6-296, Disapproved Use of Force/Disposition Report, and forward the materials to the ~~service center~~ employee relations supervisor in the servicing personnel office. Form DC6-296 is incorporated by reference in subsection (29) of this rule. The warden shall document all corrective action taken. Copies of the employee's report, the warden's summary and the inspector general's review and determination shall be kept in the inmate's file. Form DC2-802, Use of Force Log, shall be placed in every employee's personnel file. This form will be maintained by the servicing personnel office and shall contain a record of every report of use of force and staff supplement completed by the employee. The warden or his designee shall be responsible for submitting accurate information to the personnel office in order to maintain Form DC2-802. Any use of force reports

completed prior to April 15, 1998 shall remain in the file. Form DC2-802 is incorporated by reference in subsection (29) of this rule.

(12) Based on the use of force review data system, the Inspector General will notify the warden and regional director of any officer involved in eight or more use of force incidents in an eighteen month period. The regional director will review the circumstances for possible reassignment.

(13) Any incident that necessitates the drafting of Form DC6-230, Institutions Report of Force Used, will be reported to the Emergency Action Center (EAC). The following information will be provided to the EAC the:

(a) Name of the institution at which the incident occurred,

(b) Name of staff members reporting to the emergency action center,

(c) Name of the inmate(s) involved,

(d) Names of staff members involved,

(e) Category of force used as determined by subsection (14) below,

(f) Injuries to staff members, and

(g) Injuries to inmates.

(14) The applicable category of or reason for the use of force shall be determined by the warden or shift supervisor based on whether the force was used to:

(a) Defend her/himself or another against an inmate using unlawful force;

(b) Prevent the escape from a state correctional institution or facility of an inmate or aid in the recapture of an escaped inmate;

(c) Prevent the escape of an inmate during transporting or while outside a correctional institution or facility;

(d) Prevent damage to property;

(e) Quell a disturbance;

(f) Overcome an inmate's physical resistance to a lawful command;

(g) Prevent an inmate from inflicting further injury to her/himself (suicide attempt);

(h) Restrain the inmate when ordered to allow medical treatment; or

(i) Complete a cell extraction.

(15) The designation of multiple categories of or reasons for use of force may be required depending on the use of force incident. Additional information that is reportable to the emergency action center that may accompany a use of force, such as battery of a law enforcement officer or escape, shall also be reported.

~~(16)~~ (12) Any employee who witnesses, or has reasonable cause to suspect, that an inmate has been unlawfully abused shall immediately prepare, date and sign Form DC6-210, Incident Report, pursuant to Section 944.35(3)(d), F.S., specifically describing the nature of the force used, the location and time of the incident and the persons involved. The report

shall be delivered to the inspector general of the department with a copy delivered to the warden of the institution. The inspector general shall conduct an appropriate investigation and, if probable cause exists that a crime has been committed, notify the state attorney in the circuit in which the institution is located.

~~(17)(13)~~ Force or restraint may be used to administer medical treatment when ordered by a physician or clinical associate, and only when treatment is necessary to protect the health of other persons, as in the case of contagious and venereal diseases, or when treatment is offered in satisfaction of a duty to protect the inmate against self-inflicted injury or death. The physician or clinical associate shall prepare Form DC6-232, Authorization for Use of Force Report, documenting the reasons that force or restraint was authorized. The physician's or clinical associate's report shall be attached to Form DC6-230, Institutions Report of Force Used, when actual force is used, or Form DC6-210, Incident Report, when restraints are applied without the use of force as described above. In each instance a DC4-701C, Emergency Room Record, shall be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. Form DC4-708, Diagram of Injury, shall also be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. In each case, the examination shall be complete and result in a clear statement by the medical provider that there is or is not an injury, and the record shall provide sufficient documentation to support that conclusion. In all cases where physical force is used to manage an inmate, the inmate and any employee who is involved will be required to receive a medical examination or will sign Form DC4-711A, Refusal of Health Care Services, declining the examination. In those cases where an injury is claimed but not substantiated by medical examination, the statement by the medical provider shall indicate this, and the documentation shall be sufficient to support that no injury was found upon examination. Forms DC4-711A, DC4-701C and DC4-708 are incorporated by reference in subsection ~~(29)(25)~~ of this rule. When the use of four-point or five-point psychiatric restraints is authorized and the inmate does not offer resistance to the application of the restraints, the completion of Form DC6-230, Institutions Report of Force Used, or Form DC6-231, Institutions Report of Force Used Staff Supplement, will not be required. In these situations, where there is no resistance to the application of psychiatric restraints, the application of the restraints will be videotaped and Form DC6-210, Incident Report, will be completed. The videotape, the completed Incident Report, and the completed Form DC6-232, Authorization for Use of Force Report, will be forwarded to the warden or acting warden for review within one working day. The warden will forward the videotape and associated reports to the institutional inspector within five working days. The institutional inspector will ensure that all documentation is complete and will forward all materials to the Office of the Inspector General, as outlined in

subsection (11) above, for review. If at any time prior to or during the application of the psychiatric restraints the inmate offers resistance to the application, the steps outlined in subsection (9) above will be followed.

(14) through (15) renumbered (18) through (19) No change.

~~(20)(16)~~ Use of EIDs. EIDs shall not be used on anyone other than an inmate during an authorized use of force.

(a) through (e) No change.

(f) When in a close management or confinement setting, prior to utilizing EIDs, the officer shall review Form DC4-650B, Risk Assessment for the Use of Chemical Restraint Agents and Electronic Immobilization Devices, to determine whether the inmate has a medical condition which may be exacerbated by use of EIDs. If no form is available, and where time and circumstances permit, medical staff shall be consulted to determine if the inmate has any medical condition that would make the use of an EID dangerous to that inmate's health. Form DC4-650B is incorporated by reference in subsection ~~(29)(25)~~ of this rule.

(g) No change.

(h) As soon as possible following each use of an EID, the inmate shall be afforded medical examination and treatment. Medical staff shall, upon completing the medical examination, make a mental health referral for each inmate who is classified S-2 or S-3 on the health profile. The referral shall be made by completing Form DC4-529, Staff Request/Referral, and sending it to mental health staff. Form DC4-529 is incorporated by reference in subsection ~~(29)(25)~~ of this rule. Mental health staff shall evaluate the inmate not later than the next working day to determine whether a higher level of mental health care (isolation management, transitional, or crisis stabilization) is indicated. For the purposes of this rule, the following definitions shall apply:

1. through 2. No change.

(i) through (m) No change.

~~(21)(17)~~ Use of Chemical Agents. Chemical agents shall not be used on anyone other than an inmate during an authorized use of force.

(a) through (j) No change.

(k) Chemical agents shall be stored in the main arsenal. A small amount of chemical agents may be stored in secure locations such as the control room mini-arsenal or the officer's station in confinement and close management units until its use is authorized. Each stored chemical agent dispenser will be numbered. Form DC6-216, Chemical Agent Accountability Log, will be kept in all areas in which chemical agents are stored and will be utilized to record the weight of each numbered chemical agent dispenser prior to issue and again when it is returned to the secure inventory storage area. The weighing process will be conducted and a verifying entry will be made in the log, including the signature of the shift supervisor authorizing the use of the chemical agent. The chief

of security shall monitor the canister weights following each use of chemical agents to ensure the amounts used are consistent with that expected by reviewing and initialing Form DC6-216. Form DC6-216 is incorporated by reference in subsection ~~(29)(25)~~ of this rule.

(1) Issuance of chemical agents.

1. No change.

2. Certified officers assigned to major institutions and posted to internal security, recreation field, shift supervisor posts, or designated as "A" team response members are authorized by the Secretary to be issued one MK-9, or equivalent, dispenser of OC in addition to the dispenser issued in accordance with subparagraph ~~(21)(11)~~, ~~(17)(4)~~. These officers are authorized to administer the chemical agents listed in this subparagraph in spontaneous disturbance situations involving multiple inmates in locations where large numbers of inmates are present, such as recreation fields, canteen, and meal lines. This option shall only be utilized in disturbance situations rising to the level of inmate involvement where this enhanced option is deemed necessary and shall not be used indoors.

3. The chemical agent dispenser shall be securely encased and attached to the officer's belt. Each chemical agent dispenser will be secured within a pouch or to a holstering device by a numbered, breakable seal. Form DC6-213, Individual Chemical Agent Dispenser Accountability Log, will be utilized to document the name of the officer to whom each dispenser is assigned as well as the seal number on the dispenser she or he received. Form DC6-213 is incorporated by reference into subsection ~~(29)(25)~~ of this rule. Upon receiving the dispenser and pouch, the officer will examine the safety seal to ensure that it is intact. If the seal is broken, the Shift Supervisor will be notified immediately and Form DC6-210, Incident Report, will be written. The arsenal sergeant shall maintain a master inventory of all individual chemical agent dispensers complete with the weight of the dispenser at the time the original seal is attached. Whenever a dispenser is returned with a broken seal, the arsenal sergeant shall document the weight of the dispenser on Form DC6-216, Chemical Agent Accountability Log, and attach a new seal. Any discrepancies in the weight of the dispenser will be reported to the chief of security, and Form DC6-210, Incident Report, shall be completed.

(m) through (q) No change.

(r) Upon request, appropriate health services staff shall provide the following completed forms to Department inspectors or legal staff: Form DC4-701C, Use of Force Exam; Form DC4-708, Diagram of Injury; and Form DC4-701, Chronological Record of Health Care. Form DC4-701 is incorporated by reference in subsection ~~(29)(25)~~ of this rule.

(18) through (19) renumbered (22) through (23) No change.

~~(24)(20)~~ Pepperball Launching System (PLS). The PLS shall be used primarily by restricted labor squad supervisors and exercise officers for designated confinement, close management, maximum management, and death row populations. The PLS is intended for the dispersal of chemical agents in situations where the use of aerosol type agents would not be effective due to weather conditions or when their use could subject the officer or uninvolved inmates to injury. The PLS shall only be employed by officers trained in their use and effects.

(a) through (f) No change.

(g) All subsequent reports, medical requirements and reviews required for the use of chemical agents as outlined in subsection ~~(21)(17)~~ above shall be completed after the use of the PLS.

(h) No change.

(21) through (24) renumbered (25) through (29) No change.

~~(30)(25)~~ The following forms are hereby incorporated by reference. Copies of these forms are available from the Forms Control Administrator, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) DC1-813, Use of Force File Checklist, effective September 18, 2006.

(b) DC2-802, Use of Force Log, effective February 7, 2000.

(c) DC4-529, Staff Request/Referral, effective January 6, 2009.

(d) DC4-701C, Emergency Room Record, effective October 4, 2007.

(e) DC4-708, Diagram of Injury, effective October 4, 2007.

(f) DC4-711A, Refusal of Health Care Services, effective ~~January 6, 2009~~.

(g) DC6-210, Incident Report, effective March 3, 2008.

(h) DC6-213, Individual Chemical Agent Dispenser Accountability Log, effective September 18, 2006.

(i) DC6-216, Chemical Agent Accountability Log, effective July 25, 2002.

(j) DC6-230, Institutions Report of Force Used, effective August 25, 2003.

(k) DC6-231, Institutions Report of Force Used Staff Supplement, effective August 25, 2003.

(l) DC6-232, Authorization for Use of Force Report, effective July 25, 2002.

(m) DC6-296, Disapproved Use of Force/Disposition Report, effective July 25, 2002.

(n) DC4-650B, Risk Assessment for the Use of Chemical Restraint Agents and Electronic Immobilization Devices, effective August 4, 2008.

(o) DC4-701, Chronological Record of Health Care, effective 4-8-10.

Rulemaking Authority 944.09 FS. Law Implemented 776.07, 944.09, 944.35 FS. History—New 4-8-81, Amended 10-10-83, 9-28-85, Formerly 33-3.066, Amended 3-26-86, 11-21-86, 4-21-93, 7-26-93, 11-2-94, 2-12-97, 11-8-98, Formerly 33-3.0066, Amended 10-6-99, 2-7-00, 7-25-02, 8-25-03, 2-25-04, 11-7-04, 4-17-05, 8-1-05, 3-2-06, 9-18-06, 10-4-07, 3-3-08, 8-4-08, 1-6-09, 5-26-09, 4-8-10,\_\_\_\_\_.

**WATER MANAGEMENT DISTRICTS**

**Suwannee River Water Management District**

RULE NOS.:                 RULE TITLES:  
 40B-2.025                 Processing of Water Use Permit Applications  
 40B-2.901                 Forms and Instructions

PURPOSE AND EFFECT: The purpose of the proposed rule is to update Chapter 40B-2, F.A.C., based on staff review. Proposed changes will provide clarification for procedures for reviewing unsolicited information, and repeal an existing rule that is no longer valid.

SUBJECT AREA TO BE ADDRESSED: This proposed rule will clarify procedures for reviewing unsolicited information with regard to application review, and repeal the rule for forms and instructions. Forms and instructions are now incorporated into the appropriate corresponding rule.

RULEMAKING AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 120.60, 373.116, 373.229, 373.239 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Linda Welch, Rules & Contracts Coordinator, SRWMD, 9225 C.R. 49, Live Oak, Florida 32060, (386)362-1001 or (800)226-1066 (FL only)

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

**WATER MANAGEMENT DISTRICTS**

**Suwannee River Water Management District**

RULE NOS.:                 RULE TITLES:  
 40B-4.1070                 Exemptions  
 40B-4.3030                 Conditions for Issuance of Works of the District Development Permits

PURPOSE AND EFFECT: The purpose of the proposed rule is to update these sections of Chapter 40B-4, F.A.C., based on staff review. Proposed changes to Rule 40B-4.1070, F.A.C., will amend incorrect language, and proposed changes to Rule 40B-4.3030, F.A.C. will provide clarification for determination of diseased vegetation in paragraph (12)(a).

SUBJECT AREA TO BE ADDRESSED: This proposed rule will amend incorrect language and clarify requirements for clearing within the regulatory floodway.

RULEMAKING AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.084, 373.085, 373.086, 373.416, 373.426 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Linda Welch, Rules & Contracts Coordinator, SRWMD, 9225 C.R. 49, Live Oak, Florida 32060, (386)362-1001 or (800)226-1066 (FL only)

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

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.:                 RULE TITLE:  
 40D-3.600                 Special Well Construction Standards

PURPOSE AND EFFECT: To expand the areas designated by the District as the North Dover and South Dover areas, located in the Dover-Plant City area of Hillsborough County, and for which the District has established special water well construction standards consisting of minimum well casing depths.

SUBJECT AREA TO BE ADDRESSED: Water Well Construction.

RULEMAKING AUTHORITY: 373.044, 373.113, 373, 171, 373.308 FS.

LAW IMPLEMENTED: 373.308, 373.309 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Dianne Lee, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, ext. 4657 (OGC#20100011)

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

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.: 40D-8.041  
 RULE TITLE: Minimum Flows  
 PURPOSE AND EFFECT: To amend Rule 40D-8.041, F.A.C., to establish Minimum Flows for the estuarine reach of the lower Peace River located within the District's Peace River Basin pursuant to Section 373.042, F.S.

SUBJECT AREA TO BE ADDRESSED: Establishment of a minimum flow for the lower Peace River.

RULEMAKING AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.042, 373.0421 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Dianne Lee, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, ext. 4657 (OGC#2007102)

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

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.: 40D-8.041  
 RULE TITLE: Minimum Flows  
 PURPOSE AND EFFECT: To amend Rule 40D-8.041, F.A.C., to establish Minimum Flows for the Anclote River System located within the District's Pinellas-Anclote Basin, pursuant to Section 373.042, Florida Statutes. For purposes of this rule, the Anclote River system includes the watercourse from the headwaters to the Gulf of Mexico.

SUBJECT AREA TO BE ADDRESSED: Establishment of a minimum flow for the Anclote River System.

RULEMAKING AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.042, 373.0421 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:

Dianne.Lee@watermatters.org, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, ext. 4657 (OGC#2008071)

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

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE NOS.:	RULE TITLES:
59G-13.081	Developmental Disabilities Waiver Provider Rate Table
59G-13.084	Developmental Disabilities Waiver Residential Habilitation Services in a Licensed Facility Provider Rate Table
59G-13.091	Family and Supported Living Waiver Provider Rate Table

PURPOSE AND EFFECT: The purpose of the amendment to Rule 59G-13.081, F.A.C., is to incorporate by reference the Developmental Disabilities Home and Community-Based Services Waiver Provider Rate Table, July 1, 2010. The purpose of the amendment to Rule 59G-13.084, F.A.C., is to incorporate by reference the Developmental Disabilities Home and Community-Based Services Waiver Residential Habilitation Services in a Licensed Facility Provider Rate Table, July 1, 2010. The purpose of the amendment to Rule 59G-13.091, F.A.C., is to incorporate by reference the Family and Supported Living Waiver Provider Rate Table, July 1, 2010.

SUBJECT AREA TO BE ADDRESSED: Developmental Disabilities Waiver Provider Rate Table, Developmental Disabilities Waiver Residential Habilitation Services in a Licensed Facility Provider Rate Table, and Family and Supported Living Waiver Provider Rate Table.

RULEMAKING AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 393.0661, 409.902, 409.906, 409.908, 409.912, 409.913 FS.

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

DATE AND TIME: Friday June 25, 2010, 2:30 p.m. – 4:00 p.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room A, Tallahassee, Florida 32308-5407

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Pamela Kyllonen at the Bureau of Medicaid

Services, (850)412-4261. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Pamela Kyllonen, Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308-5407, telephone: (850)412-4261, e-mail: pamela.kyllonen@ahca.myflorida.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-13.081 Developmental Disabilities Waiver Provider Rate Table.

(1) No change.

(2) All developmental disabilities waiver services providers enrolled in the Medicaid program must be in compliance with the Developmental Disabilities Home and Community-Based Services Waiver Provider Rate Table, July 1, 2010 ~~2008~~, which is incorporated by reference. The rate table is available from the Medicaid fiscal agent's Web site ~~Portal~~ at <http://mymedicaid-florida.com>. ~~Select Click on~~ Public Information for Providers, then ~~on~~ Provider Support, and then ~~on~~ Fee Schedules. Paper copies of the rate table may be obtained from the Agency for Health Care Administration, Bureau of Medicaid Services, 2727 Mahan Drive, M.S. 20, Tallahassee, Florida 32308.

Rulemaking Authority 409.919 FS. Law Implemented 393.0661, 409.902, 409.906, 409.908, 409.912, 409.913 FS. History--New 5-29-06, Amended 11-15-07, 10-13-08, \_\_\_\_\_.

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

(1) No change.

(2) All developmental disabilities waiver services providers enrolled in the Medicaid program must be in compliance with the Developmental Disabilities Waiver Residential Habilitation Services in a Licensed Facility Provider Rate Table, July 1, 2010 ~~2008~~, which is incorporated by reference. The rate table is available from the Medicaid fiscal agent's Web site ~~Portal~~ at <http://mymedicaid-florida.com>. ~~Select Click on~~ Public Information for Providers, then ~~on~~ Provider Support, and then ~~on~~ Fee Schedules. Paper copies of the rate table may be obtained from the Agency for Health Care Administration, Bureau of Medicaid Services, 2727 Mahan Drive, M.S. 20, Tallahassee, Florida 32308.

Rulemaking Authority 409.919 FS. Law Implemented 393.0661, 409.902, 409.906, 409.908, 409.912, 409.913 FS. History--New 10-13-08, Amended \_\_\_\_\_.

59G-13.091 Family and Supported Living Waiver Provider Rate Table.

(1) No change.

(2) All family and supported living waiver services providers enrolled in the Medicaid program must be in compliance with the Family and Supported Living Waiver Provider Rate Table, July 1, 2010 ~~January 1, 2008~~, which is incorporated by reference. The rate table is available from the Medicaid fiscal agent's ~~Web site~~ ~~website~~ at <http://mymedicaid-florida.com>. Select Public Information for Providers, then Provider Support, and then Fee Schedules. ~~Click on Provider Support, and then on Fee Schedules.~~

Rulemaking Authority 409.919 FS. Law Implemented 409.902, 409.906, 409.908, 409.912, 409.913 FS. History--New 10-18-07, Amended 7-29-08, \_\_\_\_\_.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Hotels and Restaurants**

RULE NO.: 61C-3.001  
 RULE TITLE: Sanitation and Safety Requirements  
 PURPOSE AND EFFECT: The purpose and effect of this rule development is to specify kitchen requirements and exemptions for public lodging establishments.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development will address minimum kitchen requirements in public lodging establishments and the types of establishments exempt from the requirements.

RULEMAKING AUTHORITY: 509.032, 509.2112 FS.  
 LAW IMPLEMENTED: 509.032, 509.211, 509.2112, 509.221 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Michelle Comingore, Operations Review Specialist, Department of Business and Professional Regulation, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1011, (850)488-1133

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Accountancy**

RULE NO.: 61H1-29.002  
 RULE TITLE: Temporary License

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to determine whether there are circumstances in which a CPA, licensed in another state, would not be required to obtain a temporary license to perform a specific engagement in Florida.

SUBJECT AREA TO BE ADDRESSED: Temporary License.  
 RULEMAKING AUTHORITY: 473.304, 473.305, 413.314 FS.

LAW IMPLEMENTED: 473.314, 473.315 FS.  
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Veloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

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

**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."

## Section II Proposed Rules

**DEPARTMENT OF LEGAL AFFAIRS**  
**Division of Victim Services and Criminal Justice Programs**  
 RULE NO.:                      RULE TITLE:

2A-3.002                      Application and Payment Procedures  
 PURPOSE AND EFFECT: To clarify procedures and documentation for payment of forensic sexual assault examinations.

SUMMARY: This rule provides the documentation requirements and procedures for claims for payment of the initial forensic medical examination for victims of alleged sexual offenses.

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

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

RULEMAKING AUTHORITY: 960.045(1)(b) FS.  
 LAW IMPLEMENTED: 960.28 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Gwen Roache, Chief, Bureau of Victim Compensation, Office of the Attorney General, PL-01, The Capitol, Tallahassee, FL 32399-1050

THE FULL TEXT OF THE PROPOSED RULE IS:

2A-3.002 Applicant and Payment Procedures.

~~Application and payment procedures for sexual assault examinations are provided on the form entitled "Sexual Battery Claim Form," DVS 201, (Rev. 07/07), effective 1/16/08, which is incorporated in this rule by reference.~~

(1) Application for payment of the initial forensic sexual assault examination shall include the following:

- (a) Patient Information: Name, date of birth, and gender of the individual being examined.
- (b) Forensic Facility Information: Name of facility, federal identification number, mailing address and telephone number.
- (c) Date of the offense (if known), and
- (d) Date of the examination.

(2) The examination must be administered by a person authorized in Section 960.28(2), F.S., for whom the following must be provided:

- (a) Typed or legible printed name of the forensic examiner,
- (b) Examiner's title and license number,
- (c) Examiner's signature, and
- (d) Date of signature.

(3) The application must be witnessed (signed and dated) by another individual employed with the facility as verification the examination was performed. The witness' name should be typed or printed below their signature.

(4) Application for payment must be accompanied by an itemized bill (CMS, HCFA, or UB health insurance form or other standardized invoice). The itemized bill must include the following:

- (a) Name of the facility used for the examination,
- (b) Date of the examination,
- (d) Patient's name,
- (e) Examination code V71.5 and any of the CPT codes noted below.

(5) Payment for the examination is limited to the International Classification of Disease (ICD-9) code for examination of the victim of sexual battery (V71.5), and some or all of the following:

- (a) Physician/ARNP office or other outpatient services; emergency department services – CPT codes 99201, 99202, 99203, 99204, 99205, 99211, 99212, 99213, 99214, 99215, 99281, 99282, 99283, 99284, 99285.