

advanced training and certification program for firesafety inspectors having fire code management responsibilities. The workshop may also include a general discussion of firesafety inspector training and certification requirements and proposed rule development in that regard.

SUBJECT AREA TO BE ADDRESSED: Training and certification programs for firesafety inspectors.

RULEMAKING AUTHORITY: 633.01, 633.081(9), 633.45(2)(a) FS.

LAW IMPLEMENTED: 633.081(2), (3), (4), (8), 633.34, 633.35, 633.38, 633.45, 633.046, 633.101(1), 633.45(1)(d) 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: Wednesday, November 2, 2011, 1:15 p.m. – 2:30 p.m. (to be held in conjunction with the rule development workshop for Rule Chapter 69A-39, F.A.C. noticed in this edition of Florida Administrative Weekly)

PLACE: The Renaissance Resort at World Golf Village, 500 South Legacy Trail, St. Augustine, Florida 32092

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Barry Baker, (352)732-0143 or Barry.Baker@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Barry Baker, Chief, Bureau of Fire Standards and Training, Division of State Fire Marshal, (352)732-0143, Barry.Baker@myfloridacfo.com

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

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of State Fire Marshal**

RULE NOS.:	RULE TITLES:
69A-39.003	Types of Certification Available
69A-39.005	Minimum Curriculum Requirements for Firesafety Inspector Certification
69A-39.007	Procedures for Certification Examination
69A-39.009	Triennial Renewal of Firesafety Inspector Certification
69A-39.010	Required Forms for Training and Certification of Firesafety Inspectors

PURPOSE AND EFFECT: The Department is holding a second workshop to further explore options with the public for the implementation of, pursuant to Section 633.081(8), F.S., an advanced training and certification program for firesafety inspectors having fire code management responsibilities. The workshop may also include a general discussion of firesafety inspector training and certification requirements and proposed rule development in that regard.

SUBJECT AREA TO BE ADDRESSED: Training and certification programs for firesafety inspectors.

RULEMAKING AUTHORITY: 633.01, 633.081(9) FS.

LAW IMPLEMENTED: 633.081(2), (3), (4), (8) 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: Wednesday, November 2, 2011, 1:15 p.m. – 2:30 p.m. (to be held in conjunction with the rule development workshop for Rules 69A-37.039, .065, F.A.C. noticed in this edition of Florida Administrative Weekly)

PLACE: The Renaissance Resort at World Golf Village, 500 South Legacy Trail, St. Augustine, Florida 32092

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Barry Baker, (352)732-1433 or Barry.Baker@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Barry Baker, Chief, Bureau of Fire Standards and Training, Division of State Fire Marshal, (352)732-1433, Barry.Baker@myfloridacfo.com

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

**Section II  
Proposed Rules**

**DEPARTMENT OF STATE**

**Division of Elections**

RULE NO.:	RULE TITLE:
1S-2.045	Candidate Petition Process

PURPOSE AND EFFECT: To update the rule based upon changes brought about Ch. 2011-40, s. 19, Laws of Florida, regarding petition signature verifications and to incorporate into the rule candidate petition forms for presidential and vice presidential candidates.

SUMMARY: The amendments clarify the requirements for a candidate petition form to be verified as valid, make them consistent with those required to verify initiative petitions, account for petition verification requirements in a year of apportionment, and incorporate petition forms for presidential and vice presidential candidates.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Legislative ratification will not be required pursuant to Section 120.541(3), F.S., because the rule applies only to election-related activities. Based upon past experiences with rules of this nature, this rule will not have an adverse effect on businesses or private-sector economic growth, job-creation, employment or investment; nor will it increase regulatory costs in excess of the threshold mandating legislative ratification. No other statute requires legislative ratification for this rule.

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

RULEMAKING AUTHORITY: 20.10(3), 97.012(1), 99.095, 105.035(2) FS.

LAW IMPLEMENTED: 99.095, 99.061, 99.097, 103.021, 105.031, 105.035 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: November 7, 2011, 10:00 a.m.

PLACE: Room 307, R.A. Gray Building, Department of State, 500 S. Bronough Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Eddie L. Phillips, Executive Assistant, Office of General Counsel, Department of State, telephone: (850)245-6536, email: elphillips@dos.myflorida.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Gary J. Holland, Assistant General Counsel, Department of State, R.A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399-0250, (850)245-6536; email: Gary.Holland@dos.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.045 Candidate Petition Process.

(1) Qualification by Petition.

(a) A person who seeks to qualify as a candidate for any office and who meets the petition requirements of this rule and Sections 99.095 and 105.035, F.S., is not required to pay the qualifying fee or party assessment required by Chapters 99 and 105, F.S.

(b) Persons who seek to have their names printed on the ballot as candidates for President and Vice President of the United States as no party affiliated candidates and minor political parties that are not affiliated with a national party holding a national convention to nominate candidates for President and Vice President of the United States shall comply with the petition requirements in this rule to have the candidates' names placed on the ballot.

(2) Required Number of Signatures. Except in a year of apportionment as specified in Sections 99.095 and 99.09651, F.S., a candidate shall obtain the number of signatures of voters in the geographical area represented by the office sought equal to at least 1 percent of the total number of registered voters of that geographical area, as shown by the compilation by the Department of State for the immediately preceding general election. Special district candidates may qualify by obtaining at least 25 signatures of voters in the geographical area represented by the office sought. Except for special district candidates who have not collected contributions and whose only expense is the signature verification fee and federal candidates, signatures may not be obtained until the candidate has filed the appointment of campaign treasurer and designation of campaign depository pursuant to Section 106.021, F.S.

(3) Format of Petition.

(a) Except for presidential and vice presidential candidates, the format of a candidate petition shall be in accordance with Form DS-DE 104 (effective 09/11 ~~10/10~~), entitled "Candidate Petition." The format of a candidate petition for presidential and vice presidential candidates seeking ballot position as no party affiliated candidates shall be in accordance with DS-DE Form 18A (effective 09/11), entitled "President and Vice President Candidate Petition – No Party Affiliation," and the format of the candidate petition for a minor political party that is not affiliated with a national party holding a national convention to nominate candidates for President and Vice President of the United States shall be in accordance with Form DS-DE 18B (effective 09/11), entitled "President and Vice President Candidate Petition – Minor

Political Party.” Forms DS-DE 18A, 18B, and 104 are hereby incorporated by reference and are ~~is~~ available from the Division of Elections, Room 316, R. A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250, (850)245-6240, or by download from the Division of Elections’ rules webpage or forms webpage at: <http://elections.myflorida.com>.

(b) Forms DS-DE 18A, 18B, and 104 must be reproduced for use by candidates in their ~~its~~ exact wording and formats without any changes in their ~~its~~ text or formats, except the forms ~~DS-DE 104~~ may be reduced or enlarged proportionally in size as a whole document. The forms may not be less than 3 inches by 5 inches and no larger than 8 1/2 inches by 11 inches. Each form must be submitted for verification as a separate card or individual sheet of paper. Candidates may have the forms ~~DS-DE 104~~ translated into a minority language if the format of the forms and their ~~its~~ blank entries remain the same. If a translated version is made, the forms ~~DS-DE 104~~ may be made into a two-sided form with one side in English and the other side in a minority language; however, a voter shall complete only one side of the form. If both sides should be completed, the supervisor of elections to whom the form ~~DS-DE 104~~ is submitted shall verify only the signature on the English side of the form.

(c) Except for the signature of the voter and date the voter signs the form, the entries on Forms DS-DE 18A, 18B, and 104 may be completed prior to the voter signing and dating the form.

(d) A separate petition form is required for each candidate.

(e) The petition form may be included within a larger advertisement, provided the form is clearly defined by a solid or broken border. If included within a larger advertisement, the petition form may have information from the advertisement on the reverse of the petition form; otherwise, when used as a standalone petition form, it may only have a translation into a minority language on its reverse.

(4) Submission of Petition.

(a) Each Form DS-DE 104 ~~petition~~ must be submitted before noon of the 28th day preceding the first day of the qualifying period for the office sought to the supervisor of elections of the county in which the signee is registered to vote.

(b) Each Form DS-DE 18A or Form DS-DE 18B must be submitted no later than July 15 of each presidential election year to the supervisor of elections of the county in which the signee is a registered voter.

(c) It is the responsibility of the candidate or minor political party, as applicable, to ensure that the signed petition form is properly filed with, or if misfiled, forwarded to the supervisor of elections of the county in which the signee is a registered voter. If the supervisor of elections determines that the signer of the petition is not a registered voter in his or her county, the supervisor of elections shall notify the candidate or

minor political party, as applicable, that the petition has been misfiled. In the case of a misfiled petition, the filing date of the petition is the date such petition is filed with the proper county.

(5) Verification of Signatures.

(a) Upon receipt of candidate petition forms and payment of applicable signature verification fees, the supervisor of elections shall verify the signatures on each petition form to ensure that each person signing the petition form is a registered voter in the county, district, or other geographical area represented by the office sought. unless otherwise specified in Sections 99.095 and 99.09651, F.S.

(b) Except for special district candidates who have not collected contributions and whose only expense is the signature verification fee and federal candidates, the supervisor of elections shall also verify that the date the voter signed the petition form is on or after the date the candidate filed the appointment of campaign treasurer and designation of campaign depository pursuant to Section 106.021, F.S., with the appropriate filing officer.

(c) If the candidate is running for an office that requires a group or district designation, the petition must indicate that designation and, if it does not, the signatures are not valid, unless otherwise specified in Sections 99.095 and 99.09651, F.S.

(d) No signature on a candidate petition form shall be counted toward the number of signatures required unless it is on the candidate petition form prescribed by the Division in this rule.

(e) A signature on a candidate petition form shall not be counted toward the number of signatures required if the voter has previously signed a candidate petition form for the same candidate for the same office in the same election that had been verified as valid.

(f) In addition to the above requirements, the supervisor of elections shall not verify as valid the signature on a candidate petition form unless all of the following information is contained on the petition form:

1. The voter’s name;
2. The voter’s ~~street~~ address (including city and county);
3. The voter’s complete voter registration number or date of birth (to include the month, day, and year) that matches the date of birth on the voter’s registration application ~~or complete voter registration number;~~
4. The voter’s original signature; and
5. The date the voter signed the petition (to include the month, day, and year) as recorded by the voter.

(g) If all other requirements for the petition are met, a signature on a petition shall be verified and counted as valid for a registered voter if, after comparing the signature on the petition and the signature of the registered voter in the voter registration system, the supervisor is able to determine that the petition signer is the same as the registered voter, even if the name on the petition is not in substantially the same form as in

the voter registration system. A name on a petition, which name is not in substantially the same form as a name on the voter registration books, shall be counted as a valid signature if, after comparing the signature on the petition with the signature of the alleged signer as shown on the registration books, the supervisor determines that the person signing the petition and the person who registered to vote are one and the same.

(h) If a voter signs a petition and lists an address other than the legal residence where the voter is registered, the supervisor shall treat the signature as if the voter had listed the address where the voter is registered.

(i) The following represents a nonexclusive listing of examples based upon the requirements in this rule that will make the candidate petition invalid:

1. The petition is signed and dated before the candidate has filed the appointment of campaign treasurer and designation of campaign depository pursuant to Section 106.021, F.S., unless the candidate is a special district candidate who has not collected contributions and whose only expense is the signature verification fee or the candidate is a candidate for federal office.

2. The petition has a different party affiliation or office being sought by the candidate than that listed by the candidate on the current form the candidate has on file for the appointment of campaign treasurer and designation of campaign depository pursuant to Section 106.021, F.S.

3. The petition fails to list a group, seat, or district designation, except when otherwise provided by law.

4. The petition indicates the candidate is running for a non-partisan office or the petition indicates the candidate is running as a no party affiliated candidate and the petition lists the candidate's political party.

5. The petition is signed by a voter who is not a registered voter in the county, district, or other geographical area represented by the office sought, unless otherwise specified in Sections 99.095 and 99.09651, F.S., at both the time of signing and verification of the petition.

6. The petition is dated after the date the petition is submitted to the supervisor of elections.

7. The petition fails to contain the original signature of the voter. (Photocopied, scanned, or facsimile signatures are not original for purposes of this rule.)

8. The petition is in a different format than the applicable candidate petition form incorporated by reference in this rule.

9. The petition was circulated for a different election than the election for which the candidate is seeking to qualify, unless the candidate seeks to qualify in an intervening special election for the identical office for which the candidate was originally seeking to qualify. (If the candidate does not seek to qualify for the intervening special election, the candidate may continue to use his or her petitions to qualify in the subsequent general election for the office being sought.)

(6) Determination of Required Number of Signatures.

(a) No later than 5:00 p.m. on the 7th day before the first day of the qualifying period, the supervisor of elections shall submit to the Division of Elections a certificate indicating the number of valid signatures on Form DS-DE 104 for each candidate for federal, state, multicounty district, or multicounty special district office. Certificates may be submitted to the Division via facsimile or e-mail in order to meet the deadline, followed by an original copy by mail. The Division shall determine whether the required number of signatures has been obtained and shall notify the candidate.

(b) For candidates for county, district or special district office not covered by paragraph (a), the supervisor shall determine whether the required number of signatures has been obtained and shall notify the candidate.

(c) If the required number of signatures has been obtained, the candidate is eligible to qualify pursuant to Section 99.061 or 105.031, F.S., as applicable.

(d) Supervisor of elections shall verify the signatures on Forms DS-DE 18A and 18B and submit to the Division of Elections a certificate indicating the number of valid signatures for each candidate for President and Vice President and minor political party, as applicable, on or before the date of the primary election held in the presidential election year. Certificates may be submitted to the Division via facsimile or e-mail in order to meet the deadline, followed by an original copy by mail. The Division shall determine whether the required number of signatures has been obtained and shall notify the candidate and minor political party, as applicable.

(e) A minor political party that is not affiliated with a national party holding a national convention to nominate candidates for President and Vice President of the United States and that has obtained the requisite number of signatures on DS-DE 18B shall file with the Department of State no later than September 1 of the year in which the election is held a certificate naming its candidates for President and Vice President of the United States and listing the required number of persons to serve as presidential electors.

(7) Effect on Previously Approved Candidate Petition Form. Any candidate petition form which contains the substantive requirements of subsections (3) and (5) and which was approved by the Division of Elections prior to the effective date of this rule may continue to be used and circulated for signature gathering until July 16, 2012.

Rulemaking Authority 20.10(3), 97.012(1), 99.095, 105.035(2) FS. Law Implemented 99.095, 99.061, 99.097, 103.021, 105.031, 105.035 FS. History--New 10-23-07, Amended 11-7-10, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Gary Holland

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Gisela Salas

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 26, 2011  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 9, 2011

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NOS.:	RULE TITLES:
6A-1.001	District Financial Records
6A-1.004	School District Budget Requirements
6A-1.0071	Fiscal Reporting Dates
6A-1.038	Funding and Refunding of School District Indebtedness

PURPOSE AND EFFECT: Rule 6A-1.001, F.A.C., is amended to incorporate the updated publication Financial and Program Cost Accounting and Reporting for Florida Schools, 2011, by reference. The purpose of the amendments for Rules 6A-1.004 and 6A-1.038, F.A.C., is to align the rules with the provisions in Chapter 2011-175, Laws of Florida, which took effect on July 1, 2011. Rule 6A-1.0071, F.A.C., is amended to add Forms ESE 374, Schedule of Maturities of Indebtedness, and ESE 523, Information Concerning Authorized Obligations Under Sections 1011.14 and 1011.15, Florida Statutes, to the submission of the school district annual financial report. The effect will be rules aligned with Florida Statutes.

SUMMARY: The purpose of the amendment to Rule 6A-1.001, F.A.C., is to propose changes to the publication Financial and Program Cost Accounting and Reporting for Florida Schools, 2011 as incorporated by reference. Changes in law, accounting principles, and district practices require periodic revision of this publication which includes the chart of accounts. Changes to the chart of accounts include: (1) modify balance sheet accounts in accordance with Governmental Accounting Standards Board (GASB) Statement 54; (2) modify revenue accounts for federal programs based on changes in legislation and reporting; (3) modify revenue accounts for state programs in accordance with changes in state funding; (4) modify local revenue accounts for changes in fee structures; (5) modify fund and account group structure for consistency with GASB Statement 54; (6) clarify function and object code definitions; (7) provide accounting guidance in accordance with GASB Statement 54 in Chapter 2; and (8) modify Chapter 5, Program Cost Accounting and Reporting, to reflect changes in legislation. The purpose of amendments for Rules 6A-1.004 and 6A-1.038, F.A.C., is to align the rules with 2011 legislation that deleted the requirement that the Commissioner of Education review the budget of district school boards and the requirement that the Department of Education approve the budget of district school boards. Rule 6A-1.0071, F.A.C., is amended to incorporate by reference Forms ESE 374 and ESE 523.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The agency has determined that the proposed rule is not expected to require legislative ratification. Based on past agency experiences with the adjustment of accounting and financial reporting requirements for school districts, the adverse impact or regulatory cost, if any, do not exceed, nor would be expected to exceed, any one of the economic analysis criteria set forth in Section 120.541(2)(a), Florida Statutes.

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: 1001.02(1), 1010.01, 1010.20, 1011.03(4), 1011.16, 1011.60(1), (5) FS.

LAW IMPLEMENTED: 200.065, 1001.42(13)(b), 1010.01, 1010.20, 1011.01(3), 1011.02, 1011.03(4), 1011.16, 1011.60(1), (5) FS.

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

DATE AND TIME: November 15, 2011, 9:00 a.m.

PLACE: Andrew Jackson High School, 3816 N. Main St., Jacksonville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mark Eggers, Bureau Chief of School Business Services, 325 West Gaines Street, Room 814, Tallahassee, FL 32399-0400, (850)245-0405

THE FULL TEXT OF THE PROPOSED RULES IS:

6A-1.001 District Financial Records.

The superintendent of schools of each school district shall be responsible for keeping adequate records and accounts of all financial transactions in the manner prescribed by the Commissioner in the publication titled, "Financial and Program Cost Accounting and Reporting for Florida Schools, 2011" (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00649>), ~~2001~~" which is hereby incorporated by this rule and made a part of the rules of the State Board. Copies of the manual may be obtained from the Office of Funding and Financial Management Reporting, Department of Education,

325 West Gaines Street, Tallahassee, Florida 32399, at a cost to be established by the Commissioner but which shall not exceed actual costs.

Rulemaking Specific Authority 1010.01 FS. Law Implemented 1010.01 FS. History—Amended 9-17-72, Repromulgated 12-5-74, Amended 4-28-77, 8-2-79, 7-21-80, 10-7-81, 8-10-83, 9-27-84, 10-1-85, Formerly 6A-1.01, Amended 11-8-88, 7-30-91, 10-6-92, 10-18-94, 1-26-98, 10-15-01\_\_\_\_\_.

#### 6A-1.004 School District Budget Requirements Commissioner to Review Budgets.

The Commissioner shall establish procedures ~~and prepare plans~~ so that the District Summary Budget ~~budget~~ is transmitted to the Department of Education ~~reviewed by authorized representatives in his or her office.~~

(1) The following items are included in ~~subject to approval by the Commissioner in reviewing and reporting recommendations relating to the District Summary Budget annual school budgets:~~

(a) Estimated revenue federal, state and local.

(b) Estimated non-revenue-loans, bond sales, etc.

(c) Operating appropriations Forms ESE 374, Schedule of Maturities of Indebtedness and ESE 523, Information Concerning Authorized Obligation Under Section 1011.14, F.S., are incorporated by reference in this rule to become effective with the effective date of this rule. These forms may be obtained from the Administrator of the Office of Funding and Financial Reporting, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(d) Transfers, debt services, and capital projects appropriations.

(e) Ending balances and reserves.

~~1. Cash balances to be carried forward shall not exceed twenty percent (20%) of the anticipated tax receipt for operational purposes; provided however, in extenuating circumstances the cash balance may exceed the twenty percent (20%) level when documented evidence justifies the need.~~

~~2. Unappropriated fund balances may not exceed ten percent (10%) of total appropriations and transfers for operational purposes; provided however, in extenuating circumstances the fund balance may exceed the ten percent (10%) level when documented evidence justifies the need.~~

(2) A budget shall not be considered to be officially received ~~for review and approval~~ until all required forms, schedules, analyses and certifications have been received; ~~provided, however, the millage certification may be submitted after the Commissioner has approved the budget as provided herein.~~

(3) ~~If the budget as submitted to the Commissioner is defective, a written report shall be made to the superintendent of schools within thirty (30) days of the official receipt of the budget, and the budget, with such comments as are found necessary, shall be returned for correction or completion. If any~~

~~changes are required, the school board shall authorize such changes and shall resubmit the budget with the corrections within fifteen (15) days from the date of the report from the Commissioner.~~

Rulemaking Specific Authority 1001.02(1), ~~1011.03(4) 1011.03(5)~~ FS. Law Implemented 1011.01(3), 1011.02, ~~1011.03(4) 1011.03(5)~~ FS. History—Amended 3-26-66, 9-17-72, 2-18-74, Repromulgated 12-5-74, Amended 11-29-78, 7-10-85, Formerly 6A-1.04, Amended 10-4-88, 9-22-08\_\_\_\_\_.

#### 6A-1.0071 Fiscal Reporting Dates.

The following dates shall apply to the fiscal reporting and budgeting process of each school district.

(1) The final budget prepared under procedural steps and time intervals specified in Section 200.065, Florida Statutes, shall be transmitted to the Commissioner no later than the third business day following the day of adoption by the school board.

(2) The annual financial report and all official parts thereof must be submitted to the Commissioner no later than September 11th of each year. The annual financial report is composed of the following forms: Forms ESE 348, Report of Financial Data to the Commissioner of Education (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00653>); ESE 145, Superintendent's Annual Financial Report (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00654>); ESE 374, Schedule of Maturities of Indebtedness (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00650>); and ESE 523, Information Concerning Authorized Obligations Under Sections 1011.14 and 1011.15, Florida Statutes (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00651>) ESE 904, Automated Format for Public Schools State Cost Analysis Reporting System, which are incorporated by reference in this rule to become effective \_\_\_\_\_ ~~with the effective date of this rule.~~ These forms may be obtained from the Administrator of the Office of Funding and Financial Reporting, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(3) In the event of an emergency or when unusual circumstances exist and upon written request by the superintendent of schools, the Commissioner shall have authority to grant an extension of reporting dates not specified by statute.

Rulemaking Specific Authority 1001.02(1), 1010.20, 1011.60(1), (5) FS. Law Implemented 200.065, 1011.01(3), 1011.03(~~4~~)(5), 1011.60(1), (5) FS. History—New 9-12-72, Amended 2-13-74, 12-5-74, 5-5-75, 10-7-75, 7-22-76, 6-7-77, 1-7-81, 7-10-85, Formerly 6A-1.071, Amended 3-12-86, 10-4-88, 9-22-08\_\_\_\_\_.

#### 6A-1.038 Funding and Refunding of School District Indebtedness.

(1) When any unfunded or delinquent indebtedness exists against the district general current ~~school fund~~ or when any other type of unfunded, legally-incurred ~~legally incurred~~

school indebtedness exists, it shall be the duty of the superintendent to prepare and the school board to approve a plan for retiring this indebtedness in accordance with the provisions of Section 1011.16, Florida Statutes, and to submit such a plan to the Commissioner for consideration as part of the budget for any school year; provided, that if it is impossible to prepare such a plan, a complete and satisfactory explanation shall be submitted with the budget.

(2) It shall be the duty of the ~~C~~ommissioner of education to assist and cooperate with the superintendent and school board in any district in which any unfunded or delinquent indebtedness exists, making recommendations regarding the plan, including determining funds necessary to operate and determining what remaining funds are available to retire debt and proposing any necessary modifications to the plan in preparing plans for retiring such indebtedness and to refuse to approve the annual school budget until a satisfactory plan has been submitted, or explanation is given showing that such a plan is not practicable that year.

~~(3) Any district which fails and refuses to prepare a plan for retiring unfunded or delinquent indebtedness shall not be entitled to participate in the minimum foundation program until such a plan is prepared or satisfactory explanation is given as provided herein.~~

~~(3)(4) The district school board shall not attempt to retire any such debt until the Commissioner has proposed recommendations. Approval of all plans for refunding or retiring unfunded indebtedness under Section 1011.16, Florida Statutes, heretofore approved by the Commissioner or the State Board is hereby confirmed and such plans shall be valid and binding until the indebtedness is finally extinguished.~~

Rulemaking Specific Authority 1001.02(1), 1011.16(5) FS. Law Implemented 1011.16(5) FS. History—Amended 2-18-74, Repromulgated 12-5-74, Amended 9-6-78, Formerly 6A-1.38, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Linda Champion, Deputy Commissioner, Finance and Operations.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Gerard Robinson, Commissioner, Department of Education.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 3, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 19, 2011

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-1.0014  
RULE TITLE: Comprehensive Management Information System

PURPOSE AND EFFECT: The purpose of this rule amendment is to revise existing requirements of the statewide comprehensive management information system which are necessary in order to implement changes recommended by school districts and to make changes in state reporting and local recordkeeping procedures for state and/or federal programs. The effect is to maintain compatibility among state and local information systems components. The statewide comprehensive management information system provides the data on which the measurement of school improvement and accountability is based.

SUMMARY: The rule incorporates revisions to selected data elements, procedures and timelines for state reporting, local recordkeeping, and statewide records transfer which are to be implemented by each school district and the Department of Education within the automated statewide comprehensive management information system. The rule contains the security, privacy and retention procedures to be used by the Department of Education for school district, student, staff and finance records collected and maintained at the state level.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The agency has determined that the proposed rule is not expected to require legislative ratification. Based on past agency experience with adjusting reporting requirements for school districts in the comprehensive management information system, the adverse impact or regulatory cost, if any, do not exceed, nor would be expected to exceed, any one of the economic analysis criteria set forth in Section 120.541(2)(a), Florida Statutes.

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: 120.536(1)(b), 1001.02(1), 1008.385(3) FS.

LAW IMPLEMENTED: 1001.23, 1002.22(3)(d)3., 1008.385(2), 1010.305(2) FS.

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

DATE AND TIME: November 15, 2011, 9:00 a.m.

PLACE: Andrew Jackson High School, 3816 N. Main St., Jacksonville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lavan Dukes, Education Information and Accountability Services Section, Department of Education, 325 West Gaines Street, Room 852, Tallahassee, Florida 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.0014 Comprehensive Management Information System.

(1) No change.

(2) The data elements, procedures and timelines for state reporting, local recordkeeping and statewide records transfer to be implemented by each school district and the Department within its automated information system component as prescribed in the publications entitled “DOE Information Data Base Requirements: Volume I – Automated Student Information System, 2011 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00672>) ~~2010~~,” “DOE Information Data Base Requirements: Volume II – Automated Staff Information System, 2011 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00671>) ~~2010~~,” and “DOE Information Data Base Requirements: Volume III – Automated Finance Information System, 1995.” These publications which include the Department procedures for the security, privacy and retention of school district student and staff records collected and maintained at the state level are hereby incorporated by reference and made a part of this rule. Copies of these publications may be obtained from Education Information and Accountability Services, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(3) No change.

Rulemaking Authority 1001.02(1), 1008.385(3) FS. Law Implemented 1001.23, 1002.22, 1008.385(2) FS. History—New 2-19-87, Amended 12-21-87, 12-13-88, 3-25-90, 3-24-91, 3-17-92, 12-23-92, 2-16-94, 3-21-95, 7-3-96, 5-20-97, 10-13-98, 10-18-99, 10-17-00, 5-19-03, 7-20-04, 4-21-05, 3-1-07, 3-24-08, 11-26-08, 12-15-09, 2-1-11, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kris Ellington, Deputy Commissioner, Accountability, Research, and Measurement

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Gerard Robinson, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 3, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 22, 2011

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-1.039  
 RULE TITLE: Supplemental Educational Services in Title I Schools

PURPOSE AND EFFECT: The purpose of this rule amendment is to adopt the updated application, Form SES 100, Request for Applications for Supplemental Educational Services Providers for the 2012-2013 school year and to revise the provider approval processes.

SUMMARY: The proposed rule updates the Request for Applications for the 2012-2013 school year and online application and hard-copy documentation requirements.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The agency has determined that the proposal is not expected to require legislative ratification. The rule is not expected to create any new fees or other associated transactional costs. Based on the agency’s experience with adopting rules on this subject, the rule amendment is expected to have a minimal economic impact.

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: 1008.331 FS.

LAW IMPLEMENTED: 1008.331 FS.

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

DATE AND TIME: November 15, 2011, 9:00 a.m.

PLACE: Andrew Jackson High School, 3816 N. Main St., Jacksonville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Melvin Herring, Program Director, Bureau of Federal Educational Programs, 325 West Gaines Street, Suite 348, Tallahassee, FL 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.039 Supplemental Educational Services in Title I Schools.

(1) through (2) No change.

(3) Roles and Responsibilities.

(a) The Department shall:

1. Provide annual notice of the process for obtaining approval to provide supplemental educational services.



2. Approve supplemental educational services providers based upon the application requirements set forth in Form SES 100, Supplemental Educational Services Provider Application 2012 2011 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00655>), which is hereby incorporated by reference to become effective March 20, 2011. Form SES 100 may be obtained from the Florida Department of Education, Bureau of Federal Educational Programs Student Assistance, 325 West Gaines Street, Suite 348, Tallahassee, Florida 32399-0400 or on the Department’s website at [www.fldoe.org/flbpo](http://www.fldoe.org/flbpo).

3. through (b)7. No change.

8. Develop in consultation with the parent and the provider a student learning plan. The plan shall be consistent with the student’s individual education plan, English language learner plan, or the plan developed under Section 504 of the Rehabilitation Act. The plan shall include the following:

a. A statement of specific achievement goals for the student; these goals shall be aligned with student performance standards as incorporated by reference in Rule 6A-1.09401, F.A.C., the Sunshine State Standards as approved by the State Board of Education;

b. through 10.b. No change.

(c) State-approved supplemental educational services providers shall:

1. Be capable of delivering supplemental educational services in the school districts where approved by the Department.

2. Provide services that are secular, neutral, and nonideological.

3. Provide services outside of the regular school day, such as before or after school, on weekends, or in the summer.

4. Unless a prior agreement has been made with the local school district, cConduct a pre-assessments to determine student’s gaps in knowledge and skills prior to beginning services.

5. Consult with the school district and the parents to develop the student learning plan.

6. Provide educational services designed to enable the student to attain achievement goals specified in ~~on~~ the student learning plan.

7. through 12. No change.

(4) through (11) No change.

Rulemaking Authority 1008.331 FS. Law Implemented 1008.331 FS. History—New 4-14-08, Amended 5-24-09, 12-15-09, 3-20-11, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Michael Grego, Interim Chancellor, K-12 Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Gerard Robinson, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 3, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2011

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-5.080  
 RULE TITLE: Florida Principal Leadership Standards

PURPOSE AND EFFECT: The purpose of this rule amendment is to revise the existing standards for Florida school leaders that form the basis for Florida’s leadership preparation programs and establish the core practices for school administrator evaluation systems.

SUMMARY: This rule amendment is a revision that will incorporate contemporary research on multi-dimensional school leadership, and represent skill sets and knowledge bases needed in effective schools.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), Florida Statutes, and thus, a legislative ratification is not required under Section 120.541(3), Florida Statutes.

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: 1001.02, 1012.55, 1012.986 FS.

LAW IMPLEMENTED: 1012.55, 1012.986, 1012.34 FS.

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

DATE AND TIME: November 15, 2011, 9:00 a.m.

PLACE: Andrew Jackson High School, 3816 N. Main St., Jacksonville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kathy Hebda, Deputy Chancellor for Educator Quality, Florida Department of Education, 325 West Gaines Street, Suite 1502, Tallahassee, Florida 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 6A-5.080 follows. See Florida Administrative Code for present text.)

6A-5.080 Florida Principal Leadership Standards.

(1) Purpose and Structure of the Standards.

(a) Purpose. The Standards are set forth in rule as Florida's core expectations for effective school administrators. The Standards are based on contemporary research on multi-dimensional school leadership, and represent skill sets and knowledge bases needed in effective schools. The Standards form the foundation for school leader personnel evaluations and professional development systems, school leadership preparation programs, and educator certification requirements.

(b) Structure. There are ten (10) Standards grouped into categories, which can be considered domains of effective leadership. Each Standard has a title and includes, as necessary, descriptors that further clarify or define the Standard, so that the Standards may be developed further into leadership curricula and proficiency assessments in fulfillment of their purposes.

(2) The Florida Principal Leadership Standards.

(a) Domain 1: Student Achievement:

1. Standard 1: Student Learning Results. Effective school leaders achieve results on the school's student learning goals.

a. The school's learning goals are based on the state's adopted student academic standards and the district's adopted curricula; and

b. Student learning results are evidenced by the student performance and growth on statewide assessments; district-determined assessments that are implemented by the district under Section 1008.22, Florida Statutes; international assessments; and other indicators of student success adopted by the district and state.

2. Standard 2: Student Learning as a Priority. Effective school leaders demonstrate that student learning is their top priority through leadership actions that build and support a learning organization focused on student success. The leader:

a. Enables faculty and staff to work as a system focused on student learning;

b. Maintains a school climate that supports student engagement in learning;

c. Generates high expectations for learning growth by all students; and

d. Engages faculty and staff in efforts to close learning performance gaps among student subgroups within the school.

(b) Domain 2: Instructional Leadership:

1. Standard 3: Instructional Plan Implementation. Effective school leaders work collaboratively to develop and implement an instructional framework that aligns curriculum with state standards, effective instructional practices, student learning needs and assessments. The leader:

a. Implements the Florida Educator Accomplished Practices as described in Rule 6A-5.065, F.A.C., through a common language of instruction;

b. Engages in data analysis for instructional planning and improvement;

c. Communicates the relationships among academic standards, effective instruction, and student performance;

d. Implements the district's adopted curricula and state's adopted academic standards in a manner that is rigorous and culturally relevant to the students and school; and

e. Ensures the appropriate use of high quality formative and interim assessments aligned with the adopted standards and curricula.

2. Standard 4: Faculty Development. Effective school leaders recruit, retain and develop an effective and diverse faculty and staff. The leader:

a. Generates a focus on student and professional learning in the school that is clearly linked to the system-wide strategic objectives and the school improvement plan;

b. Evaluates, monitors, and provides timely feedback to faculty on the effectiveness of instruction;

c. Employs a faculty with the instructional proficiencies needed for the school population served;

d. Identifies faculty instructional proficiency needs, including standards-based content, research-based pedagogy, data analysis for instructional planning and improvement, and the use of instructional technology;

e. Implements professional learning that enables faculty to deliver culturally relevant and differentiated instruction; and

f. Provides resources and time and engages faculty in effective individual and collaborative professional learning throughout the school year.

3. Standard 5: Learning Environment. Effective school leaders structure and monitor a school learning environment that improves learning for all of Florida's diverse student population. The leader:

a. Maintains a safe, respectful and inclusive student-centered learning environment that is focused on equitable opportunities for learning and building a foundation for a fulfilling life in a democratic society and global economy;

b. Recognizes and uses diversity as an asset in the development and implementation of procedures and practices that motivate all students and improve student learning;

c. Promotes school and classroom practices that validate and value similarities and differences among students;

d. Provides recurring monitoring and feedback on the quality of the learning environment;

e. Initiates and supports continuous improvement processes focused on the students' opportunities for success and well-being; and

f. Engages faculty in recognizing and understanding cultural and developmental issues related to student learning by identifying and addressing strategies to minimize and/or eliminate achievement gaps.

(c) Domain 3: Organizational Leadership:

1. Standard 6: Decision Making. Effective school leaders employ and monitor a decision-making process that is based on vision, mission and improvement priorities using facts and data. The leader:

a. Gives priority attention to decisions that impact the quality of student learning and teacher proficiency;

b. Uses critical thinking and problem solving techniques to define problems and identify solutions;

c. Evaluates decisions for effectiveness, equity, intended and actual outcome; implements follow-up actions; and revises as needed;

d. Empowers others and distributes leadership when appropriate; and

e. Uses effective technology integration to enhance decision making and efficiency throughout the school.

2. Standard 7: Leadership Development. Effective school leaders actively cultivate, support, and develop other leaders within the organization. The leader:

a. Identifies and cultivates potential and emerging leaders;

b. Provides evidence of delegation and trust in subordinate leaders;

c. Plans for succession management in key positions;

d. Promotes teacher-leadership functions focused on instructional proficiency and student learning; and

e. Develops sustainable and supportive relationships between school leaders, parents, community, higher education and business leaders.

3. Standard 8: School Management. Effective school leaders manage the organization, operations, and facilities in ways that maximize the use of resources to promote a safe, efficient, legal, and effective learning environment. The leader:

a. Organizes time, tasks and projects effectively with clear objectives and coherent plans;

b. Establishes appropriate deadlines for him/herself and the entire organization;

c. Manages schedules, delegates, and allocates resources to promote collegial efforts in school improvement and faculty development; and

d. Is fiscally responsible and maximizes the impact of fiscal resources on instructional priorities.

4. Standard 9: Communication. Effective school leaders practice two-way communications and use appropriate oral, written, and electronic communication and collaboration skills to accomplish school and system goals by building and maintaining relationships with students, faculty, parents, and community. The leader:

a. Actively listens to and learns from students, staff, parents, and community stakeholders;

b. Recognizes individuals for effective performance;

c. Communicates student expectations and performance information to students, parents, and community;

d. Maintains high visibility at school and in the community and regularly engages stakeholders in the work of the school;

e. Creates opportunities within the school to engage students, faculty, parents, and community stakeholders in constructive conversations about important school issues.

f. Utilizes appropriate technologies for communication and collaboration; and

g. Ensures faculty receives timely information about student learning requirements, academic standards, and all other local state and federal administrative requirements and decisions.

(d) Domain 4: Professional and Ethical Behavior:

1. Standard 10: Professional and Ethical Behaviors. Effective school leaders demonstrate personal and professional behaviors consistent with quality practices in education and as a community leader. The leader:

a. Adheres to the Code of Ethics and the Principles of Professional Conduct for the Education Profession in Florida, pursuant to Rules 6B-1.001 and 6B-1.006, F.A.C.;

b. Demonstrates resiliency by staying focused on the school vision and reacting constructively to the barriers to success that include disagreement and dissent with leadership;

c. Demonstrates a commitment to the success of all students, identifying barriers and their impact on the well-being of the school, families, and local community;

d. Engages in professional learning that improves professional practice in alignment with the needs of the school system;

e. Demonstrates willingness to admit error and learn from it; and

f. Demonstrates explicit improvement in specific performance areas based on previous evaluations and formative feedback.

Rulemaking Specific Authority 1001.02, 1012.34, 1012.55, 1012.986 FS. Law Implemented 1012.55, 1012.986, 1012.34 FS. History—New 5-24-05, Formerly 6B-5.0012, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Michael Grego, Interim Chancellor, K-12 Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Gerard Robinson, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 3, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 26, 2011

**DEPARTMENT OF EDUCATION****State Board of Education**

RULE NO.:                   RULE TITLE:  
6A-6.0981                   Provider Approval for Virtual  
  Instruction Program

**PURPOSE AND EFFECT:** The purpose is to amend Rule 6A-6.0981, F.A.C., to conform to statutory revisions made to Section 1002.45, Florida Statutes, during the 2011 Legislative Session. The effect will be the alignment of laws related to the approval of virtual instruction providers.

**SUMMARY:** This rule outlines the process through which private companies can become approved to enter into contractual agreements with Florida school districts to offer virtual instruction.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: This proposed rule is not expected to require legislative ratification pursuant to Section 120.541(3), Florida Statutes, because (1) no requirement for a SERC was triggered under Section 120.541(1), Florida Statutes, and (2) based on past experience with this application process, the adverse impact or regulation costs, if any, do not exceed nor would be expected to exceed any one of the economic analysis criteria set forth in Section 120.541(2)(a), Florida Statutes.

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:** 1002.45 FS.

**LAW IMPLEMENTED:** 1002.45 FS.

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

**DATE AND TIME:** November 15, 2011, 9:00 a.m.

**PLACE:** Andrew Jackson High School, 3816 N. Main St., Jacksonville, Florida

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Sally Roberts, Educational Policy Consultant, Department of Education, Division of K-12 Public Schools, 325 West Gaines Street, Tallahassee, FL 32399-0400

**THE FULL TEXT OF THE PROPOSED RULE IS:**

6A-6.0981 Provider Approval for School District Virtual Instruction Program.

(1) Purpose. Section 1002.45, F.S., requires each school district, ~~beginning with the 2009-2010 school year,~~ to provide eligible students within its boundaries the option to participate in a virtual instruction program. The Department of Education will provide school districts and virtual charter schools annually with a list of providers approved to offer virtual instruction programs under this section of law.

(2) Application Form. Form VSP-02, Virtual Instruction Program Application for Provider Approval (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00656>) ~~School District 2011~~ (<http://www.flrules.com/Gateway/reference.asp?No=Ref-00030>) for becoming an approved provider for the ~~School District~~ Virtual Instruction Program, will be used for those virtual education providers applying for approved status from the Department of Education. Form VSP-02 is hereby incorporated by reference and made a part of this rule to become effective ~~March 20, 2011~~. Form VSP-02 will be published electronically at [www.fldoe.org/Schools/virtual-schools/DistrictVIP.asp](http://www.fldoe.org/Schools/virtual-schools/DistrictVIP.asp). A hard copy may be obtained by contacting the Division of Public Schools, Office of the Chancellor, Florida Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(3) Application. The application to become an approved provider will be available beginning October 1 of each year for the following school year. The deadline for filing the application is October 31.

(a) The applicant will disclose on a prominent place on its website the disclosure information required under Section 1002.45(2)(a)7., Florida Statutes.

(b) In accordance with Section 1002.45(2)(a)5., Florida Statutes, the applicant must be accredited by at least one of the following K-12 regional accrediting agencies, their successors or assigns: AdvancED, Middle States Association of Colleges and Schools Commission on Elementary Schools and Commission on Secondary Schools, New England Association of Schools and Colleges, Northwest Accreditation Commission, or Western Association of Schools and Colleges.

(4) The Department of Education will review each application and provide the applicant with a written decision regarding the approval or denial of the application no later than forty-five (45) calendar days after the deadline. Approved providers will be posted to the website: [www.fldoe.org/Schools/virtual-schools/DistrictVIP.asp](http://www.fldoe.org/Schools/virtual-schools/DistrictVIP.asp). The approval is valid for the following three (3) school years.

(5) Notice of Denial. If the application is denied, the applicant will receive written notification identifying the specific areas of deficiency. The applicant shall have forty-five (45) calendar days after receipt of the notice of denial to resolve any outstanding issues, and resubmit its application for reconsideration. The applicant will receive a final notice of approval or denial. If an application is denied a second time,

the Department of Education will provide a final written notice to the provider indicating that the application has been administratively closed and that the provider may apply during the next application phase in accordance with subsection (3) of this rule.

(6) Revocation. The Department shall revoke the approval of a provider who fails to comply with all the requirements of Section 1002.45, F.S.

Rulemaking Authority 1002.45(11) FS. Law Implemented 1002.45 FS. History—New 11-26-08, Amended 10-21-09, 3-20-11,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Michael Grego, Interim Chancellor, K-12 Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Gerard Robinson, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 3, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 22, 2011

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-7.0710  
 RULE TITLE: Instructional Materials Policies and Procedures

PURPOSE AND EFFECT: The purpose of this new rule is to prescribe the procedures governing the adoption of instructional materials for use by Florida school districts. The effect is a clear process relating to the adoption of instructional materials.

SUMMARY: The rule prescribes the policies, procedures, and specifications for submission and review of instructional materials for adoption by the Commissioner of Education. The effect is a clear process relating to the adoption of instructional materials.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

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: 1001.02(1), 1006.34(1) FS.  
 LAW IMPLEMENTED: 1006.29, 1006.30, 1006.31, 1006.32, 1006.33, 1006.34, 1006.36, 1006.38 FS.

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

DATE AND TIME: November 15, 2011, 9:00 a.m.  
 PLACE: Andrew Jackson High School, 3816 N. Main St., Jacksonville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mary Jane Tappen, Deputy Chancellor for Curriculum, Instruction, and Student Services, Department of Education, 325 West Gaines Street, Suite 1502, Tallahassee, Florida 32399-0400, (850)245-0509

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-7.0710 Instructional Materials Policies and Procedures.

(1) The policies and procedures for state adoption of instructional materials are prescribed in “Policies and Procedures for the Florida Instructional Materials Adoption 2011.” (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00244>) which is hereby incorporated by reference in this rule. The specifications for instructional materials for 2011-2012 adoption of Social Studies instructional materials are prescribed in “2010 Social Studies Specifications for the 2011-2012 Florida State Adoption of Instructional Materials.” (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00245>) which is hereby incorporated by reference in this rule. These documents may be found at [http://www.fldoe.org/bii/instruct\\_mat](http://www.fldoe.org/bii/instruct_mat) or by contacting the Department of Education, 325 West Gaines Street, Room 424, Tallahassee, Florida 32399.

(2) Publishers and manufacturers of instructional materials. The following forms shall be submitted by instructional materials publishers or manufacturers when proposing instructional materials for adoption and are hereby incorporated by reference in this rule. These forms may be found at [http://www.fldoe.org/bii/instruct\\_mat](http://www.fldoe.org/bii/instruct_mat) or by contacting the Department of Education, 325 West Gaines Street, Room 424, Tallahassee, Florida 32399.

(a) Form IM1, 2011-2012 Florida Instructional Materials Adoption Publisher’s Questionnaire (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00609>).

(b) Form IM2, Correlation, Florida Department of Education, Instructional Materials Correlation Course Standards (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00610>).

(c) Form IM3, State of Florida, Instructional Materials Bid, List of Intent(s) to Bid (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00611>).

(d) Form IM4, Bid Form (Detailed), Florida Department of Education, Contract Period: 201X-201X (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00612>).

(e) Form IM5, State of Florida, Instructional Materials Bid Signature Sheet (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00613>).

(f) Form IM6, Acknowledgement of Publisher for the 201X-201X, State Instructional Materials Adoption (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00614>).

(g) Form IM7, Instructional Materials Publisher Registration and Online Bid Process (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00615>).

(3) The Manufacturing Standards and Specifications for Textbooks (“MSST”), 2009 Revised Edition, are the official minimum standards and specifications for the physical construction of instructional materials. The MSST, developed by the National Association of State Textbook Administrators (NASTA), are hereby incorporated by reference in this rule and are available through the Advisory Commission on Textbook Specifications, Two Armand Drive, Suite 1B, Palm Coast, FL 32317-2612, [www.nasta.org](http://www.nasta.org). Form B, State of Florida, Statement of Publisher Submitting Books for Adoption, (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00616>), and Form M, State of Florida, Statement of Publisher Submitting Electronic Media for Adoption, (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00617>), are hereby incorporated by reference in this rule. These forms may be accessed by contacting the Department of Education, 325 West Gaines Street, Room 424, Tallahassee, Florida 32399.

(4) State instructional materials reviewers and school district reviewers.

(a) The Affidavit of State Instructional Materials Reviewers (Reviewer), Form IM8, (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00618>) shall be completed by state instructional materials reviewers. This form is hereby incorporated by reference in this rule, and may be found at [http://www.fldoe.org/bii/instruct\\_mat](http://www.fldoe.org/bii/instruct_mat) or by contacting the Department of Education, 325 West Gaines Street, Room 424, Tallahassee, Florida 32399.

(b) Both state instructional materials reviewers and school district reviewers shall utilize the online instructional materials evaluation instrument in evaluating instructional materials submitted for adoption. The evaluation instrument, (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00619>), Form IMEI-01, Instructional Materials Review Evaluation Instrument, is hereby incorporated by reference in this rule, and may be found at [http://www.fldoe.org/bii/instruct\\_mat](http://www.fldoe.org/bii/instruct_mat) or by contacting the Department of Education, 325 West Gaines Street, Room 424, Tallahassee, Florida 32399.

Rulemaking Authority 1001.02(1), 1006.34(1) FS. Law Implemented 1006.29, 1006.30, 1006.31, 1006.32, 1006.33, 1006.34, 1006.36, 1006.38 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Michael Grego, Interim Chancellor, K-12 Public Schools  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Gerard Robinson, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 27, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 3, 2010

## DEPARTMENT OF EDUCATION

### State Board of Education

RULE NOS.:	RULE TITLES:
6A-7.0711	Substitute Editions of Instructional Materials
6A-7.076	Official Minimum Manufacturing Standards and Specifications for Textbooks

PURPOSE AND EFFECT: The purpose is to repeal Rules 6A-7.0711 and 6A-7.076, F.A.C. The content of these rules, appropriately updated to reflect current law, will be incorporated in Rule 6A-7.0710, F.A.C. The effect will be a new rule which is consistent with current statutes.

SUMMARY: Rules 6A-7.0711 and 6A-7.076, F.A.C., are to be repealed.

### SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: As the rules are recommended to be repealed, legislative ratification will not be required. Rule 6A-7.076, F.A.C., has not been amended since 1974; Rule 6A-7.0711, F.A.C., has not been amended since 1992. The content of the rules is outdated and no longer relevant.

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: 1001.02(1), 1006.34(1) FS.

LAW IMPLEMENTED: 1001.02, 1006.33(1)(e), 1006.38 FS.

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

DATE AND TIME: November 15, 2011, 9:00 a.m.

PLACE: Andrew Jackson High School, 3816 N. Main St., Jacksonville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mary Jane Tappen, Deputy Chancellor for Curriculum, Instruction, and Student Services, Department of Education, 325 West Gaines Street, Suite 1502, Tallahassee, Florida 32399, (850)245-0509

THE FULL TEXT OF THE PROPOSED RULES IS:

6A-7.0711 Substitute Editions of Instructional Materials.

Specific Authority 229.053(1), 233.16(3) FS. Law Implemented 233.25(3), (6), (8), (9) FS. History--New 10-30-78, Formerly 6A-7.711, Amended 7-29-92, Repealed.

6A-7.076 Official Minimum Manufacturing Standards and Specifications for Textbooks.

Specific Authority 229.053(1) FS. Law Implemented 233.14(1)(e), 233.25 FS. History--Amended 4-8-68, 10-31-74, Repromulgated 12-5-74, Formerly 6A-7.76, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Michael Grego, Interim Chancellor, K-12 Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Gerard Robinson, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 6, 2011

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-7.0712 RULE TITLE: Local Instructional Improvement Systems

PURPOSE AND EFFECT: The purpose of this new rule is to incorporate by reference, the minimum standards for the Local Instructional Improvement Systems (LIIS) that each school district, will implement by June 30, 2014. These standards are necessary to meet requirements for the Race to the Top Grant and Section 1006.281, Florida Statutes. The effect of this rule is to require school districts to meet the minimum standards so the LIIS meets stakeholder needs for access to and use of data to inform instruction in the classroom, operations at the school, school district, and research.

SUMMARY: This rule is required by Section 1006.281, Florida Statutes, to adopt the minimum LIIS standards. Each school district will be required to develop and implement an LIIS consistent with the Department's minimum standards by June 30, 2014. School districts will also need to submit annual information to demonstrate compliance with standards.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Agency has determined that the proposed rule is not expected to require legislative ratification based on past Agency experiences with the application of minimum standards and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed, nor would be expected to exceed, any one of the economic analysis criteria set forth in Section 120.541(2)(a), Florida Statutes.

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: 1006.281 FS.

LAW IMPLEMENTED: 1006.281 FS.

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

DATE AND TIME: November 15, 2011, 9:00 a.m.

PLACE: Andrew Jackson High School, 3816 N. Main St., Jacksonville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Todd Clark, Director of Race to the Top Assessments, Division of Accountability, Research and Measurement, 325 West Gaines Street, Suite 832, Tallahassee, Florida 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-7.0712 Local Instructional Improvement Systems ~~System~~.

(1) Each school district shall develop and implement a Local Instructional Improvement System consistent with the Florida Department of Education's minimum standards by June 30, 2014. The Department's Local Instructional Improvement Systems Minimum Standards (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00658>) are hereby incorporated by reference and may be obtained on the Department's web site at <http://www.fldoe.org/arra/LIISMS.asp>.

(2) To determine the progress districts are making toward compliance with the minimum standards and determine compliance with the standards and Section 1006.281, Florida

Statutes, districts will be required to report to the Department on an annual basis. The date that the report shall be due will be posted on the Department's website at <http://www.fldoe.org.arra/LIISMS.asp> no later than sixty (60) days prior to the date the report is due.

(3) Beginning in fiscal year 2014-15, the Department shall review the minimum standards for needed revisions at least every three (3) years.

Rulemaking Authority 1006.281 FS. Law Implemented 1006.281 History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Kris Ellington, Deputy Commissioner, Accountability, Research, and Measurement

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Gerard Robinson, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 3, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 5, 2011

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-10.0315  
RULE TITLE: College Preparatory Testing, Placement, and Instruction

PURPOSE AND EFFECT: The purpose of this rule amendment is to address revisions made in 2011 to Section 1008.30, Florida Statutes, and to include the Postsecondary Education Readiness Test (P.E.R.T.), a newly implemented college preparatory test in the Florida College System.

SUMMARY: The P.E.R.T. is being added as a college preparatory test, retest policies are being established and the requirements resulting from 2011 legislation for high school testing and postsecondary preparatory instruction are being aligned with this rule.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) no requirement for SERC was triggered under Section 120.541(1), Florida Statutes, and 2) based on past experiences with college preparatory testing and rules of this nature, the adverse impact or regulatory cost, if any, do not

exceed nor would be expected to exceed any one of the economic analysis criteria set forth in Section 120.541(2)(a), Florida Statutes.

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: 1008.30 FS.

LAW IMPLEMENTED: 1008.30 FS.

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

DATE AND TIME: November 15, 2011, 9:00 a.m.

PLACE: Andrew Jackson High School, 3816 N. Main St., Jacksonville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Julie Alexander, Associate Vice Chancellor for Learning Initiatives, The Florida College System, 325 West Gaines Street, Room 1532G, Tallahassee, FL 32399, [julie.alexander@fldoe.org](mailto:julie.alexander@fldoe.org)

**THE FULL TEXT OF THE PROPOSED RULE IS:**

6A-10.0315 College Preparatory Testing, Placement, and Instruction.

~~(1) For admissions after October 1, 1991, for enrollment for the academic terms beginning January 1992 through July 31, 1995, first-time-in-college applicants for admission to community colleges and universities who apply to enter degree programs shall be tested for reading, writing, and mathematics proficiency prior to the completion of registration, using one (1) or more of the tests listed in this subsection, and shall enroll in college preparatory communication and computation instruction if the test scores are lower than those listed below.~~

~~(a) ACT Assessment, American College Testing Program.~~

Composite	14
English	15
Mathematics	13

~~(b) Enhanced ACT, American College Testing Program.~~

Reading	16
English	16
Mathematics	16

~~(c) SAT, The College Board.~~

Verbal	340
TSWE	31
Mathematics	400

~~(d) SAT I, The College Board administrations between March 1, 1994, and March 31, 1995.~~



Verbal	340*
Mathematics	400
Administrations after March 31, 1995:	
Verbal	420*
Mathematics	440

\*Students with scores below the cut score on the verbal subtest of the SAT I shall be considered to have fallen below the cut score in both reading and writing for placement and reporting purposes:

(e) MAPS, The College Board:

Reading Comprehension	13
TSWE	31
Elementary Algebra	209

(f) New MAPS, The College Board:

Reading Comprehension	109
Conventions of Written English	311
Elementary Algebra	613

(g) CPT, Computerized Placement Tests, The College Board:

Reading Comprehension	72
Sentence Skills	78
Elementary Algebra	51

(h) ASSET, American College Testing Program:

Reading Skills	22
Language Usage	43
Elementary Algebra	12

(i) New ASSET, American College Testing Program:

Reading Skills	37
Writing Skills	37
Elementary Algebra	37

(2) For admissions beginning August 1, 1995, first-time-in-college applicants for admission to community colleges and universities who apply to enter degree programs shall be tested for reading, writing, and mathematics proficiency prior to the completion of registration, using the Florida College Entry-Level Placement Test. Students earning scores less than those listed below shall enroll in college preparatory communication and computation instruction:

Standard Score

(a) Reading Comprehension	72
(b) Sentence Skills	78
(c) Elementary Algebra	51

(1)(3) For admissions beginning with the academic term in the fall 1996, first-time-in-college degree seeking students and students who have not met college level competency either

through the completion of developmental education requirements in the Florida College System or have not been awarded credit for college level coursework in the area of deficiency applicants for admission to community colleges and universities who apply to enter degree programs shall be tested for reading, writing, and mathematics proficiency prior to the completion of initial registration, using the Florida Postsecondary Education Readiness College Entry-Level Placement Test. Students earning scores less than those listed below shall enroll in college preparatory communication and computation instruction in the area of the deficiency:

Standard Score

(a) Reading Comprehension	104 83
(b) Writing Sentence Skills	99 83
(c) Mathematics Elementary Algebra	113 72

~~(4) Community colleges and universities shall have the option of delaying implementation of the provisions of subsection (3) of this rule upon notification by the president of the institution to the Commissioner. No institution shall be permitted to exempt the provisions of subsection (3) of this rule for more than one (1) academic year, and no exemptions may be in effect past June 30, 1997.~~

~~(5) Community colleges and universities may identify optional placement tests to supplement those listed in subsection (2) of this rule that may be useful. If such optional tests are identified, each institution shall be responsible for designating the scores that will be used for placement purposes and the courses into which the student will be placed.~~

~~(6) For admissions prior to the fall 2000 academic term, students who present scores on either the College Board's SAT-I or the American College Testing Program's Enhanced ACT test that meet or exceed the scores shown below, may be exempted from taking the Florida College Entry-Level Placement Test at the option of the president of the community college or university:~~

Standard Score

SAT-I, The College Board	
Verbal	420
Mathematics	440
Enhanced ACT, American College Testing Program	
Reading	16
English	16
Mathematics	16

~~(2)(7) Students For admissions beginning with the academic term in the fall of 2000, students who present scores on either the College Board's Accuplacer or SAT-I or the American College Testing Program's Enhanced ACT test that meet or exceed the scores shown below, are may be exempted~~

from taking the Florida Postsecondary Education Readiness College Entry-Level Placement Test at the option of the president of the community college or university:

	Standard Score
<u>Accuplacer, The College Board</u>	
<u>Reading Comprehension</u>	<u>83</u>
<u>Writing Skills</u>	<u>83</u>
<u>Elementary Algebra</u>	<u>72</u>
SAT-I, The College Board	
Verbal	440
Mathematics	440
Enhanced ACT, American College Testing Program	
Reading	18
English	17
Mathematics	19

~~(8) Community colleges and universities may negotiate agreements with local school districts to permit, on a voluntary basis, high school students to take the Florida College Entry-Level Placement Test at the beginning of the tenth grade before enrollment in the eleventh grade for the purpose of obtaining remedial instruction prior to entering postsecondary education.~~

~~(9) Each community college president shall negotiate agreements with its local service area school district to permit the Florida College Entry-Level Placement Test to be administered to high school students. The agreement shall provide the opportunity for students to have the option of taking the Placement Test at the beginning of the tenth grade for the purpose of obtaining counseling regarding future college and career planning and for the purpose of providing remedial instruction that may be appropriate. High school eleventh or twelfth grade students also may be given the option of taking the Placement Test.~~

~~(10) Each state public university president may negotiate an agreement with local school districts to permit the Florida College Entry-Level Placement Test to be administered to high school students. The negotiations with the school district shall take into consideration any previous or anticipated agreement negotiated by the community college president as described in subsection (9) of this rule to minimize any confusion in the administration of the test to high school students. The agreement negotiated by a university president shall be subject to the conditions of subsections (11) and (12) of this rule except that the test administration responsibilities would be assumed by the university.~~

~~(11) The agreement shall provide for the administration of the Placement Test under the control and supervision of the community college. The agreement shall incorporate plans to administer the Placement Test according to specifications developed by the Commissioner. These specifications shall~~

~~include how the test is to be administered, when, to whom, at what cost, how the costs will be paid, and how the test results will be reported.~~

~~(12) The agreement shall be sent to the Commissioner for review and approval prior to implementation. If the agreement does not adhere to the specifications defined in subsection (11) of this rule, it shall not be approved.~~

~~(3) School districts must administer the Florida Postsecondary Education Readiness Test to high school students who meet the criteria established in Section 1008.30(3), Florida Statutes. High school students are exempt from payment for tests administered pursuant to Section 1008.30(3), Florida Statutes. Students who do not meet or exceed the scores established in subsections (1) and (2) of this rule must complete postsecondary preparatory instruction prior to high school graduation. Students who complete the postsecondary preparatory instruction required in Section 1008.30(3), Florida Statutes, will have completed an alternative remediation opportunity. Completion of alternative remediation in high school does not satisfy the requirement for demonstrating college readiness or completing college preparatory instruction. A student will be required to retest after alternative remediation and meet or exceed the scores established in subsection (1) or (2) of this rule to avoid required enrollment in college preparatory communication and computation instruction in accordance with subsection (1) of this rule.~~

~~(4)(13) Nothing provided in subsection (1) of this rule 6A-10.0315(1), F.A.C., shall be construed to prevent the enrollment of a student in college preparatory instruction if the Florida College System institution community college or university determines that such enrollment would enhance the student's opportunity for future academic success. The determination of enrollment would be made after counseling with the student and the analysis and consideration of other assessment techniques and measurements, which may include transcripts, grade evaluations, diagnostic, placement or psychological instruments, or other proven indicators or predictors of academic performance. Students who are initially placed in college preparatory instruction and subsequent performance indicates the students have been misplaced may be moved into college level courses if they meet the requirements of paragraph (19)(b) of this rule.~~

~~(5)(14) Students whose first language is not English may be placed in college preparatory instruction prior to the testing required herein, if such instruction is otherwise demonstrated as being necessary. Such students shall not be exempted from the testing required herein.~~

~~(15) Test modifications and exemptions in subsection 6A-10.0311(5), F.A.C., shall apply in the case of applicants with records of physiological disorders.~~

~~(6)(16)~~ Institutions affected by this rule shall accept the highest test scores on any ~~one~~ of the tests or combination of tests identified in subsections (1) and (2) of this rule. 6A-10.0315(1), F.A.C., Individual student scores shall be valid for two (2) years.

~~(7)~~ A high school students has a maximum of two (2) attempts on the Florida Postsecondary Education Readiness Test.

~~(8)~~ A degree seeking student at a Florida College System institution has a maximum of two (2) attempts on the Florida Postsecondary Education Readiness Test or other test listed in subsection (2) of this rule. Requests for additional attempts must be approved by the college's designated administrator per written Florida College System institution policy. Testing required pursuant to Section 1008.30(3), Florida Statutes, shall be exempted from the maximum number of attempts allowed under this subsection.

~~(9)~~ Prior to administering a retest, the test administrator must require documentation from the student that verifies alternative remediation has occurred since the prior attempt. Alternative remediation opportunities shall be identified and included in a written Florida College System institution policy.

~~(10)(17)~~ During their first term, full-time students who are registered for at least twelve (12) credits, shall begin competency-based preparatory instruction based on the placement test results. Part-time students shall enroll prior to completing twelve (12) credits.

~~(11)(18)~~ Students shall not enroll for more than three (3) attempts in each course to complete college preparatory instruction. Students who withdraw from a course under major extenuating circumstances may be granted an exception. Such exceptions require approval under guidelines established by the Florida College System institution boards of trustees or the Board of Regents. Students enrolled in English as a second language may be exempted from this limitation based on a plan submitted by the institution and approved by the Board of Regents or the State Board of Community Colleges for their respective institutions.

~~(19)~~ Uniform standards for completion of competency-based college preparatory instruction shall correspond to those listed herein for placement in college credit instruction. Once competence has been certified, other public community colleges and universities shall accept the certification upon student transfer. Competence shall be certified upon:

~~(a)~~ Successful completion of courses in which the competencies specified in subparagraph 6A-10.033(1)(e)1., F.A.C., are taught, and

~~(b)~~ Passing a criterion-referenced assessment which tests the competencies specified in subparagraph 6A-10.033(1)(e)1., F.A.C., or

~~(20)~~ Students enrolled in college preparatory instruction shall be permitted to take courses concurrently in other curriculum areas for which they are qualified. Pursuant to Section 1008.30(4), Florida Statutes, students who test into college preparatory instruction and subsequently enroll in college preparatory instruction must successfully complete the required college preparatory studies by the time they have accumulated twelve (12) hours of college credit coursework or they must maintain continuous enrollment in college preparatory coursework each semester until the requirements are completed while performing satisfactorily in the degree earning coursework.

~~(a)~~ College preparatory students may not enroll in the following categories of college credit courses while completing their college preparatory coursework:

1. College preparatory students who are deficient in mathematics may not enroll in any mathematics courses that meet the requirements of Rule 6A-10.030, F.A.C., or other courses that require mathematics skills that are beyond the skill level of the student.

2. College preparatory students who are deficient in English and/or reading skills may not enroll in English or humanities courses that meet the requirements of Rule 6A-10.030, F.A.C., or other courses that require communication skills that are beyond the skill level of the student.

3. College preparatory students who are deficient in all three (3) areas may enroll in college-level courses such as orientation courses, college success courses, or other courses that are not dependent on college-level computation and communication skills.

~~(12)(21)~~ The Commissioner shall report to the State Board of Education by November 30 each year the results of the common placement testing.

Rulemaking Specific Authority 1001.02(6), 1008.30(3) FS. Law Implemented 1001.02, 1008.30 FS. History--New 7-15-84, Amended 6-6-85, Formerly 6A-10.315, Amended 5-17-88, 7-25-91, 10-18-94, 8-28-95, 6-25-96, 3-28-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Will Holcombe, Chancellor, The Florida College System

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Gerard Robinson, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 3, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: September 9, 2011

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NOS.:	RULE TITLES:
6A-25.001	Federal Regulations Adopted by Reference
6A-25.002	Definitions
6A-25.003	Informed Choice
6A-25.004	Referral and Application Process
6A-25.005	Assessment for Determining Eligibility
6A-25.006	Ability to Serve All Eligible Individuals and Order of Selection for Services
6A-25.007	Individualized Plan for Employment
6A-25.008	Authorization for Services
6A-25.009	Scope of Vocational Rehabilitation Services
6A-25.010	Comparable Services and Benefits
6A-25.011	Division Determinations, Review Procedures
6A-25.012	Confidentiality and Release of Consumer Information/Records
6A-25.013	Physical and Mental Restoration Services
6A-25.014	Vocational and Other Training Services
6A-25.015	Building Modifications
6A-25.016	Rehabilitation Technology Services
6A-25.017	Case Closure
6A-25.013	Physical and Mental Restoration Services
6A-25.014	Vocational and Other Training Services
6A-25.015	Building Modifications
6A-25.016	Rehabilitation Technology Services
6A-25.017	Case Closure
6A-25.018	Recovery From Third Parties
6A-25.019	Forms and Documents.

**PURPOSE AND EFFECT:** The purpose and effect of the rule amendments is to incorporate in rule by adoption regulations in 34 C.F.R. Part 361, controlling the provision of vocational rehabilitation services under the Rehabilitation Act of 1973, as Amended (21 U.S.C. §§701 et seq.). It is also to adopt in rule policies in the Division of Vocational Rehabilitation’s Operational Policies and Procedures for DVR Counselors (Counselor Policy Manual), as is required by Section 120.54, F.S., and authorized by Section 413.22, F.S.

**SUMMARY:** These rules concern the Division’s determination of the eligibility of persons with disabilities for vocational rehabilitation services and providing such persons with those

services necessary for the achievement of an employment outcome, consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice. These rules reflect public comment received in the course of six public workshops held throughout the state (and from Disability Rights Florida, as well) in 2010.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

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:** 413.22 FS.

**LAW IMPLEMENTED:** Chapter 413, Part II. FS.

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

**DATE AND TIME:** November 15, 2011, 9:00 a.m.

**PLACE:** Andrew Jackson High School, 3816 N. Main St., Jacksonville, Florida.

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Bill Palmer, Director, Florida Department of Education Division of Vocational Rehabilitation, 2002 Old St. Augustine Rd., Building A, Tallahassee, Florida 32301, (850)245-3327

**THE FULL TEXT OF THE PROPOSED RULE IS:**

6A-25.001 Federal Regulations Adopted by Reference.  
The Department adopts and incorporates by reference Title 34, Code of Federal Regulations, Part 361 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00641>).

Rulemaking Authority 413.22 FS. Law Implemented 413.24 FS. History–New \_\_\_\_\_.

6A-25.002 Definitions.

(1) “Administrative Review” means the informal internal review process to contest a division determination.

(2) “Department” means the Florida Department of Education.

(3) “Division” means the Florida Division of Vocational Rehabilitation.

(4) “Division determination” means any decision that affects the provision of vocational rehabilitation services to applicants or eligible individuals.

(5) “Meaningful Employment Outcome” means employment consistent with an eligible individual’s unique strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice.

Rulemaking Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.30 FS. History–New \_\_\_\_\_.

Editorial Note: Formerly 38J-1.002.

6A-25.003 Informed Choice.

(1) An eligible individual may choose to receive necessary vocational rehabilitation services from any qualified or licensed provider. Where applicable, the providers of choice must be licensed by the state of Florida or appropriately accredited to perform such services.

(2) If an individual chooses a service provider outside the service area where he/she resides, the individual shall provide for his/her own transportation costs, unless no qualified provider possessing the required expertise is available or a provider in another area is within a shorter commuting distance to the individual. If the individual selects a provider out-of-state and there are qualified service providers in-state, the individual with a disability shall agree to pay the excess travel and service costs.

Rulemaking Authority 413.22 FS. Law Implemented 413.208, 413.24, 413.28, 413.30, 413.731 FS. History–New \_\_\_\_\_.

Editorial Note: Formerly 38J-1.003.

6A-25.004 Referral and Application Process.

(1) Representatives, parents, and guardians.

(a) Individuals may select a representative. The individual’s representative shall be included in the vocational rehabilitation process with the consent of the individual or when so ordered by a court of competent jurisdiction. The signature of an authorized representative shall be valid only if the individual or recipient of vocational rehabilitation services expressly designates such representative in the presence of the counselor, and such designation is noted by the counselor in the individual’s records. Documentation shall include a consent to release of information to the representative.

(b) Parents or guardians shall be included in the vocational rehabilitation process only if the individual with a disability is a minor (less than eighteen (18) years old) or pursuant to paragraph (1)(a) of this rule.

(c) Guardians shall be included in the vocational rehabilitation process only if participation is within the scope of the guardianship, or pursuant to paragraph (1)(a) of this rule.

The signature of a legal guardian on behalf of an individual or recipient of services from the division shall be invalid unless it is accompanied by one of the following:

1. A court order establishing such guardianship, or

2. A statement by the guardian that the individual or recipient of services is a minor and the guardian is the natural parent and/or legal custodian of the child.

(d) Representatives, parents, or guardians included in the rehabilitation process shall receive written notice of all division determinations that suspend, reduce or terminate services. They shall also be entitled to take part in all meetings between the division and the individual receiving services.

(2) Applications.

(a) Neither a referral nor an application is required for an appointment with a counselor. An application may be completed at time of contact.

(b) All individuals have the right to apply for division services, to have an appointment, and to have a decision made regarding their eligibility for services. The refusal to accept an application or to interview the individual constitutes a “denial of access” to a public program and is a violation of Section 504 of the Rehabilitation Act of 1973, as amended.

(c) A signed and dated application for services, or a signed and dated request for services is required to complete the division application. An applicant must provide his or her signature on the application form if he/she is at least eighteen (18) years of age and legally competent. If the applicant is less than eighteen (18) years of age or is legally incompetent, the applicant’s parent, legal guardian or representative must provide his or her signature, pursuant to paragraphs (1)(a) and (1)(c) of this rule, on the application form in addition to the individual’s signature. Form DVR-003A, State of Florida, Department of Education, Division of Vocational Rehabilitation, Referral/Application for Vocational Rehabilitation Services, (rev. 05/10) and Form DVR 003B, State of Florida, Department of Education, Division of Vocational Rehabilitation, Referral/Application for Vocational Rehabilitation Services, Spanish, (rev. 05/10) as incorporated by reference in Rule 6A-25.019, F.A.C.

Rulemaking Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.30 FS. History–New \_\_\_\_\_.

6A-25.005 Assessment for Determining Eligibility.

(1) Individuals must have legal status in the United States and be authorized to work. Documents that establish employment eligibility and identity must be consistent with forms required by the United States Citizenship and Immigration Services.

(2) An individual must be physically present in the state to qualify for vocational rehabilitation services if he or she is not a resident of the state.

(3) In the assessment for determining eligibility and vocational rehabilitation needs, the division shall, to the greatest extent possible, use information that is available, sufficient, and appropriate for purposes of determining eligibility. In instances where the division is funding treatment, existing information may be no older than one (1) year.

(4) The division shall prepare a preliminary assessment of each applicant that shall include:

(a) Identification of any barriers to employment for the applicant;

(b) An appraisal of the applicant's abilities, functional limitations, and rehabilitation needs;

(c) An initial appraisal of rehabilitation technology needs to successfully complete an assessment;

(d) A description of the individual's expectations with respect to assistance from the division;

(e) An appraisal of the individual's understanding of informed choice regarding the services available from the division;

(f) Voter registration form completed or declined, and

(g) Initiation of the eligibility assessment.

(5) Diagnoses.

(a) A signed report, electronic or otherwise, from a qualified provider containing a diagnosis of the individual's disability shall be maintained in the individual's records.

(b) Diagnoses by professional staff with less than M.D./Ph.D. credentials shall be acceptable if such individuals are employed by licensed/certified facilities with M.D./Ph.D. oversight. Signature of the individual providing oversight is not required.

(6) Mental Health.

(a) The diagnosis of a mental health disorder shall be made by a psychiatrist or a licensed clinical psychologist. A licensed school psychologist may only be used for developmental diagnoses.

(b) Neuropsychological and specific learning disability assessments shall be made by qualified personnel approved to perform such assessments and licensed under appropriate licensure laws.

(c) Diagnosis of mental or emotional disorders shall be consistent with the Diagnostic and Statistical Manual of Mental Disorders ("DSM") published by American Psychiatric Publishing, 1000 Wilson Boulevard, Suite 1825, Arlington, VA 22209, [appi@psych.org](mailto:appi@psych.org).

(7) Chemical Dependency.

(a) Individuals who are actively abusing drugs shall not fall under the category "individual with a disability." In the context of chemical dependency, an individual is an "individual with a disability" who:

1. Has successfully completed a supervised drug rehabilitation program and is no longer engaging in such use;

2. Participates in a supervised rehabilitation program and is no longer engaging in such use; or

3. Is mistakenly regarded as engaging in such use but is, in fact, not engaging in such use. Alcohol or drug testing may be reasonable to ensure that the individual is no longer engaging in the use of alcohol or illegal drugs.

(b) The eligibility decision by the counselor shall be based upon a current assessment of psychological functioning and a demonstrated desire by the individual to remain substance free and participate with available resources, e.g., Alcoholics Anonymous, Narcotics Anonymous, local community drug and alcohol awareness centers.

(8) Adjustment Disorders.

(a) Adjustment Disorders are acute psychiatric/psychological impairments. An adjustment disorder may be in response to temporary situational conditions that are frequently resolved within a short period of time, but do cause substantial impediments to employment.

(b) Six (6) months after receiving the adjustment disorder diagnosis, the individual must be reevaluated.

(c) If an individual with an adjustment disorder is found ineligible for the services provided by the division, the ineligibility decision shall be based on an assessment of whether the adjustment disorder causes a substantial impediment to employment and whether the individual can benefit from the division's services in terms of an employment outcome.

(9) Borderline Intellectual Functioning.

(a) Borderline Intellectual Functioning is not an acceptable diagnosis for the purposes of eligibility for the division's services.

(b) Borderline Intellectual Functioning is interpreted as an Intelligence Quotient (IQ) score of 70-79 plus or minus five (5) points standard deviation in testing. If significant adaptive functioning deficits are indicated for those scoring 70-75, it is appropriate to discuss with the psychologist changing the diagnosis to intellectual disability.

(c) Individuals diagnosed with Borderline Intellectual Functioning with an IQ score of 76-79 without adaptive functioning deficits would not be eligible for the division's services.

(10) Intellectual Disability.

(a) The diagnosis of an intellectual disability shall be made by a psychiatrist, licensed clinical psychologist, or licensed school psychologist.

(b) The DSM defines the upper range of intellectual disability (also referred to as mental retardation) as an IQ of 70 plus or minus five (5). This means that an individual may be diagnosed as mildly intellectually disabled with an IQ as high as 75 if there are significant adaptive functioning deficits. An individual's IQ can be as low as 65 and not be coded as

intellectually disabled as long as adaptive functioning is adequate. The lower the IQ, the more probable the presence of adaptive functioning deficits.

(c) In diagnosing an intellectual disability, there is greater reliability with lower IQ scores regardless of the age that an individual is tested. It is reasonable to use an early IQ test score that is less than 65 for documentation of an individual's disability.

(d) Further assessments may be conducted after eligibility determination to assist with Individualized Plan for Employment (IPE) planning if necessary.

(e) Retesting may be ordered for individuals who have an IQ score of 65 to 75 if the testing was done prior to 9th grade. The individual's adaptive functioning may have improved and intellectual disability diagnostic criteria would not be met as a result.

(11) Specific Learning Disabilities. A diagnosis of specific learning disability shall be based on testing done in the 9th grade or later using the Wechsler Intelligence Scale for Children (WISC) ages three (3) to sixteen (16) and/or the Wechsler Adult Intelligence Scale (WAIS) ages sixteen (16) and older.

(12) Hearing Impairments.

(a) "Hard of Hearing" means hearing impairment resulting in a functional loss, but not to the extent that the individual must depend primarily upon visual communication. There is usually a thirty (30) decibel (db) loss in the better ear with speech discrimination below fifty (50) percent.

(b) "Deafness" means a hearing impairment of such severity that the individual must depend primarily upon visual communication such as lip-reading, writing, manual communication and gestures. There is usually a 70 decibel (db) loss or greater in both ears and a speech discrimination score of forty (40) percent or less in the better ear.

(c) A diagnosis of a hearing impairment shall be based upon the results of an auditory evaluation performed by a licensed audiologist.

(d) An ophthalmologic evaluation shall be obtained in all cases of deafness, retinitis pigmentosa, and usher syndrome. Individuals suspected of having ear disease should be evaluated by a physician skilled in diseases of the ear, e.g., an ENT, Otolologist, and/or Otolaryngologist.

(13) Speech Impairments. Diagnosis of a speech impairment shall be made by a speech language pathologist.

(14) Vision Impairments. A vision impairment is a condition resulting in the loss of visual acuity and/or limiting an individual's field of vision. Individuals who meet the definition of "blind" in Section 413.033(1), Florida Statutes, shall be referred to the Division of Blind Services, Florida Department of Education.

(15) Before or at the same time an individual is accepted as eligible for the division's services, the division shall certify that the individual has met the basic eligibility requirements.

(16) Eligibility Determination Extension. Documentation of an agreement between the counselor and individual to extend eligibility determination beyond sixty (60) days after application, including an agreed-upon time frame and stating the specific exceptional and unforeseen circumstances on which the extension is based, shall be contained in the individual's records. If the division is unable to obtain such agreement, a case entry that contains the specific exceptional and unforeseen circumstances, or work trial experiences and revised time frame, shall be placed in the individual's records.

Rulemaking Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.30 FS. History--New \_\_\_\_\_.

6A-25.006 Ability to Serve All Eligible Individuals and Order of Selection for Services.

(1) In order to determine the level of significance of the individual's disability, the division through a counselor shall identify:

(a) Severe impairments which seriously limit one or more functional capacities;

(b) The vocational rehabilitation services needed to address those impairments, and

(c) An estimate of the time that services will be provided to reach an employment outcome.

(2) Eligible individuals will be selected by the division to receive vocational rehabilitation services in descending order of the following priority classifications.

(a) Criteria for Most Significant Disability (Category 1). An individual with a disability which:

1. Seriously limits three (3) or more functional capacities in terms of work;

2. Requires three (3) or more primary services;

3. Requires services to be provided over an extended period of time (at least twelve (12) months), and

4. Is not likely to be corrected through surgical intervention and/or other treatment modes.

(b) Criteria for Significant Disability (Category 2). An individual with a disability which:

1. Seriously limits one (1) or two (2) functional capacities in terms of work;

2. Requires two (2) or more primary services;

3. Requires services to be provided over an extended period of time (at least six (6) months), or

4. The individual is a recipient of Social Security Disability Benefits (SSDI) or Supplemental Security Income (SSI) as a result of disability or blindness.

(c) Criteria for Individual with a Disability (Category 3). An individual with a disability which:

1. Does not seriously limit functional capacity in terms of work, or

2. Requires services that are expected to last less than six (6) months.

(3) Primary services. Primary services are major services that are necessary to prepare the eligible individual for employment. Primary services include counseling and guidance, training, treatment, and job placement. Primary services shall not include assessment services cited in the Individualized Plan for Employment (IPE). Each service, if provided alone, could reasonably be expected to directly benefit the individual in terms of an employment outcome.

(4) Functional Capacities. Limitations on the following functional capacities are used to determine the level of significance of disability. These limitations are derived from the individual's impairments.

(a) Mobility means an individual's physical access to his or her environment, either through his or her own ability (actions) or with the assistance of others. Mobility also includes transportation to and from a worksite. The functional capacity of mobility is seriously limited when the individual:

1. Due to disability, has no independent mobility and must use a mobility device (wheelchair, walker, scooter) or requires a personal care assistant;

2. Due to physical, cognitive or mental disability, is unable to independently drive, or arrange or use public transportation;

3. Due to disability, has limitation(s) in balance and gross motor coordination;

4. Due to disability, is unable to climb one flight of stairs or walk 100 yards without a pause;

5. Due to disability, is unable to lift, reach, carry, grasp objects, push or pull; or

6. Due to disability, requires rehabilitation engineering for home, vehicle, or work modifications.

(b) Communication means the individual's ability to express himself or herself through speech and/or the ability to receive and process communication. The functional capacity of communication is seriously limited when the individual:

1. Due to disability, cannot communicate without hearing aids(s) and/or adaptive equipment, interpreter, e-mail, or relay services;

2. Due to disability, cannot speak or spoken language is unintelligible;

3. Due to disability, is unable to control inappropriate communication due to cognitive dysfunction or mental illness (may say bizarre things, hear voices, repeat self incessantly, and/or inappropriate comments); or

4. Due to disability, cannot focus, concentrate, or understand what is being communicated.

(c) Self-Care means the ability to conduct the essential activities of daily living unassisted by another individual. The functional capacity of self-care is seriously limited when the individual:

1. Due to disability, requires personal assistance with dressing, bathing, eating, toileting, grooming, preparing meals, transferring from bed to chair; or

2. Due to disability, requires supervision or personal assistance services with money management (banking, balancing a checkbook, or making change).

(d) Self-Direction means the capacity to organize structure and manage activities required to obtain and maintain employment. The functional capacity of self-direction is seriously limited when the individual:

1. Due to cognitive dysfunction or mental illness, requires ongoing prompts or assistance to understand and remember instructions;

2. Due to cognitive dysfunction or mental illness, requires ongoing prompts or assistance in the area of concentration and persistence to stay on task; or

3. Due to cognitive dysfunction or mental illness, requires customized technology to accommodate the lack of concentration, to remember instructions, or to understand instructions.

(e) Interpersonal Skills means the individual's ability to interact in a socially acceptable manner at work with coworkers, supervisors, peers and the general public. The functional capacity of interpersonal skills is seriously limited when the individual:

1. Due to disability, does not accept instructions and does not respond appropriately to feedback from supervisors;

2. Due to disability, does not get along with coworkers or peers; or

3. Due to disability, does not maintain socially appropriate behavior at work based upon what would be normally accepted in a work environment.

(f) Work Tolerance means the ability to carry out tasks in an efficient and effective manner over a sustained period of time. The functional capacity of work tolerance is seriously limited when the individual:

1. Due to disability, is unable to carry out work tasks without the intervention of job coaching or natural supports to perform work activities;

2. Due to disability, is unable to sustain mental, cognitive or physical activities in a work environment without the use of individualized accommodation or customized rehabilitation technology; or

3. Due to disability, unable to work around certain substances or certain environments.

(g) Work Skills means the specific job skill required to learn and carry out work functions. The functional capacity of work skills is seriously limited when the individual:

1. Due to disability, is limited or unable to retain new information or new learning without assistance; or

2. Due to disability, can only learn work skills through constant repetition.



(5) Order of Selection. The order of selection permits immediate reclassification into a higher priority category when there is a change resulting in additional functional limitations that require additional primary services and/or length of time.

Rulemaking Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.30, 413.72 FS. History—New \_\_\_\_\_.

#### 6A-25.007 Individualized Plan for Employment.

(1) The Individualized Plan for Employment (IPE) must be developed within 120 calendar days of the eligibility determination or activation from the waiting list, whichever is later. Meeting the 120-day timeframe is the mutual responsibility of the division through its counselor and the individual.

(2) If the IPE cannot be developed within 120 days due to exceptional and unforeseen circumstances, the individual, or an authorized representative of the individual, and the division must agree to a specific extension of time.

(3) The IPE or IPE amendment must be approved by a supervisor before being signed by the counselor. No vocational rehabilitation services proposed under an IPE or IPE amendment are effective absent such approval.

Rulemaking Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.30 FS. History—New \_\_\_\_\_.

#### 6A-25.008 Authorization for Services.

(1) The division shall not pay for goods or services unless such goods or services are listed in the Individualized Plan for Employment (IPE) or Individualized Plan for Extended Evaluation (IPEE), or an amendment thereto, or are part of the assessment for determining eligibility and vocational rehabilitation needs and:

(a) The goods or services were authorized in writing by the division prior to the time they were provided; or

(b) The goods or services were provided under emergency circumstances subsequent to verbal authorization by the division.

(2) Prior Approval. Certain vocational rehabilitation services must be approved at the state office or area office level prior to being initiated.

(a) Services that require prior approval at the state office level are:

1. All transplants;

2. All procedures to be performed on persons with cancer;

3. Cochlear implants and other implantable hearing devices;

4. Gastrointestinal procedures (e.g., stomach stapling) for morbid obesity;

5. Hyperbaric oxygen treatments for any condition;

6. Intrathecal baclofen infusion for cerebral palsy (cerebral dystonia);

7. Brain surgery;

8. Comprehensive inpatient/outpatient pain management programs conducted by a multi-specialty team or by an individual physician;

9. Penis prosthesis;

10. Any cosmetic/reconstructive surgery;

11. Any medical conditions with uncertain prognosis or outcome;

12. Sterilization, abortion, sex change operations or treatment;

13. Bone stimulator; or

14. Treatment to be provided out of state except in southern Georgia or Alabama when in close proximity to the individual's home.

(b) Services that require prior approval at the area office level are:

1. Services to Division of Vocational Rehabilitation staff and family members;

2. Services on an IPE or IPE amendment for eligible individuals with brain and spinal cord injury which can reasonably be expected to require expenditures of totaling \$30,000 or more. Approval will be required for each increment of \$20,000 thereafter. For all other eligible individuals, services on an IPE or IPE amendment which can reasonably be expected to require expenditures totaling \$20,000 or more. Approval will be required for each increment of \$10,000 thereafter;

3. Training to be provided out of state except in southern Georgia or Alabama when in close proximity to the individual's home;

4. Graduate level training;

5. Maintenance payments greater than \$500 per month;

6. Other goods and services over \$500 provided and not classified as maintenance;

7. Waivers of maintenance in extenuating circumstance; and

8. Purchase of non-adaptive computers and related equipment of \$3,000 or more.

(3) Exceptions. The division shall pay a reasonable amount for necessary and customary services incidental to surgery, hospitalization or medical diagnosis when such services were not authorized at the time of authorization of a primary service.

(4) The division's highest allowable fee for health care services is the amount payable for such services in Florida under the Medicare Part B system or, for hospital per diem payments, the amount payable under the Medicaid system. In setting its highest allowable fee for all other services, the division shall ensure such fee is not set so low as to deny individuals the right to make informed choices among service providers. The providers of choice shall agree to accept as payment for the service rendered no more than the division's highest allowable fee. If an individual chooses a service

provider that charges in excess of the division's highest permitted fee, the individual shall be solely responsible to fully pay such excess, and a signed statement to that effect shall be placed in the case record.

Rulemaking Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.30, 413.731 FS. History--New \_\_\_\_\_.

#### 6A-25.009 Scope of Vocational Rehabilitation Services.

(1) Maintenance. Maintenance does not mean support for the discharge of court-ordered obligations or indebtedness of any kind incurred prior to or subsequent to an application for rehabilitation services.

(2) Occupational Licenses, Tools, Equipment and Initial Stocks and Supplies.

(a) Occupational licenses shall include any license, permit, or other written authority required by a state, city or other governmental unit to enter an occupation or enter self-employment.

(b) Occupational tools shall meet the requirements of the employment.

(c) The division shall retain the right to provide the individual with previously used occupational tools.

(d) If the aggregate cost of occupational tools is less than or equal to \$1,000, such occupational tools shall become the property of the individual immediately upon the purchase thereof. If the aggregate cost of the occupational tools exceeds \$1,000, such occupational tools shall become the property of the individual upon purchase; however, title and ownership to such occupational tools shall revert to the division upon written demand by the division, provided circumstances exist justifying the closure of the individual's case for reasons other than a successful completion of the Individualized Plan for Employment (IPE). When title to such occupational tools reverts to the division, the individual who received such occupational tools shall make them immediately available to the division.

(3) Transportation.

(a) The counselor shall explore the ability of an individual to utilize existing transportation resources to participate in vocational rehabilitation services. Transportation resources shall include:

1. The individual's current mode of transportation, including a privately-owned vehicle;

2. The reasonableness of using other modes of transportation, such as taxicabs, carpools, co-workers, volunteers or attendants; paratransit, public transit or other community services. The division shall use the Florida Commission for the Transportation Disadvantaged coordinated transportation system for provision of transportation services to consumers when possible.

(b) An individual who requests mileage reimbursement for transportation in a privately-owned vehicle must present a valid driver's license. If the individual is not a driver, the

individual must provide a plan to the counselor that describes how the individual will utilize family members, personal care attendants or others as drivers in support of the rehabilitation plan.

(c) Vehicle Repairs.

1. "Used vehicle" means a vehicle that has been titled and registered to at least one (1) owner or has been used as a demonstration model.

2. Repairs or costs for used vehicle operation may be made if they are necessary for the individual to participate in vocational rehabilitation services. The individual must have a valid driver's license and present a current vehicle registration document for the used vehicle considered for repair. If the individual is not the owner of the used vehicle, the individual must also present a written and signed statement from the vehicle owner that this vehicle is provided to the individual for use during his/her rehabilitation program.

3. If it is determined that used vehicle repairs are necessary, an estimate completed by a certified mechanic is required to document the cost of repairs.

4. The trade-in value of the used vehicle to be repaired shall be determined by reference to generally accepted valuation methods. The maximum amount that the division will expend on repairs for the life of the used vehicle is one and one-half times the trade-in value.

(4) Post-Employment Services. A decision to provide post-employment services versus opening a new case shall be based on individual considerations taking into account the current validity of previous data.

Rulemaking Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.30, 413.32, 413.731 FS. History--New \_\_\_\_\_.

#### 6A-25.010 Comparable Services and Benefits.

(1) If comparable services and benefits are not available to the individual at the time needed to achieve the employment outcome identified in the Individualized Plan for Employment (IPE), or if the benefits exist but are not available at the time needed to satisfy objectives in the IPE, the division may authorize funding directly only until comparable benefits and services become available.

(2) Comparable services and benefits do not include awards and scholarships based on merit that are granted without restrictions as to their use by the individual, but do include qualified tuition programs as defined in 26 U.S.C. §529 and other programs similar in nature and purpose.

(3) If an eligible individual is a Social Security Administration (SSA) Ticket to Work holder whose Ticket is assigned to an Employment Network (EN), the division shall consider all goods and services referenced in the IPE to be comparable services and benefits to be purchased or provided by an EN with which the eligible individual's Ticket is assigned.

Rulemaking Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.30 FS. History—New \_\_\_\_\_.

6A-25.011 Division Determinations, Review Procedures.

(1) Administrative Review.

(a) An individual may request an administrative review when he or she is dissatisfied with and wishes to dispute a division determination. The Area Director or his or her designee shall, upon request by the individual, conduct the administrative review as soon as possible to facilitate the speedy resolution of the dispute.

(b) The individual or his or her authorized representative shall have twenty-one (21) calendar days from the date of receipt of the notification of determination to inform the division in writing of his or her desire for an administrative review. If the division provides the notification to the individual or authorized representative by mail, five (5) days shall be added to the prescribed period. The individual may elect to bypass the administrative review and file a petition for an administrative hearing. The individual, the individual's representative or Client Assistance Program, if representing the individual, may initiate a timely request to extend the twenty-one (21) days.

(c) The individual or authorized representative may attend the administrative review in person or by teleconference and shall have the right to present information relevant to the determination.

(d) The Area Director or his or her designee shall render his or her decision based upon the individual's case file, any information presented by the individual or by the division at the administrative review, any other pertinent information, and applicable law, regulation, and policy.

(e) The Area Director or his or her designee shall render a decision in writing consisting of findings and conclusions within five (5) working days of the administrative review.

(f) The individual shall have the right to challenge the administrative review decision by timely filing with the Director of the division a request for mediation or a petition for an administrative hearing within twenty-one (21) days of receipt of the decision.

(2) Mediation.

(a) If an individual files a petition for an administrative hearing, and upon the agreement of the individual and the division, the dispute shall be mediated by a family, county court or civil court mediator certified by the Florida Supreme Court. Such mediation shall be paid for by the division.

(b) The division shall propose three (3) certified mediators from the judicial circuit in which the individual resides. The individual shall select from such list one (1) of the three (3) to mediate the dispute. The mediator may not have been previously involved in the individual's vocational rehabilitation or have a personal, professional, or financial interest that would impair the mediator's objectivity.

(3) Administrative Hearing.

(a) If the individual is dissatisfied with any determination made by the division and/or decision of the administrative review or the outcome of mediation, or has elected to bypass the administrative review or mediation, the individual may file a written request for an administrative hearing before an Administrative Law Judge (ALJ) assigned by the Division of Administrative Hearings (DOAH).

(b) The request for an administrative hearing must be made within the twenty-one (21) days after the administrative review decision is received, or if the administrative review option is bypassed by the individual, within the twenty-one (21) days after the notification of the determination of the division is received. If the division provides the notification to the individual or authorized representative by mail, five (5) days shall be added to the prescribed period. The request for an administrative hearing must be addressed to the Director of the division.

(c) The individual may be represented at the administrative hearing by an attorney or any person selected by the applicant or eligible individual competent to meet the requirements for a personal representative pursuant to Rule 28-106.106, F.A.C. During the administrative hearing, the individual, or as appropriate, the individual's representative, may present witnesses and evidence and may examine all witnesses and other relevant sources of information and evidence.

(d) The administrative hearing shall be conducted in conformance with the requirements of Chapter 120, Florida Statutes, and Chapter 28-106, F.A.C.

(e) The ALJ shall issue a Recommended Order based on Federal and Florida law. The Florida Commissioner of Education shall review the Recommended Order and the parties' Exceptions to the Recommended Order, if any, and, pursuant to Section 120.57, Florida Statutes, issue a Final Order. The Commissioner may not overturn or modify the ALJ's Recommended Order except as provided in Section 120.57(l), Florida Statutes.

(4) Judicial Review.

(a) An individual who has exhausted all available and adequate administrative remedies and is aggrieved by the administrative disposition of the matter in dispute is entitled to judicial review as provided by Section 120.68, Florida Statutes.

(b) An individual who has pursued judicial review as in paragraph (4)(a) of this rule and disagrees with the decision of the judicial review, has a right to bring a civil action as provided by 29 U.S.C. §722(5)(J).

Rulemaking Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.30, 413.731 FS. History—New \_\_\_\_\_.

Editorial Note: Formerly 38J-1.006.

6A-25.012 Confidentiality and Release of Consumer Information/Records.(1) Request for Case Record Amendment.

(a) The division shall accept additional information for inclusion in the case record to the extent it determines such information to be reasonably material to providing or not providing rehabilitation services to the applicant or individual.

(b) Any such additional information shall be identified as produced by the applicant or individual.

(c) The division shall not alter the existing case record in any other way.

(2) Information that may be harmful to the applicant or individual may not be released directly to him or her, but instead must be provided through a designated representative, physician or a licensed psychologist. HIV/AIDS tests and any related information shall not be released unless release is specifically requested by the applicant/individual or his or her guardian (if the individual is incompetent). The release of HIV/AIDS information to the applicant or individual or the applicant's or individual's guardian must be made in a face-to-face meeting during which the division is prepared to offer counseling to the applicant or individual (and guardian, if appropriate) regarding such information. All references to HIV/AIDS information in case file documents must be stricken unless the foregoing conditions are met. HIV information shall not be released without the individual's written consent except to a medical provider who will be performing services that would put such provider at risk of contracting HIV/AIDS from the individual.

(3) Upon the written request of the applicant or individual, the division may release the same information to third parties that it could release to the applicant or individual or the applicant's or individual's representative. HIV/AIDS information shall not be released unless such release is specifically requested in writing by the applicant or individual or the applicant's or individual's representative.

(4) The division may destroy an individual's closed case records in accordance with the Department of State, Division of Library and Information Services Schedule GS1-SL.

Rulemaking Authority 413.22 FS. Law Implemented 257.36(6), 413.24, 413.28, 413.30, 413.341 FS. History--New \_\_\_\_\_.

6A-25.013 Physical and Mental Restoration Services.

(1) Medical, psychological, or dental consultation shall be required prior to treatment for extraordinary or experimental procedures. Consultants may assist the division in:

(a) Interpreting medical, dental, or psychological reports;

(b) Determining the need for further diagnostics or for confirming the suitability of restoration services as recommended by a qualified physician, dentist, or psychologist;

(c) Determining whether a physical or mental condition is chronic and stable or slowly progressive;

(d) Determining the implication of the applicant's physical or mental condition for rehabilitation potential;

(e) Determining the appropriate fees for medical, dental or psychological procedures;

(f) Determining the best option for various medical procedures;

(g) Determining the most appropriate hospital and the most cost-efficient fee.

(2) In order to avoid even the appearance of a conflict of interest, consultation shall not occur with the actual provider of either a diagnostic or a treatment service unless no other provider is available.

(3) Dental services. Dental services may be provided to an individual if the individual's dental condition is a substantial impediment to employment; is slowly progressive; is contributing significantly to the complication of another physical condition, and that condition constitutes a substantial vocational impediment.

(a) The use of a dental condition as a primary disability is not prohibited but would be limited to the following instances:

1. When the dental condition creates toxicity and causes physical symptoms in other systems of the body. This determination must be made by an internist and treatment approved by the division's medical consultant.

2. When the dental condition results in a cosmetic problem that is severe enough to prevent an individual from obtaining or retaining a job in which the individual would be serving the public.

(b) Preventive dental services may be provided only as an adjunct to dental treatment. A preventive dental service in and of itself shall be prohibited.

(4) Hearing aids.

(a) The choice of hearing aids shall be based on the recommendation of a licensed audiologist and the individual's current hearing and speech capabilities. The selected hearing aid must enable the individual to successfully complete the services in the Individualized Plan for Employment (IPE) that are needed to secure, retain or regain employment. If the individual prefers a more expensive hearing aid, the individual must pay the difference in cost between the required hearing aid and the chosen one.

(b) The purchase of a hearing aid shall be based on the manufacturers' single unit price (MSUP) plus a division-established allowance to cover programming, fitting, dispensing, up to two (2) follow-up visits after the initial 30-day trial period, earmold(s), and 1-year warranty.

(5) Bariatric Surgery. The division may consider providing bariatric surgery only if an individual's weight constitutes a substantial impediment to employment. The division may consider providing bariatric surgery to those persons for whom it is medically necessary, because their medical condition will not allow them the time to lose weight by conservative approaches (balanced eating program and therapy for one (1)

year) or for whom more conservative approaches have failed to result in weight loss. The medical risks involved in the surgery and risk of surgery failure must justify the imposition of the following conditions:

(a) The individual must provide documented evidence of vocational impairments that exist at the time of request.

(b) An individual requesting bariatric surgery as an elective procedure must provide records of nutritional counseling and attempt at weight loss with a balanced diet (may be through a weight loss program or in consultation with a nutritionist or doctor) for at least one (1) year prior to the division's considering sponsoring bariatric surgery. The division may assist with the costs of counseling and weekly fees for weight loss programs.

(c) The individual must submit to psychological evaluation and therapeutic counseling, if recommended, regarding the individual's current psychological status, expectations about the surgery, and ability to maintain the extreme dietary discipline required after surgery.

(d) The individual must provide documentation from a doctor that the individual can safely undergo the surgery and be expected to return to employment.

(e) The individual must agree to work with a nutritionist after surgery for six (6) months.

Rulemaking Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.30, 413.731 FS. History—New \_\_\_\_\_.

#### 6A-25.014 Vocational and Other Training Services.

(1) Training materials. If the aggregate cost of training materials purchased by the division is less than or equal to \$1,000, such training materials shall become the property of the individual immediately upon purchase.

(a) If the aggregate cost of training materials purchased by the division exceeds \$1,000, such training materials shall become the property of the individual upon purchase; however, title and ownership to such training materials shall revert back to the division upon written demand by the division provided circumstances exist justifying the closure of the individual's case for reasons other than a successful completion of the employment outcome.

(b) When title to training materials reverts to the division, the individual who received such training materials shall immediately make the training materials available to be secured by the division.

#### (2) Pell Grants.

(a) Pell Grants may only be used for expenses related to an individual's participation in an educational program. Such expenses include, but are not limited to, tuition fees, room and board (or living expenses for a student who does not contract with the school for room and board), transportation, books, supplies, and rental or purchase of a computer.

(b) The individual must provide the division with Pell Grant award or denial letters.

(c) The division may sponsor tuition, fees, books and supplies for the initial term while the individual's Pell Grant application is processed. The division may not sponsor subsequent terms unless the individual's Pell Grant application was denied or a financial aid officer verifies the grant has not been awarded. In the event that an individual is awarded the Pell Grant for a semester in which tuition, fees, books, and/or supplies have been sponsored by the division, that individual shall reimburse the division for the full amount of the expenditures up to the amount of the Pell Grant. Pell Grant money in excess of this amount must be used by the individual for related educational expenses.

(3) Individuals may choose to attend a private school or private or out-of-state college or university. If an individual selects an out-of-state or private institution, such institution must be fully accredited and in compliance with the 1964 Civil Rights Act, Title IX of the Education Amendments of 1972, and Title V of the Act in order to receive payment from the division. If an out-of-state or private institution is used on the basis of individual preference, costs shall be paid by the division at the same rate as that for a Florida public institution, with the individual being responsible for paying any cost differences. Under such circumstances, costs of ancillary services such as interpreters for the deaf, note takers, and other accommodations shall be covered by the division only if such services are not provided by similar Florida public institutions or by the private or out-of-state institution chosen by the individual. When providing training or education services, the division shall pay only the amount charged by Florida's public colleges/universities or vocational schools (less the amount the individual is eligible to receive in grants), unless attendance at an out-of-state or private college or university or private training program is:

(a) Necessary due to its unduplicated educational resources to prepare for, retain or regain the meaningful employment outcome; or

(b) The most cost effective option when taking into account transportation and maintenance due to location or when taking into account available grant and scholarship funds (except scholarships based on merit); or

(c) Necessary due to circumstances beyond the eligible individual's control such as personal illness, physical limitation, the need for part-time employment or to care for children or other family members and other similar circumstances; or

(d) Paid by grant, award or scholarship monies (except those based on merit) sufficient to offset increased cost to the division.

(4) The division shall not continue payment for training or educational programs for eligible individuals who fail to maintain institution standards for both satisfactory academic performance and a full academic load unless such failure is due to:

(a) Circumstances beyond the eligible individual's control such as personal illness, physical or mental limitations;

(b) A need for part-time employment; or

(c) Caring for children or other family members.

(5) If an individual has to retake a course due to a failing grade and/or fails to attend the appropriate number of classes and the failure to attend was within the individual's control, the division shall have no obligation to pay for the student's retaking of the course.

(6) The awarding of a degree or certificate shall be within a reasonable time frame.

Rulemaking Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.30, 413.32, 413.731 FS. History—New \_\_\_\_\_.

#### 6A-25.015 Building Modifications.

(1) Building modifications consist of alterations to homes, condominiums, apartments, and worksite facilities for the purpose of accessibility for individuals with disabilities. The division will provide modifications that provide an accessible environment, consistent with the Florida Accessibility Code for Building Construction, and comply with local and state building codes.

#### (2) Residential Architectural Modifications.

(a) The division may provide a limited range of residential architectural modifications if:

1. The modifications are required to achieve the employment outcome of an approved Individualized Plan for Employment (IPE), and

2. The modifications can be made with conformance to all applicable building codes.

(b) The division will provide modification services for accessibility to a bathroom and a bedroom. Modifications to other areas such as living rooms are limited to doorways unless further modification is justified by the individual's employment needs.

(c) The division may provide modifications to the kitchen if the individual is the primary person who prepares food.

(d) The division will provide a single access route through the most ideal location. If a second route is required for emergencies, an additional access route will be provided or an egress window, whichever is more appropriate. Guidelines for an alternate route include situations in which:

1. No other resident or person typically present is available or physically capable of assisting or carrying the individual to safety.

2. The individual is required to access the primary route through the kitchen or like area.

(e) Space contained within the existing roof line and foundation of the home will be considered for accessibility. Additions may be recommended only if the existing structure cannot be modified cost-effectively.

1. If the required accessibility can be provided within the existing roofline, but the individual/owner wants an addition, the owner must prepare drawings to scale and specifications for review by the rehabilitation engineer.

2. The division may consider the addition only if the cost is equal to or less than modifying the original space and the accessibility meets the individual's needs. If the cost is more than modification of the original space, and the individual wishes to pay the difference to have the addition, the difference in cost must be paid to the contractor prior to the division's payment for the project.

(f) The division will not pay for any portion of new construction of stand-alone buildings.

(g) The division will not purchase or modify existing swimming pools, heated pools, jacuzzis, whirlpool tubs or saunas. If a doctor prescribes therapy that requires a pool, jacuzzi, whirlpool or sauna, the counselor will advise the individual in locating an accessible facility which provides the prescribed therapy under the supervision of a qualified therapist or an alternative mode of therapy.

(h) Portable rehabilitation technology will be provided for accessibility to rental or leased property, whenever possible. Limited structural modifications for the purposes of widening doorways may be provided when the counselor and the rehabilitation engineer agree the modifications are justified by the individual's employment and living needs.

(i) The division will not provide modifications to a building that does not meet local and state building codes.

(j) Prior to the authorization of any building modifications, the counselor and individual will obtain all necessary approvals from the property owner, homeowner's associations, and/or any persons with an interest in such variances for the property.

#### (3) Worksite Modifications.

(a) Worksite modifications are accommodations to work areas, tools, processes and appliances to increase the accessibility and function at the place of employment.

(b) The counselor will address any concerns of the individual prior to making a referral to the rehabilitation engineer. Any identified concerns must be included in the referral information. The counselor will make the employer aware of the scope of the worksite assessment by the rehabilitation engineer.

(c) If the rehabilitation engineer recommends adaptive equipment, products, or worksite accommodations, the counselor may request that the employer provide the products or modifications as a comparable benefit.

(d) The counselor or employer may utilize the rehabilitation engineer to coordinate installation of employer-provided assistive technology.

Rulemaking Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.731 FS. History—New \_\_\_\_\_.

6A-25.016 Rehabilitation Technology Services.(1) Definitions.

(a) "Accessible vehicle" means an ADA-compliant, original equipment manufacturer vehicle, or an original equipment manufacturer vehicle subsequently made ADA-compliant prior to delivery, or an existing vehicle as modified to reasonably accommodate an individual's needs.

(b) "Driver evaluation" means an assessment of an individual's abilities to drive a vehicle safely, to determine what training needs exist, and if vehicle modification, adaptive equipment or automotive equipment is necessary to enable the individual to drive.

(c) "Driver training" means instruction to teach an individual to drive a vehicle so that the individual will be able to obtain or retain a driver's license.

(d) "Used equipment" means any equipment that has previously been sold to an individual or utilized as a demonstration product. The division will not purchase used equipment or reimburse any portion of costs towards the equipment, where a sale or delivery has occurred prior to authorization of services.

(2) Scope of Services. The division shall provide appropriate rehabilitation technology services, including consultation with a rehabilitation engineer, that are necessary for the applicant or eligible individual to participate in division services, assessments or achievement of an employment outcome. Prior to providing repairs to rehabilitation technology, the division shall determine whether maintaining equipment or replacement of equipment is appropriate.

(3) Vehicles and Driver Training.

(a) A driver evaluation by a driving evaluator will be obtained to determine the individual's functional capacities to drive and need for modifications and adaptive equipment. The driving evaluator and rehabilitation engineer will produce final specifications for modifications.

(b) A driver training specialist will provide driver training to insure the individual's and the public's safety.

(c) Provision of accessible vehicles shall be considered only after every other transportation option has been explored and only after it has been determined that provision of an accessible vehicle is the most cost efficient and appropriate approach for the client and the division. The division shall not authorize provision of an accessible vehicle when the individual can effectively utilize public transportation and other means of transportation.

Rulemaking Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.30, 413.731 FS. History—New \_\_\_\_\_.

6A-25.017 Case Closure.

(1) A case shall be closed when the individual has achieved a meaningful employment outcome, is determined ineligible, is not available, declines further service, or when the individual's actions or inactions materially interferes with providing services.

(2) Successfully Rehabilitated. For an individual to be considered successfully rehabilitated, the individual must have been:

(a) Determined to be eligible;

(b) Provided an assessment for determining eligibility and vocational rehabilitation needs;

(c) Provided services from the division in accordance with the Individualized Plan for Employment (IPE); and

(d) Determined to have achieved and maintained a meaningful employment outcome for at least ninety (90) days.

(3) Closure for Reasons Other Than Rehabilitated. An individual's case record may also be closed for the following reasons:

(a) The individual has moved without a forwarding address, cannot be located or contacted, is otherwise unavailable, or has left the state and shows no intentions of continuing in their vocational rehabilitation program;

(b) The individual's mental or physical disability is too severe for the individual to benefit from vocational rehabilitation services in terms of employment;

(c) The individual chooses not to participate or continue in his or her vocational rehabilitation program;

(d) Death;

(e) The individual has entered an institution and will be unavailable to participate in a vocational rehabilitation program for an indefinite or considerable period of time. Institutions include, hospitals, nursing homes, prisons and jails, and treatment centers;

(f) The individual needs services that are more appropriately attained elsewhere. Transfer to the other agency indicates that appropriate referral information is forwarded to the other agency so that agency may provide services more effectively;

(g) The individual's actions or inactions make it impossible to begin or continue a vocational rehabilitation program. Examples of actions or inactions that materially interfere with providing services include:

1. Unreasonable failure to sign an IPE or an amendment to an IPE, or violations of the IPE;

2. Continued unavailability or continued failure to keep scheduled appointments;

3. Repeated failure to comply with reasonable requests for diagnostic assessments; or

4. Threatening bodily harm to division employees or destruction of division property.

(h) The individual is not eligible for vocational rehabilitation services because no physical or mental impairment exists;

(i) The individual is not eligible for vocational rehabilitation services because his or her physical or mental impairment does not constitute a substantial impediment to employment;

(j) The individual may have benefited from the provision of supported employment services but no source of extended services was available;

(k) The individual received services and was placed in a non-integrated setting for a public or non-profit organization; or

(l) Other reasons as appropriate in the circumstances.

(4) Post-Employment Closures. The division may close the case of an individual to whom the division has provided post-employment services and who has achieved employment thereby, or for other appropriate reason.

Rulemaking Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.30, 413.371, 413.401, 413.731 FS. History—New \_\_\_\_\_.

Editorial Note: Formerly 38J-1.007.

#### 6A-25.018 Recovery From Third Parties.

(1) It shall be the policy of the division to seek reimbursement in full for all funds expended for vocational rehabilitation and related services from all parties liable therefor under Chapter 413, Florida Statutes. Third parties shall include first-party insurers and the Social Security Administration.

(2) The division shall seek the recovery of monies spent on behalf of an individual from a third party:

(a) Whenever a third party is liable for the payment of such services;

(b) From the individual if the individual has already received third-party payments;

(c) From the provider of the services if the provider recovers from the individual or a third party on behalf of the individual.

(3) When there is a possibility of a liable third party, the counselor, with the assistance of the individual, shall complete Form DVR-004, Subrogation Worksheet, as incorporated by reference in Rule 6A-25.019, F.A.C. The division shall request that the individual read and sign Form DVR-004, Subrogation Worksheet. Services to the individual provided through the division shall not be contingent upon the signing of this worksheet nor shall the subrogation rights of the division be contingent upon the individual signing the worksheet.

(4) The division may either file a lien meeting the requirements of Section 413.445, Florida Statutes, or notify the individual's attorney by letter of the division's right to

subrogation. The failure of the division to file a lien or notify the individual's attorney in writing shall not affect the division's subrogation rights.

(5) If the division receives a third party payment on either a pending Social Security Disability Benefits (SSDI) or Supplemental Security Income (SSI) claim or for which reimbursement has been received, then this shall be reported to the Social Security Administration.

(6) If the division has paid a vendor for services and the vendor is paid for those services by a third party, the vendor shall reimburse the division.

(7) If a third party policy only partially pays or a co-payment deductible must be paid, the division may supplement the third party payment or the co-payment deductible. The supplement to third party insurance or co-payment/deductible must be documented by the insurance carrier or vendor and the division shall not authorize an amount in excess of the division's maximum allowed fee.

(8) If a vendor will not accept Medicaid or Medicare, the division may pay the vendor for services and recover from Medicaid.

(9) Under special circumstances, where undue financial hardship would result to the individual, the division may consider, in its sole discretion, whether to seek reimbursement or to seek reimbursement for less than all of such funds expended. Under such circumstances, the division shall consider the following factors in determining whether to seek less than full or no reimbursement:

(a) The amount of reimbursement being offered by any party liable therefor;

(b) Cost to the division of services rendered to the individual;

(c) Types of services rendered to the individual;

(d) Employment status of the individual;

(e) Cost to the individual of living independently;

(f) Additional liens against the individual resulting from medical or rehabilitation services provided to such individual;

(g) Whether any other lienors have reduced their liens;

(h) Whether any attorney representing the individual has reduced his/her fee;

(i) Other sources of income available to the individual; and

(j) The cost effectiveness of pursuing the recovery.

(10) The division shall have the sole discretion, after consideration of such factors, to reduce or waive any claims the division may have under Section 413.445, Florida Statutes.

Rulemaking Authority 413.22, 413.445 FS. Law Implemented 413.445 FS. History—New \_\_\_\_\_.

Editorial Note: Formerly 38J-1.001.



6A-25.019 Forms and Documents.

The following forms and documents are incorporated by reference into this rule, to become effective on \_\_\_\_\_, and may be obtained from the Division of Vocational Rehabilitation, 2002 Old St. Augustine Road, Building A, Tallahassee, FL 32399-0696:

(1) Form DVR-001, Department of Education, Division of Vocational Rehabilitation, Vehicle Modification Consumer Acknowledgment (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00642>), (rev. 6/18/2007):

(2) Form DVR-002, Department of Education, Division of Vocational Rehabilitation, Home Modification Consumer Acknowledgment (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00643>), (rev. 6/18/2007):

(3) Form DVR-003A, Florida Department of Education, Division of Vocational Rehabilitation, Referral/Application for Vocational Rehabilitation Services (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00644>), (rev. 05/10):

(4) Form DVR-003B, Florida Department of Education, Division of Vocational Rehabilitation, Referral/Application for Vocational Rehabilitation Services, Spanish (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00645>), (rev. 05/10); and

(5) Form DVR-004, Subrogation Worksheet (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00647>).

Rulemaking Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.30, 413.32, 413.731 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Bill Palmer, Director, Division of Vocational Rehabilitation  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Gerard Robinson, Commissioner, Department of Education  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 27, 2011  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 15, 2010

**DEPARTMENT OF EDUCATION**

**Commission for Independent Education**

RULE NO.: 6E-1.003                      RULE TITLE: Definition of Terms

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to include a definition of an additional institutional location in order to assist institutions in complying with existing rule prohibiting modification to a license by adding an additional location while under a provisional license and to include a definition of a Florida student.

SUMMARY: The proposed rule defines an additional location as any location other than auxiliary classroom space that supports a licensed institution and defines a Florida student as

a student attending a campus located in Florida or for distance education, a student who receives materials at a Florida address.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), Florida Statutes and thus, a legislative ratification is not required under Section 120.541(3), Florida Statutes. This determination is based upon the nature of the proposed amendments.

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: 1005.22 FS.

LAW IMPLEMENTED: 1005.22, 1005.31, 1005.385 FS.

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

DATE AND TIME: November 15, 2011, 9:00 a.m.

PLACE: Andrew Jackson High School, 3816 N. Main St., Jacksonville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Samuel L. Ferguson, Executive Director, Commission for Independent Education, 325 West Gaines Street, Suite 1414, Tallahassee, Florida 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

**6E-1.003 Definition of Terms.**

Terms used in these rules are defined in Section 1005.02, F.S. In addition, as used in the rules of the Commission, unless the context clearly indicates otherwise:

(1) "Accredited Foreign Medical Schools" means institutions chartered outside the United States, in a nation whose accreditation standards have been determined by the United States Department of Education to be comparable to the accreditation standards applied to United States medical schools, when the foreign medical school has been inspected and evaluated by the nation's recognized agent and approved or accredited by its home nation using those comparable standards.

(2) "Additional Locations" means any locations other than auxiliary classroom space that supports a licensed institution.

(2) through (33) renumbered (3) through (34) No change.

(35) “Florida Student” means any student enrolled at a Florida campus of a licensed institution and for distance education, a student whose mailing address for purposes of receiving distance education lessons and materials from the school, is a Florida address.

(34) through (58) renumbered (36) through (60) No change.

Rulemaking Specific Authority 1005.22(1)(e) FS. Law Implemented 1005.22, 1005.31, 1005.385 FS. History—Repromulgated 12-5-74, Amended 7-28-75, Formerly 6E-4.01(8), Readopted 11-11-75, Amended 3-7-77, 10-13-83, Formerly 6E-1.03, Amended 2-22-89, 11-29-89, 10-19-93, 4-11-00, 1-7-03, 12-23-03, 7-20-04, 3-28-05, 6-13-05, 2-20-06, 7-23-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Samuel L. Ferguson, Executive Director, Commission for Independent Education

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Gerard Robinson, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 3, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 2, 2011

**DEPARTMENT OF EDUCATION**

**Commission for Independent Education**

RULE NO.: 6E-2.004  
 RULE TITLE: Standards and Procedures for Licensure

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to include the methodology for determining placement and retention rates for non-accredited institutions in rule, and to incorporate the form to be used to report this information. The proposed rule also incorporates forms to be used by accredited institutions to report placement and retention data already required by their accrediting entity and forms used by institutions to report enrollment data to the Commission. The proposed rule also clarifies the circumstances when incentives to a prospective student may not be provided. In addition, the proposed rule corrects cross referenced provisions and incorporates a form to report financial information already required for licensing to the Commission.

SUMMARY: The proposed rule incorporates five forms. CIE Form 801, entitled Annual Student Data Collection for Non-Institutionally Accredited Institutions, describes the methodology to calculate student placement and retention for non-accredited institutions and is the form to be used by non-institutionally accredited institutions to report information to the Commission for licensure and enrollment. The proposed rule incorporates CIE Form 802, entitled Annual Student Data Collection for Institutionally Accredited Institutions; this form

will be used by institutionally accredited institutions to report enrollment data to the Commission. The proposed rule also incorporates two forms to be used by accredited institutions to report placement and retention data, if required by their accrediting agency. Two forms are included to accommodate the two methods accrediting agencies utilize. CIE Form 803, entitled “Placement and Retention Reporting for Institutionally Accredited Institutions – Institutional Reporting” is designed to report information where the accrediting agency requires institution-wide reporting and CIE Form 804, entitled “Placement and Retention Reporting for Institutionally Accredited Institutions – Programmatic Reporting” is designed to report information where the accrediting agency requires programmatic reporting. The fifth form, CIE Form 604, entitled “Selected Financial Data” requires licensed institutions to list information already required by rule about their assets and liabilities on the form in order to assist with licensure decision. Additionally, the proposed rule clarifies that institutions may not offer cash or non-monetary incentives to prospective students to visit an institution.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), Florida Statutes and thus, a legislative ratification is not required under Section 120.541(3), Florida Statutes. This determination is based upon the nature of the proposed amendments, discussions at rule workshop, and the Commission’s experience in adopting rules on this subject.

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: 1005.22(1)(e), 1005.31(2), (3), 1005.34, 1005.39 FS.

LAW IMPLEMENTED: 1005.04, 1005.31, 1005.33(1), 1005.34, 1005.39 FS.

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

DATE AND TIME: November 15, 2011, 9:00 a.m.

PLACE: Andrew Jackson High School, 3816 N. Main St., Jacksonville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Samuel L. Ferguson, Executive Director, Commission for Independent Education, 325 West Gaines Street, Suite 1414, Tallahassee, Florida 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6E-2.004 Standards and Procedures for Licensure.

Institutions applying for a license or moving to a new level of licensure or any other Commission action shall provide all required information to the Commission in English. Institutions providing information to students in a language other than English must retain a translation certifying the accuracy of the language of the documents in English. All information and documentation submitted pursuant to the provisions of these rules shall be accompanied by certification signed by the chief administrative officer of the institution, affirming that the information and documentation submitted is accurate. Any application or review which is not substantially complete shall be returned to the institution with a request to complete and resubmit the material.

(1) through (3) No change.

(4) Standard 4: Educational programs and curricula. The following standards shall apply to all institutions licensed by the Commission for Independent Education, except as expressly stated otherwise.

(a) No change.

(b) Programs preparing the student for an occupation or professional certification shall conform to the standards and training practices generally acceptable by the occupational or professional fields for which students are being prepared. If the practice of the occupation or profession is regulated, licensed, or certified by a state or national agency, unless the institution provides the disclosure provided in subsection 6E-1.0032(5), F.A.C., the institution must document to the Commission that successful completion of the program will make qualify the graduate eligible to take the licensing examination or to receive the appropriate certification or practice the profession.

(c) through (m) No change.

(n) The following instructional program standards apply to occupational associate degrees:

1. Program specifications: The credential offered shall be the Associate of Applied Science, Occupational Associate, Associate of Specialized Business, or similar title considered by the Commission to be appropriate and not misleading. The duration of the program shall be a minimum of 1,200 clock hours of instruction, 60 semester credit hours, or 90 quarter credit hours pursuant to subsections 6E-1.003(15), (53) and (55) (47) and (49), F.A.C. The required general education component shall be at least 9 semester credit hours or 14 quarter credit hours, or the recognized clock hour equivalent. General education courses shall meet either of the definitions given in subsection 6E-1.003(6) or (33), F.A.C.

2. through 4. No change.

(o) The following instructional program standards apply to academic associate degrees:

1. Program specifications: The credential offered shall be the Associate in Science Degree, Associate of Arts Degree, or an associate degree of a different name that is considered by the Commission to be appropriate for an academic associate degree. The duration of the program shall be a minimum of 60 semester credit hours, 90 quarter credit hours, or the recognized clock hour equivalent. The required general education component for the Associate in Science degree shall be a minimum of 15 semester credit hours, 22.5 quarter credit hours, or the recognized clock hour equivalent. The required general education component for the Associate of Arts degree shall be a minimum of 36 semester credit hours, 54 quarter credit hours, or the recognized clock hour equivalent. General education requirements for other academic associate degrees shall be individually reviewed by the Commission to determine whether they are appropriate to the specific degree. Applied general education shall not be utilized to fulfill this requirement. All general education courses must meet the definition given in subsection 6E-1.003(38)(33), F.A.C.

2. through 4. No change.

(p) The following instructional program standards apply to bachelor's degrees:

1. Program specifications: The credential offered shall be the Bachelor of Science Degree, Bachelor of Arts Degree, or other baccalaureate degree title considered by the Commission to be appropriate and not misleading. The duration of the program shall be a minimum of 120 semester credit hours, 180 quarter credit hours, or the recognized clock hour equivalent. The required general education component for a Bachelor of Science degree shall be a minimum of 30 semester credit hours, 45 quarter credit hours, or the recognized clock hour equivalent. The required general education component for the Bachelor of Arts degree shall be a minimum of 45 semester credit hours, 67.5 quarter credit hours, or the recognized clock hour equivalent. The general education requirements for other bachelor's degrees shall be appropriate to the specific degree. Applied general education shall not be utilized to fulfill this requirement. All general education courses must meet the definition given in subsection 6E-1.003(38), 6E-1.003(36), F.A.C. Unless otherwise required by the accrediting agency, a minimum of 15 of the required general education credit hours or the recognized clock hour equivalents must be obtained at the bachelor's level.

2. through 4. No change.

(q) The following instructional program standards apply to master's degrees:

1. No change.

2. A bachelor's degree will normally be a prerequisite to formal entrance to a master's degree program, unless the master's degree is a first professional degree as defined in subsection 6E-1.003(33)(30), F.A.C.

3. Programs must have clearly defined and published objectives and performance outcomes.

(r) The following instructional program standards apply to doctoral degrees:

1. No change.

2. A master's degree will normally be a prerequisite to formal entrance to a doctoral degree program, unless the doctoral degree is a first professional degree as defined in subsection 6E-1.003(34), ~~6E-1.003(30)~~, F.A.C.

3. No change.

(5) Standard 5: Recruitment and Admissions. In all admissions and recruitment-related activities, the institution shall comply with the fair consumer practices provisions of Sections 1005.04 and 1005.34, F.S., and Rule 6E-1.0032, F.A.C., and the rule regarding Agents, Rule 6E-2.010, F.A.C.

(a) No change.

(b) Recruiting Practices. Each institution must observe ethical practices and procedures in the recruitment of its students. Ethical practices and procedures include, at a minimum, the following:

1. through 6. No change.

7. An institution shall not permit the payment of cash or other nonmonetary incentives, such as but not limited to travel or gift certificates, to any ~~student or~~ prospective student as an inducement to enroll ~~or visit the institution~~. An institution shall not use the word "free" or its synonyms in reference to any equipment, tuition, books, or other items in conjunction with recruiting or advertising. ~~Tuition or fee discounts are not permissible; Any any~~ reductions of tuition or fees must comply with subsection 6E-1.0032(7), F.A.C.

8. through 9. No change.

(c) No change.

(6) Standard 6: Finances. All institutions must demonstrate that the financial structure of the institution is sound, with resources sufficient for the proposed operations of the institution and the discharge of its obligations to the students. To demonstrate this, the school shall provide the following:

(a) Provisional License:

1. No change.

2. A pro forma balance sheet prepared ~~in accordance with Generally Accepted Accounting Principles~~ for the type of institution making application.

3. If the corporation that controls the institution is ongoing, the institution shall provide a financial statement of the parent corporation ~~compiled~~ compiled, reviewed or audited in accordance with Generally Accepted Accounting Principles, prepared by an independent certified public accountant.

4. No change.

(b) Annual License, Extended Annual License, or Annual Review:

1. No change.

2. If an independent postsecondary educational institution earns less than \$100,000 gross tuition revenue per the institution's fiscal year, the institution shall provide both a financial statement of the institution and of the controlling ~~principals~~ principles. The financial statement shall be compiled, reviewed, or audited by an independent certified public accountant. These statements must demonstrate sufficient resources to ensure appropriate institutional development.

3. No change.

(c) No change.

(d) In addition to the financial information required above, institutions shall submit CIE Form 604, entitled Selected Financial Data (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00666>), effective \_\_\_\_\_. This form is incorporated by reference and may be obtained without cost from the Commission's website at [www.fl DOE.org/cie](http://www.fl DOE.org/cie) or by writing to the Commission for Independent Education at 325 West Gaines Street, Suite 1414, Tallahassee, FL 32399-0400.

(7) Standard 7: Faculty.

(a) Nondegree Diploma Programs:

1. No change.

2. Faculty Qualifications. These standards shall apply to all full-time, part-time and adjunct faculty.

a. No change.

b. For all non-degreed faculty, the burden of proof is on the institution to demonstrate instructor competence in the subjects taught. Instructors shall have completed postsecondary training in either a state licensed school or a college accredited by an accrediting agency recognized by the United States Department of Education USDOE plus one year of job experience related to the subjects taught; or have completed a minimum of three years of successful job experience directly related to the subjects taught.

3. through 4. No change.

(b) through (f) No change.

(8) through (9) No change.

(10) Standard 10: Student Services. All institutions, regardless of the level of credentials offered, shall comply with the following standards:

(a) through (b) No change.

(c) Placement Improvement Plans. A nonaccredited institution holding provisional or annual licensure shall report its placement rate as defined by the Commission with each license review. If the placement rate falls below 60%, the Commission shall place the institution on a placement improvement plan. This plan shall include actions to be taken to improve the placement rate and shall be submitted to the

Commission. A progress report shall be filed with the Commission after a period designated by the Commission, and shall include information on placement personnel, placement activities, job development activities, and additional data as requested by the Commission to show the effectiveness of the plan in improving the placement rate. If the progress report does not show an improvement as accepted by the Commission, the Commission shall take actions up to and including revocation of license.

An institution accredited by an agency recognized by the United States Department of Education ~~USDOE~~ shall report its placement rate, as required by its respective accrediting agency, with each annual review. If the placement rate does not meet the accrediting agency's requirements, the Commission shall place the institution on a placement improvement plan. This plan shall be developed by the institution and include actions to be taken to improve the placement rate, and shall be submitted to the Commission. A progress report shall be filed with the Commission after a period designated by the Commission and shall include information documenting the activities taken by the institution to improve the placement rate. If the progress report does not show improvement as accepted by the Commission, the Commission shall take actions up to and including revocation of license.

(d) Retention Improvement Plans. A nonaccredited institution holding provisional or annual licensure shall report its retention rate as defined by the Commission with each license review. If the rate falls below 50%, the Commission shall place the institution on a retention improvement plan. This plan shall include actions to be taken to improve other retention rate, and shall be submitted to the Commission. A progress report shall be filed with the Commission after a period designated by the Commission, and shall include information documenting the activities taken by the institution to improve the retention rate. If the progress report is not accepted by the Commission, the Commission shall take actions up to and including revocation of license.

An institution accredited by an agency recognized by United States Department of Education ~~USDOE~~ shall report its retention rate, as required by its respective accrediting agency, with each annual review. If the retention rate does not meet the accrediting agency's requirements the Commission shall place the institution on a retention improvement plan. This plan shall be developed by the institution and include actions to be taken to improve the retention rate, and shall be submitted to the Commission. A progress report shall be filed with the Commission after a period designated by the Commission and shall include information documenting the activities taken by the institution to improve the retention rate. If the progress report does not show an improvement as accepted by the Commission, the Commission shall take actions up to and including revocation of license.

(e) Institutions shall submit placement and retention information on CIE Form 801, Annual Student Data Collection for Non-Institutionally Accredited Institutions (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00667>), effective \_\_\_\_\_, CIE Form 802, Annual Student Data Collection for Institutionally Accredited Institutions (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00668>), effective \_\_\_\_\_, CIE Form 803, Placement and Retention Reporting for Institutionally Accredited Institutions – Institutional Reporting (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00669>), effective \_\_\_\_\_, and CIE Form 804, Placement and Retention Reporting for Institutionally Accredited Institutions – Programmatic Reporting (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00670>), effective \_\_\_\_\_, as applicable. These forms are incorporated by reference and may be obtained without cost from the Commission's website [www.fldoe.org/cie](http://www.fldoe.org/cie) or by writing to the Commission for Independent Education at 325 West Gaines Street, Suite 1414, Tallahassee, Florida 32399-0400.

(11) Standard 11: Publications and Advertising.

(a) No change.

(b) Catalog.

1. No change.

2. Each institution shall publish and provide to each enrolled student a catalog in written or electronic form. Written catalogs shall be professionally printed and bound. If electronic catalogs are also used, the two versions shall contain the same information, except for updates that may be provided more quickly in electronic versions. The catalog shall constitute a contractual obligation of the school to the student and shall be the official statement of the school's policies, programs, services, and charges and fees. The catalog shall include, at a minimum, the following information:

a. through d. No change.

e. If the institution is accredited as defined in Section 1005.02(1), F.S., a statement of accreditation. If an institution claims accreditation by an accrediting agency that is not recognized by the United States ~~U.S.~~ Department of Education, the disclosure required in paragraph 6E-1.0032(6)(d), F.A.C., is to be inserted in the catalog and in all publications or advertising, as defined in subsection 6E-1.003(6), ~~6E-1.003(5)~~, F.A.C., wherever the unrecognized accrediting association or agency is mentioned;

f. through r. No change.

s. A complete explanation of the standards of satisfactory academic progress. This policy shall include, at a minimum: Minimum grades and/or standards considered satisfactory; conditions for interruption due to unsatisfactory grades or progress; a description of the probationary period, if applicable; and conditions of re-entrance for those students suspended for unsatisfactory progress;

t. through cc. No change.

dd. If the institution offers courses through distance education or other alternative means, the catalog shall include the information specified in subsection 6E-2.0041(10)(H), F.A.C.;

ee. No change.

3. Catalogs for Multiple Institutions. All institutions utilizing a common catalog must be of common ownership. Photographs of the physical facilities of any of the institutions must be captioned to identify the particular institution or campus depicted. The faculty and staff of each institution and the members of the administration for the group of institutions shall be clearly identified with respect to each institution and to the overall administration. Any information contained in the catalog that is not common to all institutions in the group shall be clearly disclosed ~~presented in such a manner that no confusion, misunderstanding or misrepresentation is possible.~~

(c) Advertising.

1. No change.

2. For initial applicants and renewal of licensure, the institution shall submit a copy of all proposed or actual advertising publications, ~~together with any and all materials used for the purpose of recruiting students.~~

3. All advertising by an institution, ~~including all written and verbal communications, illustrations, and express or implied representations,~~ shall be factual and not misleading to the public. All illustrations in published materials must specifically and accurately represent the institution. If any other illustrations are used, they must be clearly and accurately captioned.

4. No change.

5. An institution shall not offer the payment of cash or other nonmonetary incentives, such as but not limited to travel or gift certificates, ~~monetary incentives~~ as an inducement to visit the campus or to enroll in a course or program.

6. through 11. No change.

12. Overstatements, ~~superlatives,~~ and exclusives shall not be used in any advertising. The word "free" shall only be used when there is unconditional access to the item or service for all students, without cost or obligation of any type, and if refunds or loan repayments do not include consideration of the item or service.

13. through 16. No change.

(12) No change.

Rulemaking Specific Authority 1005.22(1)(e), 1005.31(2), (3), 1005.34, 1005.39 FS. Law Implemented 1005.04, 1005.31, 1005.33(1), 1005.34, 1005.39 FS. History—Repromulgated 12-5-74, Formerly 6E-3.01(1), Readopted 11-11-75, Amended 3-7-77, 5-7-79, 10-13-83, Formerly 6E-2.04, Amended 11-27-88, 11-29-89, 12-10-90, 10-19-93, 4-2-96, 4-11-00, 1-7-03, 4-5-04, 5-24-04, 7-20-04, 5-18-05, 7-10-06, 7-23-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Samuel L. Ferguson, Executive Director, Commission for Independent Education

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Gerard Robinson, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 3, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 2, 2011

## DEPARTMENT OF EDUCATION

### Commission for Independent Education

RULE NO.: 6E-4.001

RULE TITLE:

Fees and Expenses

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to delete the fee charged a student by the Commission when the Commission provides the student with a copy of his transcript, to reduce the charge to institutions licensed-by-means of accreditation for adding or modifying a program, to correct the language describing the circumstances when fees will be reduced and to include a date for the end of the fiscal year. The purpose is also to include the description of a Florida student for traditional and distance education.

SUMMARY: The proposed rule removes the \$10 fee for providing a student transcript, reduces the fee for adding a new program or modifying an existing one from \$500 or \$1,000 to \$250 and corrects language so that base and workload fees are reduced when the total revenue collected during a fiscal year is 12% or greater than budgeted expenditures for that year. A Florida student is a student that attends a Florida licensed location or for distance education, a student that receives his materials at a Florida address.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), Florida Statutes, and thus, a legislative ratification is not required under Section 120.541(3), Florida Statutes. This determination is based upon the nature of the proposed amendments, discussions at the rules workshop and the Commission's experience in adopting rules on this subject.

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: 1005.22(1)(e), 1005.35, 1005.37, 1005.38 FS.

LAW IMPLEMENTED: 1005.22, 1005.35, 1005.37, 1005.38 FS.

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

DATE AND TIME: November 15, 2011, 9:00 a.m.

PLACE: Andrew Jackson High School, 3816 N. Main St., Jacksonville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Samuel L. Ferguson, Executive Director, Commission for Independent Education, 325 West Gaines Street, Suite 1414, Tallahassee, Florida 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6E-4.001 Fees and Expenses.

(1) The Base Fee and the Workload Fee shall be assessed at one of six levels based upon the Florida student enrollment (per license issued) for the last reported fiscal year ending on June 30th. For each licensed institution, Florida student enrollment consists of all students enrolled at a Florida campus of a licensed institution and for plus all Florida residents enrolled in any CIE licensed distance education, a student whose mailing address for purposes of receiving distance education lessons and materials from the school, is a Florida address program. If an institution that holds a license has not submitted enrollment data to the Commission (using the CIE Annual Data Collection) they shall be assessed at the highest level.

- (a) Level 1 = 0 to 100 students
(b) Level 2 = 101-500 students
(c) Level 3 = 501-1,000 students
(d) Level 4 = 1,001 to 5,000 students
(e) Level 5 = 5,001 to 10,000 students
(f) Level 6 = over 10,000 students

If the total revenue collected by the Commission during a fiscal year is greater than 12% or greater than of the Commission's budgeted expenditures for the same fiscal year, the Commission is authorized to reduce the Base Fee and Workload Fee up to 3%. If the total revenue collected by the Commission during a fiscal year is less than the Commission's budgeted expenditures for the same fiscal year, the Commission is authorized to increase the Base Fee and Workload Fee up to 3%.

- (2) No change.

(3) Workload Fees. Each licensed institution receives technical assistance from the Commission, along with help in developing and implementing institutional articulation agreements and achieving candidacy status with accrediting agencies; and significant amounts of staff and administrative time are spent on evaluating applications, traveling to institutions for onsite visits, assisting institutions which are experiencing problems with financial aid or financial stability, and other duties assigned by the Commission. The following workload fees are assessed in addition to the Base Fee, and must be received prior to Commission consideration of each action.

Initial Application for License, or Moving from Nondegree to Degree:

New Nondegree Institutions.....\$2,000 + \$200 per program

New Degree-Granting Institutions.....\$3,000 + \$200 per program

Annual Review of Licensure and License by Means of Accreditation Review:

Level 1 = \$1,500

Level 2 = \$2,000

Level 3 = \$5,000

Level 4 = \$7,000

Level 5 = \$8,500

Level 6 = \$10,000

Institutions not Licensed by Means of Accreditation shall pay \$50 per licensed program (not to exceed \$500) as part of the Annual Review of License.

Substantive Change Review.....\$1,000

Provisional or Annual Licensure Extension (first).....\$500

Provisional or Annual Licensure Extension (second).....\$750

Provisional or Annual Licensure Extension (third).....\$1,500

New Program or Program Modifications, Less than Substantive Change or More than One Minor Modification per Year:

Nondegree Programs for Annually Licensed Institutions.....\$500

Degree Programs for Annually Licensed Institutions.....\$1,000

Nondegree and Degree Programs for Institutions Licensed by Means of Accreditation: .....\$ 250

Site Visits:

One Visit per Year.....Included in licensure fee

Subsequent Visits directed by Commission.....\$300 per day

Approval to Use "College" or "University", First Time or Special Review.....\$500

Annual Licensure of Recruiting Agents

(nontransferable).....\$200

Criminal Justice Information Investigation.....\$50

Copy of Student Academic Transcript on File.....\$10

(4) through (9) No change.

Rulemaking Specific Authority 1005.22(1)(e), 1005.35, 1005.37, 1005.38 FS. Law Implemented 1005.22, 1005.35, 1005.37, 1005.38 FS. History--New 1-7-03, Amended 7-27-04, 1-30-08, 7-21-08.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Samuel L. Ferguson, Executive Director, Commission for Independent Education  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Gerard Robinson, Commissioner, Department of Education  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 3, 2011  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 2, 2011

**DEPARTMENT OF EDUCATION**

**Commission for Independent Education**

RULE NO.: 6E-4.005  
 RULE TITLE: Student Protection Fund; Trainout Procedures for Closure

PURPOSE AND EFFECT: The purpose of the proposed rule is to define annual tuition revenue generated in Florida and to require use of a form to report this information to the Commission and to require institutions to list assets and liabilities on a form and to list the type of financial statement provided by the institution on a form. The effect of the proposed rule is to clarify the term to assist institutions when calculating payments into the Student Protection Fund and to promote efficiency by requiring the use of a form in transmitting this information to the Commission.

SUMMARY: Non-degree nonpublic institutions are assessed a fee to support the Student Protection Fund. This Fund is used to complete the training of a student who enrolls in a school that terminates a program or ceases operation before the student has completed his program of study. The fee is based upon .0005 of the annual tuition revenue generated in Florida. The proposed rule defines that term and requires licensed institutions to report the information on CIE Form 604, Selected Financial Data, which is incorporated by reference in Rule 6E-2.004.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), Florida Statutes, and thus, a legislative ratification is not required under Section

120.541(3), Florida Statutes. This determination is based upon information found in the Statement of Estimated Regulatory Costs, experience in this area and input at the rule workshops.

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: 1005.37 FS.

LAW IMPLEMENTED: 1005.35(4)(g), 1005.36(3), 1005.37 FS.

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

DATE AND TIME: November 15, 2011, 9:00 a.m.

PLACE: Andrew Jackson High School, 3816 N. Main St., Jacksonville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Samuel L. Ferguson, Executive Director, Commission for Independent Education, 325 West Gaines Street, Suite 1414, Tallahassee, Florida 32399-0400

**THE FULL TEXT OF THE PROPOSED RULE IS:**

6E-4.005 Student Protection Fund; Trainout Procedures for Closure.

Subsections (1)-(4), paragraphs (6)(a) and (b) of this rule shall apply to all licensed nonpublic nondegree schools. Subsection (5) and paragraph (6)(c) shall apply to all licensed institutions.

(1) through (2) No change.

(3) Assessment Paid by Licensed Nondegree Schools. Each licensed school shall pay annually to the fund a specified amount equal to .0005 of the annual ~~gross~~ tuition revenue generated in Florida.

(4) Computation and Payment of Assessment.

(a) through (c) No change.

(d) The full and timely payment of the assessment is a condition of licensure. Failure to make such payment shall be grounds for disciplinary action against the school, or for changing the status of a school which is Licensed by Means of Accreditation to a Provisional License, or for denial of an application for license renewal.

(e) Licensed nondegree institutions shall report annual tuition revenue generated in Florida on CIE Form 604, entitled Selected Financial Data as incorporated by reference in Rule 6E-2.004, F.A.C. CIE Form 604 may be obtained without cost from the Commission's website at [www.fldoe.org/cie](http://www.fldoe.org/cie) or by writing to the Commission for Independent Education, 325 West Gaines Street, Suite 1414, Tallahassee, Florida 32399-0400.

(5) through (6) No change.

Rulemaking Specific Authority 1005.37 FS. Law Implemented 1005.35(4)(g), 1005.36(3), 1005.37 FS. History--New 4-2-03, Amended \_\_\_\_\_.



NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Samuel L. Ferguson, Executive Director, Commission for  
 Independent Education  
 NAME OF AGENCY HEAD WHO APPROVED THE  
 PROPOSED RULE: Gerard Robinson, Commissioner,  
 Department of Education  
 DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: October 3, 2011  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: September 2, 2011

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE NO.: 19B-4.001  
 RULE TITLE: Application

PURPOSE AND EFFECT: To update the form for the Florida  
 Prepaid College Plan and Florida College Investment Plan  
 New Account Application, the Florida Prepaid College Plan  
 Add-a-Plan Application, and the Master Covenant.

SUMMARY: This rule change is being made to update the  
 Florida Prepaid College Plan and Florida College Investment  
 Plan New Account Application form, Florida Prepaid College  
 Plan Add-a-Plan application form and Florida Prepaid College  
 Plan Master Covenant.

**SUMMARY OF STATEMENT OF ESTIMATED  
 REGULATORY COSTS AND LEGISLATIVE  
 RATIFICATION:**

The Agency has determined that this will not have an adverse  
 impact on small business or likely increase directly or  
 indirectly regulatory costs in excess of \$200,000 in the  
 aggregate within one year after the implementation of the rule.  
 A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not  
 expected to require legislative ratification based on the  
 statement of estimated regulatory costs or if no SERC is  
 required, the information expressly relied upon and described  
 herein:

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98(1) FS.

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

DATE AND TIME: November 4, 2011, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage  
 Boulevard, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities  
 Act, any person requiring special accommodations to  
 participate in this workshop/meeting is asked to advise the  
 agency at least 5 days before the workshop/meeting by  
 contacting: Thomas J. Wallace, Executive Director, 1801  
 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308,  
 telephone (850)488-8514. If you are hearing or speech  
 impaired, please contact the agency using the Florida Relay  
 Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).  
 THE PERSON TO BE CONTACTED REGARDING THE  
 PROPOSED RULE IS: Thomas J. Wallace, Executive  
 Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee,  
 Florida 32308, telephone (850)488-8514

**THE FULL TEXT OF THE PROPOSED RULE IS:**

19B-4.001 Application.

(1) No change.

(2) The Florida Prepaid College Plan and Florida College  
 Investment Plan New Account Application, Form No. FPCB  
2012-01 ~~2011-01~~, is hereby incorporated by reference and may  
 be obtained from the Board by calling 1(800)552-GRAD  
 (4723) (prompt 1). The Florida Prepaid College Plan Master  
 Covenant, Form No. FPCB 2012-02 ~~2011-02~~, is hereby  
 incorporated by reference and may be obtained from the Board  
 by calling 1(800)552-GRAD (4723) (prompt 1). The Florida  
 Prepaid College Plan Add-a-Plan Application, Form No. FPCB  
2012-03 ~~2011-03~~, is hereby incorporated by referenced and  
 may be obtained from the Board by calling 1(800)552-GRAD  
 (4723) (prompt 1).

Rulemaking Authority 1009.971(1), (4), (6) FS. Law Implemented  
 1009.98 FS. History—New 3-29-89, Amended 2-6-90, 3-19-92,  
 Formerly 4G-4.001, Amended 12-5-93, 5-31-95, 6-20-96, 10-20-96,  
 12-16-97, 2-18-99, 6-6-99, 2-8-00, 5-21-00, 1-3-01, 10-9-01,  
 11-27-02, 10-1-03, 1-29-04, 12-28-04, 6-2-05, 12-20-05, 1-1-07,  
 11-27-07, 12-17-07, 11-18-08, 1-28-09, 4-5-09, 10-26-09,  
 10-18-10,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Florida Prepaid College Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
 THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: September 14, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: September 16, 2011

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE NO.: 19B-16.002  
 RULE TITLE: Application for Participation in the Program

PURPOSE AND EFFECT: This rule is amended to reflect the updated form for the Florida Prepaid College Plan and Florida College Investment Plan New Account Application.

SUMMARY: This rule change is being made to update the Florida Prepaid College Plan and Florida College Investment Plan New Account Application.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.981 FS.

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

DATE AND TIME: November 4, 2011, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.002 Application for Participation in the Program.

(1) No change.

(2) The Florida Prepaid College Plan and Florida College Investment Plan New Account Application, Form No. FPCB 2012-01 ~~2011-01~~, is hereby incorporated by reference. The form may be obtained from the Board by calling 1(800)552-GRAD (4723) (prompt 1).

(3) No change.

Rulemaking Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981 FS. History—New 11-27-02, Amended 1-29-04, 12-28-04, 6-2-05, 12-20-05, 1-1-07, 11-27-07 11-18-08, 01-28-09, 4.5.09, 10-26-09, 10-18-10, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 14, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2011

**PUBLIC SERVICE COMMISSION**

RULE NO.: 25-4.0161  
 RULE TITLE: Regulatory Assessment Fees; Telecommunications Companies

PURPOSE AND EFFECT: Rule 25-4.0161, F.A.C., is amended to reduce the regulatory assessment fee for telecommunications companies under Section 350.113 and 364.336, F.S., as required by Section 364.336, F.S., to remove references to interexchange companies since they are no longer regulated by the Commission, to amend regulatory assessment fee filing forms consistent with the rule amendments, and to clarify requirements for requesting a filing extension.

Docket No. 110224-TP

SUMMARY: Rule 25-4.0161, F.A.C., is amended to reduce the regulatory assessment fee for telecommunications companies from 0.0020 to 0.0016, company types are redefined consistent with statutory changes, certain minimum regulatory assessment fees are changed, filing forms are amended to be consistent with the rule changes, and the procedure for requesting a filing extension is amended to require a statement of good cause consistent with Section 350.113(5), F.S.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

A SERC has been prepared by the agency. Based on the SERC, the agency has determined that this rule amendment will not have an adverse impact on small businesses, will not likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after implementation of the rule, and will not require legislative ratification pursuant to Section 120.541(3), F.S.

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: 350.127(2) FS.

LAW IMPLEMENTED: 350.113, 364.285, 364.336 FS.

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

DATE AND TIME: Tuesday, November 22, 2011, 1:30 p.m.

PLACE: Room 148, Betty Easley Conference, 4075 Esplanade Way, Tallahassee, Florida 32399-0850

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kathryn G. W. Cowdery, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6216, kcowdery@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

25-4.0161 Regulatory Assessment Fees; Telecommunications Companies.

(1) For the purposes of this rule and except for pay telephone service providers, all incumbent local exchange companies, shared tenant service providers, alternative access vendors, and competitive local exchange companies that hold an active certificate of public convenience and necessity that was obtained prior to July 1, 2011, and all telecommunications companies that hold an active certificate of authority obtained after July 1, 2011, are defined as local telephone service providers. Companies classified as pay telephone service providers are those companies that hold an active pay telephone certificate of public convenience and necessity that was obtained prior to July 1, 2011, and those companies that hold an active pay telephone certificate of authority obtained after July 1, 2011.

(2)(a)(+) For the interim period January 1, 2011 through December 31, 2011, as applicable and as provided in Sections 350.113 and 364.336, F.S., each company shall remit a fee based upon its gross operating revenue as provided below. Each company that has paid by August 15, 2011, regulatory assessment fees for the period January 1, 2011 through June 30, 2011, shall pay a regulatory assessment fee in the amount of 0.0016 of its gross operating revenues derived from intrastate business during the period July 1, 2011 through December 31, 2011. Each company that has not paid any regulatory assessment fees for the period January 1, 2011 through December 31, 2011, shall pay a regulatory assessment fee in the amount of 0.0018 of its gross operating revenues derived from intrastate business. The minimum regulatory assessment fees provided in paragraph (2)(b) shall apply and shall be filed in accordance with the schedules provided in subsections (3) and (4). For the purpose of determining this fee, each telecommunications company shall deduct from gross

operating revenues any amount paid to another telecommunications company for the use of any telecommunications network to provide service to its customers.

(b) Effective January 1, 2012, as applicable and as provided in Sections 350.113, ~~364.02(12)~~ ~~364.02(13)~~ and 364.336, F.S., each company shall remit a fee based upon its gross operating revenue as provided below. This fee shall be referred to as a regulatory assessment fee, and each company shall pay a regulatory assessment fee in the amount of 0.0016 ~~0.0020~~ of its gross operating revenues derived from intrastate business. For the purpose of determining this fee, each telecommunications company shall deduct from gross operating revenues any amount paid to another telecommunications company for the use of any telecommunications network to provide service to its customers. Regardless of the gross operating revenue of a company, a minimum annual regulatory assessment fee shall be imposed as follows:

- 1.(a) Local Telephone Service Provider Exchange Company – \$600 ~~\$1,000; and~~
- 2.(b) Pay Telephone Service Provider – \$100;
- (c) Shared Tenant Service Provider – \$100;
- (d) Interexchange Company – \$700;
- (e) Alternative Access Vendor – \$600;
- (f) Competitive Local Exchange Company – \$600.

(3)(2) Telecommunications companies that owed gross regulatory assessment fees of \$10,000 or more for the preceding calendar year shall pay the fee and remit the appropriate form twice a year. The regulatory assessment fee and appropriate form shall be filed no later than July 30 for the preceding period of January 1 through June 30, and no later than January 30 of the following year for the period of July 1 through December 31. Telecommunications companies that owed gross regulatory assessment fees of less than \$10,000 for the preceding calendar year shall pay the fee and remit the appropriate form once a year. The regulatory assessment fee and appropriate form shall be filed no later than January 30 of the subsequent year for the current calendar year operations.

(4)(3) If the due date falls on a Saturday, Sunday, or legal holiday, the due date is extended to the next business day. If the fees are sent by registered mail, the date of the registration is the United States Postal Service’s postmark date. If the fees are sent by certified mail and the receipt is postmarked by a postal employee, the date on the receipt is the United States Postal Service’s postmark date. The postmarked certified mail receipt is evidence that the fees were delivered. Regulatory assessment fees are considered paid on the date they are postmarked by the United States Postal Service or received and logged in by the Commission’s Division of Administration Services in Tallahassee. Fees are considered timely paid if properly addressed, with sufficient postage, and postmarked no later than the due date.

(5)(4) Commission Form PSC/RAD 159 (XX/XX) PSC/RAD 25 (04/07), entitled “Local Telephone Service Provider Exchange Company Regulatory Assessment Fee Return,” is available at [\[link\]](#); Form PSC/RAD 160 (XX/XX), entitled “Interim Local Telephone Service Provider Regulatory Assessment Fee Return,” is available at [\[link\]](#); Form PSC/RAD 26 (XX/XX) (04/07), entitled “Pay Telephone Service Provider Regulatory Assessment Fee Return,” is available at [\[link\]](#); and Form PSC/RAD 161(XX/XX) (04/07), entitled “Interim Pay Telephone Service Provider Regulatory Assessment Fee Return,” is available at [\[link\]](#); ~~Form PSC/RAD 34 (04/07), entitled “Shared Tenant Service Provider Regulatory Assessment Fee Return”; Form PSC/RAD 153 (04/07), entitled “Interexchange Company Regulatory Assessment Fee Return”; Form PSC/RAD 1 (04/07), entitled “Alternative Access Vendor Regulatory Assessment Fee Return”; and Form PSC/RAD 7 (04/07), entitled “Competitive Local Exchange Company Regulatory Assessment Fee Return”~~ These forms are incorporated into this rule by reference and may also be obtained from the Commission’s Division of Administrative Services. The failure of a telecommunications company to receive a return form shall not excuse the company from its obligation to timely remit the regulatory assessment fees.

(6)(5) Each telecommunications company shall have up to and including the due date in which to submit the applicable form and:

- (a) Remit the total amount of its fee, or
- (b) Remit an amount which the company estimates is its full fee.

(7)(6) Where the company remits less than its full fee, the remainder of the full fee shall be due on or before the 30th day from the due date and shall, where the amount remitted was less than 90 percent of the total regulatory assessment fee, include interest as provided by paragraph (9)(b) (8)(b) of this rule.

(8)(7) A company may request either a 15-day or from the Division of Administrative Services a 30-day extension of its due date for payment of regulatory assessment fees or for filing its return form by submitting to the Division of Administrative Services Commission Form PSC/ADM 124 (XX/XX) entitled “Regulatory Assessment Fee Extension Request,” which is incorporated into this rule by reference and is available at [\[link\]](#). This form may also be obtained from the Commission’s Division of Administrative Services.

(a) The request for extension must be received by the Division of Administrative Services at least two weeks before the due date. The request for extension must be submitted on Form PSC/ADM 124 (01/05) and will be granted if the company has applied for the extension within the time required in paragraph (b) below and the company does not have any unpaid regulatory assessment fees, penalties or interest due from a prior year. Form PSC/ADM 124 (01/05), entitled

“Regulatory Assessment Fee Extension Request” is incorporated into this rule by reference and may be obtained from the Commission’s Division of Administrative Services.

(b) The request for extension will not be granted if the company has any unpaid regulatory assessment fees, penalties, or interest due from a prior period. The request for extension must be received by the Division of Administrative Services at least two weeks before the due date.

(c) Where a telecommunications company receives an extension of its due date pursuant to this rule, the telecommunications company shall remit a charge as set out in Section 350.113(5), F.S. in addition to the regulatory assessment fees, ~~as set out in Section 350.113(5), F.S.~~

(d) ~~The return forms may be obtained from the Commission’s Division of Administrative Services. The failure of a telecommunications company to receive a return form shall not excuse the company from its obligation to timely remit the regulatory assessment fees.~~

(9)(8) The delinquency of any amount due to the Commission from the telecommunications company pursuant to the provisions of Section 350.113, F.S., and this rule, begins with the first calendar day after any date established as the due date either by operation of this rule or by an extension pursuant to this rule.

(a) A penalty, as set out in Section 350.113, F.S., shall apply to any such delinquent amounts.

(b) Interest at the rate of 12 percent per annum shall apply to any such delinquent amounts.

(10)(9) The Division of Administrative Services shall send by certified mail a regulatory assessment fee delinquency notice to any company that fails to file a regulatory assessment fee return and that fails to pay the regulatory assessment fee by the date specified in subsection (3)(2), unless the company has met the requirements of subsections (7)(6) and (8)(7).

(11)(10) If a company fails to pay the regulatory assessment fee within 20 45 days after receiving a delinquency notice, the Division of Administrative Services, in cooperation with the Division of Regulatory Analysis and the Office of General Counsel, will establish a docket and administratively issue a Notice of Proposed Agency Action Order Imposing Penalties and Collection Costs, and Requiring Payment of Delinquent Regulatory Assessment Fees, or Cancelling Certificates ~~or Removing From the Register for Violation of Rule 25-4.0161, F.A.C., and Section 364.336, F.S.~~ The company must pay the past due regulatory assessment fees, the penalty and interest for late payment as provided in Section 350.113, F.S., and as stated in subsection (9)(8) above, and must also pay the applicable penalty stated in subsection (12)(11) for failure to file the regulatory assessment fee return.

(12)(11) Pursuant to Section 364.285, F.S., the Commission has the authority to impose a penalty or cancel a certificate ~~or registration~~ if a company refuses to comply with Commission rules, orders, or Florida Statutes. The penalty,

which will include collection costs, for failure to file the regulatory assessment fee return by the date stated in the delinquency notice shall be as follows:

- (a) First violation – \$500;
- (b) Second violation – \$1,000;
- (c) Third violation – \$2,000.

Failure of the company to pay the full amount due and stated in the Notice of Proposed Agency Action will result in the cancellation of the company’s ~~certificate. Certificate of Public Convenience and Necessity, or will result in the cancellation of the company’s tariff and removal of its name from the Commission’s register, whichever is applicable.~~

~~(13)(12)~~ For a company’s fourth failure to pay the regulatory assessment fee after being sent a delinquency notice, Commission staff shall file a recommendation to the Commission for further action.

~~(14)(13)~~ A company that reapplies for a Certificate of Authority ~~Public Convenience and Necessity, or refiles for registration,~~ must pay all prior unpaid regulatory assessment fees, plus the penalty and interest defined in subsection ~~(9)(8)~~, and any prior unpaid penalty assessed in accordance with subsection ~~(11)(10)~~.

Rulemaking Authority 350.127(2) FS. Law Implemented 350.113, 364.285, 364.336 FS. History—New 5-18-83, Formerly 25-4.161, Amended 10-19-86, 1-1-91, 12-29-91, 1-8-95, 12-26-95, 7-7-96, 11-11-99, 12-7-04, 10-6-05, 4-16-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathryn G. W. Cowdery, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6216, kcowdery@psc.state.fl.us

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 4, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 37, No. 30, July 29, 2011

**EXECUTIVE OFFICE OF THE GOVERNOR  
Office of Tourism, Trade and Economic Development**

RULE NOS.:	RULE TITLES:
27M-2.001	Certification for Spring Training Facilities
27M-2.002	Decertification of Spring Training Baseball Facilities
27M-2.003	Certification for New or Retained Professional Sports Franchise

PURPOSE AND EFFECT: To establish the application processes for certification of spring training facilities and professional sports franchise facilities. Also provides a process for decertification of certified spring training facilities.

SUMMARY: The rule replaces obsolete references including those to particular dates and individuals and replaces them with recurring deadlines based on funding cycle and generic position titles; updates forms utilized in conjunction with the program and fulfills statutory direction for rule adoption relating to new or retained sports franchises despite the fact that the program has operated at the statutory maximum number of franchises for many years.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

Based on analysis from the agency, this rulemaking proceeding is restricted to elimination of obsolete dates, clarification of existing provisions and implementation of a statutory provision not anticipated to have any substantive effect; and would not have an impact on small business or the private sector, the rule is not expected to require legislative ratification.

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: 288.11621(8), 288.1162(2) FS.

LAW IMPLEMENTED: 288.11621, 288.1162 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Michelle Dennard, Office of Tourism, Trade, and Economic Development, Suite 1902, The Capitol, Tallahassee, Florida 32399, (850)487-2568, michelle.dennard@ either a 15-day or eog.myflorida.com

THE FULL TEXT OF THE PROPOSED RULES IS:

27M-2.001 Certification for ~~Retained~~ Spring Training Baseball Facilities.

(1) Upon notice as published in the Florida Administrative Weekly, the Florida Sports Foundation will accept applications for certification to receive state funding for Spring Training Baseball Facilities. An applicant must submit an application for certification to the Florida Sports Foundation as indicated in the published notice by 5:00 p.m., EST, October 2, 2006 in order to be considered for certification. Applications may not be changed once submitted. The original and seven (7) copies of the application should be submitted to the following address:

Florida Sports Foundation  
 Attention: President Larry Pendleton  
 2930 Kerry Forest Parkway, Suite-100  
 Tallahassee, Florida 32309  
 Phone: (850)488-8347  
 Fax: (850)922-0482

(2) Each application will be reviewed based on the requirements set forth in Section 288.11621(2), F.S. (2010) 288.1162(5)(e)2., F.S. (2006).

(3) The Florida Sports Foundation will receive the application and conduct a scoring of each application based on the criteria established in Section 288.11621(2), F.S. (2010) 288.1162(5)(e)2., F.S. (2006), using the Spring Training Baseball Facility Application Evaluation Criteria Worksheet (OTTED Form 9102-1 (05/2011)) incorporated herein by reference. Any discrepancies in the application will be resolved in accordance with Section 288.1162(5)(e)2., F.S. (2006).

(4) The Florida Sports Foundation will complete its review and forward its recommendations for certification to the Office of Tourism, Trade, and Economic Development within thirty (30) days of the close of the application period indicated in the notice published in the Florida Administrative Weekly by 5:00 p.m., EST, November 30, 2006.

(5) ~~The Office of Tourism, Trade, and Economic Development will review the recommendations within thirty (30) days of receipt from the Florida Sports Foundation by December 15, 2006. The Office of Tourism, Trade, and Economic Development and the Florida Sports Foundation will meet during the month of December 2006 to review and finalize the certifications. Certifications will be announced by 5:00 p.m. EST, January 2, 2007. After the review, each applicant will be notified as to whether it has been certified.~~

Rulemaking Specific 288.11621(8) FS. Law Implemented 288.11621(2) FS. History–New 2-12-07, Amended \_\_\_\_\_.

#### 27M-2.002 Decertification for Spring Training Baseball Facilities.

In the event the Office receives information from a third party that a certified applicant no longer meets the requirements of Section 288.11621(5)(b)1., F.S., the Office shall notify the certified applicant. Within 30 days of receiving such information, the Office shall make a determination whether the certified applicant meets the requirements of Section 288.11621(5)(b)1. or Section 288.11621(5)(b)(2), F.S.

(1) Upon determining that a certified applicant does not meet the criteria in Section 288.11621(5)(b)1., F.S., the Office shall issue a Notice of Intent to Decertify. The Office shall provide such Notice to the certified applicant in writing, specifying the reasons for proposed decertification.

(2) The certified applicant may petition for decertification review by providing a letter challenging the information provided in the Notice of Intent to Decertify. The letter must

include specific details and contain supporting documentation. The Office may request any additional information to support the applicant's petition.

(3) Upon receipt of a petition for decertification review, the office shall conduct a review of the certified applicant's challenge. The review shall be conducted by the Director of the Office of Tourism, Trade, and Economic Development and the President of the Florida Sports Foundation. This panel shall review the letter submitted challenging the Notice of Intent to Decertify and any supporting documentation provided by the certified applicant

(4) The result of the review shall be communicated to the certified applicant in writing, and is subject to review under Chapter 120, F.S.

Rulemaking Authority 288.11621(8) FS. Law Implemented 288.11621(5) FS. History–New \_\_\_\_\_.

#### 27M-2.003 Certification for New or Retained Professional Sports Franchise.

(1) If necessary pursuant to Section 288.1162(6)(a), F.S., the Office shall publish notice in the Florida Administrative Weekly that the Florida Sports Foundation will accept applications for certification as a new or retained professional sports franchise.

(2) An applicant must submit an application for certification to the Florida Sports Foundation as indicated in the published notice in order to be considered for certification. Changes to submitted applications shall not be permitted. The original and seven (7) copies of the application shall be delivered to the following address:

Florida Sports Foundation  
 Attention: President  
 2930 Kerry Forest Parkway, Suite-100  
 Tallahassee, Florida 32309  
 Phone: (850)488-8347  
 Fax: (850)922-0482

(3) The Florida Sports Foundation will review each application based on the criteria established in Section 288.1162(4), F.S. (2010).

(4) The Florida Sports Foundation will complete its review and forward its recommendations for certification to the Office of Tourism, Trade, and Economic Development within thirty (30) days of the close of the application period indicated in the notice published in the Florida Administrative Weekly.

(5) The Office of Tourism, Trade, and Economic Development will review the recommendations within thirty (30) days of receipt from the Florida Sports Foundation. After the review, each applicant will be notified as to whether it has been certified.

Rulemaking Authority 288.11621(8) FS. Law Implemented 288.11621 FS. History–New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Michelle Dennard  
NAME OF AGENCY HEAD WHO APPROVED THE  
PROPOSED RULE: Michelle Dennard  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: May 13, 2011  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: May 13, 2011

**WATER MANAGEMENT DISTRICTS**

**St. Johns River Water Management District**

RULE NO.: 40C-3.035  
RULE TITLE: Agreements

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment is to incorporate by reference the second amended water well permitting delegation agreement between the St. Johns River Water Management District (District) and the Florida Department of Health-Marion County Health Department (MCHD). The amendments to the agreement will clarify and update the responsibilities of both parties, including the use of electronic reporting submittals to the District by MCHD through the District’s E-permitting system, the compliance and enforcement responsibilities of each party, and the District’s continued regulation of earth-coupled geothermal well systems.

SUMMARY: The proposed rule would incorporate by reference the District’s second amended water well permitting delegation agreement with the MCHD allowing for local regulation of the construction, repair, and abandonment of water wells unless these wells are in a Chapter 62-524, F.A.C., delineated area or are part of an earth-coupled geothermal well system.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

This rule updates an existing delegation agreement between the District and MCHD to provide for electronic submittals of MCHD’s reports to the District through the use of the District’s E-permitting system, to clarify the compliance and enforcement responsibilities of each party, and to clarify the District’s continued regulation of earth-coupled geothermal well systems.

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

RULEMAKING AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.046, 373.083, 373.308, 373.309 FS.

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

DATE AND TIME: Following the regularly scheduled Governing Board Meeting on November 8, 2011, which is scheduled to begin immediately following the District’s Governing Board’s Regulatory Committee meeting that begins at 10:00 a.m.

PLACE: St. Johns River Water Management District Headquarters, 4049 Reid Street, Palatka, FL 32177-2529

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Wendy Gaylord, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)326-3026 or email address [wgaylord@sjrwm.com](mailto:wgaylord@sjrwm.com)

THE FULL TEXT OF THE PROPOSED RULE IS:

40C-3.035 Agreements.

The Governing Board hereby incorporates by reference the following documents:

(1) through (15) No change.

(16) An agreement between Florida Department of Health-Marion County Health Department and St. Johns River Water Management District entitled Second Amended Water Well Permitting Delegation Agreement dated (effective date) May 20, 2008.

Rulemaking Authority: 373.044, 373.113, 373.171 FS. Law Implemented 373.046, 373.083, 373.308, 373.309 FS. History--New 10-14-84, Amended 12-05-85, Formerly 40C-3.035, 40C-3.0035. Amended 1-8-96, 4-21-96, 7-21-96, 12-22-96, 3-10-97, 1-3-00, 9-06-01, 6-25-02, 7-24-02, 1-11-06, 5-18-06, 5-24-07, 5-20-08, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Catherine Walker, Division Director, Division of Water Use Regulation, St. Johns River Water Management District, 4049 Reid Street, Palatka, FL 32177-2529, (386)329-4447, email [cwalker@sjrwm.com](mailto:cwalker@sjrwm.com)

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 14, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 30, 2010

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NOS.:	RULE TITLES:
40D-1.6051	Timeframe for Providing Requested Information for Permit Applications and Denial of Incomplete Applications
40D-1.659	Forms and Instructions

**PURPOSE AND EFFECT:** The purpose and effect of this rulemaking is to reference updated versions of forms that are being amended by the District to reduce the number of copies that are required for submittal.

**SUMMARY:** This rulemaking is part of a larger rulemaking effort being undertaken by the District to reduce the required number of copies of permit application forms and supporting materials submitted when applying for a permit or other authorization from the District, and the number of copies of compliance-related documents that must be submitted by permittees. These amendments are intended to reduce permitting and compliance costs for the public. The District will now require only one original of Water Use Permit application forms and supporting documents and of reporting forms for permit compliance purposes. For Environmental Resource Permits, one original and 2 copies of all application forms, supporting documents, and compliance reporting forms will now be required. Rule 40D-1.6051, F.A.C., is amended to incorporate by reference an updated Applicant Transmittal Form, Form No. LEG-R.046.01(8/11) which is revised to specify the required number of copies for use with Water Use Permit applications and Environmental Resource Permit applications. Rule 40D-1.659, F.A.C., which lists all District forms, is amended to list the updated forms that are being revised as part of this rulemaking. Amendments to both rules also correct the District's website name.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

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:** 120.54(5), 373.044, 373.113, 373.118, 373.149, 373.171, 373.337, 373.4135, 373.4136, 373.414 FS.

**LAW IMPLEMENTED:** 120.54(5), 120.60, 373.079(4)(a)1., 373.083, 373.083(5), 373.084, 373.085, 373.116, 373.118, 373.119, 373.171, 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.2295, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.4136, 373.414, 373.416, 373.418, 373.419, 373.421, 373.426, 373.705, 373.707, 668.50 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103 or email to ADACoordinator@swfwmd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Barbara Martinez, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211 (4660) (OGC #2010053)

**THE FULL TEXT OF THE PROPOSED RULE IS:**

40D-1.6051 Timeframe for Providing Requested Information for Permit Applications and Denial of Incomplete Applications.

(1) No change.

(a) The applicant shall include with each submittal of information in support of a pending permit application an Applicant Transmittal Form, Form No. LEG-R.046.01(08/11) ~~(6/09)~~, which form is incorporated herein by reference and can be obtained from the District's website at [www.WaterMatters.org](http://www.WaterMatters.org) or from District offices. The applicant shall specify on the Applicant Transmittal Form the application number for which the information or material is being submitted and the contents of the submittal and shall state whether the accompanying submittal completes the applicant's response to the District's request for additional or clarifying information. District staff shall proceed to process the permit application upon receipt of the applicant's information and statement that the submittal completes the applicant's response, upon receipt of the applicant's written request that the District proceed to process the application or, if no statement and additional information is received, upon the conclusion of the 90-day response period.



(b) through (c) No change.

(2) No change.

Rulemaking Authority 120.54(5), 373.044, 373.113, 373.118, 373.4135, 373.4136, 373.414 FS. Law Implemented 120.54(5), 120.60, 373.079(4)(a)1., 373.083(5), 373.084, 373.085, 373.116, 373.118, 373.119, 373.171, 373.229, 373.2295, 373.308, 373.309, 373.323, 373.413, 373.4136, 373.414, 373.416, 373.418, 373.426 FS. History—New 7-2-98, Formerly 40D-1.1020, Amended 9-1-09, 9-5-10,\_\_\_\_\_.

40D-1.659 Forms and Instructions.

The following forms and instructions have been approved by the Governing Board and are incorporated by reference into this chapter or into a specific District rule as indicated. Copies of these forms may be obtained from the District offices or the District’s website at [www.WaterMatters.org](http://www.WaterMatters.org).

(1) GROUND WATER

(a) through (v) No change.

(w) SOUTHERN WATER USE CAUTION AREA GROUND WATER REPLACEMENT CREDIT APPLICATION, FORM NO. LEG-R.011.02+ (08/11) ~~(4/09)~~, incorporated by reference in paragraph 40D-2.101(6)(b)(e), F.A.C.

(x) PUBLIC SUPPLY WELL INFORMATION AND CLASSIFICATION FORM, FORM NO. LEG-R.015.02+ (08/11) ~~(4/09)~~, incorporated by reference in paragraph 40D-3.101(2)(b), F.A.C.

(y) through (ff) No change.

(gg) WATER USE PERMIT APPLICATION – MINING AND DEWATERING MATERIALS OTHER THAN PHOSPHATE, FORM NO. LEG-R.048.01+ (08/11) ~~(8/09)~~, incorporated by reference in paragraph 40D-2.101(2)(d), F.A.C.

(hh) through (kk) No change.

(ll) DOVER/PLANT CITY WATER USE CAUTION AREA SUPPLEMENTAL FORM – FORM NO. LEG-R.050.01+ (08/11) ~~(12/10)~~, incorporated by reference in subsection 40D-2.101(7), F.A.C.

(mm) No change.

(2) SURFACE WATER

(a) JOINT APPLICATION FOR: ENVIRONMENTAL RESOURCE PERMIT/AUTHORIZATION TO USE STATE OWNED SUBMERGED LANDS/FEDERAL DREDGE AND FILL PERMIT, FORM 547.27/ERP (08/11) ~~(6/10)~~, incorporated by reference in paragraph 40D-4.101(1)(b), F.A.C.

(b) No change.

(c) PETITION FOR A FORMAL DETERMINATION OF THE LANDWARD EXTENT OF WETLANDS AND SURFACE WATERS, FORM 547.27/FJDS (08/11) ~~(4/09)~~, incorporated by reference in paragraph 40D-4.042(2)(a), F.A.C.

(d) NOTICE OF INTENT TO CONSTRUCT A MINOR SILVICULTURAL SURFACE WATER MANAGEMENT SYSTEM PURSUANT TO RULE 40D-400.500, F.A.C., FORM 547.27/NOI (08/11) ~~(4/09)~~, incorporated by reference in subsection 40D-400.500(3), F.A.C.

(e) PERMIT APPLICATION FOR SITE CONDITIONS ASSESSMENT, FORM 547.27/SCA (08/11) ~~(4/09)~~, incorporated by reference in subsection 40D-40.044(1), F.A.C.

(f) through (k) No change.

(l) GENERAL ENVIRONMENTAL RESOURCE PERMIT (ERP) APPLICATION FOR MODIFICATION RELATED TO OUTPARCEL CONSTRUCTION WITHIN PERMITTED COMMERCIAL/INDUSTRIAL PROJECTS, FORM NO. LEG-R.001.02+ (08/11) ~~(4/09)~~, incorporated by reference in subparagraph 40D-4.331(2)(a)2., F.A.C.

(m) ENVIRONMENTAL RESOURCE PERMIT MODIFICATION SHORT FORM, FORM NO. LEG-R.013.02+ (08/11) ~~(04/09)~~, incorporated by reference in paragraph 40D-4.331(2)(b), F.A.C.

(n) No change.

(3) OTHER

(a) through (c) No change.

(d) APPLICANT TRANSMITTAL FORM, FORM NO. LEG-R.046.01+ (08/11) ~~(6/09)~~, incorporated by referenced in paragraph 40D-1.6051(1)(a), F.A.C.

(e) No change.

Rulemaking Authority 373.044, 373.113, 373.149, 373.171, 373.337 FS. Law Implemented 373.083, 373.116, 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.414, 373.416, 373.419, 373.421, 373.705, 373.707, 668.50 FS. History—New 12-31-74, Amended 10-24-76, Formerly 16J-0.40, 40D-1.901, 40D-1.1901, Amended 12-22-94, 5-10-95, 10-19-95, 5-26-96, 7-23-96, 2-16-99, 7-12-99, 7-15-99, 12-2-99, 5-31-00, 9-3-00, 10-26-00, 6-26-01, 11-4-01, 6-12-02, 8-25-02, 2-26-03, 9-14-03, 9-30-04, 2-1-05, 6-5-05, 10-19-05(1) and (2), 10-19-05(5), 10-19-05(20), 2-6-07, 9-27-07, 11-11-07, 11-25-07, 1-8-08, 4-7-08, 5-12-08, 5-20-08, 8-19-08, 12-30-08, 3-26-09, 7-1-09, 8-30-09, 9-1-09, 10-26-09, 1-27-10, 4-12-10, 4-27-10, 9-5-10, 9-12-10, 12-7-10, 1-16-11, 6-16-11,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bree Gathers

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 30, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 30, 2011

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NOS.:	RULE TITLES:
40D-1.607	Permit Processing Fee
40D-1.659	Forms and Instructions

**PURPOSE AND EFFECT:** The purpose of this rulemaking is to eliminate the \$91 fee for transferring an Environmental Resource Permit (ERP) upon a change in property ownership, list the updated permit transfer form which is revised to eliminate any reference to a fee, and clarify the exemption from fees for ERP applications that are resubmitted after being withdrawn or denied. The effect will be to reduce costs to the public associated with such permit transfers and application resubmittals. This rulemaking is one of the initiatives identified by the District as part of its rule review in response to Executive Order No. 11-72, to identify rules for amendment or repeal that are unnecessarily burdensome, no longer necessary or duplicative of statutory language.

**SUMMARY:** Subsection 40D-1.607(1), F.A.C., is amended to eliminate the fee to process a request to transfer an ERP to a new owner of the property on which the permitted surface water management system is located. Elimination of the fee is proposed as a means to increase compliance with permitting requirements, and will reduce costs to the public. The current fee, while minimal, can be a disincentive to transferring permits and results in compliance actions that are not cost-effective for the District. Amendment to Rule 40D-1.659, F.A.C., will list the Notification and Request for Transfer of ERP form, which is revised to eliminate reference to any required fee. Amendments to subsection (3) of 40D-1.607, F.A.C., will clarify the fee exemption for withdrawn or denied permit applications that are resubmitted within 12 months. Currently, the rule exempts from fee payment a resubmitted application only if it is for the same type of permit and for a substantially similar design. If a larger or more complex project is proposed on resubmittal, no exemption would be available, and the entire fee for a new application would be required. These limitations on fee exemption for resubmitted applications are being eliminated. Amendments will clarify that an application resubmitted within 12 months of withdrawal or denial is exempt from repayment of the application fee without regard to whether it is the same type of application and design. If the resubmitted application requires a larger fee than what was previously paid, only the increase in fee will be required. This allows applicants to redesign their projects as needed and still avail themselves of the fee credit for resubmitted applications.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The proposed rule will eliminate the fee for transferring and ERP and reduce fees for certain resubmitted applications and thus will not result in any adverse economic impacts to the economy or businesses or regulatory cost increases that require legislative ratification.

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

**RULEMAKING AUTHORITY:** 373.044, 373.113, 373.149, 373.171, 373.337 FS.

**LAW IMPLEMENTED:** 373.083, 373.109, 373.116, 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.414, 373.416, 373.419, 373.421, 373.421(2), 373.705, 373.707, 668.50 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103 or email to ADACoordinator@swfwmd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Barbara Martinez, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211 (4660) (OGC #2011047)

**THE FULL TEXT OF THE PROPOSED RULES IS:**

**40D-1.607 Permit Processing Fee.**

A permit application processing fee is required and shall be paid to the District when certain applications are filed pursuant to District rules. These fees are assessed in order to defray the cost of evaluating, processing, advertising, mailing, compliance monitoring and inspection, required in connection

with consideration of such applications. Fees are non-refundable in whole or part unless the activity for which an application is filed is determined by the District to qualify for a permit with a lower fee or not require a permit. Failure to pay the application fees established herein is grounds for the denial of an application or revocation of a permit. The District's permit application processing fees are as follows:

(1) Environmental resource or management and storage of surface waters permit applications.

(a) through (b) No change.

~~(c) Transfer of Permit to another entity.~~

~~(c)(d)~~ Verification that an activity is exempt from regulation under Part IV of Chapter 373, F.S. or Section 403.813, F.S.

(2) No change.

(3) The following types of applications are exempt from the fees identified in subsection (1):

(a) No change.

(b) No change.

(c) RESUBMITTALS: Any resubmittal of an application that was denied or withdrawn within the preceding twelve months, ~~provided the same type of application with a substantially similar design is resubmitted. If the resubmitted application requires a larger fee, only the increased portion of fee will be required.~~

(d) through (f) No change.

(4) through (5) No change.

(6) Petition for formal determination of wetlands and other surface waters.

(a) No change.

(b) Any resubmittal of a petition for formal determination of wetlands and other surface waters that was denied or withdrawn within the preceding twelve months, ~~provided it is substantially similar to the denied or withdrawn petition, is exempt from the fees identified in paragraph (a). If the resubmitted petition requires a larger fee, only the increased portion of fee will be required.~~

(7) through (12) No change.

Rulemaking Authority 373.044, 373.113, 373.149, 373.171 FS. Law Implemented 373.109, 373.421(2) FS. History—Readopted 10-5-74, Amended 12-31-74, 10-24-76, 7-21-77, Formerly 16J-0.111, Amended 10-1-88, 1-22-90, 12-27-90, 11-16-92, 1-11-93, 3-23-94, Formerly 40D-0.201, Amended 12-22-94, 10-19-95, 3-31-96, 7-23-96, 10-16-96, 10-26-00, 3-15-01, 9-26-02, 8-7-03, 6-5-05, 2-6-07, 5-12-08, 12-30-08, 12-7-09, 6-30-10, 9-5-10,\_\_\_\_\_.

40D-1.659 Forms and Instructions.

The following forms and instructions have been approved by the Governing Board and are incorporated by reference into this chapter or into a specific District rule as indicated. Copies of these forms may be obtained from the District offices or the District's website at [www.watmatters.org](http://www.watmatters.org).

(1) No change.

(2) SURFACE WATER

(a) through (i) No change.

(j) NOTIFICATION AND REQUEST FOR TRANSFER OF ENVIRONMENTAL RESOURCE PERMIT, FORM NO. LEG-R.043.01 (9/11) ~~LEG-R.043.00 (4/09)~~, incorporated by reference in paragraph 40D-4.351(1)(a), F.A.C.

(k) through (m) No change.

(3) No change.

Rulemaking Authority 373.044, 373.113, 373.149, 373.171, 373.337 FS. Law Implemented 373.083, 373.116, 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.414, 373.416, 373.419, 373.421, 373.705, 373.707, 668.50 FS. History—New 12-31-74, Amended 10-24-76, Formerly 16J-0.40, 40D-1.901, 40D-1.1901, Amended 12-22-94, 5-10-95, 10-19-95, 5-26-96, 7-23-96, 2-16-99, 7-12-99, 7-15-99, 12-2-99, 5-31-00, 9-3-00, 10-26-00, 6-26-01, 11-4-01, 6-12-02, 8-25-02, 2-26-03, 9-14-03, 9-30-04, 2-1-05, 6-5-05, 10-19-05(1) and (2), 10-19-05(5), 10-19-05(20), 2-6-07, 9-27-07, 11-11-07, 11-25-07, 1-8-08, 4-7-08, 5-12-08, 5-20-08, 8-19-08, 12-30-08, 3-26-09, 7-1-09, 8-30-09, 9-1-09, 10-26-09, 1-27-10, 4-12-10, 4-27-10, 9-5-10, 9-12-10, 12-7-10, 1-16-11, 6-16-11,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: H. Clark Hull, Environmental Regulation Program Manager

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 27, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 7, 2011

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.: 40D-1.659  
 RULE TITLE: Forms and Instructions

PURPOSE AND EFFECT: The purpose and effect of this rulemaking is to list the updated versions of several Environmental Resource Permitting application forms and permit compliance forms that are being amended by the District. Amendments are made to the forms to clarify that they may be submitted by licensed or registered professionals in addition to professional engineers, when appropriate and in accordance with applicable law. Amendments to Chapter 40D-4, F.A.C., are also part of this rulemaking package. This rulemaking is one of the initiatives identified by the District as part of its rule review pursuant to Executive Order No. 11-72, to identify rules for amendment or repeal that are unnecessarily burdensome, no longer necessary or duplicative of statutory language.

SUMMARY: Rule 40D-1.659, F.A.C., lists all forms adopted by the District and the particular rule in which the form is incorporated by reference, as a convenience for the public. The District is revising some of its Environmental Resource Permit

application forms and compliance forms to clarify that such forms may be prepared and submitted by licensed or registered professionals in addition to licensed professional engineers, as provided by law. Hence, the rule will be amended to list the revised forms being adopted by the District.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. 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:** 373.044, 373.113, 373.149, 373.171, 373.337 FS.

**LAW IMPLEMENTED:** 373.083, 373.116, 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.414, 373.416, 373.419, 373.421, 373.705, 373.707, 668.50 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103 or email to ADACoordinator@swfwmd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Barbara Martinez, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211 (4660) (OGC #2011045)

**THE FULL TEXT OF THE PROPOSED RULE IS:**

**40D-1.659 Forms and Instructions.**

The following forms and instructions have been approved by the Governing Board and are incorporated by reference into this chapter or into a specific District rule as indicated. Copies of these forms may be obtained from the District offices or the District's website at [www.watermatters.org](http://www.watermatters.org).

- (1) No change.

**(2) SURFACE WATER**

(a) **JOINT APPLICATION FOR: ENVIRONMENTAL RESOURCE PERMIT/AUTHORIZATION TO USE STATE OWNED SUBMERGED LANDS/FEDERAL DREDGE AND FILL PERMIT, FORM 547.27/ERP (9/11) ~~(6/10)~~**, incorporated by reference in paragraph 40D-4.101(1)(b), F.A.C.

(b) **STATEMENT OF COMPLETION AND REQUEST FOR TRANSFER TO OPERATION ENTITY, FORM 547.27/SOC (9/11) ~~(4/09)~~**, incorporated by reference in subparagraph 40D-4.351(2)(a)1., F.A.C.

(c) through (j) No change.

(k) **STATEMENT OF INSPECTION FOR PROPER OPERATION AND MAINTENANCE, FORM NO. LEG-R.044.01 (9/11) ~~LEG R.044.00 (4/09)~~**, incorporated by reference in subsection 40D-4.351(3), F.A.C.

(l) **GENERAL ENVIRONMENTAL RESOURCE PERMIT (ERP) APPLICATION FOR MODIFICATION RELATED TO OUTPARCEL CONSTRUCTION WITHIN PERMITTED COMMERCIAL/INDUSTRIAL PROJECTS, FORM NO. LEG-R.001.03 (9/11) ~~LEG R.001.01 (4/09)~~**, incorporated by reference in subparagraph 40D-4.331(2)(a)2., F.A.C.

(m) **ENVIRONMENTAL RESOURCE PERMIT MODIFICATION SHORT FORM, FORM NO. LEG-R.013.03 (9/11) ~~LEG R.013.01 (04/09)~~**, incorporated by reference in paragraph 40D-4.331(2)(b), F.A.C.

(n) No change.

(3) No change.

Rulemaking Authority 373.044, 373.113, 373.149, 373.171, 373.337 FS. Law Implemented 373.083, 373.116, 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.414, 373.416, 373.419, 373.421, 373.705, 373.707, 668.50 FS. History--New 12-31-74, Amended 10-24-76, Formerly 16J-0.40, 40D-1.901, 40D-1.1901, Amended 12-22-94, 5-10-95, 10-19-95, 5-26-96, 7-23-96, 2-16-99, 7-12-99, 7-15-99, 12-2-99, 5-31-00, 9-3-00, 10-26-00, 6-26-01, 11-4-01, 6-12-02, 8-25-02, 2-26-03, 9-14-03, 9-30-04, 2-1-05, 6-5-05, 10-19-05(1) and (2), 10-19-05(5), 10-19-05(20), 2-6-07, 9-27-07, 11-11-07, 11-25-07, 1-8-08, 4-7-08, 5-12-08, 5-20-08, 8-19-08, 12-30-08, 3-26-09, 7-1-09, 8-30-09, 9-1-09, 10-26-09, 1-27-10, 4-12-10, 4-27-10, 9-5-10, 9-12-10, 12-7-10, 1-16-11, 6-16-11,

**NAME OF PERSON ORIGINATING PROPOSED RULE:** H. Clark Hull, Environmental Regulation Program Manager

**NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:** Southwest Florida Water Management District Governing Board

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** September 27, 2011

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** October 7, 2011

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NOS.:	RULE TITLES:
40D-2.091	Publications Incorporated by Reference
40D-2.101	Content of Application

**PURPOSE AND EFFECT:** The purpose and effect of this rulemaking is to incorporate by reference an updated version of the District’s Water Use Information Manual Part B, Basis of Review (WUP BOR) and revised Water Use Permit application forms, both of which are being revised consistent with a District initiative to reduce the number of copies of application forms, supporting materials and compliance reports that are required to be submitted to the District.

**SUMMARY:** Amendments to Rule 40D-2.091, F.A.C., will incorporate by reference an updated version of the District’s Water Use Information Manual Part B, Basis of Review (WUP BOR). Various sections of the WUP BOR are amended to reflect the change in the number of copies of documents that will now be required for permit applications and permit compliance. Rule 40D-2.101, F.A.C., is amended provide that only 1 original of a permit application, support documents, and permit compliance documents will now be required instead of an original and 2 copies as is currently required. Amendments will reduce costs to the public that are associated with the submittal of applications and the reporting of compliance activities to the District.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

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

**RULEMAKING AUTHORITY:** 373.044, 373.113, 373.118, 373.171 FS.

**LAW IMPLEMENTED:** 373.036, 373.0363, 373.042, 373.0421, 373.079(4)(a), 373.083(5), 373.116, 373.117, 373.1175, 373.118, 373.149, 373.171, 373.185, 373.216, 373.217, 373.219, 373.223, 373.227, 373.228, 373.229, 373.236, 373.239, 373.243, 373.250, 373.705, 373.709, 373.715, 403.0877 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103 or email to ADACoordinator@swfwdm.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Barbara Martinez, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211 (4660) (OGC 2010053)

**THE FULL TEXT OF THE PROPOSED RULES IS:**

40D-2.091 Publications Incorporated by Reference.

(1) The following publications are hereby incorporated by reference into this chapter, and are available from the District’s website at [www.WaterMatters.org](http://www.WaterMatters.org) or from the District upon request:

(a) Water Use Information Manual Part B, Basis of Review for Water Use Permit Applications (also referred to as the WUP Basis of Review) ([effective date of rule]) 6-16-11.

(b) No change.

(2) No change.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.036, 373.0363, 373.042, 373.0421, 373.079(4)(a), 373.083(5), 373.116, 373.117, 373.1175, 373.118, 373.149, 373.171, 373.185, 373.216, 373.217, 373.219, 373.223, 373.227, 373.228, 373.229, 373.236, 373.239, 373.243, 373.250, 373.705, 373.709, 373.715 FS. History–New 10-1-89, Amended 11-15-90, 2-10-93, 3-30-93, 7-29-93, 4-11-94, 7-15-98, 7-28-98, 7-22-99, 12-2-99, 8-3-00, 9-3-00, 4-18-01, 4-14-02, 9-26-02, 1-1-03, 2-1-05, 10-19-05, 1-1-07, 8-23-07, 10-1-07, 10-22-07, 11-25-07, 12-24-07, 2-13-08, 2-18-08, 4-7-08, 5-12-08, 7-20-08, 9-10-08, 12-30-08, 1-20-09, 3-26-09, 7-1-09, 8-30-09, 10-26-09, 11-2-09, 1-27-10, 4-27-10, 5-26-10, 6-10-10, 6-30-10, 6-16-11,\_\_\_\_\_.

**Water Use Permit Information  
Part B**

**WUP Basis of Review**

Within Chapter 1.0 of the WUP Basis of Review, Section 1.4, the following paragraphs shall be amended as follows:

**1.4.1 SOUTHERN WATER USE CAUTION AREA APPLICATION FORMS.**

All Permit Applicants in the Southern Water Use Caution Area (SWUCA) shall submit the “Supplemental Form–Southern Water Use Caution Area,” Form No. LEG-R.007.02

(04/09), incorporated by reference in subsection 40D-2.101(6), F.A.C., in addition to the appropriate application and supplemental form(s) described in Section 1.4, above. Permit Applicants in the SWUCA shall also submit the following application and supplemental forms as appropriate for their situation and intended water use type as described in Chapters 3 and 4 of Part B of the Basis of Review for Water Use Permit Applications, of the Water Use Permit Information Manual and incorporated by reference in Rule 40D-2.101, F.A.C.:

1. No change.
2. "Southern Water Use Caution Area Ground Water Replacement Credit Application," Form No. LEG-R.011.02+ (08/11) (4/09).

All SWUCA application forms may be obtained from the District's website at [www.WaterMatters.org](http://www.WaterMatters.org) or from any District Service Office.

New 11-25-07, Revised 5-12-08, 7-1-09, 8-30-09, 1-27-10, 4-27-10, \_\_\_\_\_.

1.4.2 DOVER/PLANT CITY WATER USE CAUTION AREA APPLICATION FORMS.

All permit applicants in the Dover/Plant City Water Use Caution Area (Dover/Plant City WUCA) shall submit the "Dover/Plant City Water Use Caution Area Supplemental Form" - Form No. LEG-R.050.01+ (08/11) (12/10) incorporated herein by reference in subsection 40D-2.101(7), F.A.C., in addition to the appropriate application and supplemental form(s) described in Section 1.4, above. Applicants in the Dover/Plant City WUCA shall also submit the "Net Benefit Supplemental Form Dover/Plant City Water Use Caution Area" - Form No. LEG-R.051.00, (12/10), incorporated herein by reference in subsection 40D-2.101(7), F.A.C., as appropriate for the intended water use as described in Chapters 3, 4 and 7 of the WUP Basis of Review described in 40D-2.091, F.A.C. All application and supplemental information forms may be obtained from the District's website at [www.WaterMatters.org](http://www.WaterMatters.org) or from District offices.

New 6-16-11, \_\_\_\_\_.

Within Chapter 3.0 of the WUP Basis of Review, Section 3.6, the following paragraph shall be amended as follows:

3.0 REASONABLE WATER NEEDS  
 3.6 PUBLIC SUPPLY-APPLICANT CONSIDERATIONS.

CALCULATION OF PROJECTED PERMITTED QUANTITIES.

3. Calculation of Annual Average Daily Quantities  
 Low Persons Per Household Adjustment To Functional Population.

If the permanent resident persons-per-household (PERMPPH) (as calculated in Part D of the Water Use Permit Information Manual Basis of Review) for an existing service area or the projected persons per household (pph) for a new

service area is less than 2.01 pph, the projected FP may be adjusted upward to reflect a pph of 2.01 if a projected compliance per capita rate of 150 gpd or less cannot otherwise be achieved. The following adjustments may not be applied to non-residential populations such as tourists or net commuters. Documentation of the adjustment is required. The permittee shall submit two sets of required population estimation spreadsheets A-I, set forth in Part D of the Water Use Permit Information Manual, as applicable, with one set to document FP using PERMPPH, census year seasonal households and (SEASPPH); and the other set to document FP using 2.01 instead of PERMPPH and SEASPPH.

1. through 2. No change.

New 1-20-09, Amended \_\_\_\_\_.

PERMITTEE REQUIREMENTS  
 ANNUAL REPORTS.

By October 1 of each year, Public Supply permittees shall submit to the District the following, current as of October 1:

1. Description of the current water rate structure (rate ordinance or tariff sheet) for potable and non-potable water.
2. Description of the current customer billing and meter reading practices and any proposed changes to these practices.

~~Two identical copies of the documentation shall be included if submitted in hard copy. "Identical copy" in this instance means, for example, that when the original is in color, then all copies shall also be printed in color.~~

New 4-27-10, Amended \_\_\_\_\_.

Public Supply Annual Report For Permits For 100,000 gpd Or Greater.

The Public Supply Annual Report for permits for 100,000 gpd or greater shall be submitted annually by April 1 and shall consist of the following components described in A.-G., below. Permittees that have interconnected service areas shall provide the information for the entirety of the interconnected system even if the water supply for the system is provided from multiple permits or is imported. ~~Two identical copies of the Annual Report and two identical copies of all required supporting documentation shall be included if submitted in hard copy. "Identical copy" in this instance means, for example, that when the original is in color, then all copies shall also be printed in color.~~

New 4-27-10, Amended \_\_\_\_\_.

Public Supply Water Use Annual Report For Permits Less than 100,000 gpd.

All public supply permittees with a permit for less than 100,000 gpd shall submit the following information, as previously defined in the section entitled "PER CAPITA DAILY WATER USE", using the form Public Supply Annual Report General Water Use Permit For Less Than 100,000 GPD Annual Average Quantities, Form No. LEG-R.047.00 (07/09) incorporated by reference in subsection 40D-2.091(2), F.A.C., covering the preceding calendar year. ~~Two identical copies of the Report and two identical copies of all required supporting~~

~~documentation shall be included if submitted in hard copy. This report is due no later than April 1. "Identical copy" in this instance means, for example, that when the original is in color, then all copies shall also be printed in color.~~

1. through 7. No change.

New 4-27-10, Amended.

SWFWMD Annual Reclaimed Water Supplier Report.

Permittees that have a wastewater treatment facility with an annual average design capacity for 100,000 gpd or more shall submit the SWFWMD Annual Reclaimed Water Supplier Report, described in Section 3.1 above under the subheading Reclaimed Water Suppliers for a fiscal year (October 1 to September 30) on or before April 1 of the following year. A map depicting the area of reclaimed water service that includes any areas projected to be added within the next year, shall be submitted with this report. Public supply utility permittees without a withdrawal point as of April 27, 2010, within the SWUCA, or within the NTB WUCA, as it existed prior to October 1, 2007, shall have until April 1, 2009, to begin submitting these annual reports. ~~Two identical copies of the SWFWMD Annual Reclaimed Water Supplier Report and two identical copies of all required supporting documentation shall be included if submitted in hard copy. "Identical copy" in this instance means, for example, that when the original is in color, then all copies shall also be printed in color.~~

New 4-27-10, Amended.

DOCUMENTATION OF PER CAPITA DAILY WATER USE CALCULATIONS FOR THE ANNUAL REPORT.

FP (Functional Population) – Documentation of the calculation of FPs shall include Worksheets A through I (given in Appendix C of Part D of the Water Use Permit Information Manual), as applicable, and supporting documentation for survey data used in accordance with Part D. Permittees adjusting FP based on lowpph shall submit two sets of required population estimation spreadsheets A through I, set forth in Part D. of the Water Use Permit Information Manual, as applicable, one set to document FP using PERMPPH and the other set to document the FP using 2.01. Served dwelling unit counts shall be calculated by adding the number of units served in January and December and dividing by two (2) for a reporting period of a calendar year. Those permittees that choose not to, prior to being required to, report a FP pursuant Part D of the Water Use Permit Information Manual as provided in the subsection below titled "Service Area Functional Population Estimates-For Current Year, Year of Interest And Annual Reports" shall document in the Annual Report the method and data used to calculate the population served within the permittee's service area that is reported in the Annual Report. The data and methodology for calculating the FP numbers supplied in the Annual Report shall be included with the Annual Report.

New 1-20-09, Amended.

Within Chapter 6.0 of the WUP Basis of Review, Section 6.2, the following paragraphs are amended:

6.0 PERMIT CONDITIONS

6.2 SPECIAL PERMIT CONDITIONS.

REPORTING REQUIREMENTS AND PROCEDURES.

1. No change.

2. Submitting Reports.

Condition: ~~Unless otherwise indicated, three copies of~~ Each report ~~are~~ required by the permit ~~and~~ shall be provided to the Director, Resource Regulation Department, by the permittee.

Discussion: This condition is used whenever reports, other than data, are required in a permit. This condition includes annual or quarterly reports, description of monitoring and mitigation plans, plans to reduce off-site discharge, investigation of reuse, investigation of complaints, water quality control and assurance program, and sampling and analysis procedures.

3. through 20. No change.

ENVIRONMENTAL MONITORING.

21. Environmental Monitoring.

Condition:

a. through b. No change.

c. ~~Three copies of T~~the report shall be submitted to the District by \_\_\_\_\_ covering the preceding monitoring period.

Discussion: This condition is used when extensive environmental monitoring is required, such as when withdrawals potentially impact wetlands. ~~If the withdrawals are from District-controlled lands, extra copies of the report are requested for use by non-regulatory District staff.~~

22. No change.

23. Mapping Requirements.

Condition: The permittee shall obtain aerial 1" = 2,000' scale, color infrared photography of the area of withdrawals and adjacent 1-mile surrounding area. The photography shall be taken semi-annually, in May and September, and ~~three copies~~ shall be delivered to the District within 90 days.

Discussion: This condition is used when potentially impacted wetland areas exist within the cone of depression of the permittee's withdrawals and when long-term environmental monitoring will be aided by aerial photography. The scale and frequency of mapping required may be changed, as appropriate.

24. through 25. No change.

New 2-13-08, Amended.

40D-2.101 Content of Application.

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

(d) Mining and Dewatering WUP.

Application for a new or renewal of an existing WUP for mining and dewatering uses other than phosphate mining shall be made using the Water Use Permit Application – Mining and

Dewatering Materials Other Than Phosphate, Form No. LEG-R.048.01~~0~~ (08/11) (~~8/09~~). The application shall be categorized as an application for an individual or general WUP based upon the combined annual average daily water demand as provided in subsection 40D-2.041(2), F.A.C. Application for a new or renewal of a WUP for phosphate mining shall be made using the individual or general WUP application form and the Water Use Permit Application Supplemental Form – Mining or Dewatering, Form No. LEG-R.032.00 (3/09) incorporated herein by reference.

(3) through (5) No change.

(6) Southern Water Use Caution Area Application Forms.

In addition to the permit application and information forms identified in subsections (1)-(5) above, all applicants for permits in the Southern Water Use Caution Area (SWUCA) shall submit the “Supplemental Form – Southern Water Use Caution Area,” Form No. LEG-R.007.02 (4/09) incorporated herein by reference. Applicants in the SWUCA shall also submit the following application and supplemental forms as appropriate for the intended water use type as described in Chapters 3 and 4 of the Water Use Permit Information Manual, Part B “Basis of Review.” All SWUCA application and supplemental information forms may be obtained from the District’s website at [www.WaterMatters.org](http://www.WaterMatters.org) or from District offices:

(a) No change.

(b) Southern Water Use Caution Area Ground Water Replacement Credit Application, Form No. LEG-R.011.02~~1~~ (08/11) (~~4/09~~).

(7) Dover/Plant City Water Use Caution Area Application Forms – In addition to the permit application and information forms identified in subsections (1)-(6) above, all applicants for permits in the Dover/Plant City Water Use Caution Area shall submit the “Dover/Plant City Water Use Caution Area Supplemental Form” – Form No. LEG-R.050.01~~0~~ (08/11) (~~12/10~~), incorporated herein by reference. Applicants in the Dover/Plant City WUCA shall also submit the “Net Benefit Supplemental Form Dover/Plant City Water Use Caution Area” – Form No. LEG-R.051.00, (12/10) <http://www.flrules.org/Gateway/reference.asp?No=Ref-00287>, incorporated herein by reference, as appropriate for the intended water use as described in Chapters 3, 4 and 7 of the WUP Basis of Review described in Rule 40D-2.091, F.A.C. All application and supplemental information forms may be obtained from the District’s website at [www.WaterMatters.org](http://www.WaterMatters.org) or from District offices.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.0363, 373.116, 373.117, 373.1175, 373.216, 373.229, 373.236, 403.0877 FS. History—Readopted 10-5-74, Amended 10-24-76, 1-6-82, 2-14-82, Formerly 16J-2.06, Amended 10-1-89, 10-23-89, 2-10-93, 7-15-99, 1-1-03, 1-1-07, 11-25-07, 9-10-08, 7-1-09, 8-30-09, 10-26-09, 1-27-10, 4-27-10, 6-16-11, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Bree Gathers

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 30, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 30, 2011

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.: 40D-3.101  
RULE TITLE: Content of Application

PURPOSE AND EFFECT: The purpose and effect of this rulemaking is to reduce the number of copies of site plans, and the requirements for such site plans, that are submitted for public supply well construction permit applications.

SUMMARY: This amendment is part of a District rulemaking initiative to reduce the number of copies of permit application forms, supporting documentation and compliance-related reports and documents that are required to be submitted. The overall effect of the rulemaking will be to reduce costs to the public that are associated with the submittal of permit applications and the reporting of permit compliance activities to the District.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

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

RULEMAKING AUTHORITY: 373.044, 373.113, 373.171, 373.309, 373.337 FS.

LAW IMPLEMENTED: 373.109, 373.308, 373.309, 373.313, 373.316 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the



agency at least 5 days before the workshop/meeting by contacting: Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103 or email to ADACoordinator@swfwmd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Barbara Martinez, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211 (4660) (OGC #2010053)

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-3.101 Content of Application.

(1) No change.

(2) A permit applicant seeking to drill a public supply well shall submit:

(a) No change.

(b) A completed "Public Supply Well Information and Classification Form," Form No. LEG-R.015.02+ (08/11) (4/09), incorporated herein by reference; and

(c) Two ~~Four~~ sets of site plans, scaled drawings or legal plats with sufficient detail to demonstrate compliance with well set back requirements in Rule 62-532.400, F.A.C. and location requirements in Rule 62-555.312, F.A.C. ~~signed, sealed and dated by a licensed professional engineer. Applicants for permits on existing projects may submit pre-existing site plans or detailed legal plats.~~

(3) No change.

Rulemaking Authority 373.044, 373.113, 373.171, 373.309, 373.337 FS. Law Implemented 373.109, 373.308, 373.309, 373.313, 373.316 FS. History—Readopted 10-5-74, Formerly 16J-3.07, Amended 7-1-90, 9-30-91, 12-31-92, 4-11-94, 10-19-95, 2-26-07, 8-19-08, 8-30-09, 9-12-10, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bree Gathers

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 30, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 30, 2011

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
40D-3.321	Duration of Permits
40D-3.502	Construction Methods
40D-3.517	Grouting and Sealing

PURPOSE AND EFFECT: Proposed amendments will allow all well construction permits to be extended up to 1 year and eliminate outdated provisions, in an effort to reduce regulatory burdens, remove outdated rule provisions and help streamline permitting requirements. This rulemaking is one of the initiatives identified by the District as part of its rule review in response to Executive Order No. 11-72, to identify rules for amendment or repeal that are unnecessarily burdensome, no longer necessary or duplicative of statutory language.

SUMMARY: Currently, well construction permits may be extended only once for a period up to 90 days, except well construction permits for public supply wells, which may be extended as needed for a total period of not more than 1 year, in 90-day increments. Rule 40D-3.321, F.A.C., is amended to allow all well construction permits to be extended up to 1 year, in increments of 90 days, as is allowable for public supply wells. This will eliminate the necessity to reapply and pay an additional permit fee for those situations where a well requires a considerable length of time to complete construction due to unusual factors or the necessity to await issuance of related approvals.

Amendments are also proposed to Rules 40D-3.502 and 40D-3.517, F.A.C., to delete outdated references to soil borings and foundation holes. These construction activities, which involve activities similar to construction of a well hole, previously were regulated under the District's well construction rules but are no longer intended to be included in such regulations.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: This rulemaking will reduce costs for well construction permits that need time extensions and eliminate unnecessary rule language. Staff analysis has determined that the rule will not result in any adverse economic impacts to the economy or businesses or regulatory cost increases that require legislative ratification.

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

RULEMAKING AUTHORITY: 373.044, 373.113, 373.171, 373.309, 373.337 FS.

LAW IMPLEMENTED: 373.306, 373.308, 373.309, 373.313 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103; or email to ADACoordinator@swfwmd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Barbara Martinez, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211 (4660) (OGC #2011043)

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-3.321 Duration of Permits.

(1) through (2) No change.

(3) Requests for One extension of an existing permit shall be made for a period not to exceed 90 days and shall be granted by the District upon written request if:

(a) Submitted by the permittee prior to the expiration date of the permit, and

(b) The permittee shows circumstances and conditions have not changed substantially since permit issuance so that the proposed well will not adversely impact the water resource.

(4) ~~Public water supply~~ Well permits shall be extended for a period of not more than one (1) year from the date of issuance, in increments of ninety (90) days per written request for permit extension, provided the requirements of subsection (3) have been met. Extensions ~~pursuant to subsections (3) or (4),~~ will be covered under the original permit fee, with no additional fee required.

Rulemaking Authority 373.044, 373.113, 373.171, 373.309, 373.337 FS. Law Implemented 373.308, 373.309, 373.313 FS. History—Readopted 10-5-74, Formerly 16J-3.08, Amended 7-1-90, 9-30-91, 12-31-92, 10-19-95, \_\_\_\_\_.

40D-3.502 Construction Methods.

(1) Water wells, ~~soil borings or foundation holes~~ may be constructed by drilling, coring, boring, washing, jetting, driving, or digging, but must be so constructed, cased, cemented, plugged, capped, or sealed as to permanently prevent:

(a) through(b) No change.

(2) through (8) No change.

Rulemaking Authority 373.044, 373.171, 373.309, 373.337 FS. Law Implemented 373.306, 373.308, 373.309 FS. History—New 7-1-90, Amended 9-30-91, 12-31-92, 2-19-04, \_\_\_\_\_.

40D-3.517 Grouting and Sealing.

Wells shall be grouted and sealed in accordance with paragraph 62-532.500(2)(f), F.A.C., and this section, to protect the water resource from degradation caused by movement of waters along the well annulus either from the surface to the aquifer or between aquifers, and to prevent loss of artesian pressure in artesian aquifers.

(1) through (3) No change.

~~(4) Soil boring and foundation holes, as defined in subsection 40D 3.021(27), F.A.C., drilled into limestone or a similar carbonate material shall be sealed with an appropriate cement or bentonite grout mixture to prevent any uncontrolled movement of water between aquifers and to prevent surface contaminants from entering the hole. Other soil boring and foundation holes shall also be sealed unless they are in an unconsolidated material that will collapse upon completion of the drilling activity.~~

Rulemaking Authority 373.044, 373.113, 373.171, 373.309, 373.337 FS. Law Implemented 373.306, 373.308, 373.309 FS. History—New 7-1-90, Amended 9-30-91, 12-31-92, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tony Gilboy, Well Construction Regulation Manager

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 27, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 7, 2011

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NOS.:	RULE TITLES:
40D-4.021	Definitions
40D-4.091	Publications, Forms and Agreements Incorporated by Reference
40D-4.101	Content of Application
40D-4.331	Modification of Permits
40D-4.351	Transfer of Permits

**PURPOSE AND EFFECT:** The purpose and effect of this rulemaking is to revise certain District Environmental Resource Permitting application and compliance forms and rule text referencing the forms, to clarify that forms and documents submitted in support of permit applications and for permit compliance requirements may be submitted by a licensed or registered professional such as a professional engineer, landscape architect, land surveyor or mapper or geologist, when appropriate and in accordance with law. A definition of "licensed or registered professional" is also adopted. The revisions will make the District's forms consistent with similar Environmental Resource Permit forms adopted by the Department of Environmental Protection (DEP). Amendments to Chapter 40D-1, F.A.C., are also part of this rulemaking package. This rulemaking is one of the initiatives identified by the District as part of its rule review pursuant to Executive Order No. 11-72, to identify rules for amendment or repeal that are unnecessarily burdensome, no longer necessary or duplicative of statutory language.

**SUMMARY:** The District is revising some of its Environmental Resource Permit application forms and compliance forms to clarify that such forms may be prepared and submitted by licensed or registered professionals in addition to licensed professional engineers, as provided by law. The form changes will make District forms consistent with the DEP and other water management districts which have revised their ERP forms and practices to clarify that documents and permit applications may be prepared by licensed or registered professionals in accordance with law. Amendments are made to the Joint Application for Environmental Resource Permit/Authorization to Use State Owned Submerged Lands/Federal Dredge and Fill Permit, Statement of Completion and Request for Transfer to Operation Entity, Statement of Inspection for Proper Operation and Maintenance, Environmental Resource Permit Modification Short Form, and General ERP Application for Modification Related to Outparcel Construction Within Commercial/Industrial Projects, to clarify that such forms may be submitted by a licensed or registered professional as prescribed by law. Amendments are also proposed to the Environmental Resource Permitting Manual Part B, Basis of Review as well as the following rules which identify or discuss these forms and submittal requirements: Rules 40D-4.101, 40D-4.331 and 40D-4.351, F.A.C. Rule 40D-4.091, F.A.C., is amended to incorporate the revised Basis of Review. A definition of "licensed or registered professional," which has been similarly adopted in rule and is used by DEP, is also added to Rule 40D-4.021, F.A.C. The General ERP Application for Modification Related to Outparcel Construction form is further amended to correct a rule citation as to applicable fee and to make the form usable for other types of projects with outparcels within a permitted system, in addition to commercial and industrial projects. Proposed

changes to this form will have cost saving benefits for permittees with systems having outparcels and requiring modifications.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Amendments are intended to reduce costs for permittees and applicants and eliminate unnecessary regulatory burdens. Staff analysis has determined that this rulemaking will not result in adverse economic impacts or regulatory cost increases that require legislative ratification.

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

**RULEMAKING AUTHORITY:** 373.044, 373.046, 373.113, 373.118, 373.149, 373.171, 373.414 FS.

**LAW IMPLEMENTED:** 373.0361, 373.042, 373.079(4)(a), 373.083(5), 373.114, 373.171, 373.403, 373.413 FS., 373.4135, 373.4136, 373.414, 373.4144, 373.416, 373.416(1),(2), 373.429, 373.441 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103 or email to [ADACoordinator@swfwmd.state.fl.us](mailto:ADACoordinator@swfwmd.state.fl.us). If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Barbara Martinez, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211 (4660) (OGC #2011045)

**THE FULL TEXT OF THE PROPOSED RULE IS:**

## 40D-4.021 Definitions.

When used in this chapter and Chapters 40D-40 and 40D-400, F.A.C.:

(1) through (10) No change.

(11) “Licensed or registered professional” means a professional licensed or registered by and in the State of Florida and who possesses the expertise and experience necessary for the competent preparation, submittal and certification of documents and materials, and performing other services required in support of permitting, constructing, altering, inspecting, and operating a proposed or existing activity regulated under Part IV of Chapter 373, F.S. Examples of licensed or registered professionals, authorized pursuant to Chapter 455, F.S., and the respective practice acts by which they are regulated, are professional engineers licensed under Chapter 471, F.S., professional landscape architects licensed under Chapter 481, F.S., professional surveyors and mappers licensed under Chapter 472, F.S., and professional geologists licensed under Chapter 492, F.S.

(11) through (22) renumbered (12) through (23) No change.

Rulemaking Authority 373.044, 373.113, 373.118, 373.149, 373.171 FS. Law Implemented 373.079(4)(a), 373.083(5), 373.403, 373.413 FS. History—Readopted 10-5-74, Formerly 16J-4.02, Amended 10-1-84, 3-1-88, 9-11-88, 10-3-95, 7-23-96, 2-27-02, 9-26-02, 2-19-04, 2-6-07, 1-8-08, 9-29-08, 11-2-09, 8-1-10,\_\_\_\_\_.

## 40D-4.091 Publications, Forms and Agreements Incorporated by Reference.

The following documents are hereby incorporated by reference and are applicable to this chapter and Chapters 40D-40 and 40D-400, F.A.C.:

(1) Environmental Resource Permitting Information Manual Part B, Basis of Review, Environmental Resource Permit Applications within the Southwest Florida Water Management District, \_\_\_\_\_, ~~December 8, 2010~~. This document is available from the District’s website at: [www.WaterMatters.org](http://www.WaterMatters.org) or from the District upon request.

Rulemaking Authority 373.044, 373.046, 373.113, 373.171, 373.414 FS. Law Implemented 373.0361, 373.079(4)(a), 373.083(5), 373.114, 373.171, 373.403, 373.413, 373.4135, 373.4136, 373.414, 373.4144, 373.416, 373.429, 373.441 FS. History—New 4-2-87, Amended 3-1-88, 9-11-88, 10-1-88, 4-1-91, 11-16-92, 1-30-94, 10-3-95, 12-26-95, 5-26-96, 7-23-96, 4-17-97, 4-12-98, 7-2-98, 12-3-98, 7-28-99, 8-3-00, 9-20-00, 6-12-01, 10-11-01, 2-27-02, 7-29-02, 3-26-03, 7-22-03, 8-3-03, 3-11-04, 6-7-04, 2-1-05, 6-30-05, 10-19-05, 2-8-06, 5-2-06, 7-1-07, 9-25-07(1), 9-25-07(4), 11-26-07, 5-12-08, 5-20-08, 6-22-08, 5-12-09, 5-17-09, 8-30-09, 11-2-09, 11-3-09, 12-9-09, 9-5-10, 12-8-10,\_\_\_\_\_.

## 40D-4.101 Content of Application.

(1) Applications for Environmental Resource Permits required by this chapter shall be filed with the District in accordance with the requirements of this chapter and Chapter 40D-1, F.A.C. The application shall consist of all of the following:

(a) The information required in Section 373.413(2), F.S.

(b) One original and two ~~Five~~ copies [*change pending in other rulemaking*] of the Joint Application for Environmental Resource Permit/Authorization to Use State Owned Submerged Lands/Federal Dredge and Fill Permit, Form No. 547.27/ERP (9/11) ~~(6/10)~~, incorporated herein by reference, with applicable supplements, sections A through K, copies of which can be obtained from the District’s website at [www.watermatters.org](http://www.watermatters.org) or from the District offices.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042, 373.413 FS. History—Readopted 10-5-74, Amended 12-31-74, 6-7-78, Formerly 16J-4.06(1), (2), Amended 10-1-84, 3-1-88, 10-3-95, 10-16-96, 12-16-97, 2-27-03, 9-10-08, 8-30-09, 9-5-10,\_\_\_\_\_.

## 40D-4.331 Modification of Permits.

An application for modification of an Environmental Resource Permit shall be processed in accordance with this rule, unless the permit is revoked or expired.

(1) No change.

(2) Applications to modify a construction permit shall be made by formal or Short Form modification:

(a) Formal modifications.

1. No change.

2. A request for modification involving construction within an outparcel of a permitted ~~project commercial or industrial development~~ should be made using the General Environmental Resource Permit (ERP) Application for Modification Related to Outparcel Construction Within Permitted ~~Commercial/Industrial~~ Projects, Form No. LEG-R.001.03 (9/11) ~~LEG-R.001.01 (4/09)~~, incorporated herein by reference. A copy of the form can be obtained from the District’s website at [www.watermatters.org](http://www.watermatters.org) or from the District offices.

3. No change.

(b) Except for projects identified in paragraph (2)(a), applications to modify a permit may be made by submittal of an “Environmental Resource Permit Modification Short Form”, Form No. LEG-R.013.03 (9/11) ~~LEG-R.013.01 (4/09)~~ incorporated herein by reference, a copy of which can be obtained from the District’s website at [www.WaterMatters.org](http://www.WaterMatters.org) or from District offices, provided the requested modification does not:

1. Substantially alter the permit authorization,

2. Increase the authorized off-site discharge,

3. Impact the environmental features of the project,

4. Decrease the required retention/detention,

- 5. Decrease the required flood control elevations for roads or buildings, or
- 6. Decrease pollution removal efficiency.
- (3) through (4) No change.

Rulemaking Authority 373.044, 373.113, 373.149, 373.171 FS. Law Implemented 373.413, 373.416(1), 373.429 FS. History—Readopted 10-5-74, Formerly 16J-4.13, Amended 10-1-84, 3-1-88, 10-1-88, 6-29-93, 10-3-95, 7-23-96, 2-1-05, 2-6-07, 12-24-07, 1-8-08, 5-12-08, 8-30-09,\_\_\_\_\_.

40D-4.351 Transfer of Permits.

- (1) No change.
- (2) Conversion to Operation Phase.

(a) In order to convert an Environmental Resource Permit from the construction phase to the operational phase, the permittee shall submit the following:

1. A completed Statement of Completion and Request for Transfer to Operation Entity, Form 547.27/SOC (9/11) ~~(4/09)~~, incorporated herein by reference, copies of which can be obtained from the District website at: [www.WwaterMmatters.org](http://www.WwaterMmatters.org) or from the District offices; and

2. Documentary evidence of satisfaction of permit conditions, other than long-term monitoring.

(b) through (d) No change.

(3) Operation Phase Inspection Requirements. Permittees required to conduct and report on periodic inspection of the permitted system shall submit a Statement of Inspection for Proper Operation and Maintenance, Form No. LEG-R.044.01 (9/11) LEG-R.044.00 (4/09), incorporated herein by reference. Copies of the form can be obtained from the District’s website at: [www.WwaterMmatters.org](http://www.WwaterMmatters.org) or District offices.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416(2), 403.805 FS. History—New 10-1-84, Amended 6-29-93, 10-3-95, 7-22-03, 2-1-05, 5-4-05, 12-24-07, 8-30-09,\_\_\_\_\_.

Environmental Resource Permitting Information Manual  
Part B, Basis of Review

1.2.1 Application Forms.

Applicants for Environmental Resource Permits shall fill out the form entitled, “Joint Application for Environmental Resource Permit and Authorization to Use State Owned Submerged Lands” and Federal Dredge and Fill Permit.

~~Engineered systems are required to have plans and calculations signed and sealed by a Florida Professional Engineer in accordance with Chapter 471, Florida Statutes.~~

For permit application documents that require the services of a licensed or registered professional, such as a licensed professional engineer, registered landscape architect, licensed professional geologist or licensed professional surveyor or mapper, any plans, calculations or other documents prepared and submitted by such licensed or registered professional must be signed and sealed in accordance with applicable law.

1.5 Compliance with Laws.

Activities discussed herein must be conducted in accordance with all other applicable laws. Of specific note are those activities covered by laws as follows, including but not limited to:

- a. Section 404, Federal Water Pollution Control Act, – U.S. Army Corps of Engineers – fill
- b. Chapters 455, 471, 472, 481 and 492, F.S. – Florida laws relating to professional regulation and placement of professional engineer seal and signature on all professionally produced engineering plans and documents (subject to the exemptions of the applicable Chapter).

2.6.3 Future Operation and Maintenance.

The operation and maintenance entity is required to provide for the inspection of the surface water management system by a Florida licensed registered pProfessional eEngineer or other licensed or registered professional to assure that the system is properly operated and maintained. Inspection schedules will be specifically stated in the permit. For those systems utilizing effluent filtration or exfiltration, the inspections shall be performed 18 months after operation is authorized and every 18 months thereafter. A written report of the findings finds of the inspection shall be submitted on the Statement of Inspection for Proper Operation and Maintenance, Form No. LEG-R.044.01 (9/11) LEG-R.044.00 (4/09), incorporated by reference in subsection 40D-4.351(3), F.A.C., and filed with the District within thirty (30) days of the date of the inspection. The permit shall be subject to additional reasonable conditions as are necessary, including performance bonds, to ensure future operation and maintenance of the surface water management system.

Amended 8-30-09,\_\_\_\_\_.

2.7 Statement of Completion.

When a system permitted by the District is constructed, a Florida licensed registered pProfessional eEngineer or other licensed or registered professional or person under their responsible supervision, direction or control must be on the construction site as needed to certify that the system was constructed as permitted. The owner, authorized agent or licensed or registered professional engineer must certify that the system was constructed as permitted and, if applicable, in compliance with Rule 40D-40.301, F.A.C., prior to issuance of the operation authorization or any transfer of operation and maintenance responsibility utilizing the Statement of Completion and Request for Transfer to Operation Entity form identified and adopted by reference in Rule 40D-4.351, F.A.C. Amended 8-30-09,\_\_\_\_\_.

2.8.4

a. A complete construction surface water management plan for the project must be submitted with the permit application or prior to beginning construction.

- 1. through 2. No change.

b. The completed plan shall be signed by the applicant/owner or authorized agent and signed and sealed by a licensed or registered professional in accordance with law the design engineer. The plan shall be part of the final construction plans for the permitted surface water management systems.

APPENDICES

1. Statement of Inspection for Proper Operation and Maintenance. Form No. LEG-R.044.01 (9/11) LEG-R.044.00 (4/09) Rule 40D-4.351(3), F.A.C.

NAME OF PERSON ORIGINATING PROPOSED RULE: H. Clark Hull, Environmental Regulation Program Manager

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 27, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 7, 2011

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NOS.:	RULE TITLES:
40D-4.042	Formal Determination of Wetlands and Other Surface Waters
40D-4.091	Publications, Forms and Agreements Incorporated by Reference
40D-4.101	Content of Application
40D-4.331	Modification of Permits

PURPOSE AND EFFECT: The purpose and effect of this rulemaking is to reduce the number of copies of application forms and supporting documents that must be submitted for individual environmental resource permit (ERP) applications and petitions for formal determination of wetlands and other surface waters, and the number of copies of compliance documents required to be submitted after a permit is issued. ERP-related submittal requirements are reduced from 5 copies to 1 original and 2 copies.

SUMMARY: ERP-related submittal requirements are reduced from 5 copies to 1 original and 2 copies. These amendments are part of an overall District initiative to reduce the number of copies of permit application forms, supporting documentation and compliance-related reports and documents that are required to be submitted. The overall effect of the rulemaking will be to reduce costs to the public that are associated with application submittals and compliance activity reporting to the District.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

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

RULEMAKING AUTHORITY: 373.044, 373.046, 373.113, 373.149, 373.171, 373.414, 373.421(2), 373.149 FS.

LAW IMPLEMENTED: 373.0361, 373.042, 373.079(4)(a), 373.083(5), 373.114, 373.171, 373.403, 373.413, 373.4135, 373.4136, 373.414, 373.4144, 373.416, 373.416(1), 373.421(2), 373.429, 373.441 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103 or email to ADACoordinator@swfwmd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Barbara Martinez, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211 (4660) (OGC # 2010053)

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-4.042 Formal Determination of Wetlands and Other Surface Waters.

(1) No change.

(2) To petition for a formal determination, the petitioner must submit to the District the following:

(a) One original and two ~~Five~~ copies of a Petition for a Formal Determination of the Landward Extent of Wetlands and Surface Waters, Form No. 547.27/FJDS (08/11) ~~(4/09)~~ which is incorporated herein by reference, including copies of all items

required by that form. This form can be obtained from the District’s website at [www.WaterMatters.org](http://www.WaterMatters.org) or from District offices.

- (b) No change.
- (3) through (10) No change.

Rulemaking Authority 373.044, 373.113, 373.421(2) FS. Law Implemented 373.421(2) FS. History–New 10-3-95, Amended 7-2-98, 2-14-00, 5-28-00, 7-29-02, 2-27-03, 8-30-09, 12-21-09, \_\_\_\_\_.

40D-4.091 Publications, Forms and Agreements Incorporated by Reference.

The following documents are hereby incorporated by reference and are applicable to this chapter and Chapters 40D-40 and 40D-400, F.A.C.:

(1) Environmental Resource Permitting Information Manual Part B, Basis of Review, Environmental Resource Permit Applications within the Southwest Florida Water Management District, [effective date] ~~December 8, 2010~~. This document is available from the District’s website at [www.WaterMatters.org](http://www.WaterMatters.org) or from the District upon request.

- (2) through (6) No change.

Rulemaking Authority 373.044, 373.046, 373.113, 373.171, 373.414 FS. Law Implemented 373.0361, 373.079(4)(a), 373.083(5), 373.114, 373.171, 373.403, 373.413, 373.4135, 373.4136, 373.414, 373.4144, 373.416, 373.429, 373.441 FS. History–New 4-2-87, Amended 3-1-88, 9-11-88, 10-1-88, 4-1-91, 11-16-92, 1-30-94, 10-3-95, 12-26-95, 5-26-96, 7-23-96, 4-17-97, 4-12-98, 7-2-98, 12-3-98, 7-28-99, 8-3-00, 9-20-00, 6-12-01, 10-11-01, 2-27-02, 7-29-02, 3-26-03, 7-22-03, 8-3-03, 3-11-04, 6-7-04, 2-1-05, 6-30-05, 10-19-05, 2-8-06, 5-2-06, 7-1-07, 9-25-07(1), 9-25-07(4), 11-26-07, 5-12-08, 5-20-08, 6-22-08, 5-12-09, 5-17-09, 8-30-09, 11-2-09, 11-3-09, 12-9-09, 9-5-10, 12-8-10, \_\_\_\_\_.

Environmental Resource Permitting Information Manual Part B – ERP Basis of Review

Within Chapter 2.0 of the ERP Basis of Review, Section 2.8.4, the following paragraph is amended as follows:

CHAPTER TWO – ADMINISTRATIVE CRITERIA

2.8.4

a. A complete construction surface water management plan for the project must be submitted with the permit application or prior to beginning construction.

- 1. No change.
- 2. One original and two ~~Five (5)~~ copies of the completed plan shall be submitted to the District for review. Submittal of the completed plan shall occur no later than the submittal of a Notice of Intent (NOI) for an FDEP/NPDES Generic Permit for Stormwater Discharge from Construction Activities that Disturb Five or More Acres of Land<sup>1</sup> or the federal equivalent thereof should the DEP no longer issue such generic permits.

b. through e. No change.

Footnote: No change.

Within Chapter 3.0 of the ERP Basis of Review, the following paragraphs are amended as follows:

CHAPTER THREE – ENVIRONMENTAL

3.4.1 Procedure.

To petition for a formal determination, the petitioner must submit to the District the following:

a. One original and two ~~five~~ copies of the Petition for Formal Determination of the Landward Extent of Wetlands and Surface Waters, Form 547.27/FJDS (08/11) ~~(4/09)~~ as incorporated in paragraph 40D-4.042(2)(a), F.A.C., including two copies of all items required by the form, and

b. No change.

Amended 8-30-09, \_\_\_\_\_.

3.4.2 Types of Formal Determinations.

A petitioner can request a formal determination consisting of a certified survey, an approximate delineation, or combinations thereof, as described below.

a. The survey of the extent of wetlands and other surface waters shall be certified pursuant to Chapter 472, F.S., to meet the minimum technical standards in Chapter 61G17-6, F.A.C. A petitioner seeking a certified surveyed delineation shall have a land surveyor registered in the State of Florida survey the verified boundaries of wetlands and other surface waters, and shall have the surveyor or surveyor’s representative accompany the District representative on the delineation verification described in subsection 3.4.3. The certified survey shall also contain a legal description of, and acreage contained within, the boundaries of the property for which the determination is sought. The boundaries of wetlands and other surface waters shall be witnessed to the property boundaries, and shall be capable of being mathematically reproduced from the survey. The petitioner shall submit one original and two ~~five~~ copies of the survey, along with one original and two ~~five~~ copies of the survey depicted on aerial photographs, to the District to complete the petition.

b. No change.

1. through 2. No change.

3. Following any verification and adjustment as required in subsection 3.4.3, the petitioner shall submit one original and two ~~five~~ copies of the following to complete the petition: a hand drawn delineation on a rectified aerial photograph; the geo-referenced image of the delineation and aerial photograph with the delineation; or the GPS depiction of the delineation on an aerial photograph.

4. No change.

Within Appendix 7 of the ERP Basis of Review, the following paragraphs are amended as follows:

APPENDIX 7

SITE CONDITIONS ASSESSMENT PERMITTING

7.1.1 Procedure.

To apply for a site conditions assessment permit, the applicant shall submit to the District the following:

a. One original and two Five copies of the Permit Application for Site Conditions Assessment as identified in Rule 40D-1.659, F.A.C., including copies of all items and information required for assessment and evaluation by the District of the existing site conditions, and

b. No change.

#### 7.1.2 Types of Site Conditions Boundary Documentation.

An applicant can request a site conditions assessment permit based upon boundary documentation consisting of either a certified survey, an approximate delineation, or combinations thereof, as described below. All surveying and mapping shall be conducted under the responsible supervision of professional surveyor and mapper registered in the State of Florida.

a. The survey of the extent of wetlands and other surface waters or other site condition boundaries shall be certified as meeting the minimum technical standards contained in Chapter 61G17-6, F.A.C., by a surveyor licensed pursuant to Chapter 472, F.S. An applicant proposing a certified survey delineation shall have a survey performed of the verified boundaries of wetlands and other surface waters and other required or requested site conditions, and shall have the surveyor or surveyor's representative accompany the District representative during the delineation verification described in subsection 7.1.3. The certified survey shall also contain a legal description of, and acreage contained within, the boundaries of the property (contiguous wetlands and project area) for which the permit is being requested. The boundaries of wetlands and other surface waters or other site conditions shall be witnesses to the property boundaries, and shall be capable of being mathematically reproduced from the survey. The applicant shall submit one original and two five line drawing copies of the certified survey, along with one original and two five copies of the survey depicted on aerial photographs, to the District to complete the application. All vertical boundaries of site conditions shall be referenced to elevations that are witnessed to and on a site bench mark established as part of the survey and shown thereon, and referenced to National Geodetic Vertical Datum (NGVD). The horizontal or topographic extent of vertical boundaries shall be shown on the certified survey in the manner defined in Chapter 61G17-6, F.A.C.

b. No change.

1. through 3. No change.

4. Following any verification and adjustment as required in subsection 7.1.3, the applicant shall submit one original and two five copies of the following items, as applicable, to complete the site conditions boundaries documentation: the certified survey; a hand drawn boundary delineation map on a rectified aerial photograph; the geo-referenced image map of the delineations and aerial photograph with the delineations

thereon; or the GPS depiction of the delineations either on an aerial photograph or as a line drawing to constitute a boundary map.

#### 40D-4.101 Content of Application.

(1) Applications for Environmental Resource Permits required by this chapter shall be filed with the District in accordance with the requirements of this chapter and Chapter 40D-1, F.A.C. The application shall consist of all of the following:

(a) No change.

(b) An original and two Five copies of the Joint Application for Environmental Resource Permit/Authorization to Use State Owned Submerged Lands/Federal Dredge and Fill Permit, Form No. 547.27/ERP (08/11) (~~6/10~~), incorporated herein by reference, with applicable supplements, sections A through K, copies of which can be obtained from the District's website at [www.WwaterMatters.org](http://www.WwaterMatters.org) or from the District offices.

(c) An original and two Five copies of drawings, calculations, environmental and construction information, and engineering details sufficient to define the nature, scope, intent and functioning of the work proposed.

(d) through (e) No change.

(2) through (6) No change.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042, 373.413 FS. History--Readopted 10-5-74, Amended 12-31-74, 6-7-78, Formerly 16J-4.06(1), (2), Amended 10-1-84, 3-1-88, 10-3-95, 10-16-96, 12-16-97, 2-27-03, 9-10-08, 8-30-09, 9-5-10, \_\_\_\_\_.

#### 40D-4.331 Modification of Permits.

An application for modification of an Environmental Resource Permit shall be processed in accordance with this rule, unless the permit is revoked or expired.

(1) No change.

(2) Applications to modify a construction permit shall be made by formal or Short Form modification:

(a) Formal modifications.

1. No change.

2. A request for modification involving construction within an outparcel of a permitted commercial or industrial development should be made using the General Environmental Resource Permit (ERP) Application for Modification Related to Outparcel Construction Within Permitted Commercial/Industrial Projects, Form No. LEG-R.001.021 (08/11) (~~4/09~~), incorporated herein by reference. A copy of the form can be obtained from the District's website at [www.WwaterMatters.org](http://www.WwaterMatters.org) or from the District offices.

3. No change.

(b) Except for projects identified in paragraph (2)(a), applications to modify a permit may be made by submittal of an "Environmental Resource Permit Modification Short Form", Form No. LEG-R.013.021 (08/11) (~~4/09~~) incorporated



herein by reference, a copy of which can be obtained from the District’s website at [www.WaterMatters.org](http://www.WaterMatters.org) or from District offices, provided the requested modification does not:

- 1. through 6. No change.
- (3) through (4) No change.

Rulemaking Authority 373.044, 373.113, 373.149, 373.171 FS. Law Implemented 373.413, 373.416(1), 373.429 FS. History—Readopted 10-5-74, Formerly 16J-4.13, Amended 10-1-84, 3-1-88, 10-1-88, 6-29-93, 10-3-95, 7-23-96, 2-1-05, 2-6-07, 12-24-07, 1-8-08, 5-12-08, 8-30-09.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Bree Gathers

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 30, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 30, 2011

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NOS.:	RULE TITLES:
40D-4.091	Publications, Forms and Agreements Incorporated by Reference
40D-4.351	Transfer of Permits

PURPOSE AND EFFECT: The purpose of this rulemaking is to adopt a revised Notification and Request for Transfer of Environmental Resource Permit form, which is amended to eliminate reference to any fee, and to allow transfer of the permit to a new owner upon notification from either the permittee or new property owner. The effect will be to reduce costs and eliminate unnecessary regulatory burdens related to the transfer of Environmental Resource Permits when there is a change in property ownership on which the permitted system is located. This rulemaking is one of the initiatives identified by the District as part of its rule review in response to Executive Order No. 11-72, to identify rules for amendment or repeal that are unnecessarily burdensome, no longer necessary or duplicative of statutory language.

SUMMARY: Rule 40D-4.351, F.A.C., is amended to incorporate by reference a revised Notification and Request for Transfer of Environmental Resource Permit form, which is amended to eliminate any reference to a fee. Companion rulemaking for Chapter 40D-1, F.A.C., will eliminate the fee for permit transfers. Additional amendments to Rule 40D-4.351, F.A.C., clarify that the form may be submitted by either the permittee or the new property owner, and the requirement that the land use remain the same in order to transfer the permit is deleted as unnecessarily burdensome. Amendments to Rule 40D-4.091, F.A.C., will incorporate by reference an updated Environmental Resource Permitting

Information Manual Part B, Basis of Review, which is amended to cite the updated version of the Notification and Request To Transfer Environmental Resource Permit form.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The proposed rule will eliminate the fee and remove unnecessary regulatory burdens for permittees and property owners who seek to have an Environmental Resource Permit transferred to a new owner of the permitted surface water management system. Based on staff analysis, this rulemaking will not result in any adverse economic impacts or regulatory cost increases that require legislative ratification.

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

RULEMAKING AUTHORITY: 373.044, 373.046, 373.113, 373.171, 373.414 FS.

LAW IMPLEMENTED: 373.0361, 373.079(4)(a), 373.083(5), 373.114, 373.171, 373.403, 373.413, 373.4135, 373.4136, 373.414, 373.4144, 373.416, 373.416(2), 373.429, 373.441, 403.805 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103; or email to [ADACoordinator@swfwmd.state.fl.us](mailto:ADACoordinator@swfwmd.state.fl.us). If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Barbara Martinez, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211 (4660) (OGC #2011047)

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-4.091 Publications, Forms and Agreements Incorporated by Reference.

The following documents are hereby incorporated by reference and are applicable to this chapter and Chapters 40D-40 and 40D-400, F.A.C.:

(1) Environmental Resource Permitting Information Manual Part B, Basis of Review, Environmental Resource Permit Applications within the Southwest Florida Water Management District, ~~December 8, 2010~~. This document is available from the District's website at www.watermatters.org or from the District upon request.

Rulemaking Authority 373.044, 373.046, 373.113, 373.171, 373.414 FS. Law Implemented 373.0361, 373.079(4)(a), 373.083(5), 373.114, 373.171, 373.403, 373.413, 373.4135, 373.4136, 373.414, 373.4144, 373.416, 373.429, 373.441 FS. History—New 4-2-87, Amended 3-1-88, 9-11-88, 10-1-88, 4-1-91, 11-16-92, 1-30-94, 10-3-95, 12-26-95, 5-26-96, 7-23-96, 4-17-97, 4-12-98, 7-2-98, 12-3-98, 7-28-99, 8-3-00, 9-20-00, 6-12-01, 10-11-01, 2-27-02, 7-29-02, 3-26-03, 7-22-03, 8-3-03, 3-11-04, 6-7-04, 2-1-05, 6-30-05, 10-19-05, 2-8-06, 5-2-06, 7-1-07, 9-25-07(1), 9-25-07(4), 11-26-07, 5-12-08, 5-20-08, 6-22-08, 5-12-09, 5-17-09, 8-30-09, 11-2-09, 11-3-09, 12-9-09, 9-5-10, 12-8-10, \_\_\_\_\_.

40D-4.351 Transfer of Permits.

(1) Transfer of Ownership.

(a) A permittee shall notify the District within 30 days of any sale, conveyance or any other transfer for a permitted surface water management system or the real property at which the system is located. Submittal of a completed "Notification and Request for Transfer of Environmental Resource Permit," Form No. LEG-R.043.01 (9/11) ~~LEG-R.043.00 (4/09)~~, incorporated herein by reference is required. The form can be obtained from the District's website at www.watermatters.org or from District offices.

(b) The District will transfer the surface water management system construction permit or operation and maintenance permit to the new owner of the property on which the surface water management system is located upon receipt of notification from the permittee or current property owner provided the land use remains the same.

(c) The permittee from whom the permit is transferred transferring the permit shall continue to remain liable for any corrective actions that may be required as a result of any permit violations prior to such sale, conveyance or other transfer.

(d) No change.

(2) through (3) No change.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416(2), 403.805 FS. History—New 10-1-84, Amended 6-29-93, 10-3-95, 7-22-03, 2-1-05, 5-4-05, 12-24-07, 8-30-09, \_\_\_\_\_.

Environmental Resource Permitting Information Manual

Part B – Basis of Review

2.6.1 Acceptable Entities.

The following entities or persons are acceptable to satisfy the requirements of paragraphs 40D-4.301(1)(i) and (j), and 40D-4.381(1)(o), F.A.C.:

a. through e. No change.

f. The permittee, provided that:

(1) The property is wholly owned by the permittee and ownership is intended to be retained or

(2) The project is a residential subdivision, condominium, commercial subdivision or industrial park and responsibility for the operation and maintenance of the surface water management system facilities will be transferred to a homeowners' association, property owners' association, condominium owners' association or master association. The transfer of responsibility shall occur upon completion of the first reinspection of the surface water management system conducted pursuant to the permit following transfer to the operation phase, unless at the time of the first reinspection, the permittee requests, in writing, that the transfer of responsibility to the association occur at some specified later date. The District shall approve such request if the permittee demonstrates that it can perform all necessary operation and maintenance responsibilities during the extended time period. In any event, within thirty (30) days after the sale of the last lot, parcel or unit in the project, the permittee shall request the transfer of responsibility for the operation and maintenance of the surface water management system facilities to the association. The permittee must submit to the District, a Notification and Request for Transfer of Environmental Resource Permit, Form No. LEG-R.043.01 (9/11) ~~LEG-R.043.00 (4/09)~~, incorporated by reference in subsection 40D-4.351(1), F.A.C. This form is available from the District's website at www.watermatters.org or upon request at any District service office. The District must approve the transfer in writing before the transfer of responsibility to the association is effective. Protective covenants, deed restrictions or a declaration of condominium must be recorded for this option in accordance with section 2.6.2.2.6 below; or

(3) No change.

NAME OF PERSON ORIGINATING PROPOSED RULE: H. Clark Hull, Environmental Regulation Program Manager

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 27, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 7, 2011

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.: 40D-4.331  
 RULE TITLE: Modification of Permits

**PURPOSE AND EFFECT:** The purpose and effect of this rulemaking is to allow for the reauthorization and extension of expired Environmental Resource Permits (ERPs) for up to 5 years. This is a rulemaking initiative identified by the District as part of its rule review pursuant to Executive Order No. 11-72 to reduce unnecessary burdens, eliminate outdated rule language and delete language duplicative of statutes.

**SUMMARY:** The purpose and effect of this rulemaking is to allow for the reauthorization and extension of expired Environmental Resource Permits (ERPs) for up to 5 years. This is a rulemaking initiative identified by the District as part of its rule review pursuant to Executive Order No. 11-72 to reduce unnecessary burdens, eliminate outdated rule language and delete language duplicative of statutes.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: There are no costs to the regulated public as a result of the proposed amendments. Therefore, this rulemaking will not result in any adverse economic impacts or regulatory cost increases that require legislative ratification.

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

**RULEMAKING AUTHORITY:** 373.044, 373.113, 373.149, 373.171 FS.

**LAW IMPLEMENTED:** 373.044, 373.113, 373.149, 373.171, FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only)

1(800)231-6103 or email to ADACoordinator@swfwmd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Barbara Martinez, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211 (4660) (OGC #2011044)

**THE FULL TEXT OF THE PROPOSED RULE IS:**

40D-4.331 Modification of Permits.

An application for modification of an Environmental Resource Permit shall be processed in accordance with this rule, unless the permit is revoked ~~or expired~~.

(1) through (3) No change.

(4) Application for permit modification to extend the existing permit duration of a construction permit or conceptual permit or to reauthorize and extend the duration of an expired construction or conceptual permit should be made using the "Environmental Resource Permit Modification Short Form." ~~Such requests shall be submitted no sooner than 180 days prior to the permit expiration date.~~

(a) A modification seeking extension or reauthorization and extension of a ~~construction~~ permit will be granted if it is reasonably assured by the applicant and determined that the activities conducted during the extension period ~~proposed construction~~ will be in compliance with the District's rules in effect at the time the application for modification to extend is filed.

(b) A conceptual permit or site conditions assessment permit may be reauthorized or extended if the permit complies with the same criteria as new applications.

(c) Each modification to extend will be granted for a duration as needed, up to five years.

Rulemaking Authority 373.044, 373.113, 373.149, 373.171 FS. Law Implemented 373.413, 373.416(1), 373.429 FS. History--Readopted 10-5-74, Formerly 16J-4.13, Amended 10-1-84, 3-1-88, 10-1-88, 6-29-93, 10-3-95, 7-23-96, 2-1-05, 2-6-07, 12-24-07, 1-8-08, 5-12-08, 8-30-09, \_\_\_\_\_.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** H. Clark Hull, Environmental Regulation Program Director

**NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:** Southwest Florida Water Management District Governing Board

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** September 27, 2011

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** September 27, 2011

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NOS.:	RULE TITLES:
40D-40.044	General Permit for Site Conditions Assessment
40D-40.302	Conditions for Issuance of General Permits

**PURPOSE AND EFFECT:** The purpose and effect of this rulemaking is to reduce the number of site conditions assessment permit application copies that are required to be submitted from 5 copies to 1 original and 2 copies. The application form is also revised accordingly.

**SUMMARY:** These amendments are part of a larger District rulemaking initiative to reduce the number of copies of permit application forms, supporting materials and compliance-related reports and documents that are required to be submitted. The overall purpose and effect of this initiative is to reduce costs to the public that are associated with the submittal of permit applications and the reporting of permit compliance activities to the District.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

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

**RULEMAKING AUTHORITY:** 373.044, 373.113, 373.118 FS.

**LAW IMPLEMENTED:** 373.079(4)(a), 373.083(5), 373.413, 373.414, 373.416, 373.419 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103 or email to ADACoordinator@

swfwmd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Barbara Martinez, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211 (4660) (OGC #2010053)

**THE FULL TEXT OF THE PROPOSED RULE IS:**

40D-40.044 General Permit for Site Conditions Assessment.

(1) This general permit identifies and documents the boundaries of certain existing topographic and environmental site conditions within the applicant’s project area that are measurably associated with waters, as described in the application. To obtain a site conditions assessment permit, an applicant must submit an original and two ~~five~~ complete copies of a Permit Application for Site Conditions Assessment, Form 547.27/SCA (08/11) ~~(4/09)~~, which form is incorporated herein by reference, and all requested supporting information. Copies of the form can be obtained from the District’s website at [www.WaterMatters.org](http://www.WaterMatters.org) or at District offices.

(2) through (5) No change.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.413, 373.414, 373.416, 373.419 FS. History—New 7-23-96, Amended 9-26-02, 8-30-09, \_\_\_\_\_.

**40D-40.302 Conditions for Issuance of General Permits.**

In order to qualify for a general permit for construction and operation under this chapter, the applicant must provide reasonable assurance that the surface water management system meets all conditions of subsection 40D-40.302(1), F.A.C., all thresholds in subsection 40D-40.302(2), F.A.C., and all applicable additional conditions of subsections 40D-40.302(3) and 40D-40.302(4), F.A.C. To obtain a general site conditions assessment permit under this chapter, the applicant must provide reasonable assurance that all conditions of subsection 40D-40.302(5), F.A.C., are met. To obtain a permit for construction of incidental site activities under this chapter, the applicant must provide reasonable assurance that all conditions of subsections 40D-40.302(1) and 40D-40.302(6), F.A.C., are met.

(1) through (5) No change.

(6) Additional Conditions for an Incidental Site Activities Permit.

Notwithstanding the threshold conditions of subsection (2), a permit shall be authorized for incidental site activities that are conducted in connection with a surface water management system proposed in an individual environmental resource permit application provided:

- (a) through (b) No change.
- (c) The application is complete.

1. For the purposes of this requirement, an application is complete when the applicant has submitted the information required by Form 547.27/ERP (08/11) (~~4/09~~), including Section J, and all additional information timely requested by District staff, all required notice of the application’s receipt has been given and all review periods are concluded, and a letter of completeness has been issued by the District.

2. No change.

(d) through (j) No change.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.079(4)(a), 373.083(5), 373.413, 373.414, 373.416, 373.419 FS. History—New 10-1-84, Amended 3-1-88, 5-10-88, 9-13-88, 10-3-95, 7-23-96, 7-16-02, 9-26-02, 8-3-03, 2-19-04, 2-1-05, 11-2-09, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Bree Gathers, Attorney

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 30, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 30, 2011

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.:	RULE TITLE:
40D-400.500	General Permit for Construction, Operation, Maintenance, Alteration, Abandonment or Removal of Minor Silvicultural Surface Water Management Systems

PURPOSE AND EFFECT: The purpose and effect of this rulemaking is to adopt a revised Application Procedure for a Noticed General Permit for a Minor Silvicultural Surface Water Management System and Notice of Intent to Construct a Minor Silvicultural Surface Water Management System Form, which form is amended to reduce the number of copies required for submittal from 5 to 1 original and 2 copies and delete a requirement that it be sent by certified mail.

SUMMARY: This amendment is part of a District initiative to reduce the number of copies of permit application forms, supporting materials and compliance-related reports and documents that are required to be submitted. The overall purpose and effect of this initiative is to reduce costs to the public associated with the submittal of permit applications and the reporting of permit compliance activities to the District.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

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

RULEMAKING AUTHORITY: 373.044, 373.113, 373.118 FS.

LAW IMPLEMENTED: 373.413, 373.414, 373.416, 373.419 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103 or email to ADACoordinator@swfwmd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Barbara Martinez, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211 (4660) (OGC #2010053)

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-400.500 General Permit for Construction, Operation, Maintenance, Alteration, Abandonment or Removal of Minor Silvicultural Surface Water Management Systems.

(1) through (2) No change.

(3) The Application shall include the information contained in the Application Procedure for a Noticed General Permit for a Minor Silvicultural Surface Water Management System and Notice of Intent to Construct a Minor Silvicultural Surface Water Management System Pursuant to Rule 40D-400.500, F.A.C., Form 547.27/NOI (08/11) (~~4/09~~), which document is incorporated herein by reference and can be obtained from the District’s website at [www.WaterMatters.org](http://www.WaterMatters.org) or from District offices.

(4) through (6) No change.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.413, 373.414, 373.416, 373.419 FS. History--New 10-3-95, Amended 5-4-05, 8-30-09, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Bree Gathers, Attorney

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 30, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 30, 2011

## DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

### Division of Hotels and Restaurants

RULE NO.: 61C-8.004  
RULE TITLE: Program Requirements

PURPOSE AND EFFECT: The proposed rule amendment reflects changes made to Chapter 509, F.S., by 2009-195, Laws of Florida. The proposed rule updates the Hospitality Education Program grants administered by the program and the school-to-career grant specifications.

SUMMARY: The proposed rule will eliminate the grant maximum amount currently adopted in the rule, adopt current forms, remove references to the program administrator, and update the review process to match current practice. The proposed rule will also reduce conflict of interest in the grant review process, remove an unnecessary contract cancellation and termination clause, and remove a restriction on increasing the grant amount with an amended contract.

#### SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: the economic analysis completed by the division.

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: 509.032, 509.302 FS.

LAW IMPLEMENTED: 509.302 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Michelle Comingore, Operations Review Specialist, Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1012; Telephone: (850)488-1133, E-mail: Michelle.Comingore@dbpr.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

61C-8.004 Program Requirements.

(1) School-to-Career Transition Program Grant Application Requirements. Pursuant to Section 509.302, F.S., the division may award four-year ~~one~~ school-to-career transition program grants grant of up to \$250,000 annually to nonprofit statewide organizations representing the hospitality industry of this state. for a period of four years; one food safety training programs grant of up to \$50,000 annually for a period of four years; and one nontransient public lodging training programs grant of up to \$50,000 annually for a period of four years.

(a) The application cycle will begin on January 1 and end on March 1. Applications and all supplemental materials must be received by the division by the close of business on March 1 to be considered in the grant recipient selection process.

(b)(a) Grant applications shall be submitted on DBPR Form HR 5025-200, GRANT APPLICATION, (<https://www.flrules.org/Gateway/reference.asp?No=Ref-00659>) incorporated herein by reference and effective 2009 October 1 October 4, 2007, to the Program Administrator, Hospitality Education Program (HEP), Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1011 4014.

(c)(b) All grant applications must address the applicant's experience and history in representing the hospitality food service or lodging industry; and demonstrated ability to provide services statewide with industry support and participation; and-

(e) School-to-Career Transition Programs Grant. The application cycle will begin January 1 and end on March 1. Applications must be received by the division by the close of business on March 1 to be considered in the grant recipient selection process. All applications must address applicant's prior commitment to school-to-career transition programs in the hospitality food service or lodging industry. All applications must also and address and identify how the recipient intends to demonstrate compliance with the following criteria:

1. Provide hospitality education opportunities for ~~middle~~ or high school (or equivalent) students in the public school system;

2. Provide school-to-career transition opportunities to prepare students to be recruited, trained or employed for a career in the hospitality industry. ~~Hospitality industry means any public lodging or public food service establishment as described in Chapter 509, Part I, F.S.;~~

3. No change.

4. Provide opportunity for students to receive certification in an area of the hospitality industry. Certification means documentation that the student has successfully completed requirements in a specific area of the hospitality industry and in accordance with the goals established by the program awarded grant funds. All certifications must be completed through programs established and recognized in the State of Florida, hospitality-industry-sponsored programs, or national certification programs, such as Certified Professional Food Manager, food service employee food handler certification, or apartment manager certification;

5. through 9. No change.

~~(d) Other Hospitality Training Programs Grants. The application cycle will begin July 1 and end on December 31. Applications must be received by the division by the close of business on December 31 to be considered in the grant recipient selection process. All applications for grants to support food service training programs available through statewide organizations in the hospitality service field must address and identify how the recipient intends to demonstrate compliance with the following criteria:~~

~~1. Provide food safety training programs through statewide organizations to food service employees other than Certified Professional Food Service Managers;~~

~~2. Develop training programs based on the food safety protection standards set forth in Chapters 61C-1 and 61C-4, F.A.C., to train food service employees on the proper procedures for receiving, storing, preparing, handling and serving food at public food service establishments;~~

~~3. Provide additional training topics which will include but not be limited to: personal hygiene, illness reporting, proper dishwashing, sanitation, safety and maintenance procedures; and~~

~~4. Provide the program services for the full four-year grant term.~~

~~(d)(e)~~ All grant recipients must have a functional advisory committee to assist in the development and operation of the grant-funded program. The advisory committee must include three or more hospitality industry professionals related to the sector of industry addressed by the training program, of which at least one shall not be employed by the grant recipient or any of its affiliates. The committee members must have agreed in writing to serve in this capacity.

~~(e)(f)~~ The application must be accompanied by DBPR Form HR 5025-201, PROPOSAL NARRATIVE FORMAT, (<https://www.flrules.org/Gateway/reference.asp?No=Ref-00660>) incorporated herein by reference and effective 2010 May 20 October 4, 2007.

~~(f)(g)~~ All materials developed through the grant recipient's program become the property of the Hospitality Education Program.

(2) Review and Processing of Grant Applications.

(a) The ~~division program administrator~~ shall receive, process, ~~review and~~ determine the application completeness, and evaluate sufficiency of the grant applications.

~~(b) DBPR Form HR 5025-206, EVALUATION FORM, (<https://www.flrules.org/Gateway/reference.asp?No=Ref-00661>) incorporated herein by reference and effective October 4, 2007, shall be used by all reviewers to evaluate all school-to-career transition program programs grant applications submitted. DBPR Form HR 5025 204, EVALUATION FORM, incorporated herein by reference and effective October 4, 2007, shall be used by all reviewers to evaluate all other grant applications submitted.~~

(c) The ~~division program administrator~~ shall provide the HEP subcommittee members of the division's Hotels and Restaurants Advisory Council (advisory council) a copy of each grant application received and a list of prioritized programs with recommended funding levels by March 31 of each application cycle for ~~School-to-Career Transition Programs grants and by January 31 of each application cycle for all other grants.~~

(d) The advisory council HEP subcommittee will meet to evaluate approve the applications and forward its recommendations to the ~~Director of the Division of Hotels and Restaurants (division director) and the Advisory Council described in Section 509.291, F.S.~~ Any member of the advisory council who is also an applicant or an employee or paid representative of an applicant shall abstain from the advisory council's evaluation, recommendation, and vote regarding grant applications. The final determination of grant awards shall be made by the secretary of the department division director, with the consent of the Advisory Council. Grant recipients shall be notified by May 1 for ~~School-to-Career Transition Programs grants and by March 1 for all other grants.~~

(3) Program Review and Disbursement of Funds.

(a) through (b) No change.

~~(e) The program administrator may recommend termination of the grant contract to the division director at any time during the grant period for failure to meet all program objectives or comply with the terms of the grant contract or any established rules or statutory requirements. In the event the grant contract is terminated, the grant application process shall restart according to the schedule set out in this rule.~~

~~(c)~~(d) Each recipient of grant funds shall maintain accurate records of all expenditures of grant funds and shall make these records available for inspection, review or audit by the division and other authorized personnel. Records shall be kept for a period of at least 5 years following the end of the grant period. All grant funds will be subject to state audit requirements.

~~(d)~~(e) Grant funds shall be distributed quarterly, consistent with the terms of the grant proposal and contract. An amendment to the grant shall be approved, so long as such amendment does not change the scope of the grant or create a substantial deviation from the original proposal, ~~or result in a payment greater than the original contract amount.~~

~~(e)~~(f) All aspects of the grant-funded program shall comply with Chapter 509, Part I, F.S., and the rules adopted thereunder.

~~(f)~~(g) Written status reports shall be submitted as indicated on the grant application, but not more than 60 days following the end of each quarter, using DBPR Form HR 5025-202, QUARTERLY STATUS REPORT FORM, (<https://www.flrules.org/Gateway/reference.asp?No=Ref-00662>) incorporated herein by reference and effective 2009 October 1 ~~October 4, 2007~~. Quarterly requests for payment shall be submitted with the status reports. Such requests shall contain an invoice requesting payment and a detailed accounting of quarterly expenditures. Payment requests for expenditures accrued during the first quarter of the grant period shall include only those expenditures accrued on or after July 1 or the date of grant contract execution, whichever is later. All other payment requests shall contain only those expenditures accrued during the previous quarter.

(4) Annual Program Reports. An annual report shall be submitted within 60 days following the end of each state fiscal year and the grant period using DBPR Form HR 5025-203, ANNUAL PROGRAM REPORT FORM, (<https://www.flrules.org/Gateway/reference.asp?No=Ref-00663>) incorporated herein by reference and effective 2009 October 1 ~~October 4, 2007~~.

(5) Obtaining forms. All forms incorporated in this section are available from the Division of Hotels and Restaurants Internet website [www.MyFloridaLicense.com/dbpr/hr](http://www.MyFloridaLicense.com/dbpr/hr); by e-mail to [call.center@dbpr.state.fl.us](mailto:call.center@dbpr.state.fl.us); by phone request to the department at (850)487-1395; or upon written request to the Hospitality Education Program, Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1011 ~~1014~~.

Rulemaking Specific Authority 509.032, 509.302 FS. Law Implemented 509.302 FS. History—New 2-27-92, Amended 8-11-92, Formerly 7C-8.004, Amended 3-31-94, 9-25-96, 1-18-98, 5-7-08, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Bill L. Veach, Director, Division of Hotels and Restaurants,  
Department of Business and Professional Regulation

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ken Lawson, Secretary, Department of Business and Professional Regulation  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 2011  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 8, 2010

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Geologists**

RULE NO.: 61G16-1.009  
RULE TITLE: Definitions

PURPOSE AND EFFECT: The Board proposes this rule amendment to correct the terminology assigned to the definition.

SUMMARY: The rule amendment corrects the terminology of the definition.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:**

During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 492.104 FS.

LAW IMPLEMENTED: 492.105, 492.111 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Richard Morrison, Executive Director, Board of Professional Geologists, 1940 North Monroe Street, Tallahassee, Florida 32399-0754

THE FULL TEXT OF THE PROPOSED RULE IS:

61G16-1.009 Definitions.

As used in Chapter 492, F.S., and in these rules where the context will permit the following terms have the following meanings:



(1) "Responsible Charge Position" shall mean direct control and personal supervision of geological work done by oneself or by others over whom the applicant exercises supervisory authority.

(2) No change.

Rulemaking Specific Authority 492.104 FS. Law Implemented 492.105, 492.111 FS. History--New 4-27-88, Formerly 21DD-1.009, Amended 11-15-93, 5-14-97, 3-5-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Geologists

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Geologists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 12, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 29, 2011

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Geologists**

RULE NO.: RULE TITLE:

61G16-5.001 Related Degrees

PURPOSE AND EFFECT: The Board proposes this rule amendment to delete antiquated academic labels.

SUMMARY: The rule amendment will delete antiquated academic labels.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:

During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 492.104 FS.

LAW IMPLEMENTED: 492.105(1)(D)1 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Richard Morrison, Executive Director, Board of Professional Geologists, 1940 North Monroe Street, Tallahassee, Florida 32399-0754

THE FULL TEXT OF THE PROPOSED RULE IS:

61G16-5.001 Related Degrees.

For the purposes of fulfilling the requirements of Section 492.105(1)(d)1., ~~the following degrees are considered to be "related" to a major in geology:~~

- ~~Civil Engineering~~
- ~~Coastal Engineering~~
- ~~Earth Sciences~~
- ~~Geological Engineering~~
- ~~Geological Oceanography~~
- ~~Geophysics~~
- ~~Geotechnical Engineering~~
- ~~Hydrology (with groundwater emphasis)~~
- ~~Marine Geology~~
- ~~Mining Engineering~~
- ~~Natural Sciences~~
- ~~Paleontology~~
- ~~Petroleum Engineering~~
- ~~Soil Sciences~~

a related science degree means, any science degree demonstrated by the applicant ~~Any degree demonstrated~~ to possess a reasonable and rational nexus to a degree in geology.

Rulemaking Specific Authority 492.104 FS., Chapter 98-116, Laws of Florida. Law Implemented 492.105(1)(d)1. FS., Chapter 98-116, Laws of Florida. History--New 4-22-90, Formerly 21DD-5.001, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Geologists

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Geologists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 12, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 20, 2011

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Building Code Administrators and Inspectors Board**

RULE NO.: RULE TITLE:

61G19-5.002 Disciplinary Guidelines

PURPOSE AND EFFECT: The purpose of this rule is to raise the remaining fine limits of \$1500.00 for a first offense to \$2500.00.

SUMMARY: The rule will raise the remaining fine limits of \$1500.00 for a first offense to \$2500.00.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: No Statement of Estimated Regulatory Cost will be prepared. During discussion of this rule at its Council meeting, the Council, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary. No person or interested party submitted additional information regarding the economic impact at that time. The Council has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule. These rule amendment will not require ratification by the Legislature.

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

RULEMAKING AUTHORITY: 455.227, 455.2273, 468.606 FS.

LAW IMPLEMENTED: 455.227, 455.2273, 468.607, 468.621, 468.629 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Building Code Administrators and Inspectors Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G19-5.002 Disciplinary Guidelines.

(1) through (2) No change.

VIOLATION

(a) through (o) No change

(p) Failing to report to the department any person who the licensee knows is in violation of Chapter 468, Part XII, Chapter 455, or the rules of the Board or Department.

(455.277(1)(i), F.S.)

(q) No change

(r) Practicing or offering to practice beyond the scope of law or competence.

(455.227(1)(o), F.S.)

RECOMMENDED RANGE OF PENALTY

(p)1. In case of an applicant, the usual action of the Board shall be denial or licensure with probation and an administrative fine. In case of the licensee, the usual action of the Board shall be to impose a penalty from reprimand to probation and a fine of up to ~~\$2,500~~ 1,500.

(p)2. After the first offense, in the case of an applicant the usual action of the Board shall be denial. In the case of a licensee, the usual action of the Board shall be to impose a penalty from suspension followed by probation to revocation and a fine of up to \$5,000.

(r)1. In the case of an applicant, the usual action of the Board shall be licensure with probation and an administrative fine or denial. In the case of a licensee, the usual action of the Board shall be to impose a penalty from probation to suspension of license and a fine of up to ~~\$2,500~~ 1,500.

(r)2. After the first offense, in the case of an applicant, the usual action of the Board shall be denial. In the case of a licensee, the usual action of the Board shall be to impose a penalty from suspension of license followed by probation to revocation and a fine of up to \$5,000.

(s) Knowingly delegating professional responsibilities to an unqualified person.  
(455.227(1)(p), F.S.)

(t) No change  
(u) Failing to lawfully execute the duties and responsibilities specified in this part and in Sections 553.73, 553.781, 553.79 and 553.791, F.S.

(v) Performing building code inspection services under Section 553.791, F.S., without satisfying the insurance requirements of said section.

(3) through (5) No change.

Rulemaking Authority 455.227, 455.2273, 468.606 FS. Law Implemented 455.227, 455.2273, 468.607, 468.621, 468.629 FS. History--New 5-23-94, Amended 8-14-96, 8-3-97, 11-2-00, 4-10-06, 1-10-07, 9-20-09,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Building Code Administrators and Inspectors Board  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Department of Business and Professional Regulation  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 15, 2009  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 2010

(s)1. In case of an applicant, the usual action of the Board shall be licensure with probation and an administrative fine or denial. In case of the licensee, the usual action of the Board shall be to impose a penalty from suspension to revocation and a fine of up to \$2,500 ~~1,500~~.

(s)2. After the first offense, in the case of an applicant, the usual action of the Board shall be denial. In the case of a licensee, the usual action shall be to impose a penalty from suspension of license followed by probation to revocation and a fine of up to \$5,000.

(u)1. Unless otherwise specified in this rule, in the case of an applicant, the usual action of the Board shall be from licensure with an administrative fine and probation to denial; in the case of a licensee, the usual action of the Board shall be to impose a penalty from reprimand to probation and a fine of up to \$2,500 ~~1,500~~.

(u)2. After the first offense, a minimum of one year's probation to revocation or denial of licensure, and a fine of up to \$3,000 depending on the underlying offense and the magnitude of the violation.

(v)1. Unless otherwise specified in this rule, in the case of an applicant, the usual action of the Board shall be from licensure with an administrative fine and probation to denial; in the case of a licensee, the usual action of the Board shall be to impose a penalty from reprimand to probation and a fine of up to \$2,500 ~~1,500~~.

(v)2. After the first offense, a minimum of one year's probation to revocation or denial of license, and a fine of up to \$3,000 depending on the underlying offense and the magnitude of the violation.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Appraisal Board**

RULE NO.: 61J1-4.010  
RULE TITLE: Supervision and Training of Registered Trainee Appraisers

PURPOSE AND EFFECT: The Board proposes the rule amendment to address the geographical restriction for registered trainee supervisors.

SUMMARY: The geographical restriction for registered trainee supervisors will be addressed.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST AND LEGISLATIVE RATIFICATION:**

During discussion of the economic impact of the rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that the rule amendment will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The

Board has determined that this rule will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 475.614 FS.

LAW IMPLEMENTED: 475.611, 475.6221, 475.6222 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juana Watkins, Director, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-4.010 Supervision and Training of Registered Trainee Appraisers.

(1) through (4) No change.

~~(5) When supervising any aspect of the appraisal process, a supervisory appraiser shall train or supervise registered trainee appraisers located in:~~

~~(a) The county where the supervising appraiser's primary business address is located and registered with the Department; and~~

~~(b) Any county contiguous to the county where the supervisory appraiser's primary business address is located and registered with the Department.~~

~~(5)(6) No change.~~

(7) through (9) renumbered (6) through (8) No change.

Rulemaking Authority 475.614 FS. Law Implemented 475.611, 475.6221, 475.6222 FS. History—New 2-16-04, Amended 3-1-06, 12-4-06, 8-12-07, 11-25-07, 5-3-10, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Appraisal Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 18, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 7, 2011

**DEPARTMENT OF HEALTH**

**Board of Chiropractic**

RULE NO.: 64B2-11.001  
 RULE TITLE: Application for Licensure Examination

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to update the application form which is incorporated by reference.

SUMMARY: The incorporated application form will be updated.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

During discussion of the economic impact of the rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that the rule amendment will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this rule will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

SPECIFIC AUTHORITY: 460.405, 460.406 FS.

LAW IMPLEMENTED: 460.406 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Deterding, Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B2-11.001 Application for Licensure Examination.

(1) Any person desiring to be licensed as a chiropractor shall apply to the Department of Health on board approved form DH-MQA 1147, (Rev 06/2011 ~~04/2010~~), Application for Chiropractic Examination and Initial Licensure, which is hereby incorporated by reference, and may be obtained from the Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257 or from its website at [http://www.dos.state.fl.us/mqa/chiro/ap\\_chap.doc](http://www.dos.state.fl.us/mqa/chiro/ap_chap.doc).

(2) through (4) No change.

Rulemaking Authority 460.405, 460.406 FS. Law Implemented 460.406 FS. History–New 1-10-80, Amended 3-15-81, 10-10-85, Formerly 21D-11.01, Amended 2-19-86, 10-6-86, 1-28-87, 2-1-88, 4-19-89, 12-31-89, 5-7-90, 7-8-90, 7-15-91, 2-2-93, Formerly 21D-11.001, Amended 4-18-94, Formerly 61F2-11.001, Amended 2-20-95, Formerly 59N-11.001, Amended 11-4-98, 3-23-00, 2-3-08, 6-17-09, 7-5-10,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULES:  
Board of Chiropractic Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Chiropractic Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 10, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2011

**DEPARTMENT OF HEALTH**

**Board of Chiropractic**

RULE NO.: 64B2-13.0049                      RULE TITLE: Inactive Status License

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete the requirement regarding the inactive status licensee paying the active status fee for each biennium during which the license was inactive.

SUMMARY: The requirement for an inactive status licensee to pay the active status fee for each biennium during which the license was inactive will be removed from the rule.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

During discussion of the economic impact of the rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that the rule amendment will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this rule will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 460.036 FS.

LAW IMPLEMENTED: 460.036 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Deterding, Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE TEXT OF THE PROPOSED RULE IS:

64B2-13.0049 Inactive Status License.

(1) No change.

(2) An inactive status licensee may change to active status at any time provided the licensee meets the continuing education requirements of Rule 64B2-13.004, F.A.C., ~~pays the active status fees for each biennium during which the license was inactive~~, pays the reactivation fee, and if the request to change licensure status is made at any time other than at the beginning of a licensure cycle, pays the additional processing fee. However, a licensee whose license has been in inactive status for more than two consecutive biennial licensure cycles, and who has not practiced chiropractic medicine in any jurisdiction during the period of inactive status, shall be required to appear before the board before the license can be placed into active status. The board at the time of the appearance shall impose upon the licensee reasonable conditions necessary to insure that the licensee can practice with the care and skill sufficient to protect the health, safety and welfare of the public.

Rulemaking Specific Authority 456.036 FS. Law Implemented 456.036 FS. History–New 2-20-95, Formerly 59N-13.0049, Amended 7-11-02, 1-25-04,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULES:  
Board of Chiropractic Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 10, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2011

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE NOS.: 64B3-1.006                      RULE TITLES: Notices, Current Address of Licensees  
64B3-1.008                      Board Meetings

PURPOSE AND EFFECT: The Board proposes the rule amendment to update language concerning notifying the department via electronic methods and to update the type of board meetings.

SUMMARY: Language concerning notifying the department via electronic methods will be updated; language concerning the type of board meetings will be updated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

During discussion of the economic impact of the rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that the rule amendment will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this rule will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 456.011, 456.035, 483.805 FS.

LAW IMPLEMENTED: 286.0105, 456.011, 456.035(1), 483.817, 483.819 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Bruce Deterding, Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULES IS:

64B3-1.006 Notices, Current Address of Licensees.

Each person holding a license issued pursuant to Chapter 483, Part III, Florida Statutes, must maintain on file with the Department the current mailing address and primary practice location at which any notice required by law may be served by the Department or its agent. Within 60 days of changing either address, whether or not within this state, the licensee shall notify the Department in writing or via electronic methods of the new address and designate at which address the licensee may be served with notices or other documents.

Rulemaking Specific Authority 456.035 FS. Law Implemented 456.035(1), 483.817, 483.819 FS. History–New 3-15-93, Formerly 21KK-1.006, 61F3-1.006, 59O-1.006, Amended 10-29-02\_\_\_\_\_.

64B3-1.008 Board Meetings.

(1) For purposes of Board member compensation pursuant to Section 456.011(4), Florida Statutes, “other business involving the Board” is defined to include:

(a) through (b) No change.

(c) Board meetings or Board committee meetings held via teleconference that last four (4) hours or more.

(c) through (h) renumbered (d) through (i) No change.

(2)(a) No change.

(b) through (d) No change.

Rulemaking Specific Authority 456.011, 483.805 FS. Law Implemented 286.0105, 456.011 FS. History–New 3-15-93, Formerly 21KK-1.008, 61F3-1.008, Amended 2-7-95, Formerly 59O-1.008, Amended 3-20-01, 9-29-02\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULES: Board of Clinical Laboratory Personnel

NAME OF AGENCY WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 3, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2011

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE NO.: RULE TITLE:

64B3-2.002 Clinical Laboratory Personnel

PURPOSE AND EFFECT: The Board proposes the rule amendment to update language concerning direct supervision.

SUMMARY: Language concerning direct supervision will be updated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: During discussion of the economic impact of the rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that the rule amendment will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this rule will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 483.805(4), 483.811(4) FS.

LAW IMPLEMENTED: 483.035(1), 483.803, 483.811(3), (4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Deterding, Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-2.002 Clinical Laboratory Personnel.

(1) through (5) No change.

(6) Direct supervision means supervision by a director, supervisor, or technologist who is on the premises ~~and~~ ~~or~~ is available to the laboratory when test procedures are being performed and is responsible for the oversight of testing and reporting of results.

Rulemaking Specific Authority 483.805(4), 483.811(4) FS. Law Implemented 483.035(1), 483.803, 483.811(3), (4) FS. History—New 11-4-93, Formerly 61F3-2.002, Amended 11-21-94, 7-12-95, 5-15-96, Formerly 59O-2.002, Amended 3-19-98, 12-13-98, 9-27-00, 9-9-02, 2-1-04,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULES:  
Board of Clinical Laboratory Personnel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 3, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2011

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE NO.: 64B3-3.002                      RULE TITLE: Personnel of Clinical Laboratory Personnel Training Programs

PURPOSE AND EFFECT: The Board proposes the rule amendment to update language concerning rules that are referenced in the rule.

SUMMARY: Referenced rules will be updated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

During discussion of the economic impact of the rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that the rule amendment will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this rule will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 483.805(4), 483.811(2) FS.

LAW IMPLEMENTED: 483.809, 483.811 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Deterding, Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-3.002 Personnel of Clinical Laboratory Personnel Training Programs.

(1) A clinical laboratory personnel training program shall have a program director who holds national certification from any Board listed in subsections 64B3-5.002~~7~~(2) ~~and~~ (4), F.A.C., and:

(a) through (b) No change.

(2) through (4) No change.

Rulemaking Specific Authority 483.805(4), 483.811(2) FS. Law Implemented ~~483.800~~, 483.809, 483.811 FS. History—New 12-28-94, Amended 3-28-95, 7-12-95, 4-24-96, Formerly 59O-3.002, Amended 9-20-98, 12-13-98, 11-15-99,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULES:  
Board of Clinical Laboratory Personnel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 3, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2011

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE NO.: 64B3-4.001                      RULE TITLE: Trainee Registration

PURPOSE AND EFFECT: The Board proposes the rule amendment to update language concerning requirements of training program for trainee registration.

SUMMARY: Language concerning requirements of the training program will be updated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

During discussion of the economic impact of the rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that the rule amendment will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this rule will not have an adverse

impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 483.805(4) FS.

LAW IMPLEMENTED: 483.809(3), 483.811(2), (3), (4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Deterding, Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-4.001 Trainee Registration.

(1) through (4) No change.

(5) All trainee applicants shall submit either a certified copy of a high school diploma or its equivalent, or an official transcript from a training program as described in subsection (1) above, sent directly to the Department.

(6) If the trainee is unable to complete the training by the date indicated on the application for initial registration due to the reasons set forth in subsection (7), then the ~~training program director is responsible for ensuring that coordinator must submit to the Board of Clinical Laboratory Personnel~~ Form #DH-MQA 1165 (11/08) "Request to Extend Trainee Registration" which is incorporated by reference herein, copies of which can be obtained from the Board office at 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257 or from its website at <http://www.doh.state.fl.us/mqa/ClinLab/index.html>, is submitted to the Board.

(7) No change.

Rulemaking Authority 483.805(4) FS. Law Implemented 483.809(3), 483.811(2), (3), (4), ~~483.825~~ FS. History—New 7-20-93, Formerly 21KK-4.001, 61F3-4.001, Amended 4-10-96, 7-3-97, Formerly 59O-4.001, Amended 3-19-98, 2-15-01, 3-24-02, 3-30-04, 6-17-09, 5-11-10, 7-20-10, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULES: Board of Clinical Laboratory Personnel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 3, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2011

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE NO.: RULE TITLE:

64B3-5.004 Technician

PURPOSE AND EFFECT: The Board proposes the rule amendment to update the examinations for clinical laboratory personnel.

SUMMARY: Examinations for clinical laboratory personnel will be updated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

During discussion of the economic impact of the rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that the rule amendment will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this rule will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 483.805(4), 483.811(2), 483.823 FS.

LAW IMPLEMENTED: 483.809, 483.811(2), 483.815, 483.823 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Deterding, Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-5.004 Technician.

(1) General Qualifications. Degrees or semester hours of academic credit required in this section shall be obtained at a regionally accredited college or university, or by foreign education equated pursuant to subsection 64B3-6.002(6), F.A.C. ~~In order~~ To be licensed as a laboratory technician, which includes the categories of microbiology, serology/immunology, chemistry, hematology, immunoematology, histology, molecular pathology, andrology and embryology, an applicant shall have a Board



approved 2-hour course relating to the prevention of medical errors, which shall include root-cause analysis, error reduction and prevention, and patient safety.

(2) No change.

(3) In addition, at least one of the following requirements must be met for specific areas of licensure. In some cases there are multiple options for meeting the requirement.

Specialty (a) Microbiology, Serology/ Immunology, Clinical Chemistry, Hematology, and Immunochemistry	Option 1	Education <u>n/a</u>	Training/Experience Approved clinical/medical laboratory training program	Examination MLT(ASCP), <del>CLT(NCA)</del> , MLT(AMT), MLT(AAB)
	2	<u>n/a</u>	Five years of pertinent clinical laboratory experience within the 10 years preceding application for licensure	MLT(ASCP), <del>CLT(NCA)</del> , MLT(AMT), MLT(AAB)
	3	Associate Degree	Four years of pertinent clinical laboratory experience within the 10 years preceding application for licensure	MLT(ASCP), <del>CLT(NCA)</del> , MLT(AMT), MLT(AAB)
	4	Bachelors Degree	Three years of pertinent clinical laboratory experience within the 10 years preceding application for licensure	MLT(ASCP), <del>CLT(NCA)</del> , MLT(AMT), MLT(AAB)
Specialty (b) Histology	Option 1	Education <u>n/a</u>	Training/Experience <u>n/a</u>	Examination HT(ASCP)
Specialty (c) Andrology/ Embryology	Option 1	Education <u>n/a</u>	Training/Experience Approved clinical/medical laboratory training program	Examination MLT(AAB) for specialty sought
	2	Bachelors Degree	Six months of pertinent clinical laboratory experience	MLT(AAB) for specialty sought
	3	Associate Degree	Five years of pertinent clinical laboratory experience	MLT(AAB) for specialty sought
Specialty (d) Molecular Pathology	Option 1	Education <del>High school diploma</del> <del>or high school</del> <del>equivalent</del>	Licensed clinical laboratory technologist or technician in any specialty area	Examination MLT (AAB) Molecular Diagnostics
	2	<u>Associate Degree</u>	<u>Five years pertinent clinical laboratory experience in molecular pathology</u>	<u>Examination MLT (AAB) Molecular Diagnostics Examination</u>

Rulemaking Specific Authority 483.805(4), 483.811(2), 483.823 FS. Law Implemented ~~381.0034, 483.800, 483.809, 483.811(2), 483.815, 483.823 FS.~~ History--New 12-6-94, Amended 7-12-95, 12-4-95, Formerly 59O-5.004, Amended 5-26-98, 9-20-98, 1-11-99, 8-31-99, 9-27-00, 12-26-00, 4-29-02, 10-29-02, 2-11-03, 4-20-04, 2-23-06, 5-25-06, 12-5-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Clinical Laboratory Personnel  
NAME OF AGENCY HEAD WHO APPROVED THE  
PROPOSED RULE: Board of Clinical Laboratory Personnel  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: June 14, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: September 16, 2011

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE NOS.:	RULE TITLES:
64B3-6.002	Documentation for Licensure
64B3-6.003	Personnel Licensure – Temporary Permit

**PURPOSE AND EFFECT:** The Board proposes the rule amendment to clarify language concerning the American Society for Clinical Pathology Board of Certification and to clarify language concerning the temporary license.

**SUMMARY:** Language concerning American Society for Clinical Pathology Board of Certification will be clarified; language concerning the temporary licensure will be clarified.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

During discussion of the economic impact of the rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that the rule amendment will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this rule will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule. Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

**RULEMAKING AUTHORITY:** 483.805(4), 483.823 FS.

**LAW IMPLEMENTED:** 456.013, 483.809, 483.813, 483.815, 483.823 FS.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Bruce Deterding, Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

**THE FULL TEXT OF THE PROPOSED RULES IS:**

64B3-6.002 Documentation for Licensure.

The following is a list of acceptable documents which shall be submitted to the Board as appropriate for the type of license sought in order to show eligibility for the license:

(1) through (5) No change.

(6) Foreign credentials evaluation which includes a breakdown of all college level courses by credit hours and subject sent directly to the board office by one of the following evaluators:

(a) No change.

(b) American Society for Clinical Pathology Board of Certification Registry.

(c) through (m) No change.

(7) through (8) No change.

Rulemaking Authority 483.805(4) FS. Law Implemented 483.815, 483.823 FS. History–New 1-9-94, Amended 7-13-94, Formerly 61F3-6.002, Amended 12-28-94, 5-29-95, Formerly 59O-6.002, Amended 8-27-97, 10-14-02, 4-13-04, 6-17-09,\_\_\_\_\_.

64B3-6.003 Personnel Licensure – Temporary License Permit.

(1) The Department shall issue a ~~one~~ temporary license to an applicant who has applied and satisfied all Department application requirements for licensure and has been accepted to take a Board approved national examination for a period not to exceed one year.

(2) through (3) No change.

Rulemaking Specific Authority 483.805(4) FS. Law Implemented 456.013, 483.809, 483.813, 483.815, 483.823 FS. History–New 6-6-85, Formerly 10D-41.71, Amended 7-4-89, Formerly 10D-41.071, 61F3-6.003, Amended 8-1-95, Formerly 59O-6.003, Amended 8-27-97, 9-16-03, 4-13-04, 12-23-08,\_\_\_\_\_.

**NAME OF PERSON ORIGINATING PROPOSED RULES:** Board of Clinical Laboratory Personnel

**NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:** Board of Clinical Laboratory Personnel

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** December 3, 2010

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** September 16, 2011

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE NOS.:	RULE TITLES:
64B3-9.001	Application Fees
64B3-9.002	Initial Licensure Fees

**PURPOSE AND EFFECT:** The Board proposes the rule amendments to delete the fee for a public health science technician and a public health technician.

**SUMMARY:** The fee for a public health science technician and a public health technician will be removed from the rule.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

During discussion of the economic impact of the rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of

Estimated Regulatory Cost (SERC) was not necessary and that the rule amendment will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this rule will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 456.025, 483.805(4), 483.807(1) FS.

LAW IMPLEMENTED: 456.025, 483.807, 483.815 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 RULES IS: Bruce Deterding, Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULES IS:

64B3-9.001 Application Fees.

- (1) Trainee – \$20.
- (2) Licensure application:
  - (a) Director – \$90.
  - (b) Supervisor – \$70.
  - (c) Technologist – \$50.
  - (d) Technician – \$25.
- (3) Clinical laboratory personnel training program – \$200.
- (4) Continuing education provider – \$200.
- ~~(5) Public Health Science Technician – \$100.~~

Rulemaking Authority 456.025, 483.807(1) FS. Law Implemented 456.025, 483.807, 483.815 FS. History-New 12-7-93, Formerly 61F3-9.001, 59O-9.001, Amended 5-26-98, 5-13-99, 6-10-99, 3-9-00, 4-29-02, 9-15-05, 4-27-10,\_\_\_\_\_.

64B3-9.002 Initial Licensure Fees.

- (1)(a) Director – \$65.
- (b) Supervisor – \$55.
- (c) Technologists – \$45.
- (d) Technician – \$25.
- ~~(e) Public Health Technician – \$100.~~
- (2) Clinical laboratory personnel training program – \$200.
- (3) For clinical laboratory personnel trainees – \$20.

Rulemaking Authority 456.025, 483.805(4), 483.807(1) FS. Law Implemented 456.025, 483.807 FS. History-New 12-7-93, Formerly 61F3-9.002, 59O-9.002, Amended 6-10-99, 4-7-02, 4-27-10,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULES: Board of Clinical Laboratory Personnel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 14, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2011

**DEPARTMENT OF HEALTH**

**Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling**

RULE NO.: 64B4-5.001  
 RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: The Board proposes the rule amendment to update disciplinary guidelines.

SUMMARY: Disciplinary Guidelines will be updated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

During discussion of the economic impact of the rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that the rule amendment will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this rule will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 456.079, 491.004(5) FS.

LAW IMPLEMENTED: 456.079, 491.009 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B4-5.001 Disciplinary Guidelines.

- (1) When the Board finds an applicant, licensee, registered intern, provisional licensee, or certificate holder whom it regulates under Chapter 491, F.S., has committed any of the

acts set forth in Section 456.072(1) or 491.009(2), F.S., it shall issue a final order imposing appropriate penalties as recommended in the following disciplinary guidelines.

(a) through (f) No change.

(g) Knowingly aiding, assisting, procuring, or advising a non-licensed person to hold oneself out as licensed under Chapter 491, F.S.

(Sections 456.072(1)(j) & 491.009(1)(g), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE:	\$1,000 fine and reprimand	\$1,000 fine and/or probation; <u>1 year suspension then probation; permanent revocation;</u>
SECOND OFFENSE:	\$1,000 fine and probation	\$1,000 fine and <u>permanent revocation;</u>
THIRD OFFENSE:	\$1,000 fine and 1 year suspension followed by probation	\$1,000 fine and permanent revocation;

(h) No change.

(i) Willfully making or filing a false report or record; failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of a report or record; or inducing another person to make or file a false report or record or to impede or obstruct the filing of a report or record.

(Sections 456.072(1)(l) & 491.009(1)(i), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE:	\$500 fine and reprimand	\$1,000 fine and/or probation; <u>1 year suspension then probation; permanent revocation;</u>
SECOND OFFENSE:	\$1,000 fine and probation	\$1,000 fine and 1 year suspension followed by probation; denial or \$1,000 fine and permanent revocation;
THIRD OFFENSE:	\$1,000 fine, 1 year suspension followed by probation	\$10,000 fine and permanent revocation

(j) through (k) No change.

(l) Making misleading, deceptive, untrue, or fraudulent misrepresentations in the practice of any profession licensed under Chapter 491, F.S., or employing a trick or scheme in or related to the practice of a profession.

(Sections 456.072(1)(a), (m) & 491.009(1)(l), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE:	\$250 fine	\$1,000 fine and reprimand;
SECOND OFFENSE:	\$500 fine	\$1,000 fine and probation;
THIRD OFFENSE:	\$1,000 fine	\$1,000 fine and 1 year suspension followed by probation;

FRAUD First Offense	\$250 fine	\$1000 fine and/or reprimand; probation; suspension, then probation; permanent revocation
FRAUD Second Offense	\$500 fine	\$1000 fine and/or probation; suspension, then probation; permanent revocation
FRAUD Third Offense	\$1,000 fine	\$1000 fine and/or 1 year suspension, then probation; permanent revocation

(m) Soliciting patients or clients personally, or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct.

(Section 491.009(1)(m), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE:	\$500 fine and reprimand	\$1,000 fine and/or 6 month suspension followed by probation, <u>permanent revocation;</u>
SECOND OFFENSE:	\$1,000 and reprimand	\$1,000 fine and/or 1 year suspension followed by probation, <u>permanent revocation;</u>
THIRD OFFENSE:	\$1,000 fine 1 year and suspension followed by probation	\$1,000 fine permanent revocation;

(n) Failing to make available to a patient or client, upon written request, copies of tests, reports, or documents in the possession or under the control of the licensee which have been prepared for and paid for by the patient or client.

(Section 491.009(1)(n), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE:	\$500 <del>1,000</del> fine and reprimand	\$1,000 fine and probation;
SECOND OFFENSE:	\$1,000 fine and probation	\$1,000 fine and 1 year suspension followed by probation;

(o) through (p) No change.

(q) Violating provisions of Chapter 491 or 456, F.S., or any rule adopted pursuant thereto.

(Sections 456.072(1)(dd) & 491.009(1)(w), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE:	<del>\$250</del> \$500 fine and reprimand	\$1,000 fine and/or probation; <u>1 year suspension then probation; permanent revocation;</u>

SECOND OFFENSE:	\$1,000 fine and probation	\$1,000 fine and 1 year suspension followed by probation;
THIRD OFFENSE:	\$1,000 fine and 1 year	denial or \$1,000 fine
	suspension followed by probation	and permanent revocation;

(r) No change.

(s) Failing to meet the MINIMUM standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the licensee is not qualified by training or experience.

(Section 491.009(1)(r), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE:	\$250 fine and reprimand	<del>\$5,000</del> <del>1,000</del> fine and/or probation; <u>1 year suspension then probation;</u> permanent revocation;
SECOND OFFENSE:	\$1,000 fine and probation	\$1,000 fine and/or 1 year suspension followed by probation; <u>permanent revocation;</u>
THIRD OFFENSE:	\$1,000 fine and 1 year suspension followed by probation	denial or \$1,000 fine and permanent revocation:

(t) No change.

(u) Violating a rule relating to the regulation of the profession or a lawful order of the Department or the Board previously entered in a disciplinary hearing.

(Section 491.009(1)(t), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE:	<del>\$250</del> <del>1,000</del> fine and reprimand	\$1,000 fine and/or 6 month suspension followed by probation; <u>permanent revocation;</u>
SECOND OFFENSE:	\$1,000 fine and 1 year suspension followed by probation	denial or \$1,000 fine and permanent revocation:

(v) through (aa) No change.

(bb) Intentionally violating any rule adopted by the Board or the department, as appropriate.

(Section 456.072(1)(b), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE:	\$1,000 fine and reprimand	\$1,000 fine and/or 6 months
		suspension followed by probation; <u>permanent revocation;</u>
SECOND OFFENSE:	\$1,000 fine and 1 year	denial or \$1,000 fine and

	suspension followed by probation	permanent revocation;
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(cc) through (dd) No change.

(ee) Violating any provision of this part, the applicable professional practice act, a rule of the department or the board, or a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department.

(Sections 456.072(1)(q) & 491.009(1)(w), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE:	<del>\$250</del> <del>500</del> fine and reprimand	\$1,000 fine and/or probation; <u>1 year suspension then probation;</u> permanent revocation;
SECOND OFFENSE:	\$1,000 fine and probation	\$1,000 fine and/or 1 year suspension followed by probation; <u>or permanent revocation;</u>
THIRD OFFENSE:	\$1,000 fine and 1 year suspension followed by probation	denial or \$1,000 fine and permanent revocation;

(ff) Failing to comply with the requirements for profiling and credentialing, including, but not limited to, failing to provide initial information, failing to timely provide updated information, or making misleading, untrue, deceptive, or fraudulent representations on a profile, credentialing, or initial or renewal licensure application.

(Section 456.072(1)(w), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE:	\$500 fine and reprimand	\$1,000 fine and/or reprimand; <u>1 year suspension then probation;</u> permanent revocation;
SECOND OFFENSE:	\$1,000 fine and probation	\$1,000 fine and/or 3 month suspension followed by probation; <u>permanent revocation;</u>
THIRD OFFENSE:	\$1,000 fine and 1 year suspension followed by probation	denial or \$1,000 fine and permanent revocation;

(gg) through (ii) No change.

(jj) Failing to inform the department, within 30 days, of any change of address of either the place of practice or current mailing address of any applicant or licensee.

(Section 456.035, F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE:	<del>\$250</del> fine reprimand	<del>\$500</del> <del>1,000</del> fine and reprimand <del>1-year</del> probation;
SECOND OFFENSE:	\$1,000 fine and reprimand	\$1,000 fine and/or <u>1 year probation;</u> 6 month suspension followed by probation;

THIRD OFFENSE:	\$1,000 fine and probation	\$1,000 fine and permanent revocation.
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(kk) through (oo) No change.

(2) through (4) No change.

Rulemaking Authority 456.079, 491.004(5) FS. Law Implemented 456.079, 491.009 FS. History—New 3-5-89, Amended 1-3-91, 6-1-92, Formerly 21CC-5.001, Amended 1-9-94, Formerly 61F4-5.001, Amended 12-22-94, Formerly 59P-5.001, Amended 12-11-97, 10-1-00, 2-5-01, 10-15-02, 3-27-05, 1-16-06, 4-6-10, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2011

**DEPARTMENT OF HEALTH**

**Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling**

RULE NO.: 64B4-7.002  
 RULE TITLE: Qualifications Necessary for Clinical Social Workers, Marriage and Family Therapists and Mental Health Counselors to Practice Hypnosis

PURPOSE AND EFFECT: The Board proposes the rule amendment to provide clarification of instruction required for a clinical social worker, marriage and family therapist, and mental health counselor to practice hypnosis; to provide clarification concerning qualifications for an intern practicing hypnosis.

SUMMARY: The rule amendment will provide clarification of the instruction required for a clinical social worker, marriage and family therapist, and mental health counselor to practice hypnosis; the amendment also provides clarification concerning the qualifications for an intern practicing hypnosis.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

During discussion of the economic impact of the rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that the rule amendment will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this rule will not have an adverse

impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 491.004(5), 491.0141 FS.

LAW IMPLEMENTED: 491.0141 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

**THE FULL TEXT OF THE PROPOSED RULE IS:**

64B4-7.002 Qualifications Necessary for Clinical Social Workers, Marriage and Family Therapists and Mental Health Counselors to Practice Hypnosis.

(1) Before practicing hypnosis for any therapeutic purpose, ~~other than stress management, self hypnosis, guided imagery, or relaxation,~~ a clinical social worker, marriage and family therapist, or mental health counselor licensee shall have successfully completed at least 50 hours of instruction in concepts of and misconceptions of hypnosis induction techniques, contraindications ~~contraindications~~ to hypnosis, and the relationships of personality dynamics, psychopathology and ethical issues to hypnosis. Such instruction must have met the standards for approval of continuing education courses set forth in Rule 64B4-6.002, F.A.C., and in addition must have been taught by qualified teachers as defined in Rule 64B4-7.003, F.A.C.

(2) An intern may not practice hypnosis unless practicing under the supervision of a qualified supervisor who has met the requirements to practice hypnosis.

Rulemaking Specific Authority 491.004(5), 491.0141 FS. Law Implemented 491.0141 FS. History—New 7-6-88, Amended 2-25-90, Formerly 21CC-7.002, 61F4-7.002, 59P-7.002, Amended 7-20-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2011

**DEPARTMENT OF HEALTH**

**Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling**

RULE NO.: 64B4-7.0081  
 RULE TITLE: Requirements to be a Qualified Practitioner for Completing Risk Assessments and Treatment of Sexual Offenders

PURPOSE AND EFFECT: The Board proposes promulgation of the rule to provide requirements for a qualified practitioner who completes risk assessments and treats sexual offenders.

SUMMARY: The promulgated rule will provide requirements for a qualified practitioner who completes risk assessments and treats sexual offenders.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

During discussion of the economic impact of the rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that the rule amendment will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this rule will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 947.005(10), 984.001(9), 491.004(5) FS.

LAW IMPLEMENTED: 947.1405(7)(a)5., 948.30(1)(e) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B4-7.0081 Requirements to be a Qualified Practitioner for Completing Risk Assessments and Treatment of Sexual Offenders.

(1) Licensees approved by the Florida Department of Corrections (DOC) or Federal Probation Service to complete risk assessments and treat sexual offenders or who were a clinical member of Association for the Treatment of Sexual

Abusers (ATSA) or the Florida Association for the Treatment of Sexual Abusers (FATSA) on or before June 30, 2010, shall be deemed to be qualified practitioners.

(2) In order to be a qualified practitioner for completing risk assessments for sexual offenders, one must hold an active license as a clinical social worker, marriage and family therapist, or mental health counselor under Chapter 491, Florida Statutes.

(3) A qualified practitioner under this rule shall possess 60 hours of post degree graduate coursework or post degree continuing education in all of the following core areas with a minimum of three (3) hours per area:

- (a) Etiology of sexual deviance;
- (b) Evaluation/risk assessment and treatment of adult and adolescent sexual offenders that have established scientific bases;
- (c) Evaluation/risk assessment and treatment of specialized populations of sexual offenders;
- (d) Physiological measures of sexual arousal;
- (e) Sexual offender and current DSM diagnosis;
- (f) Safety planning/Family Safety planning;
- (g) Report writing;
- (h) Legal and ethical issues in the evaluation and treatment of sexual offenders;

- (i) Co-morbidity and substance abuse issues; and
  - (j) Relapse prevention.
- (4) Have documented 2,000 hours of post degree experience in the evaluation and treatment of sexual offenders.

(5) A qualified practitioner under this rule must complete 20 hours of board approved biennial continuing education in the assessment, evaluation and treatment of sexual offenders; relapse prevention; experience and training in working with victims; and related legal and ethical issues.

Rulemaking Authority 947.005(10), 948.001(9), 491.004(5) FS. Law Implemented 947.1405(7)(a)5., 948.30(1)(e) FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2011

**DEPARTMENT OF HEALTH**

**Board of Nursing**

RULE NO.: 64B9-8.001  
 RULE TITLE: The Probable Cause Panel

PURPOSE AND EFFECT: The Board proposes this rule amendment to dispense with the geographical distribution of probable cause cases because the Board has three panels that meet monthly, and there are not always present or former board members available from specific parts of the state.

SUMMARY: The purpose of this amendment is to take out the geographical assignments.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:**

During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 456.073(1), (3), 464.006 FS.

LAW IMPLEMENTED: 456.073(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe R. Baker, Jr., Executive Director, Board of Nursing, 4052 Bald Cypress Way, Bin #C02, Tallahassee, Florida 32399

**THE FULL TEXT OF THE PROPOSED RULE IS:**

64B9-8.001 The Probable Cause Panel.

(1) The determination as to whether probable cause exists shall be made by a majority vote of a probable cause panel of the Board.

~~(2)~~ The Board establishes three probable cause panels of two persons each to be appointed by the Chairman of the Board. Each panel may have one former Board member serve, and at least one member of each panel must be an active licensee of the Board. No more than one member of each panel shall be a consumer member. One member of each panel shall be designated chairman. The Board may designate one panel to review the cases closed by the Department.

~~(b) One panel shall be designated as the North Florida probable cause panel and shall consist of members residing in the northern part of the state. Cases arising from the southern part of the state shall be referred to the North Florida panel.~~

~~(c) One panel shall be designated as the Central Florida probable cause panel and shall consist of members residing in the middle part of the state. Cases arising from the northern part of the state shall be referred to the Central Florida panel.~~

~~(d) One panel shall be designated as the South Florida probable cause panel and shall consist of members residing in the southern part of the state. Cases arising from the central part of the state shall be referred to the South Florida panel.~~

~~(e) It is the Board's intent to distribute the workload equitably among the three panels and to conduct meetings in a geographically convenient and economical manner for the panel members. A panel may refuse to consider a case that clearly belongs to another panel. However, it is not the intent of the Board to require mathematical and geographic precision. That one panel acted on a case which arguably should have been considered by another shall not be grounds to invalidate that panel's action.~~

~~(3)~~ If a case needs to be reconsidered by the probable cause panel for any reason, the case must be taken to the panel which initially considered it.

~~(4)~~ The panel shall ~~not~~ suggest penalties for inclusion in any stipulations between the Department and the licensee, based on the material submitted by the Department, the Board's past treatment of similar cases, and the Board's disciplinary guidelines. All stipulations and terms shall be subject to approval or rejection by the full Board.

~~(b) Receive interim reports from the probation supervisor to consider referring potential problem probationers to the full Board or for further investigation and a probable cause determination.~~

~~(5)~~ The panel may consider and recommend rules concerning disciplinary actions, procedures, and penalties to the full Board.

Rulemaking Authority 456.073(1), (3), 464.006 FS. Law Implemented 456.073(4) FS. History--New 11-28-79, Amended 11-22-84, Formerly 21O-10.04, Amended 4-8-92, 9-22-92, Formerly 21O-10.004, 61F7-8.001, Amended 5-1-95, Formerly 59S-8.001, Amended 8-18-98, 4-28-99, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Nursing

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 3, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 23, 2010



**DEPARTMENT OF HEALTH**

**Board of Nursing**

RULE NO.: 64B9-8.006  
 RULE TITLE: Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances

PURPOSE AND EFFECT: The Board proposes this rule amendment to include the penalties and sentencing guidelines for health care fraud of Ch. 2009-223, Laws of Florida.

SUMMARY: The purpose of this amendment is to include the penalties and sentencing guidelines for health care fraud of Ch. 2009-223, Laws of Florida.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:**

During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact

on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 456.072, 456.079 FS.

LAW IMPLEMENTED: 456.079, 464.018 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe R. Baker, Jr., Executive Director, Board of Nursing, 4052 Bald Cypress Way, Bin #C02, Tallahassee, Florida 32399-3252

THE FULL TEXT OF THE PROPOSED RULE IS:

64B9-8.006 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) through (3)(bbb) No change.

	<u>First Offense</u>	<u>Second Offense</u>
<u>(ccc) Being convicted of, or entering a plea of guilty or nolo contendere to any misdemeanor or felony, regardless of adjudication, under 18 USC s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 USC ss. 1320a-7b, relating to the Medicaid program.</u> (456.072(1)(ii), F.S.)	<u>Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.</u>	
<u>(ddd) Failing to remit the sum owed to the state for overpayment from the Medicaid program pursuant to a final order, judgment, or settlement.</u> (456.072(1)(jj), F.S.)	<u>Reprimand, suspension until restitution made. Fine of 10% of overpayment, maximum of \$5,000.00.</u>	<u>Reprimand, and suspension to revocation. Fine of 20% of overpayment, maximum of \$5,000.00.</u>
<u>(eee) Being terminated from the state Medicaid program, or any other state Medicaid program, or the federal Medicare program.</u> (456.072(1)(kk), F.S.)	<u>Reprimand to suspension and a fine of \$250.</u>	<u>From suspension and a fine of \$500 to revocation.</u>
<u>(fff) Being convicted of, or entering into a plea of guilty or nolo contendere to any misdemeanor or felony, regardless of adjudication, which relates to health care fraud.</u> (456.072(1)(ll), F.S.)	<u>(fff) Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.</u>	

(4) through (6) No change.

Rulemaking Authority 456.072, 456.079 FS. Law Implemented 456.072, 456.079, 464.018 FS. History--New 2-5-87, Amended 8-12-87, 12-8-87, 11-23-89, 7-28-92, Formerly 21O-10.011, Amended 12-5-93, Formerly 61F7-8.006, Amended 5-1-95, Formerly 59S-8.006, Amended 8-18-98, 7-1-99, 3-23-00, 5-8-00, 5-2-02, 1-12-03, 2-22-04, 8-3-05, 7-5-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Nursing  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 8, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 2010

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

RULE NO.: 68A-13.008  
RULE TITLE: Hunting Regulations for Migratory Birds Other than Ducks and Coots

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to establish open season for taking woodcock in conformance with federal regulations. Rule wording would be revised to add 15 days to the end of woodcock season increasing the season from 30 to 45 days.

SUMMARY: The rule amends migratory bird hunting regulations to establish woodcock season dates.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

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: Article IV, Section 9, Florida Constitution.

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

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

DATES AND TIME: During the regular meeting of the Commission, November 16-17, 2011, 8:30 a.m. – 5:00 p.m., each day

PLACE: Key Largo Grande Resort & Beach Club, 97000 South Overseas Highway, Key Largo, FL 33037

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diane R. Eggeman, Director, Division of Hunting and Game Management, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

**THE FULL TEXT OF THE PROPOSED RULE IS:**

68A-13.008 Hunting Regulations for Migratory Birds Other than Ducks and Coots.

The Commission has approved the following regulations and bag limits for taking crows and migratory game birds other than ducks and coots:

- (1) through (2) No change.
- (3) Woodcock:
  - (a) Open season: December 18 through January 31 ~~Opening the third Saturday of December and closing sunset 29 days thereafter.~~
  - (b) through (c) No change.
  - (4) through (6) No change.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 8-17-89, Amended 8-9-90, 8-22-91, 8-23-92, 9-2-93, 9-15-94, 9-15-96, 9-7-97, Formerly 39-13.008, Amended 7-1-01, 7-1-04, 1-9-07, 1-6-09, 7-1-10, \_\_\_\_\_.

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

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 7, 2011  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 23, 2010

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE NO.: 68B-3.001  
 RULE TITLE: Repeal of Chapters 57-1218 and 57-1219, Charlotte County Special Acts

PURPOSE AND EFFECT: The purpose of the proposed rule is to repeal two Special Acts of Local Application for Charlotte County. This proposed rule was requested by the Charlotte County Board of Commissioners. The first act prohibits the use of underwater lights while harvesting fish in waters of the county and the second act prohibits the use of any gig or spear in inland waters of the county. The Florida Fish and Wildlife Conservation Commission has determined that these rules will not adversely affect the marine resources of Charlotte County or of the State of Florida. With the repeal of these Special Acts, spearing and the use of lights in Charlotte County waters would fall under the same rules that apply statewide.

SUMMARY: Rule 68B-3.001, F.A.C., (Repeal of Chapters 57-1218 and 57-1219, Charlotte County Special Acts) would be created to repeal Chapters 57-1218 and 57-1219, Charlotte County Special Acts from the Florida Administrative Code.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

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: Article IV, Section 9, Florida Constitution.

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

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

DATES AND TIME: During the Commission’s regular meeting November 16-17, 2011, 8:30 a.m. – 5:00 p.m., each day

PLACE: Key Largo Grande Resort & Beach Club, 97000 South Overseas Highway, Key Largo, FL 33037

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-3.001 Repeal of Chapters 57-1218 and 57-1219, Charlotte County Special Acts.

The Fish and Wildlife Conservation Commission has determined that the repeal of Charlotte County Special Acts, Chapter 57-1218 and Chapter 57-1219, Laws of Florida (1957), will not adversely affect the marine resources of Charlotte County or of the State of Florida, therefore Charlotte County Special Acts Chapter 57-1218 and Chapter 57-1219, Laws of Florida (1957) are hereby repealed.

PROPOSED EFFECTIVE DATE: January 1, 2012.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-12.

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

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 8, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 26, 2011

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE NOS.:	RULE TITLES:
68B-37.002	Definitions
68B-37.003	Size Limits
68B-37.004	Regional Bag Limits
68B-37.005	Commercial Seasons; Daily Harvest Limit; Vessel Limit
68B-37.006	Gear Specifications and Prohibited Gear; Bycatch Allowance

**PURPOSE AND EFFECT:** The purpose and effect of the proposed rules is to allow for greater fishing opportunity for recreational and commercial fishers in Florida, where the spotted seatrout population stocks are exceeding the Commission’s management goal. The proposed rules would eliminate the current recreational closed months and would also extend the commercial season in each region from three to five months. The proposed rules would allow spotted seatrout inventory to be sold year-round and require spotted seatrout to be landed and have first point of sale in an open region. Additionally, the proposed rules would create a vessel limit of 150 spotted seatrout if two commercial licensees are aboard. It would separate the south region into two regions, the southeast and southwest, and would clarify that all spotted seatrout rules apply to state and federal waters.

**SUMMARY:** Rule 68B-37.002, F.A.C., (Definitions) would be amended by striking the definition of “South” and adding definitions for “Southeast” and “Southwest.” Rule 68B-37.003 (Size Limits) would be amended to clarify that the size limits extend into federal waters. Rule 68B-37.004, F.A.C., (Regional Bag Limits; Closed Seasons) would be amended to remove the regional season closures. Rule 68B-37.005, F.A.C., (Commercial Season; Daily Harvest Limit) would be amended to change the commercial seasons (June through October for the southwest and northeast, May through September for the southeast, and September through January for the northwest). It would also be amended to add a vessel limit of 150 seatrout if two commercial licensees are aboard and to allow for year-round sale of spotted seatrout. Rule 68B-37.006, F.A.C., (Gear Specifications and Prohibited Gear; Bycatch Allowance) would be amended to clarify that the gear specifications extend into federal waters.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

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:** Article IV, Section 9, Florida Constitution.

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

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

**DATES AND TIME:** During the Commission’s regular meeting November 16-17, 2011, 8:30 a.m. – 5:00 p.m., each day

**PLACE:** Key Largo Grande Resort & Beach Club, 97000 South Overseas Highway, Key Largo, FL 33037

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

**THE FULL TEXT OF THE PROPOSED RULES IS:**

68B-37.002 Definitions.

As used in this rule chapter:

(1) through (6) No change.

(7) “Southeast Region” means all state waters lying south of the Flagler-Volusia County Line and north of the Miami-Dade-Monroe County Line, and adjacent federal Exclusive Economic Zone (EEZ) waters. ~~“South Region” means state waters lying between the Flagler-Volusia County Line on the Atlantic Ocean and the southern boundary of the Northwest Region on the Gulf of Mexico in Pinellas County, as specified in subsection (6), and adjacent federal Exclusive Economic Zone (EEZ) waters.~~

(8) “Southwest Region” means all state waters lying south and west of the Miami-Dade-Monroe County Line and south of the southern boundary of the Northwest Region on the Gulf of Mexico in Pinellas County, as specified in subsection (6), and adjacent federal Exclusive Economic Zone (EEZ) waters.

(8) through (9) renumbered (9) through (10) No change.

PROPOSED EFFECTIVE DATE: January 1, 2012.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 11-1-89, Amended 1-1-96, 8-1-96, Formerly 46-37.002, Amended 7-1-00, 7-1-06, 1-1-12.

68B-37.003 Size Limits.

(1)(a) Recreational Size Limits – Except as provided in paragraph (b), a person subject to a regional bag limit specified in subsection 68B-37.004(1), F.A.C., shall not harvest, or possess within or without state waters in or on the waters of the state, or land any spotted seatrout with a total length less than 15 inches or greater than 20 inches.

(b) A person harvesting under a regional bag limit established in subsection 68B-37.004(1), F.A.C. may harvest, and possess within or without state waters while in or on the waters of the state, and land no more than one spotted seatrout per day with a total length greater than 20 inches.

(2) Commercial Size Limit – A person harvesting for commercial purposes shall not harvest, or possess within or without state waters while in or on the waters of the state, or land any spotted seatrout with a total length less than 15 inches or greater than 24 inches. No person shall buy, sell, or exchange any spotted seatrout with a total length less than 15 inches or greater than 24 inches.

(3) All spotted seatrout harvested in or from Florida or adjacent federal Exclusive Economic Zone (EEZ) waters shall be landed in a whole condition. The possession, within or without state waters while in or on state waters, on any public or private fishing pier, on a bridge or catwalk attached to a bridge from which fishing is allowed, or on any jetty, of a spotted seatrout that has been deheaded, sliced, divided, filleted, ground, skinned, scaled, or deboned is prohibited. Mere evisceration or "gutting" of spotted seatrout, or mere removal of gills before landing is not prohibited.

PROPOSED EFFECTIVE DATE: January 1, 2012.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 11-1-89, Amended 1-1-96, 8-1-96, Formerly 46-37.003, Amended 7-1-00, 1-1-12.

68B-37.004 Regional Bag Limits; ~~Closed Seasons~~.

(1) Regional bag limits – Except as provided in Rule 68B-37.005, F.A.C. ~~and subject to the closed seasons specified in subsection (2)~~, no person shall harvest more spotted seatrout per day or possess at any time, within or without state waters while in, on, or above the waters of the state or on any dock, pier, bridge, beach, or other fishing site adjacent to such waters, more spotted seatrout than the specified bag limit established in this subsection within the following identified regions:

(a) Southeast and Southwest Regions ~~South Region~~ – Four (4) spotted seatrout.

(b) Northwest and Northeast Regions – Five (5) spotted seatrout.

~~(2) Regional season closures— No person shall harvest any spotted seatrout within the specified region during the closed seasons established in this subsection. During the specified closed season, the possession of spotted seatrout while in or on the waters of the specified region or on any dock, pier, bridge, beach, or other fishing site adjacent to such waters is prohibited.~~

~~(a) South Region— Beginning on November 1 and continuing through December 31 each year, the season for the harvest of spotted seatrout is closed in the South Region. During this closed season, no person shall land any spotted seatrout harvested in the Northeast or Northwest Region in the South Region.~~

~~(b) Northwest and Northeast Regions— Beginning on February 1 and continuing through the last day of February each year, the harvest of spotted seatrout is closed in the Northwest and Northeast Regions. During this closed season, no person shall land any spotted seatrout harvested in the South Region in the Northwest or Northeast Region.~~

PROPOSED EFFECTIVE DATE: January 1, 2012.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 11-1-89, Amended 1-1-96, 8-1-96, Formerly 46-37.004, Amended 7-1-00, 1-1-12.

68B-37.005 Commercial Seasons; ~~and~~ Daily Harvest Limit; Vessel Limit.

(1) Commercial Season – The harvest of spotted seatrout for commercial purposes shall be limited each year to the period established in this subsection within the following identified regions:

(a) Southwest Region and Northeast Region – ~~b~~Beginning June 1 and continuing through August 31.

(b) Southeast Region – Beginning May 1 and continuing through September 31.

(c) Northwest Region – Beginning September 1 and continuing through January 31.

Such harvest is limited to persons possessing a valid saltwater products license with a restricted species endorsement.

~~(2) Prohibition of Sale— Once the commercial season specified in subsection (1) is closed, the purchase, sale, or exchange of spotted seatrout harvested from Florida or adjacent federal Exclusive Economic Zone (EEZ) waters is prohibited, beginning on the date specified in paragraph (a) and continuing through the following May 31.~~

~~(a) This prohibition shall be effective beginning 5 days after the season specified in subsection (1) is closed.~~

~~(b) This prohibition shall not apply to spotted seatrout legally harvested outside Florida or adjacent federal Exclusive Economic Zone (EEZ) waters, which spotted seatrout have~~

entered the State of Florida in interstate commerce. The burden shall be upon any person possessing spotted seatrout during the period sale is prohibited to establish the chain of possession from the initial transaction after harvest, by appropriate receipt(s), bill(s) of sale, or bill(s) of lading, and to show that such spotted seatrout originated from a point outside Florida or adjacent federal Exclusive Economic Zone (EEZ) waters, and entered the state in interstate commerce. Failure to maintain such documentation or to promptly produce same at the request of any duly authorized law enforcement officer shall constitute a violation of this rule.

~~(2)~~(3) Commercial Daily Harvest Limit and Vessel Limit – Each person harvesting spotted seatrout for commercial purposes pursuant to subsection (1) of this rule shall be governed by a daily harvest limit of 75 spotted seatrout per day. No such harvester shall possess within or without ~~while in or on~~ state waters more than 75 spotted seatrout; ~~provided, however, that~~ ~~the possession of more than 150~~ 75 spotted seatrout aboard any vessel within or without ~~in or on~~ state waters with two or more, irrespective of the number of commercial licensees aboard, is prohibited. ~~The landing of more than 75 spotted seatrout from a single vessel in any single day is prohibited.~~ The towing of any vessel in order to exceed the commercial daily harvest limit or vessel limit established by this subsection is prohibited.

(3) Landing – The landing of more than 75 spotted seatrout from a single vessel with one commercial licensee aboard in any single day is prohibited. The landing of more than 150 spotted seatrout from a single vessel with two or more commercial licensees aboard is prohibited. Spotted seatrout harvested for commercial purposes may only be landed within the boundaries of the regions that are open for commercial harvest.

(4) Sale of seatrout shall adhere to the following restrictions.

(a) At the initial sale, no wholesale dealer located in a region that is closed to commercial harvest may purchase spotted seatrout.

(b) During the closed season, no person, firm or corporation, shall have in their possession, sell or offer for sale, any spotted seatrout, or any parts thereof, except for:

1. Spotted seatrout placed in inventory prior to the close of the fishing season in that region by a wholesale or retail dealer as defined in Section 379.414, Florida Statutes.

2. Spotted seatrout purchased from a wholesale dealer located in an open region, or

3. Spotted seatrout legally harvested outside Florida, which have entered the State of Florida in interstate commerce.

(c) During the closed season all spotted seatrout in inventory must be reported to the Commission on the Closed Season Spotted Seatrout Declaration Form DMF-3700 (01/12), which is hereby incorporated by reference. Copies can be obtained by contacting the Fish and Wildlife Conservation

Commission, Division of Marine Fisheries, 2590 Executive Center Circle E, Suite 203, Tallahassee, Florida 32301 or at [www.myfwc.com](http://www.myfwc.com).

(d) Form DMF-3700 (01/12) must be submitted to the Commission by the seventh day of the each month during the closed season and a copy shall be held at the place of business during the closed season.

(e) For purposes of form DMF-3700 (01/12), the following counties are included in the regions:

1. Northeast Region includes Baker, Clay, Duval, Flagler, Nassau, Putnam, and St. Johns Counties;

2. Southeast Region includes Brevard, Broward, Dade, Indian River, Lake, Martin, Okeechobee, Orange, Osceola, Palm Beach, Seminole, St. Lucie, and Volusia Counties;

3. Southwest Region includes Charlotte, Collier, De Soto, Glades, Hardee, Hendry, Highlands, Hillsborough, Lee, Manatee, Monroe, Pinellas, Polk, and Sarasota Counties;

4. Northwest Region includes Alachua, Bay, Bradford, Calhoun, Citrus, Columbia, Dixie, Escambia, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Hernando, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Marion, Okaloosa, Pasco, Santa Rosa, Sumter, Suwannee, Taylor, Union, Wakulla, Walton, and Washington Counties.

(f) The burden shall be upon any person possessing spotted seatrout during the regional closed seasons to establish the chain of possession from the initial transaction after harvest, by appropriate receipt(s), bill(s) of sale, or bill(s) of lading, and to show that such spotted seatrout was in inventory prior to the regional closure, was purchased from a wholesale dealer in an open region, or originated from a point outside Florida, and entered the state in interstate commerce. Failure to maintain such documentation or to promptly produce same at the request of any duly authorized law enforcement officer shall constitute a violation of this rule.

PROPOSED EFFECTIVE DATE: January 1, 2012.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 11-1-89, Amended 1-1-96, Formerly 46-37.005, 1-1-12.

68B-37.006 Gear Specifications and Prohibited Gear; Bycatch Allowance.

(1) ~~The harvest of any spotted seatrout, within or without the waters of the state waters,~~ by or with the use of any multiple hook in conjunction with live or dead natural bait is prohibited. Snagging (snatch hooking) of spotted seatrout in or from state waters is prohibited.

(2) The harvest or attempted harvest of any spotted seatrout, within or without state waters, by or with the use of any gear other than a cast net or hook and line gear is prohibited.

(3) The simultaneous possession aboard a vessel, within or without state waters, of any gill net or entangling net together with any spotted seatrout is prohibited.

PROPOSED EFFECTIVE DATE: January 1, 2012.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 11-1-89, Amended 1-1-96, Formerly 46-37.006, 1-1-12.

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

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 8, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 23, 2010

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE NOS.:	RULE TITLES:
68B-44.002	Definitions
68B-44.008	Prohibited Species; Prohibition of Harvest, Landing, and Sale

PURPOSE AND EFFECT: The purpose of this rule amendment is to protect great, scalloped and smooth hammerhead sharks, and tiger sharks in state waters of Florida by prohibiting the commercial and recreational harvest of these species. Scalloped, smooth and great hammerhead sharks and tiger sharks have all experienced population declines of at least fifty percent. Research has demonstrated benefits to protecting shark populations in Florida state waters. Critical nursery habitat is often found in shallow state waters and much of Florida's coastal waters have been identified as Essential Fish Habitat for many species of sharks; this means that the habitat in Florida waters is necessary for the sharks to carry out their life cycle. Further, pregnant sharks enter state waters to pup at known times of year and often in known locations. The effect of this rule would be to protect these four species of sharks by not allowing their harvest by commercial or recreational anglers.

SUMMARY: Rules 68B-44.002 (Definitions) and 68B-44.008, F.A.C., (Prohibited Species; Prohibition of Harvest, Landing, and Sale) would be amended to remove scalloped, smooth and

great hammerhead and tigers sharks from the definition of harvestable sharks and add them to the list of sharks that are prohibited to harvest.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

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: Article IV, Section 9, Florida Constitution.

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

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

DATES AND TIME: During the Commission's regular meeting November 16-17, 2011, 8:30 a.m. – 5:00 p.m., each day

PLACE: Key Largo Grande Resort & Beach Club, 97000 South Overseas Highway, Key Largo, FL 33037

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

**THE FULL TEXT OF THE PROPOSED RULES IS:**

68B-44.002 Definitions.

As used in this rule chapter:

(1) through (6) No change.

(7) "Shark" means any of the following species or any part thereof:

(a) Large coastal species:

- 1. Blacktip shark – *Carcharhinus limbatus*.
- 2. Bull shark – *Carcharhinus leucas*.
- ~~3. Great hammerhead – *Sphyrna mokarran*.~~
- ~~3.4. Nurse shark – *Ginglymostoma cirratum*.~~
- ~~5. Scalloped hammerhead – *Sphyrna lewini*.~~
- ~~6. Smooth hammerhead – *Sphyrna zygaena*.~~
- ~~4.7. Spinner shark – *Carcharhinus brevipinna*.~~
- ~~8. Tiger shark – *Galeocerdo cuvier*.~~

(b) through (d) No change.

PROPOSED EFFECTIVE DATE: January 1, 2012.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 4-8-92, Amended 1-1-98, Formerly 46-44.002, Amended 1-19-10, 3-21-10, 1-1-12.

68B-44.008 Prohibited Species; Prohibition of Harvest, Landing, and Sale.

(1) No person shall harvest, possess, land, purchase, sell, or exchange any or any part of these species:

(a) through (j) No change.

(k) Great hammerhead – *Sphyrna mokarran*.

(k) through (p) renumbered (l) through (q) No change.

(r) Scalloped hammerhead – *Sphyrna lewini*.

(q) through (t) renumbered (s) through (v) No change.

(w) Smooth hammerhead – *Sphyrna zygaena*.

(x) Tiger shark – *Galeocerdo cuvier*.

(u) through (aa) renumbered (y) through (ee) No change.

(2) No change.

PROPOSED EFFECTIVE DATE: January 1, 2012.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 4-8-92, Amended 1-1-98, Formerly 46-44.008, Amended 7-1-03, 3-9-06, 1-19-10, 3-21-10, 1-1-12.

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

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 8, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 23, 2010

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Insurance Agents and Agency Services**

RULE NO.: 69B-162.009  
RULE TITLE: Licensing of Agents

PURPOSE AND EFFECT: This rule is being repealed since it is obsolete and unnecessary.

SUMMARY: Rule 69B-162.009, F.A.C., is repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Knowledge and experience of Department staff.

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: 627.805 FS.

LAW IMPLEMENTED: 626.221, 626.241 FS.

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

DATE AND TIME: November 7, 2011, 11:00 a.m.

PLACE: Room 142, Larson Building, 200 E. Gaines Street, Tallahassee, FL

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Cindy Benefield, (850)413-5404 or Cindy.Benefield@MyFloridaCFO.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Cindy Benefield, Senior Management Analyst, Division of Insurance Agents and Agency Services, 200 E. Gaines Street, Tallahassee, FL 32399, (850)413-5404

THE FULL TEXT OF THE PROPOSED RULE IS:

69B-162.009 Licensing of Agents.

Rulemaking Specific Authority 627.805 FS. Law Implemented 626.221, 626.241 FS. History–Repromulgated 12-24-74, Formerly 4-10.09, 4-10.009, 4-162.009, Repealed



NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Greg Thomas, Director, Division of Insurance Agents and Agency Services  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jeff Atwater, Chief Financial Officer, Department of Financial Services  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 2, 2011

DATE AND TIME: November 7, 2011, 10:00 a.m.  
 PLACE: Room 142, Larson Building, 200 E. Gaines Street, Tallahassee, FL  
 Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Cindy Benefield, (850)413-5404 or Cindy.Benefield@MyFloridaCFO.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Insurance Agents and Agency Services**

RULE NOS.:	RULE TITLES:
69B-175.006	Unfair Discrimination in Private Passenger Motor Vehicle Insurance Rates – Allocation of Administrative Expenses
69B-175.008	Unfair Discrimination in Private Passenger Motor Vehicle Insurance Rates – Based on History of Accidents
69B-175.010	Unfair Discrimination in Private Passenger Motor Vehicle Insurance – Based on Age

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Cindy Benefield, Senior Management Analyst, Division of Insurance Agents and Agency Services, 200 E. Gaines Street, Tallahassee, FL 32399, (850)413-5404

THE FULL TEXT OF THE PROPOSED RULES IS:

69B-175.006 Unfair Discrimination in Private Passenger Motor Vehicle Insurance Rates – Allocation of Administrative Expenses.

Rulemaking Specific Authority 624.308(1) FS. Law Implemented 624.307(1), 627.0651(6), (7) FS. History–New 10-8-78, Formerly 4-43.02, 4-43.002, Amended 11-2-92, Formerly 4-175.006, Repealed.

69B-175.008 Unfair Discrimination in Private Passenger Motor Vehicle Insurance Rates – Based on History of Accidents.

Rulemaking Specific Authority 624.308(1), 626.9611 FS. Law Implemented 624.307(1), 626.9541(1)(o)3.a. FS. History–New 8-1-90, Formerly 4-43.007, 4-175.008, Repealed.

69B-175.010 Unfair Discrimination in Private Passenger Motor Vehicle Insurance – Based on Age.

Rulemaking Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.9541(1)(x) FS. History–New 11-2-92, Formerly 4-175.010, Repealed.

PURPOSE AND EFFECT: These rules are being repealed since they are duplicative of Rules 69O-175.006, 69O-175.008, and 69O-175.010, F.A.C., which are administered by the Office of Insurance Regulation.

SUMMARY: Rules 69B-175.006, 69B-175.008, and 69B-175.010, F.A.C., are repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Knowledge and experience of Department staff.

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

RULEMAKING AUTHORITY: 624.308(1), 626.9611 FS.

LAW IMPLEMENTED: 624.307(1), 627.0651(6), (7), 626.9541(1)(o)3.a., 626.9541(1)(x) FS.

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

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Greg Thomas, Director, Division of Insurance Agents and Agency Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jeff Atwater, Chief Financial Officer, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 2, 2011