

Rulemaking Specific Authority 379.2431 370.12(2)(g), (n), (o) FS.
 Law Implemented 379.2431 370.12(2)(d), (g), (f), (k), (n), (o) FS.
 History–New 1-27-92, Formerly 16N-22.026, 62N-22.026, Amended
 12-12-02,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Mr. Tim Breault, Director of the Division of Habitat and
 Species Conservation

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: November 25, 2009

Section III
Notices of Changes, Corrections and
Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards

RULE NOS.:	RULE TITLES:
5F-8.0011	Standards Adopted
5F-8.0012	Bureau of Fair Rides Inspection Forms
5F-8.009	Inspections by Owner or Manager
5F-8.0125	Fencing and Gate Standards
5F-8.0126	Minor Rule Violations; Notice of Non-Compliance
5F-8.0127	Enforcement Actions and Administrative Penalties
5F-8.0128	Resolution of Violations, Settlement, and Additional Enforcement Remedies
5F-8.014	Training of Managers, Attendants, and Maintenance Persons
5F-8.015	Regulation of Go-Karts and Similar Vehicles
5F-8.016	Regulation of Water Parks
5F-8.025	Regulation of Bungy Operations
5F-8.050	Games

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 36, No. 3, January 22, 2010 issue of the Florida Administrative Weekly.

The February 9, 2010 Rule Development Workshop that was posted on January 22, 2010 was incorrectly posted and should have been posted as a Proposed Rule Hearing which has now been scheduled for March 1, 2010.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-1.099811	Differentiated Accountability State System of School Improvement

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. 50, December 18, 2009 issue of the Florida Administrative Weekly.

This is a new rule.

6A-1.099811 Differentiated Accountability State System of School Improvement.

The purpose of this rule is to set forth the Differentiated Accountability State System of School Improvement, to set forth the framework for categorizing how well schools are meeting Adequate Yearly Progress criteria, to define the level of assistance provided to schools, and to identify the support systems and strategies to be implemented by schools and districts.

(1) Definitions. The following definitions shall be used in this rule:

(a) “Adequate Yearly Progress” or “AYP” means that the AYP criteria for demonstrating progress toward state proficiency goals were met by each subgroup.

(b) “Annual goals” or “state proficiency goals” means the annual targets for the percent of students who meet grade level proficiency in reading and mathematics as established in “Adequate Yearly Progress Benchmarks in Florida” of the 2009 Guide to Calculating Adequate Yearly Progress (AYP), Technical Assistance Paper dated June 2009, which is hereby adopted by reference and made part of this rule and accessible at <http://schoolgrades.fl DOE.org/pdf/0809/2009AYPTAP.pdf>. Proficiency on the FCAT is attained at scoring level 3 or higher in reading and mathematics on a 5-level range. Proficiency on the Florida Alternate Assessment is attained at scoring level 4 or higher on a 9-level range.

(c) “AYP Count” means the value assigned to a school that did not achieve AYP for two (2) consecutive years, starting from the 2002-03 school year. The school is assigned a value of one (1) AYP count if the school failed to make AYP for two (2) consecutive years and increases by one (1) for each year that the school fails to achieve AYP.

(d) “Benchmark Baseline Assessment” means a diagnostic assessment given at the beginning of the year to evaluate students’ strengths and weaknesses on grade-level skills in reading, mathematics, science, and writing.

(e) “Benchmark Mid-Year Assessment” means a diagnostic assessment given at the mid-point of a school year to evaluate students’ progress on grade-level skills in reading, mathematics, science, and writing.

(f) “Benchmark Mini-Assessments” means diagnostic assessments given at frequent intervals used to monitor student learning of recently taught skills, and to guide teachers’ instructional focus.

~~(g) “Common planning time” means the time provided to teachers to meet regularly with common grade-level or subject-area teachers to collaborate.~~

~~(h)(g)~~ “Community Assessment Team” or “CAT” means a team consisting of stakeholders including but not limited to parents, business representatives, teachers, administrators, district level personnel, and Department of Education staff, who advocate for low-performing schools within their community, as set forth in Section 1008.345, Florida Statutes.

~~(i)(f)~~ “D Former F” means a “D” graded school that improved from a grade of “F” the previous academic year.

~~(j) “Data chats” means the process of teachers or administrators meeting with students to discuss the results of student’s assessments.~~

~~(k)(f)~~ “Department” means the Florida Department of Education (FDOE).

~~(l)(f)~~ “Differentiated Accountability State System of School Improvement,” “Differentiated Accountability” and “DA” mean the accountability system used by Florida to meet conditions for participation in the Elementary and Secondary Education Act, 20 U.S.C.ss 6301 et seq. that requires states to hold public schools and school districts accountable for making adequate yearly progress toward meeting state proficiency goals.

~~(m)(k)~~ “Direct instructional support” means support provided by a district curriculum specialist who visits the school frequently to provide onsite professional development and support to classroom teachers.

~~(n)(f)~~ “District” means the school district responsible for collaborating with the Department and schools to ensure the state system of school improvement is implemented with fidelity.

~~(o)(m)~~ “District Improvement and Assistance Plan” means a district level plan, submitted to the Department, that includes strategies for improving school performance and increasing student achievement.

~~(p)(n)~~ “Florida Continuous Improvement Model” or “FCIM” means a method for effectuating improvement that is based on the principle that student and teacher success requires a continuous effort. Key elements include analyzing data, developing timelines, quality instruction, and frequently assessing students.

~~(q)(e)~~ “Fully released coach” means a full time reading and mathematics or science coach who is devoted full time to coaching duties.

~~(r)(p)~~ “Individual Professional Development Plan” or “IPDP” means the plan for each instructional employee assigned to a school as set forth in Section 1012.98, Florida Statutes.

~~(s)(e)~~ “Instructional monitoring process” means a process for monitoring instructional programs and practices, and ensuring that they are implemented.

~~(t)(f)~~ “Lesson Study Group” or “LSG” means a small group of teachers who collaborate to plan an actual classroom lesson (called a “research lesson”), observe how the lesson works in practice, and report on the results for the benefit of other teachers.

~~(u)(s)~~ “Next Generation Sunshine State Standards” or “NGSSS” means the state’s public K-12 curriculum standards adopted pursuant to Section 1003.41, Florida Statutes.

~~(v)(f)~~ “Peer Review” means the process by which school staff reviews and provides feedback on another school’s improvement plan.

~~(w)(n)~~ “Response to Intervention” or “RtI” means the practice of providing services and interventions matched to individual student needs as determined by an analysis of student data and feedback from observations.

~~(x)(v)~~ “School Advisory Council” means the council set forth in Section 1001.452, Florida Statutes.

~~(y)(w)~~ “School grade” means the grade assigned to a school pursuant to Section 1008.34, Florida Statutes, and Rule 6A-1.09881, F.A.C., except that a high school’s grade will be established solely by the FCAT scores and AYP for purposes of Differentiated Accountability.

~~(z)(s)~~ “School improvement plan” or “SIP” means a school level plan, submitted to the district and the Department, that includes strategies for improving school performance and increasing student achievement.

~~(aa)(y)~~ “State adopted material” means textbooks and instructional materials that are aligned to the Next Generation Sunshine State Standards and approved for use in the state’s schools under Section 1006.34, Florida Statutes.

~~(bb)(z)~~ “Subgroup” means a demographic group whose performance on the state assessment is measured to determine AYP and includes American Indian, Asian, black or African American, Hispanic, white, economically disadvantaged students, English language learners, students with disabilities, and all students.

~~(aa) “Data chats” means the process of teachers or administrators meeting with students to discuss the results of student’s assessments.~~

~~(bb) “Common planning time” means the time provided to teachers to meet regularly with common grade-level or subject-area teachers to collaborate.~~

(2) Adequate Yearly Progress.

(a) Every public school is expected to make adequate yearly progress towards state proficiency goals for each subgroup.

(b) AYP shall be calculated in accordance with Part II, 1.-5. of the 2009 Guide to Calculating Adequate Yearly Progress (AYP) Technical Assistance Paper, June 2009, which is hereby adopted by reference in this rule and accessible at <http://schoolgrades.fldoe.org/pdf/0809/2009AYPTAP.pdf>.

(c) AYP is comprised of thirty-nine (39) criteria as follows:

1. The first nine (9) criteria are met by determining whether the participation rate for each subgroup being evaluated in reading is at least ninety-five (95) percent.

2. The second nine (9) criteria are met by determining whether the participation rate for each subgroup being evaluated in mathematics is at least ninety-five (95) percent.

3. The third nine (9) criteria are met by determining whether the annual goals for reading proficiency are met by each subgroup being evaluated.

4. The fourth nine (9) criteria are met by determining whether the annual goals for mathematics proficiency are met by each subgroup being evaluated;

5. The thirty-seventh criterion is met if school-wide performance in writing improved by at least one (1) percent or is at a rate of ninety (90) percent or higher;

6. The thirty-eighth criterion is met if the school does not earn a grade of D or F; and

7. The thirty-ninth criterion is met if a high school improved its graduation rate or has a graduation rate of eighty-five (85) percent or higher.

(d) If a criterion is not applicable to a school because the subgroup is not of sufficient number to meet the state's minimum subgroup-size requirement for Adequate Yearly Progress reporting or if the school is not a high school, that criterion will be considered as having been met.

(e) The percentage of AYP criteria met is calculated by determining what percent of the thirty-nine (39) criteria was met by the school.

(3) Categories. The Department shall place each school into one of six categories annually. Beginning with the highest performing, the categories are entitled: Schools Not Required to Participate in Differentiated Accountability Strategies, Prevent I, Correct I, Prevent II, Correct II, and Intervene.

(a) Schools Not Required to Participate in Differentiated Accountability Strategies are schools in the highest-performing school category. A school shall be so categorized when the school:

1. Is graded "A", "B", "C", or is ungraded; and
2. Has not failed to make AYP for two (2) consecutive years.

(b) A school shall be categorized as a Prevent I school when the school:

1. Is graded "A", "B", "C", or is ungraded; and
2. Has an AYP count between one(1) and three (3); and

3. Has met at least eighty (80) percent of AYP criteria for at least two (2) consecutive years.

(c) A school shall be categorized as a Correct I school when the school:

1. Is graded "A", "B", "C", or is ungraded and;
2. Has an AYP Count of four (4) or greater; and
3. Has met at least eighty (80) percent of AYP criteria.

(d) A school shall be categorized as a Prevent II school when the school:

1. Is a "D" school that failed to meet AYP criteria for fewer than two (2) consecutive years; or

2. Is a "D" school that failed to meet AYP criteria for at least two (2) consecutive years, with an AYP count between one (1) and three (3); or

3. Is graded "A", "B", "C", or is ungraded; and

a. Has an AYP Count between one (1) and three (3); and

b. Has met less than eighty (80) percent of AYP criteria and has not met AYP criteria for at least two (2) consecutive years.

(e) A school shall be categorized as a Correct II school when the school:

1. Is graded "F" regardless of AYP status; or

2. Is graded "D" and has an AYP Count of four (4) or greater; or

3. Is graded "A", "B", "C", or is ungraded; and

a. Has an AYP Count of four (4) or greater; and

b. Has met less than eighty (80) percent of AYP criteria.

(f) A school shall be categorized as an Intervene school when the school:

1. Is graded "F" and has earned at least four (4) "F" grades in the last six (6) school years; or

2. Is graded "D" and meets the criteria for a Correct II school or is graded "F" and meets the criteria for a Correct II school, and the school also meets at least three (3) of the four (4) following conditions:

a. The percentage of non-proficient students in reading has increased when compared to the percentage attained five (5) years earlier.

b. The percentage of non-proficient students in mathematics has increased when compared to the percentage attained five (5) years earlier.

c. Sixty-five (65) percent or more of the school's students are not proficient in reading.

d. Sixty-five (65) percent or more of the school's students are not proficient in mathematics.

3. Alternative schools are exempt from qualifying for the Intervene category.

(4) Notice to District of School Category. The Department shall notify each school district of the category of each school located within the district.

(5) Intervention and Support Strategies. The strategies and support interventions required of schools in need of improvement fall into seven (7) areas: school improvement planning, leadership quality improvement, educator quality improvement, professional development, curriculum alignment and pacing, the Florida Continuous Improvement Model, and monitoring plans and processes. The action required for each school category is set forth in the form entitled, DA2 – Strategies and Support for Differentiated Accountability, effective as of the effective date of this rule. For charter schools and alternative schools the action required for each school category is set forth in the forms entitled DA-3, 2009-2010 Strategies and Support for Differentiated Accountability – Alternative Schools and DA-4, 2009-2010 Strategies and Support for Differentiated Accountability – Charter Schools as applied to charter schools and alternative schools. Forms DA2, DA-3 and DA-4 are hereby incorporated by reference in this rule and can be obtained through the Department of Education website www.flbsi.org/DA/index.htm or by contacting the Bureau of School Improvement in the Department. Should the implementation of any of the strategies imposed by this rule require collective bargaining, the district must promptly submit the issue for bargaining. The strategies and support set forth in this form must be incorporated into districts' collective bargaining agreement. The entity responsible for implementing the Differentiated Accountability strategies is as follows:

(a) For Prevent I schools:

1. The school implements interventions.
2. The district monitors progress and provides support to schools.

(b) For Correct I schools:

1. The school implements interventions.
2. The district directs interventions.
3. The district monitors progress and provides support to schools.

(c) For Prevent II schools:

1. The school implements interventions.
2. The district directs school interventions.
3. The district monitors progress and provides support to schools.
4. The Department monitors the district's support to schools.

(d) For Correct II schools:

1. The school implements interventions.
2. The district directs school interventions.
3. The district and Department monitor progress and support schools.

4. Intensive onsite support is provided by the district and the Department for schools graded "F," "D Former F," and Exiting Intervene schools.

(e) For Intervene schools:

1. The school implements interventions.
2. The district and Department conduct onsite monitoring of intervention implementations.
3. The district and Department provide intensive onsite support.
4. In the event the school does not make sufficient progress to exit the Intervene category within one (1) year, the district must choose one (1) of the four (4) reconstitution options described in subsection (8) of this rule.

(6) School Improvement Plan.

(a) Except for a school in the highest performing category, a school's improvement plan shall include the strategies and support activities found in the Department's Form DA2 – Strategies and Support for Differentiated Accountability. The School Improvement Plan template as incorporated by reference in Rule 6A-1.09981, F.A.C., as Form SIP-1, is available at <http://www.flbsi.org>.

(b) Non-Title I A, B, or C schools may receive a waiver from FDOE if the district/school can demonstrate that their existing template provides strategies for subgroups that did not meet AYP in the area of data analysis, RtI, and increasing student achievement. Applications for waivers are submitted to the Department of Education, K-12 Public Schools, prior to the annual submission deadline of the School Improvement Plan. The Department shall approve or deny the waiver and notify the district.

(7) Progression and exiting from categories other than Intervene. A Prevent I, Correct I, Prevent II, or Correct II school may progress to a School Not Required to Participate in Differentiated Accountability Strategies when it meets AYP criteria for two (2) consecutive years.

(8) Intervene Status; exiting the Intervene category; consequences of failing to exit.

(a) In order to exit the Intervene category a school must make significant progress after one (1) year. Significant progress is defined as:

1. The school's letter grade improves to a "C" or better, and

2. The school's AYP performance improves so that at least one (1) subgroup in reading and at least one (1) subgroup in mathematics that previously did not make AYP has made AYP.

(b) In the event a school in the Intervene category fails to make significant progress within one (1) year and exit the Intervene category, the district and Department will provide assistance with the selection and implementation of one (1) of the four (4) following reconstitution options for the school:

1. Reassign students to another school and monitor the students' progress. This option requires the district to:

- a. Close the school and assign the students to different locations.

b. Follow established procedures for attendance boundary changes and zoning requirements in reassigning students to different locations.

c. Ensure that teachers from the closed school who are responsible for teaching reading and mathematics are not assigned to any school where the students from the closed school are assigned unless the teacher is highly qualified as set forth in Section 1012.05, Florida Statutes, and sixty-five (65) percent or more of the teacher's students achieved learning gains on FCAT for reading and mathematics for elementary teachers or the appropriate content area for middle and high school teachers.

d. Identify students from the closing school who were reassigned and monitor their academic progress. Progress will be reported annually to the Department for three (3) years.

e. In addition to open house events, the school must offer a flexible number of meetings to inform parents of their child's performance at school. These meetings shall be held at convenient times such as morning, evening, or weekends.

2. Convert the school to a district-managed turnaround school. This option requires:

a. The district to assign a district employee who is responsible for managing the turnaround process.

b. The district to replace the principal, all assistant principals, and instructional coaches unless assigned to the school for less than one (1) year and the school's failure to improve cannot be attributed, in whole or in part, to the individual. The Department shall provide recommendations to the district with respect to replacing the principal, assistant principals, and instructional coaches.

c. The district to reassign or replace instructional faculty and staff whose students' failure to improve can be attributed to a lack in performance on the part of faculty and staff providing instruction. Reading and mathematics teachers may not be rehired at the school unless they are highly qualified and effective instructors as set forth in Section 1012.05, Florida Statutes, and as evidenced by sixty-five (65) percent or more of their students achieving learning gains on FCAT for reading and mathematics for elementary teachers or the appropriate content area for middle and high school teachers.

d. The district to undertake a comprehensive search to recruit a new principal with a record of turning around a similar school. The principal's contract must include differentiated pay in the form of a signing bonus and performance pay for raising student achievement. The selection of the principal shall be informed by guidance from the Department.

e. The principal and new leadership team to select new faculty and staff with the Department's assistance. Differentiated pay may be offered to faculty through signing bonuses and compensation for mandatory professional development and involvement in additional parent and student functions after school. Performance pay may also be offered to

teachers for raising student achievement. The hiring process shall be completed in time to ensure all teachers participate in summer professional development activities.

f. The district to provide the school with a fully released reading coach and a fully released mathematics or science coach, and will provide additional coaches based on enrollment, unless the district provides direct instructional support services.

g. The district to assemble an advisory board comprised of district personnel, community members, and a representative of the Department. The advisory board shall report monthly to the superintendent regarding its activities, concerns, and recommendations. Only one advisory board is required for a district with more than one school in the Intervene category.

h. The district to make available to the school's administrators and teachers prior to the opening of school a summer professional development academy that is developed in conjunction with the Department.

i. The school to establish common planning time within the master schedule to allow meetings to occur a minimum of two (2) times a week, by grade level in elementary school and by subject area at the secondary level. If the master schedule cannot allow all grade level or subject area teachers to participate at the same time, the district must establish weekly common planning time after school for a minimum of one (1) hour a week.

j. The district to enhance its school allocation formula to provide additional funds, resources, and personnel to the school.

k. The district to submit to the bargaining process the terms of any provision of a collective bargaining agreement that impede the district's efforts to make gains sufficient for its schools in the Intervene category to exit from that category.

l. In addition to open house events, the school must offer a flexible number of meetings to inform parents of their child's performance at school. These meetings shall be held at convenient times such as morning, evening, or weekends.

3. Close the school and reopen the school as a charter school or multiple charter schools. This option requires the district to:

a. Close the school and follow procedures of Section 1002.33, Florida Statutes, to reopen the school as a charter or multiple charters.

b. Reassign students who do not choose to attend the charter to other schools.

c. Ensure that the charter includes the following provisions:

(1) The principal selected must have experience turning around a low-performing school;

(II) The principal, assistant principals, or coaches from the closed school may not be hired at the charter school unless assigned to the school for less than one (1) year and the school's failure to improve cannot be attributed, in whole or in part, to the individual;

(III) Reading and mathematics teachers from the closed school may only be hired if they are highly qualified and effective instructors as set forth in Section 1012.05, Florida Statutes, and as evidenced by sixty-five (65) percent or more of their students achieving learning gains on FCAT for reading and mathematics for elementary teachers or the appropriate content area for middle and high school teachers.

(IV) The district provides the school with a fully released reading coach and a fully released mathematics or science coach and provides additional coaches based on enrollment, unless the charter provides direct instructional support services.

d. In addition to open house events, the school must offer a flexible number of meetings to inform parents of their child's performance at school. These meetings shall be held at convenient times such as morning, evening, or weekends.

4. Contract with an outside entity to operate the school. This option requires the district to enter into a contract with a management company having a proven success record of improving low-performing schools. The contract must include the following:

a. The principal must have experience turning around a low-performing school.

b. The principal, assistant principals, or coaches from the closed school may not be hired at the new school unless assigned to the school for less than one (1) year and the school's failure to improve cannot be attributed, in whole or in part, to the individual.

c. Reading and mathematics teachers from the closed school may only be hired if they are highly qualified and effective instructors as set forth in Section 1012.05, Florida Statutes, and as evidenced by sixty-five (65) percent or more of their students achieving learning gains on FCAT for reading and mathematics for elementary teachers or the appropriate content area for middle and high school teachers.

d. The district provides the school with a fully released reading coach and a fully released mathematics or science coach and provides additional coaches based on enrollment unless the charter provides direct instructional support services.

e. In addition to open house events, the school must offer a flexible number of meetings to inform parents of their child's performance at school. These meetings shall be held at convenient times such as morning, evening, or weekends.

(c) If a school does not exit the Intervene category after one (1) year of implementing one (1) of the options for reconstitution, a different option will be selected by the district each year until all options are exhausted, in which case the school will be closed and students reassigned.

(d) If a school does not exit the lowest-performing category during the initial year of implementing one of the reconstitution options, the school district must submit a plan, for State Board of Education approval, that includes details for implementing a different reconstitution option at the beginning of the next school year, unless the provisions of paragraph (8)(e) of this rule apply.

(e) When a school district demonstrates that a school is likely to move from the lowest-performing category if additional time is provided to implement intervention and support strategies, the State Board of Education shall permit continuation of an implementation option beyond one year.

(f) Each year the Department shall publish notice of the deadline for the selection of a reconstitution option, as provided in paragraphs (8)(b) and (8)(d) of this rule and the submission of a plan for implementation of that option. The notice shall provide a district a minimum of thirty (30) days for selection of the implementation option and a minimum forty-five (45) days after that date for the submission of an implementation plan.

(9) Annual update of DA forms. DA forms will be annually updated and submitted for State Board approval.

Rulemaking Authority 1001.02(1), 1008.33 FS. Law Implemented 1006.40(2), 1008.33 FS. History--New_____.

DEPARTMENT OF REVENUE

Property Tax Oversight Program

RULE NOS.:	RULE TITLES:
12D-9.005	Duties of the Board
12D-9.007	Role of the Clerk of the Value Adjustment Board
12D-9.012	Training of Special Magistrates, Value Adjustment Board Members and Legal Counsel
12D-9.018	Representation of the Taxpayer
12D-9.022	Disqualification or Recusal of Special Magistrates or Board Members
12D-9.027	Process of Administrative Review
12D-9.032	Final Decisions

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. 35, September 4, 2009 issue of the Florida Administrative Weekly.

The following changes apply to the proposed rules published on September 4, 2009 and where applicable, as subsequently revised by a Notice of Change published in the January 22,

2010, issue of the Weekly (Vol. 36, No. 3, pp. 390-405). The changes published in this Notice of Change supersede changes to any previous versions of the same provisions contained in the proposed rules as originally published on September 4, 2009, and, where applicable, subsequently revised in the Notice of Change published on January 22, 2010. These changes are in accordance with subparagraph 120.54(3)(d)1., F.S.

The Department has made two technical changes to phrases that are used throughout the proposed new rules in Rule Chapter 12D-9, F.A.C., as originally published in the Notice of Proposed Rule on September 4, 2009, and subsequently revised in the Notice of Change published on January 22, 2010. One technical change is to change the phrase “clerk of the board” or the word “clerk,” wherever this phrase or word appeared in the previously published proposed rules, to instead read “board clerk”. The other technical change is to change the phrase “legal counsel to the board,” wherever this phrase appeared in the previously published proposed rules, to instead read “board legal counsel”.

A revised redline version of the proposed new rules in Rule Chapter 12D-9 will be available at <http://dor.myflorida.com/dor/property/vab/rules.html>. This redline version shows each addition and deletion to the proposed rules that were originally published in the Notice of Proposed Rule on September 4, 2009, as revised by the Notice of Change published on January 22, 2010.

12D-9.001 Taxpayer Rights in Value Adjustment Board Proceedings.

No change, as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.002 Informal Conference Procedures.

No change, as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.003 Definitions.

No change, as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.004 Composition of the Value Adjustment Board.

No change, as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.005 Duties of the Board.

When adopted, subsection (1)(a) of Rule 12D-9.005, as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010, will read as follows:

(1)(a) The value adjustment board shall meet not earlier than 30 days and not later than 60 days after the mailing of the notice provided in Section 194.011(1), Florida Statutes;

however, no board hearing shall be held before approval of all or any part of the county’s assessment rolls by the Department of Revenue. The board shall meet for the following purposes:

Subsections (1)(a)1. through (5) No change to the proposed text as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.006 Clerk of the Value Adjustment Board.

No change as originally published on September 4, 2009. There were no subsequent revisions in the Notice of Change published on January 22, 2010.

12D-9.007 Role of the Clerk of the Value Adjustment Board.

Subsections (1) through (7) No change to the proposed text as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

When adopted, subsection (8) of Rule 12D-9.007, will read as follows:

(8) The board clerk shall ensure public notice of and access to all hearings. Such notice shall contain a general description of the locations, dates, and times hearings are being scheduled. This notice requirement may be satisfied by making such notice available on the board clerk’s website. Hearings must be conducted in facilities that are clearly identified for such purpose and are freely accessible to the public while hearings are being conducted. The board clerk shall assure proper signage to identify such facilities.

Subsections (9) through (15) No change to the proposed text as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.008 Appointment of Legal Counsel to the Value Adjustment Board.

No change as originally published on September 4, 2009. There were no subsequent revisions in the Notice of Change published on January 22, 2010.

12D-9.009 Role of Legal Counsel to the Board.

No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.010 Appointment of Special Magistrates to the Value Adjustment Board.

No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.011 Role of Special Magistrates to the Value Adjustment Board.

No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.012 Training of Special Magistrates, Value Adjustment Board Members and Legal Counsel.

Subsections (1) through (5) No change to the proposed text as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

When adopted, subsection (6) of Rule 12D-9.012 will read as follows:

(6) Meetings or orientations for special magistrates, for any instructional purposes relating to procedures for hearings, handling or consideration of petitions, evidence, worksheets, forms, decisions or related computer files, must be open to the public for observation. Such meetings or orientations must be reasonably noticed to the public in the same manner as an organizational meeting of the board, or posted as reasonable notice on the board clerk's website.

12D-9.013 Organizational Meeting of the Value Adjustment Board.

Subsections (1) through (3) No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 213.05, 286.011, 286.0105 FS. History—New_____.

12D-9.014 Prehearing Checklist.

No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.015 Petition; Form and Filing Fee.

No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.016 Filing and Service.

No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.017 Ex Parte Communication Prohibition.

No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.018 Representation of the Taxpayer.

Subsections (1) through (4) – No change to the proposed text as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

When adopted, subsection (5) of Rule 12D-9.018, will read as follows:

(5) As used in this rule chapter, the term “licensed” refers to holding a license or certification under Chapter 475, Part I or Part II, Florida Statutes, being a Florida certified public accountant under Chapter 473, Florida Statutes, or membership in the Florida Bar.

Subsections (6) through (7) – No change to the proposed text as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.013, 194.032, 194.034, 195.022, 195.084, 213.05, Chapter 473, Chapter 475, Parts I and II FS. History—New_____.

12D-9.019 Scheduling and Notice of a Hearing.

No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.020 Exchange of Evidence.

No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.021 Withdrawn or Settled Petitions; Petitions Acknowledged as Correct; Non Appearance; Summary Disposition of Petitions.

No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.022 Disqualification or Recusal of Special Magistrates or Board Members.

Subsections (1) through (3) No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

When adopted, paragraph (4)(a) of Rule 12D-9.022, will read as follows:

(4)(a) If either the petitioner or the property appraiser communicates a reasonable belief that a board member or special magistrate has a bias, prejudice or conflict of interest, the basis for that belief shall be stated in the record of the proceeding or submitted prior to the hearing in writing to the board legal counsel.

Subsection (4)(b) No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

When adopted, paragraphs (4)(c), (d), and (e), and subsection (5) of Rule 12D-9.022, will read as follows:

(c) If the board member or special magistrate questions the need for recusal, the board member or special magistrate shall request an immediate determination on the matter from the board's legal counsel.

(d) Upon review, if the board legal counsel:

1. Determines that a recusal is necessary, the board member or special magistrate shall recuse himself or herself and the board clerk shall reschedule the hearing; or

2. Is uncertain whether recusal is necessary, the board member or special magistrate shall recuse himself or herself and the board clerk shall reschedule the hearing.

3. Determines the recusal is unnecessary, the board legal counsel shall set forth the basis upon which the request was not based on sufficient facts or reasons.

(e) In a rescheduled hearing, the board or special magistrate shall not consider any actions that may have occurred during any previous hearing on the same petition.

(5) A rescheduling for disqualification or recusal shall not be treated as the one time rescheduling to which a petitioner has a right upon timely request under Section 194.032(2), F.S.

12D-9.023 Hearings Before Board or Special Magistrates. No change as originally published on September 4, 2009. There were no subsequent revisions to this rule in the Notice of Change published on January 22, 2010.

12D-9.024 Procedures for Commencement of a Hearing. No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.025 Procedures for Conducting a Hearing; Presentation of Evidence; Testimony of Witnesses. No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.026 Procedures for Conducting a Hearing by Electronic Media. No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.027 Process of Administrative Review. Subsections (1) through (3)(c)2. No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010. When adopted, subparagraphs (3)(c)3. and 4. of Rule 12D-9.027, will read as follows:

3. If the property appraiser does not establish a presumption of correctness, or if the presumption of correctness is overcome, the board or special magistrate shall determine whether the hearing record contains competent, substantial evidence of classified use value which cumulatively meets the statutory criteria that apply to the classified use valuation of the petitioned property.

a. If the hearing record contains competent, substantial evidence for establishing a revised classified use value, the board or an appraiser special magistrate shall establish a revised classified use value based only upon such evidence. In establishing a revised classified use value, the board or special magistrate is not restricted to any specific value offered by one of the parties.

b. If the hearing record lacks competent, substantial evidence for establishing a revised classified use value, the board or special magistrate shall remand the assessment to the property appraiser with appropriate directions for establishing classified use value.

4. If the property appraiser establishes a presumption of correctness and that the presumption of correctness is not overcome as described in subparagraph (c)1. above, the assessment stands.

Paragraph (3)(d) through paragraph (6)(e) – No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010

12D-9.028 Petitions on Transfer of “Portability” Assessment Difference.

No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.029 Procedures for Remanding Value Assessments to the Property Appraiser.

No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.030 Recommended Decisions. No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.031 Consideration and Adoption of Recommended Decisions of Special Magistrates by Value Adjustment Boards in Administrative Reviews.

No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.032 Final Decisions. When adopted, subsection (1)(a) of Rule 12D-9.032, as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010, will read as follows:

(1)(a) For each petition not withdrawn or settled, the board shall produce a written final decision that contains findings of fact, conclusions of law, and reasons for upholding or overturning the property appraiser’s determination. Each final decision shall contain sufficient factual and legal information and reasoning to enable the parties to understand the basis for the decision, and shall otherwise meet the requirements of law. The board may fulfill the requirement to produce a written final decision by adopting a recommended decision of the special magistrate containing the required elements and providing notice that it has done so. The board may adopt the special magistrate’s recommended decision as the decision of the board incorporating the recommended decision, using a postcard or similar notice. The board shall ensure regular and timely approval of recommended decisions.

Subsections (1)(b) through (7) No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.033 Further Judicial Proceedings.

No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.034 Record of the Proceeding.

No change as originally published on September 4, 2009. There were no subsequent revisions to this rule in the Notice of Change published on January 22, 2010.

12D-9.035 Duty of Clerk to Prepare and Transmit Record.

No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.036 Procedures for Petitions on Denials of Tax Deferrals.

No change as originally published on September 4, 2009. There were no subsequent revisions in the Notice of Change published on January 22, 2010.

Part III

Uniform Certification of Assessment Rolls

12D-9.037 Certification of Assessment Rolls.

No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

12D-9.038 Public Notice of Findings and Results of Value Adjustment Board.

No change as originally published on September 4, 2009, and subsequently revised in a Notice of Change published on January 22, 2010.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-2.091
 RULE TITLE: Publications Incorporated by Reference

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 35, No. 52, December 31, 2009 issue of the Florida Administrative Weekly.

Section 4.3 was printed incorrectly in the above issue and the corrected text is set out below:

The following provisions are changed in the Water Use Permit Information Manual, Part B, Basis of Review, which is incorporated by reference in Rule 40D-2.091, F.A.C.:

Water Use Permit Information Manual

Part B, Basis of Review

CHAPTER 4 CONDITIONS FOR ISSUANCE – TECHNICAL CRITERIA

4.2 ENVIRONMENTAL IMPACTS

The following sentence is added to section 4.2 as a new last paragraph just before the subsection titled "A. Wetlands":

Compliance with the performance standards for permittees encompassed within the Comprehensive Plan set forth in Rule 40D-80.073, F.A.C., shall be addressed as specified in Rule 40D-80.073, F.A.C.

Revised _____

4.3 MINIMUM FLOWS AND LEVELS

The following changes are made to the subsection titled "A. Withdrawals That Affect Water bodies for Which Minimum Flows and Levels Have Been Adopted within Those Portions of Hillsborough County north of State Road 60, and Pasco and Pinellas Counties (hereinafter the "Area"):

A. Withdrawals That Affect Water Bodies for Which Minimum Flows and Levels Have Been Adopted Within the Northern Tampa Bay Water Use Caution Area Within Those Portions of Hillsborough County north of State Road 60, and Pasco and Pinellas Counties (hereinafter the "Area"). In establishing Minimum Flows and Levels, the District has determined that the actual water levels in many of the water bodies for which Minimum Flows and Levels have been established are below the Minimum Flow and Level. The District is implementing a recovery strategy to address water bodies that are below their Minimum Flows and Levels. The recovery strategy, and associated mitigation plan, referred to as the Comprehensive Plan, is described in Rule 40D-80.073, F.A.C. The District is expeditiously implementing a recovery strategy for the Area in keeping with the District's legislative mandate pursuant to Sections 373.036, 373.0361, 373.0421, 373.0831, 373.1962 and 373.1963, F.S., to resolve the water supply and water resource impact concerns of the Northern Tampa Bay Area in a cooperative manner with the water suppliers and interested parties. This Section 4.3 A. and Chapter 40D 80, F.A.C., set forth the regulatory portion of the first phase (through December 31, 2010) of the recovery strategy for the Area. The following requirements of this Section 4.3 A. effectuate part of the that recovery Comprehensive Plan strategy and shall be effective only through December 31, 2020 2010. The District will evaluate the state of knowledge of these matters in 2010. Based on that evaluation, the District may revise this Section 4.3 A. as

appropriate. Compliance with Section 4.3 A. does not, by itself, satisfy the other conditions for issuance requirements of Chapter 40D-2, F.A.C., including Rule 40D-2.301, F.A.C. for new withdrawals proposed after August 3, 2000.

1. For New Withdrawals Proposed After August 3, 2000, Except For Withdrawals Subject to 4.3 A.2. Below.

a. Where above Minimum Flow or Level – For water bodies that are predicted to be impacted by the proposed withdrawal and where the actual flow or level is at or above a Minimum Flow or Level, withdrawals shall be limited to that quantity, as may be further limited by other provisions of 40D-2.301, F.A.C., and this Basis of Review, that does not cause the actual flow to fall below the Minimum Flow, nor cause the actual level to fall below the Minimum Level on a long-term average basis (the “Baseline Quantity”). For purposes of this Section 4.3 A., “long-term” means a period which spans the range of hydrologic conditions which can be expected to occur based upon historical records, ranging from high water levels to low water levels. In the context of a predictive model simulation, a long-term simulation will be insensitive to temporal fluctuations in withdrawal rates and hydrologic conditions, so as to simulate steady-state average conditions. In the context of an average water level, the average will reflect the expected range and frequency of levels based upon historic conditions. This period will vary because reasonable scientific judgment is necessary to establish the factors to be used in the assessment of each application depending on the geology and climate of the area of withdrawal, the depth of and number of wells and the quantity to be withdrawn.

i. If the withdrawal of the requested quantity of water does not meet the condition in 4.3 A.1.a. above, the applicant shall identify the Baseline Quantity, and the District shall consider, as may be further limited by other provisions of Rule 40D-2.301, F.A.C., and this Basis of Review, the authorization of the additional quantity of water to be withdrawn where the applicant:

(1) Demonstrates that there are no reasonable means to modify the proposed withdrawal to meet the conditions in 4.3 A.1.a., including the use of alternative supplies, to reduce or replace the amount of the requested quantity exceeding the Baseline Quantity. Cost shall not be the sole basis for determining whether the means are reasonable; and

(2) Provides reasonable assurance that significant harm will be prevented to the wetlands and surface water bodies that could be affected by the proposed withdrawal if the requested quantity is withdrawn; and

(3) Demonstrates that any measures used to provide the reasonable assurance specified in 4.3 A.1.a.i(2) above will not cause a violation of any of the criteria listed in 40D-2.301(1)(a)-(n), 40D-4.301, or 40D-4.302, F.A.C., as applicable.

ii. To support whether the applicant has provided reasonable assurance pursuant to 4.3 A.1.a.i(2) above, the applicant must submit an environmental management plan (“EMP”) for approval by the District describing the measures to be used to prevent significant harm from withdrawal of the requested quantity. The EMP must include a monitoring program for early detection of impacts to wetlands and surface water bodies that could be affected by the proposed withdrawal and an implementation scheme for corrective actions to prevent unacceptable adverse impacts. The EMP shall include provisions to evaluate changes in water quality, water levels, vegetation, and fish and wildlife. The EMP shall also include clear thresholds as to when the implementation scheme will be initiated. The implementation scheme shall include details as to how the proposed measures will be effected, the methods to be followed in order to functionally replicate the natural hydrologic regime of affected water bodies, and efforts to be undertaken to minimize the effects of changes in water chemistry. The implementation scheme shall also require reduction of pumping to the Baseline Quantity as a corrective action if no other measures, including supplemental hydration, are successful in preventing unacceptable adverse impacts to wetlands and surface water bodies due to withdrawals. An approved EMP shall be incorporated as a special condition to any permit issued.

(1) The measures proposed may include hydration of affected water bodies or modification of existing drainage structures to prevent significant harm to affected water bodies, provided that the measures within the EMP minimize the need for supplemental hydration to the greatest extent practical.

(2) If supplemental hydration is proposed, the applicant will be required to identify in the application and monitor a representative number of wetlands in the vicinity of the withdrawal. The monitored wetlands shall include a representative number of MFL or MFL surrogate wetlands not receiving supplemental hydration. An MFL surrogate wetland is the nearest wetland site of the same type and condition to the proposed withdrawal that is not anticipated to require supplemental hydration. The monitored wetlands shall also include, where available, non-MFL wetlands not receiving hydration as well as MFL and non-MFL wetlands proposed for supplemental hydration.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.:
59G-4.220

RULE TITLE:
Podiatry Services

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 36, No. 1, January 8, 2010 issue of the Florida Administrative Weekly.

PURPOSE AND EFFECT: The proposed amendment to Rule 59G-4.220, F.A.C., incorporates by reference the revised Florida Medicaid Podiatry Services Coverage and Limitations Handbook, January 2010. The amendment to Rule 59G-4.220, F.A.C., will permit the Agency to implement revisions to the Florida Medicaid Podiatry Services Coverage and Limitations Handbook, January 2010.

SUMMARY: Rule 59G-4.220, F.A.C., is being amended to implement changes to the handbook that include changes in fiscal agent references; deleting text regarding locum tenens providers; adding definitions; clarifying policy particularly regarding place of service to mirror that of optometric services and creating a bulleted list for ease of reading; clarifying mobile unit limitation; deleting language regarding Average Wholesale Price for injection medication; and discontinuing the listing of procedure codes and handbook text, if appropriate.

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.220 Podiatry Services.

(1) No change.

(2) All podiatry services providers enrolled in the Medicaid program must be in compliance with the provisions of the Florida Medicaid Podiatry Services Coverage and Limitations Handbook, January ~~2010~~ ~~2004~~, ~~updated January 2005~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, which is incorporated by reference in Rule 59G-4.001, F.A.C. Both handbooks are available from the Medicaid fiscal agent's Web Portal at <http://mymedicaid-florida.com>. Click on Public Information for Providers, then on Provider Support, and then on Provider Handbooks. Paper copies of the handbooks may be obtained by calling the Medicaid fiscal agent at (800)289-7799 and selecting Option 7.

Rulemaking Specific Authority 409.919 FS. Law Implemented ~~409.906~~ ~~409.905~~, 409.907, 409.908, 409.9081 FS. History—New 1-23-84, Amended 10-25-84, Formerly 10C-7.529, Amended 4-21-92, 11-9-92, 7-1-93, Formerly 10C-7.0529, 10P-4.220, Amended 1-7-96, 3-11-98, 10-13-98, 5-24-99, 4-23-00, 7-5-01, 2-20-03, 8-5-03, 8-18-05, _____.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-606.100	Scope, Intent, Purpose, and Applicability
62-606.200	Definitions
62-606.400	Registration and Verification Requirements and Fees
62-606.500	Notification of Releases into Coastal Waters

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. 41, October 16, 2009 issue of the Florida Administrative Weekly.

Additionally, Forms 62-606.400(4)(a) and (b) are being modified in the following manner: the instructions in Part I (1) describing when the forms must be submitted were changed to conform to the changes in subsection 62-606.400(3), F.A.C., below; Part II (4) was added to the forms to require the name and address of the registered agent for service of process for the gambling vessel's owner or operator; Part III (1) was modified to only require the vessel's call sign instead of the name and call sign; Part III (1) was also modified to add the crew capacity of the vessel being registered; Part III (2) of Form 62-606.400(4)(a) only is modified to require the gambling vessel's weekly schedule when passengers are on board; and Part V is modified to require that the registration be executed under oath.

62-606.100 Scope, Purpose, and Applicability.

(1) No change.

(2) Applicability. Requirements in this chapter:

(a) through (d) No change.

(e) Do not apply to cruise ships as defined in 33 CFR 101.105, as of July 1, 2009, hereby adopted and incorporated by reference.

Rulemaking Authority 376.25 FS. Law Implemented 376.25 FS. History—New_____.

62-606.200 Definitions.

The meaning of any term not defined in Section 376.25(2), F.S., or below, shall be taken from definitions in other rules of the Department, unless the context clearly indicates otherwise.

(1) through (4) No change.

(5) "Minimum waste-service demand" means the volume of waste that is reasonably expected to be released at a waterfront-landing facility over a calendar year from gambling vessels with registered berths at the facility. For each facility that provides berths for registered gambling vessels, the Department shall estimate the facility's minimum waste-service demand by considering the registered capacity of the gambling vessel's systems for treating, holding, or

disposing of waste; and other information, including, but not limited to, other information provided in the registration forms submitted during registration of the gambling vessel.

(6) through (7) No change.

Rulemaking Authority 376.25 FS. Law Implemented 376.25 FS. History--New_____.

62-606.400 Registration and Verification Requirements and Fees.

(1) through (2) No change.

(3) Gambling vessel registration shall be based on and valid for the calendar year. Forms and fees shall be submitted as follows: The annual forms and fees required by subsections 62-606.400(1) and (2), F.A.C., shall be submitted on or before December 1 of the year prior to the calendar year in which the owner intends to operate a gambling vessel except as provided below.

(a) For gambling vessels operating in coastal waters on [the effective date of this rule], the initial form and fee shall be submitted within 60 days after [the effective date of this rule]. For the calendar year beginning on January 1, 2009, the form and fees shall be submitted within 60 days after the effective date of this rule.

(b) For gambling vessels beginning operations in coastal waters after [the effective date of this rule], the initial form and fee shall be submitted at least 30 days prior to the vessel entering coastal waters. For gambling vessels beginning operations in the state after the effective date of this rule, the forms and fees shall be submitted at least 30 days prior to the vessel entering coastal waters or within 60 days after the effective date of this rule, whichever is later.

(c) The annual renewal form and fee shall be submitted 30 days prior to expiration of the gambling vessel's registration.

(4) through (6) No change.

Rulemaking Authority 376.25 FS. Law Implemented 376.25 FS. History--New_____.

62-606.500 Notification of Releases into Coastal Waters.

(1) No change.

(2) Releases made for the purpose of securing the safety of the gambling vessel or saving life at sea ~~do not need to be reported provided, and~~ if all reasonable precautions have been taken for the purpose of preventing or minimizing the release, shall be documented and reported to the STATE WARNING POINT TOLL FREE NUMBER (800)320-0519, within three (3) days following the release. Documentation shall include all items in paragraphs 62-606.500(1)(a) through (i), F.A.C.

(3) Gambling vessels required to report a release in accordance with subsection 62-606.500(1) ~~or (2), F.A.C., shall submit a written report containing the information in paragraphs 62-606.500(1)(a) through (j), F.A.C., within three (3) days of the release. The report shall be submitted to the Bureau of Water Facilities Regulation, Mail Station 3535,~~

Department of Environmental Protection, Bob Martinez Center, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

Rulemaking Authority 376.25 FS. Law Implemented 376.25 FS. History--New_____.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Beaches and Coastal Systems

RULE NOS.:	RULE TITLES:
62B-34.010	Definitions
62B-34.070	Single Family Dwelling and Associated Minor Structures or Activities

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 47, November 25, 2009 issue of the Florida Administrative Weekly.

62B-34.010 Definitions.

(1) through (8) No change.

(9) "Major Road" are paved roads designated as public evacuation routes, or meeting the definition of arterial or collector in the Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways (also referred to as the Florida Greenbook) Florida Department of Transportation, 2007 Department of Transportation's Florida Greenbook, which is incorporated by reference. Copies of this document may be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, MS 300, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000; or at the following web site: www.dep.state.fl.us/beaches.

(10) through (17) No change.

62B-34.070 Single Family Dwelling and Associated Minor Structures or Activities.

(1) through (4) No change.

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

(e) Planting of invasive nuisance plants, such as listed in the Florida Exotic Pest Plant Council's 2007 List of Invasive Plant Species (published Fall 2007), shall not occur if the planting will result in removal or destruction of existing dune-stabilizing native vegetation or if the planting is to occur on or seaward of the dune system. The 2007 List of Invasive Plant Species (published Fall 2007) is incorporated by reference. Copies of this document may be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, MS 300, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000; or at the following web site: www.dep.state.fl.us/beaches.

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-9.009 RULE TITLE: Standard of Care for Office Surgery
 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. 51, December 24, 2009 issue of the Florida Administrative Weekly.

The Rules Committee and the full Board approved language to be stricken from the proposed rule. At the time the rule was submitted for publication in the FAW, the language to be stricken was inadvertently left in the rule.

The first sentence of subparagraph (4)(a)1., shall be changed to read as follows:

1. Level II Office Surgery is that in which peri-operative medication and sedation are used by any means altering the level of consciousness intravenously, intramuscularly, or rectally, thus making intra and post-operative monitoring necessary.

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

DEPARTMENT OF HEALTH

Board of Nursing

RULE NO.: 64B9-2.002 RULE TITLE: Certification for Approval
 NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 49, December 5, 2008 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF HEALTH

Division of Family Health Services

RULE NO.: 64F-16.006 RULE TITLE: Sliding Fee Scale
 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. 47, November 25, 2009 issue of the Florida Administrative Weekly.

64F-16.006 Sliding Fee Scale.

(1) Persons with net family incomes between 101 and 200 percent of the Federal Office of Management and Budget poverty guidelines shall be charged a fee on a sliding scale based on the following increments. For family planning services only, persons with incomes between 101 percent ~~200~~ and 250 percent of poverty shall be charged on a sliding fee scale as described in paragraph 64F-16.006(3)(h), F.A.C., below: (a) through (g) no change.

(2) No change.

(3) This sliding fee scale applies to recipients of integrated family health and communicable disease control services, with the following exceptions: . . .

(a) through (e) No change.

(f) Clients served by CHDs and their subcontractors shall not be denied family planning services for failure or inability to pay a prescribed fee, regardless of their income; however all family planning methods ~~the family planning services of inserting Norplant, and, male and female sterilization~~, shall be limited depending on the availability of funds ~~to pay for these services~~.

(g) Clients shall not be denied pregnancy testing for failure or inability to pay a fee.

(h) For family planning services only, persons with net family incomes between 101 percent and 250 ~~200~~ percent of the Federal Office of Management and Budget poverty guidelines shall be charged a fee on a sliding scale based on the following increments:

1. Persons with incomes at or below 100 percent of the OMB poverty guidelines shall pay no fee. ~~Persons with incomes at 200 to 224 percent of the OMB poverty guidelines shall pay 90 percent of the full fee for family planning services.~~

2. Persons with incomes at 101 to 129 percent of the OMB poverty guidelines shall pay 17 percent of the full fee. ~~Persons with incomes at 225 to 249 percent of the OMB poverty guidelines shall pay 95 percent of the full fee for family planning services.~~

3. Persons with incomes at 130 to 159 percent of the OMB poverty guidelines shall pay 33 percent of the full fee. ~~Persons with incomes at or above 250 percent of the OMB poverty guidelines shall pay the full fee for family planning services.~~

4. Persons with incomes at 160 to 189 percent of the OMB poverty guidelines shall pay 50 percent of the full fee.

5. Persons with incomes at 190 to 219 percent of the OMB poverty guidelines shall pay 67 percent of the full fee.

6. Persons with incomes at 220 to 250 percent of the OMB poverty guidelines shall pay 83 percent of the full fee.

7. Persons with incomes at or above 251 percent of the OMB poverty guidelines shall pay the full fee.

(4) Persons with net family incomes above 200 percent of the OMB poverty guidelines shall be charged the full fee promulgated by the department or the relevant board of county commissioners, with the exception of those groups listed in paragraphs (3) subsections (a) through (h) above.

Rulemaking Specific Authority 154.011(5) FS. Law Implemented 154.011 FS. History—New 10-14-93, Amended 8-2-94, 4-29-96, Formerly 10D-121.007, Amended 6-24-02, 6-17-03, _____.

DEPARTMENT OF FINANCIAL SERVICES

Division of Accounting and Auditing

RULE NOS.:	RULE TITLES:
69I-20.001	Registration
69I-20.0022	Proof of Ownership and Entitlement to Unclaimed Property
69I-20.0026	Claimant Affidavit
69I-20.0037	Reporting and Remitting Abandoned Property by Mail-in Secondhand Precious Metals Dealers
69I-20.090	Orders or Settlements Requiring Restitution

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the Proposed Rule Development, page 345 in Vol. 36, No. 3, January 22, 2010 issue of the Florida Administrative Weekly.

The correction is as follows:

The rule numbers and rule titles were inadvertently omitted from the notice:

RULE NOS.:	RULE TITLES:
69I-20.001	Registration
69I-20.0022	Proof of Ownership and Entitlement to Unclaimed Property
69I-20.0026	Claimant Affidavit
69I-20.0037	Reporting and Remitting Abandoned Property by Mail-in Secondhand Precious Metals Dealers
69I-20.090	Orders or Settlements Requiring Restitution

**Section IV
Emergency Rules**

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 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 V

Petitions and Dispositions Regarding Rule Variance or Waiver

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

NOTICE IS HEREBY GIVEN THAT on January 20, 2010, the Department of Highway Safety and Motor Vehicles has issued an order.

The Department of Highway Safety and Motor Vehicles (DHSMV) issued an Order Granting Emergency Rule Variance or Waiver under Section 120.542, Florida Statutes, to Christine Holmes with David Lawrence Mental Health Center, Inc., 2806 South Horseshoe Dr., Naples, FL 34104. The petition requesting the variance or waiver was received by DHSMV on November 4, 2009. Notice of receipt of the petition requesting the waiver was published in Vol. 35, No. 49 of the Florida Administrative Weekly on December 11, 2009. No public comment was received. The Petitioner sought a variance from or waiver of paragraph 15A-10.022(4)(b), Florida Administrative Code. The Order rules that the Petitioner may continue to act as temporary clinical supervisor for the DUI Program at David Lawrence Mental Health Center through May 31, 2010.

A copy of the Order may be obtained by contacting: Judson M. Chapman, Senior Assistant General Counsel, Department of Highway Safety and Motor Vehicles, Neil Kirkman Building, Room A-432, Tallahassee, Florida 32399-0504.

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 MANAGEMENT SERVICES

NOTICE IS HEREBY GIVEN THAT on January 21, 2010, the Agency for Workforce Innovation, received a petition for variance from subsection 60BB-4.210(1), F.A.C., which provides requirements for maintaining school readiness eligibility and allows an individual to be unemployed for a maximum of 30 days before losing eligibility to receive services. The Petition was filed by the Early Learning Coalition of Brevard County, Inc., 1018 Florida Ave., Rockledge, FL 32956.