THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B18-14.010 Citations.

(1) through (2) No change.

(3) The following violations may be disposed of by the Department by citation with the specified penalty:

VIOLATIONS	PENALTY
(a) through (e) No change.	
(f) Soliciting patients (Sections 455.624(1)(x), 461.013(1)(k), 461.013(1)(w)).	$300 fine
(g) Failure to comply with the requirements of profiling or credentialing (Section 455.624(1)(v)).	$300 fine

(4) through (6) No change.

Specific Authority 455.617, 461.005 FS. Law Implemented 455.617 FS. History–New 1-19-92, Formerly 21T-14.010, 61F12-14.010, Amended 3-26-95, 2-25-96, 6-17-97, Formerly 59Z-14.010, Amended _____.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Mental Health Program Office

RULE TITLE: RULE NO.:
Health Care Surrogate or Proxy 65E-5.2301

PURPOSE AND EFFECT: The above rule is being revised to bring it into compliance with chapter 765, F.S.

SUBJECT AREA TO BE ADDRESSED: The rule currently requires two physicians to determine the competency of a person to consent to treatment before a health care surrogate may temporarily provide consent to treatment until a guardian advocate is appointed. This conflicts with s. 765.204(1), F.S., which requires only one physician to determine the competency of a person to consent to treatment. Revision of the above rule will bring it into compliance with existing statutory language.

SPECIFIC AUTHORITY: 394.457(5) FS.

LAW IMPLEMENTED: 394.4598, 765 FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT A TIME, DATE AND PLACE TO BE ANNOUNCED.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Interested persons may submit written comments or concerns for preliminary consideration to Vince Smith, Operations and Management Consultant II, Mental Health Program Office, 1317 Winewood Blvd., Building 6, Room 209, Tallahassee, Florida 32399-0700, Telephone (850)413-0932

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

65E-5.2301 Health Care Surrogate or Proxy.

(1) During the interim period between the time a patient is determined by a ~~two~~ physician~~s~~, as defined in s. 394.455(21), F.S., to be incompetent to consent to treatment and the time a guardian advocate is appointed by a court to provide express and informed consent to the patient's treatment, a health care surrogate designated by the patient, pursuant to chapter 765, part II, F.S., may provide such consent to treatment.

(2) through (5) No change.

Specific Authority 394.457(5) FS. Law Implemented 394.4598, 765 FS. History–New 11-29-98, Amended _____.

Section II
Proposed Rules

DEPARTMENT OF INSURANCE

RULE TITLES:	RULE NOS.:
PART V GROUP HEALTH INSURANCE POLICIES	
Applicability and Scope	4-154.402
Definition of Terms	4-154.403
Certificate of Creditable Coverage	4-154.404
Alternative Method of Determining Creditable Coverage	4-154.405
Demonstration of Creditable Coverage if Certificate is not Provided	4-154.406
Notice of Plan's Pre-existing Condition Exclusion Period	4-154.407
Pre-Existing Condition	4-154.4071
Special Enrollment Period Notification	4-154.408
Prohibited Discrimination	4-154.411
Group Conversion Election and Premium Notice Form	4-154.412
PART VI SMALL GROUP HEALTH INSURANCE POLICIES	
Applicability and Scope	4-154.502
Definitions	4-154.503
Requirement to Insure Entire Groups	4-154.504
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Alternative Method of Determining Creditable Coverage	4-154.507
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Prohibited Discrimination	4-154.512
Employee Health Care Access Act Annual and Quarterly Statement Reporting Requirement	4-154.513
Designation of Election to Become a Risk-Assuming or Reinsuring Carrier	4-154.514

Change of Status of Small Employer Carrier's Election to Become Risk-Assuming Carrier or Reinsuring Carrier 4-154.515
Prohibited Discrimination 4-154.516
Group Conversion Election and Premium Notice Form 4-154.517
Notice of Plan's Pre-existing Condition Exclusion Period 4-154.518
Pre-Existing Condition 4-154.5181

PURPOSE AND EFFECT: The purpose and effect of the rules is to assure portability of group health insurance and small group health insurance.

SUMMARY: These proposed rules and amendments implement Chapter 97-179, Laws of Florida, which was passed to conform Florida law with the Federal Health Insurance Portability and Accountability Act of 1996 (Kennedy-Kassebaum). This act established certain minimum standards for health insurance coverage and it required that state law be amended to comply with the federal law, which was accomplished in Chapter 97-179. Federal regulations have been adopted and the proposed rules and rule amendments substantially conform to the federal requirements.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 624.308, 624.308(1), 627.6561(8)(a),(e),(9)(b), 627.6699(5)(i)3.a.,4.a.,(9)(b),(16), 641.31071(7)(b),(8)(e),(10)(b), 641.36, 641.38 FS.

LAW IMPLEMENTED: 624.307(1), 624.418, 624.4211, 624.424(6), 626.9541, 627.40, 627.410, 627.6561, 627.65615, 627.65625, 627.6571, 627.6699, 627.6699(4)(a),(5),(f),(g)1.,(i)3.a.,4.a.,(7),(9),(10),(11), 641.31071, 641.31072, 641.31073 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 9:30 a.m., July 18, 2000

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Richard Robleto, Chief, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)413-5110

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Yvonne White at (850)413-4214.

THE FULL TEXT OF THE PROPOSED RULES IS:

4-154.402 Applicability and Scope.

(1) These rules apply to all group health insurance policies and all group health maintenance contracts issued or issued for delivery in the state on or after the effective date of this rule.

(2) Group health insurance policies are policies for groups of more than 50 employees.

Specific Authority 624.308, 627.6561(8)(a),(8)(e),(9)(b), 641.38 FS. Law Implemented 624.307(1), 627.6561, 641.31071 FS. History–New .

4-154.403 Definition of Terms.

For purposes of this part:

(1) "Categories of benefits" means the following benefits:

(a) Mental health coverage;

(b) Substance abuse coverage;

(c) Prescription drugs coverage;

(d) Dental coverage; and

(e) Vision coverage.

(2) "COBRA" means Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

(3) "Dependent" means a person designated by a employee, or by the terms of an employee benefit plan, who is or may become entitled to a benefit under the plan.

(4) "Employee" means any employee or former employee of an employer, or any member or former member of an employee organization, who is or may become eligible to receive health insurance coverage from a group health plan that covers employees of the employer or members of the organizations, or whose dependents may be eligible to receive such benefits.

(5) "Exhaustion of COBRA or other continuation coverage" means that a individual's continuation coverage ceases for any reason other than either failure of the individual to pay premium on a timely basis, or for cause. An individual is considered to have exhausted continuation coverage if:

(a) Coverage ceases due to the failure of the employer or other responsible entity to remit premiums on a timely basis; or

(b) The individual no longer resides, lives, or works in a service area of an HMO or similar program and there is no other continuation coverage available to the individual.

(6) "Group health plan" means an employee welfare plan as defined of the Employment Retirement Income Security Act (ERISA) of 1974 to the extent that the plan provides medical care as defined in subsection (8), including items and services paid for as medical care, to employees or their dependents directly or through insurance, reimbursement, or otherwise.

(7) "Health insurance issuer" or "issuer" means an authorized insurer or a health maintenance organization.

(8) "Medical care or condition" means amounts paid for any of the following:

(a) The diagnosis, cure, mitigation, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body;

(b) Transportation primarily for and essential to medical care described in paragraph (a);

(c) Insurance covering medical care described in paragraphs (a) and (b);

(9)(a) "Placement, or being placed, for adoption" as defined in section 63.032(9), Florida Statutes;

(b) The child's placement for adoption terminates upon the termination of the legal obligation of the adopting parent.

(10) "Service area" means the geographic area approved by the Agency for Health Care Administration within which:

(a) An insurer is authorized pursuant to section 627.6472, Florida Statutes, to offer a health insurance policy; or

(b) An HMO is authorized pursuant to section 641.495, Florida Statutes, to provide or arrange for comprehensive health care services.

(11) "Short-term, limited duration insurance" means health insurance coverage with an issuer that has specified in the contract an expiration date that is within 12 months of the date the contract becomes effective, taking into account any extensions that may be elected by the policyholder without the issuer's consent and shall be considered credible coverage as defined in section 627.6561(5)(a) and 641.31071(5)(a), Florida Statutes.

Specific Authority 324.308, 627.6561(8)(a),(e),(9)(b), 641.36 FS. Law Implemented 624.307(1), 627.6561, 641.31071 FS. History–New .

4-154.404 Certificate of Creditable Coverage.

(1)(a) A health insurance issuer in the group health insurance market shall provide a certificate of creditable coverage (certificate), and, if required, make certain other disclosures regarding a employee's coverage under a group insurance policy.

(b) The certificate and other disclosures are intended to enable employees to avoid or reduce pre-existing conditions exclusions included under subsequent group health insurance coverage which may be obtained by the individual.

(2) Issuers shall establish procedures by which individuals and dependents shall request and receive certificates.

(3)(a) The certificate shall read as indicated on Form DI4-XXX (rev. –), Certificate of Group Health Insurance Coverage, which is hereby adopted and incorporated by reference, and may be obtained from the Bureau of Life and Health Forms & Rates, 200 East Gaines Street, Tallahassee, Florida 32399-0328; or

(b) An issuer may develop its own form which shall contain all of the information contained in Form DI4-XXX (rev. –).

(4)(a) Employees shall receive a certificate automatically, without charge, when they lose coverage under a group policy.

(b) A certificate shall also be provided upon a request made within 24 months after coverage ceases by, or on behalf of, a employee.

(c) The certificate shall be provided at the earliest time that an issuer, acting in a reasonable and prompt fashion, can provide the certificate.

(5)(a) An issuer of a group health policy shall prepare certificates with respect to the coverage on any of the employee's dependents that are covered under a policy.

(b) If requested to provide a certificate related to a dependent, the issuer shall make reasonable efforts to obtain and provide the name of the dependent.

(c) An issuer shall use reasonable efforts to determine any information needed for a certificate relating to the dependent coverage.

(d) In any case in which an automatic certificate is required to be furnished with respect to a dependent under this section, no individual certificate is required to be furnished until the issuer knows, or making reasonable efforts should know, of the dependent's cessation of coverage under the plan.

(6)(a) The certificate shall be provided, without charge, to each employee or an entity requesting the certificate on behalf of the employee.

(b) The certificate may be provided by first-class mail.

(c) If the certificate or certificates are provided to the employee and the employee's spouse at the employee's last known address, the requirements of this section are satisfied with respect to all employees and dependents residing at that address.

(d) If a dependent does not reside at the employee's last known address, a separate certificate shall be provided to the dependent at the dependent's last known address.

(e) If separate certificates are provided by mail to employees and dependents who reside at the same address, mailing the certificates in the same envelope is permissible.

(7)(a) If an automatic certificate is required to be provided, and the employee or dependent entitled to received the certificate designates another individual or entity to receive the certificate, the issuer responsible for providing the certificate may provide the certificate to the designated party.

(b) If a certificate must be provided upon request of another issuer, and the employee entitled to receive the certificate designates another individual or entity to receive the certificate, the issuer responsible for providing the certificates shall provide the certificate to the designated party.

(8) An automatic certificate shall be provided, without charge, for employees or dependents who are or were covered under a group policy upon the occurrence of any of the following:

(a)1. In the case of an individual who is a qualified individual entitled to elect COBRA continuation coverage, an automatic certificate shall be provided at the time the

individual would lose coverage under the plan in the absence of COBRA continuation coverage, or alternative coverage elected instead of COBRA continuation coverage.

2. A plan or issuer satisfies this requirement if it provides the automatic certificate no later than the time a notice is required to be furnished for a qualifying event under COBRA.

(b) In the case of an individual who is entitled to elect to continuation coverage under section 627.6692, Florida Statutes (state continuation coverage), an automatic certificate shall be provided at the time the individual would lose coverage under the plan in the absence of state continuation coverage.

(c) In the case of an individual who is not a qualified individual entitled to elect COBRA or state continuation coverage, an automatic certificate shall be provided at the time the individual ceases to be covered under the plan.

(d)1. In the case of an individual who is a qualified individual and has elected COBRA or state continuation coverage, or whose coverage has continued after the individual became entitled to elect COBRA or state continuation coverage, an automatic certificate is to be provided at the time the individual's coverage under the plan ceases.

2. A plan or issuer satisfies this requirement if it provides the automatic certificate within a reasonable time after coverage ceases, or after the expiration of any grace period for nonpayment of premiums.

3. An automatic certificate shall be provided to the individual regardless of whether the individual has previously received an automatic certificate under paragraph (a) of this subsection.

Specific Authority 624.308, 627.6561(8)(a),(e), 641.36 FS. Law Implemented 624.307(1), 627.6561, 641.31071 FS. History–New .

4-154.405 Alternative Method of Determining Creditable Coverage.

(1)(a) Under the alternative method, a health insurance issuer or group health plan offering group health insurance coverage determines the amount of creditable coverage based on coverage within any category of benefits described in (2)(b) below and not based on coverage for any other benefits.

(b) The issuer or group health plan may use the alternative method for these categories.

(c) The plan may apply a different pre-existing condition exclusion period with respect to each category and may apply a different pre-existing condition exclusion period for benefits that are not within any category.

(d) The creditable coverage determined for a category of benefits applies only for purposes of reducing the pre-existing condition exclusion period with respect to that category.

(e) An individual's creditable coverage for benefits that are not within any category for which the alternative method is being used is determined under the standard method described in rule 4-154.404.

(2)(a) An issuer or group health plan using the alternative method shall apply it uniformly to all employees and individuals under the plan or policy. The use of the alternative method shall be set forth in the plan.

(b) The alternative method for counting creditable coverage may be used for coverage for any of the following categories of benefits:

1. Mental health.

2. Substance abuse treatment.

3. Prescription drugs.

4. Dental care.

5, Vision care.

(c) If the alternative method is used, the plan shall:

1. State prominently to each enrollee at the time of enrollment under the plan, in disclosure statements concerning the plan, that the plan is using the alternative method of counting creditable coverage; and

2. Include in these statements a description of the effect of using the alternative method, including an identification of the categories used.

(d) This requirement applies separately to each type of coverage offered by the health insurance issuer.

(e) Coverage under a reimbursement account or arrangement, such as a flexible spending arrangement as defined in Section 106(c)(2) of the Internal Revenue Code, does not constitute coverage within any category.

(f)1. An entity that uses the alternative method of counting creditable coverage may request that the entity that issued the certificate of creditable coverage disclose additional information in order for the requesting entity to determine the individual's creditable coverage with respect to any category of benefits.

2. The requested entity may charge the requesting entity the reasonable cost of disclosing the information.

3. The requesting entity may request a copy of the summary plan description (SPD) that applied to the individual's coverage or may request more specific information.

(8) Form DI4-XXX (rev. –), Information on Categories of Benefits, which is hereby incorporated by reference and may be obtained from the Bureau of Life and Health Forms & Rates, 200 East Gaines Street, Tallahassee, Florida 32399-0328, shall be used for specific coverage information regarding the categories of benefits.

Specific Authority 624.308, 627.6561(9)(b), 641.31071(7)(b) FS. Law Implemented 624.307(1), 627.6561, 641.31071 FS. History–New .

4-154.406 Demonstration of Creditable Coverage if Certificate is not Provided.

(1) An employee or a dependent may establish creditable coverage though means other than certificates. If the accuracy of a certificate is contested or a certificate is unavailable when

needed by the employee, the employee has the right to demonstrate creditable coverage and waiting periods through the presentation of documents or other means.

(2)(a) An issuer shall take into account all information that it obtains or that is presented on behalf of a employee or dependent to make a determination, based on the relevant facts and circumstances, whether or not the employee or dependent has 18 months of creditable coverage.

(b) An issuer shall treat the employee as having furnished a certificate if the employee:

1. Attests to the period of creditable coverage;

2. Presents relevant corroborating evidence of some creditable coverage during the period; and

3. Cooperates with the issuer's efforts to verify the employee's coverage.

(3)(a) For this purpose, cooperation includes:

1. Providing, upon the issuer's request, a written authorization for the issuer to request a certificate on behalf of the employee; and

2. Cooperating in efforts to determine the validity of the corroborating evidence and the dates of creditable coverage.

(b) An issuer may refuse to credit coverage if the employee fails to cooperate with the issuer's efforts to verify coverage; however, the issuer may not consider a employee's inability to obtain a certificate to be evidence of the absence of creditable coverage.

(4) Documents that may establish creditable coverage, and waiting periods, in the absence of a certificate include:

(a) Explanations of benefit (EOB) claims or other correspondence from a group health plan or issuer indicating coverage:

(b) Pay stubs showing a payroll deduction for health coverage;

(c) A health insurance identification card;

(d) A certificate of coverage under a group health policy;

(e) Records from medical care providers indicating health coverage

(f) Third party statements verifying periods of coverage; and

(g) Any other relevant documents that evidence periods of health coverage.

(5) Creditable coverage and waiting period information may be established through means other than documentation, such as by a telephone call from the issuer to a third party verifying creditable coverage.

(6) If, in the course of providing evidence including a certificate of creditable coverage, an employee shall demonstrate dependent status, the issuer shall treat the employee as having furnished a certificate showing the dependent status if the employee:

(a) Attests to the dependency and the period of the status; and

(b) Cooperates with the issuer's efforts to verify the dependent status.

Specific Authority 624.308, 627.6561(9)(b), 641.31071(8)(e),(10)(b), 641.36 FS. Law Implemented 624.307(1), 627.6561, 641.31071 FS. History–New _____.

4-154.407 Notice of Plan's Pre-existing Condition Exclusion Period.

(1) A health insurance issuer offering group health insurance coverage shall not impose a pre-existing condition exclusion period with respect to a employee or dependent of the employee before notifying the employee, in writing, if not contained in the evidence of coverage, of:

(a) The existence and terms of any pre-existing condition exclusion period under the plan; and

(b) The rights of individuals to demonstrate creditable coverage and any applicable waiting periods as required by section 627.6561(5), Florida Statutes.

(2) The description of the rights of individuals to demonstrate creditable coverage includes:

(a) A description of the right of the individual to request a certificate from a prior plan or issuer, if necessary; and

(b) A statement that the current plan or issuer will assist in obtaining a certificate from any prior plan or issuer, if necessary.

Specific Authority 624.308(1), 627.6561(8)(a),(9)(b), 641.31071(8)(e),(10)(b), 641.36 FS. Law Implemented 624.307(1), 627.6561, 641.31071 FS. History–New _____.

4-154.4071 Pre-Existing Condition.

(1) When an employee has been employed for less than 12 months and acquires a medical condition during that period and the employer changes carriers, the condition will not be considered to be a pre-existing condition for the new carrier.

(2) When a one person group becomes a two person group the pre-existing waiting period changes from 24 months to 12 months.

Specific Authority 624.308(1), 641.36 FS. Law Implemented 624.307(1), 627.65615, 641.31072 FS. History–New _____.

4-154.408 Special Enrollment Period Notification.

(1) Certain persons shall be permitted special enrollment periods under sections 627.65615 and 641.31072, Florida Statutes.

(2) On or before the time an employee is offered the opportunity to enroll in group health insurance coverage, the employee shall be provided the following description of eligibility for these special enrollment periods: "If you are declining enrollment for yourself or your dependents (including your spouse) because of other health insurance coverage, you may in the future be able to enroll yourself or your dependents in this plan, provided that you request enrollment within 30 days after your other coverage ends. In addition, if you have a new dependent as a result of marriage, birth, adoption or placement for adoption, you may be able to

enroll yourself and your dependents, provided that you request enrollment within 30 days after the marriage, birth, adoption, or placement for adoption."

Specific Authority 624.308(1), 641.36 FS. Law Implemented 624.307(1), 627.65615, 641.31072 FS. History–New .

4-154.411 Prohibited Discrimination.

An issuer shall not include in a group insurance policy an "actively at work" provision that delays coverage as a result of any health status-related factor pursuant to sections 627.65625 and 641.31073, Florida Statutes.

Specific Authority 624.308(1) FS. Law Implemented 624.307(1), 641.31073 FS. History–New .

4-154.412 Group Conversion Election and Premium Notice Form.

(1) The form shall be titled group conversion election and premium notice and provide in the heading of the form the name of the company, the address to return the form, and a telephone number to call for further information.

(2) The group conversion election and premium notice form shall include the following:

(a) The applicant's name (last, first, middle);

(b) The applicant's sex;

(c) Applicant's address;

(d) Applicant's date of birth;

(e) Applicant's social security number;

(f) Coverage for:

1. Employee only;

2. Employee/spouse;

3. Spouse only;

4. Employee/spouse/children;

5. Employee/children only;

6. Spouse/children;

7. Children only;

(g) For each dependent:

1. Name (last, first, middle);

2. Sex;

3. Social security number;

4. Date of birth; and

5. Relationship;

(h) Employers name and address;

(i) Employers group number;

(j) Employers contract/ID/plan number;

(k) Signature of employee/eligible individual;

(l) An identifying form number for the group conversion election and premium notice form.

Specific Authority 624.308(1), 627.6561(8)(a),(9)(b), 641.31071(8)(e),(10)(b) FS. Law Implemented 624.307(1), 627.6561, 641.31071 FS. History–New .

PART VI SMALL GROUP HEALTH INSURANCE POLICIES

4-154.502 Applicability and Scope.

The provisions of this part shall apply, to the extent provided in section 627.6699, Florida Statutes, to small employer health benefit plans insuring residents of this state.

Specific Authority 624.308(1), 627.6699(16) FS. Law Implemented 624.307(1), 624.418, 624.4211, 627.6699(4)(a),(5),(5)(g)1.,(7) FS. History–New .

4-154.503 Definitions.

As used in this part:

(1) "Categories of benefits" means the following benefits:

(a) Mental health coverage;

(b) Substance abuse coverage;

(c) Prescription drugs coverage;

(d) Dental coverage; and

(e) Vision coverage.

(2) "COBRA" means Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

(3) "Dependent" means a person designated by a employee, or by the terms of an employee benefit plan, who is or may become entitled to a benefit under the plan.

(4) "Employee" means any person presently or formerly employed by an employer, or any member or former member of an employee organization, who is or may become eligible to receive a benefit of any type from an employee benefit plan that covers employees of the employer or members of the organizations.

(5) "Exhaustion of COBRA or other continuation coverage" means that a individual's continuation coverage ceases for any reason other than either failure of the individual to pay premium on a timely basis, or for cause. An individual is considered to have exhausted continuation coverage if:

(a) Coverage ceases due to the failure of the employer or other responsible entity to remit premiums on a timely basis.

(b) The individual no longer resides, lives, or works in a service area of an HMO or similar program and there is no other continuation coverage available to the individual.

(6) "Group health plan" means an employee welfare plan as defined of the Employment Retirement Income Security Act (ERISA) of 1974, to the extent that the plan provides medical care as defined in subsection (7), including items and services paid for as medical care, to employees or their dependents directly or through insurance, reimbursement, or otherwise.

(7) "Medical advice, diagnosis, care, or treatment" means advice, diagnosis, care or treatment recommended by, or received from an individual licensed or similarly authorized to provide such services under state law and operating within the scope of practice authorized by state law.

(8)(a) "Placement, or being placed, for adoption" as defined in section 63.032(9), Florida Statutes.

(b) The child's placement for adoption terminates upon the termination of the legal obligation of the adopting parent.

(9) "Service area" means the geographic area approved by the Agency for Health Care Administration within which:

(a) An insurer is authorized pursuant to section 627.6472, Florida Statutes, to offer a health insurance policy; or

(b) An HMO is authorized pursuant to section 641.495, Florida Statutes, to provide or arrange for comprehensive health care services.

(10) "Short-term, limited duration insurance" means health insurance coverage with an issuer that has specified in the contract an expiration date that is within 12 months of the date the contract becomes effective, taking into account any extensions that may be elected by the policyholder without the issuer's consent and shall be considered credible coverage as defined in sections 627.6561(5)(a) and 641.31071(5)(a), Florida Statutes.

Specific Authority 624.308(1), 627.6699(16), 641.36 FS. Law Implemented 624.307(1), 627.6699 FS. History–New .

4-154.504 Requirement to Insure Entire Groups.

(1) A small employer carrier may offer the small employer the option of choosing among one or more health benefit plans, provided that each employee is permitted to choose any of the offered plans.

(2) New entrants to a small employer group shall be offered coverage under the health benefit plans provided to the group.

Specific Authority 624.308(1), 627.6699(16), 641.36 FS. Law Implemented 624.307(1), 627.6699 FS. History–New .

4-154.506 Certificate of Creditable Coverage.

(1)(a) A small employer carrier in the small group health insurance market shall provide a certificate of creditable coverage, and, if required, make certain other disclosures regarding a employee’s coverage under a small group insurance policy.

(b) The certificate and other disclosures are intended to enable employees to avoid or reduce pre-existing conditions exclusions included under subsequent group health insurance coverage which may be obtained by the individual.

(2) Small employer carriers shall establish procedures by which individuals and dependents shall request and receive certificates.

(3)(a) The certificate shall read as indicated on Form DI4-XXX (rev. –) Certificate of Group Health Insurance Coverage, which is adopted in rule 4-154.404.

(b) An issuer may develop its own form which must contain all of the information contained in Form DI4-XXX (rev. –).

(4)(a) Employees shall receive a certificate automatically, without charge, when they lose coverage under a group policy.

(b) A certificate shall also be provided upon a request made within 24 months after coverage ceases by, or on behalf of, a employee.

(c) The certificate shall be provided at the earliest time that a carrier, acting in a reasonable and prompt fashion, can provide the certificate.

(5)(a) A carrier of a group health policy shall prepare certificates with respect to the coverage on any of the employee's dependents that are covered under policy.

(b) If requested to provide a certificate related to a dependent, the carrier shall make reasonable efforts to obtain and provide the name of the dependent.

(c) A carrier shall use reasonable efforts to determine any information needed for a certificate relating to the dependent coverage.

(d) In any case in which an automatic certificate is required to be furnished with respect to a dependent under this section, no individual certificate is required to be furnished until the carrier knows, or making reasonable efforts should know, of the dependent's cessation of coverage under the plan.

(6)(a) The certificate shall be provided, without charge, to each employee or an entity requesting the certificate on behalf of the employee.

(b) The certificate may be provided by first-class mail.

(c) If the certificate or certificates are provided to the employee and the employee’s spouse at the employee's last known address, the requirements of this section are satisfied with respect to all employees and dependents residing at that address.

(d) If a dependent does not reside at the employee’s last known address, a separate certificate shall be provided to the dependent at the dependent's last known address.

(e) If separate certificates are provided by mail to employees and dependents who reside at the same address, mailing the certificates in the same envelope is permissible.

(7)(a) If an automatic certificate is required to be provided, and the employee or dependent entitled to received the certificate designates another individual or entity to receive the certificate, the carrier responsible for providing the certificate may provide the certificate to the designated party.

(b) If a certificate shall be provided upon request of another carrier, and the employee entitled to receive the certificate designates another individual or entity to receive the certificate, the carrier responsible for providing the certificates shall provide the certificate to the designated party.

(8) An automatic certificate shall be provided, without charge, for employees or dependents who are or were covered under a group policy upon the occurrence of any of the following:

(a)1. In the case of an individual who is a qualified individual entitled to elect COBRA continuation coverage, an automatic certificate shall be provided at the time the individual would lose coverage under the plan in the absence of COBRA continuation coverage, or alternative coverage elected instead of COBRA continuation coverage.

2. A plan or carrier satisfies this requirement if it provides the automatic certificate no later than the time a notice is required to be furnished for a qualifying event under COBRA.

(b) In the case of an individual who is entitled to elect to continue coverage under section 627.6692, Florida Statutes (state continuation coverage), an automatic certificate shall be provided at the time the individual would lose coverage under the plan in the absence of state continuation coverage.

(c) In the case of an individual who is not a qualified individual entitled to elect COBRA or state continuation coverage, an automatic certificate shall be provided at the time the individual ceases to be covered under the plan.

(d)1. In the case of an individual who is a qualified individual and has elected COBRA or state continuation coverage, or whose coverage has continued after the individual became entitled to elect COBRA or state continuation coverage, an automatic certificate is to be provided at the time the individual's coverage under the plan ceases.

2. A plan or carrier satisfies this requirement if it provides the automatic certificate within a reasonable time after coverage ceases, or after the expiration of any grace period for nonpayment of premiums.

3. An automatic certificate shall be provided to the individual regardless of whether the individual has previously received an automatic certificate under paragraph (a) of this subsection.

Specific Authority 624.308(1), 627.6561(9)(b), 627.6699(16) FS. Law Implemented 624.307(1), 627.6561, 627.6699(5)(f) FS. History–New _____.

4-154.507 Alternative Method of Determining Creditable Coverage.

(1)(a) Under the alternative method, a health insurance carrier or group health plan offering small group health insurance coverage determines the amount of creditable coverage based on coverage within any category of benefits described in (2)(b) below and not based on coverage for any other benefits.

(b) The carrier or group health plan may use the alternative method for these categories.

(c) The plan may apply a different pre-existing condition exclusion period with respect to each category and may apply a different pre-existing condition exclusion period for benefits that are not within any category.

(d) The creditable coverage determined for a category of benefits applies only for purposes of reducing the pre-existing condition exclusion period with respect to that category.

(e) An individual's creditable coverage for benefits that are not within any category for which the alternative method is being used is determined under the standard method described in rule 4-154.506.

(2)(a) A carrier or group health plan using the alternative method shall apply it uniformly to all employees and individuals under the plan or policy. The use of the alternative method shall be set forth in the plan.

(b) The alternative method for counting creditable coverage may be used for coverage for any of the following categories of benefits:

1. Mental health.

2. Substance abuse treatment.

3. Prescription drugs.

4. Dental care.

5. Vision care.

(c) If the alternative method is used, the plan shall:

1. State prominently to each enrollee at the time of enrollment under the plan, in disclosure statements concerning the plan, that the plan is using the alternative method of counting creditable coverage; and

2. Include in these statements a description of the effect of using the alternative method, including an identification of the categories used.

(d) This requirement applies separately to each type of coverage offered by the health insurance carrier.

(e) Coverage under a reimbursement account or arrangement, such as a flexible spending arrangement as defined in Section 106(c)(2) of the Internal Revenue Code, does not constitute coverage within any category.

(f)1. An entity that uses the alternative method of counting creditable coverage may request that the entity that issued the certificate of creditable coverage disclose additional information in order for the requesting entity to determine the individual's creditable coverage with respect to any category of benefits.

2. The requested entity may charge the requesting entity the reasonable cost of disclosing the information.

3. The requesting entity may request a copy of the summary plan description (SPD) that applied to the individual's coverage or may request more specific information.

(7) Form DI4-XXX (rev. –), Information on Categories of Benefits, which is adopted in rule 4-154.405, shall be used for specific coverage information regarding the categories of benefits.

Specific Authority 624.308, 627.6561(9)(b), 627.6699(16) FS. Law Implemented 624.307(1), 627.6561, 627.6699(5)(f) FS. History–New _____.

4-154.508 Demonstration of Creditable Coverage if Certificate is not Provided.

(1) Employees may establish creditable coverage though means other than certificates. If the accuracy of a certificate is contested or a certificate is unavailable when needed by the employee, the employee has the right to demonstrate creditable coverage and waiting periods through the presentation of documents or other means.

(2)(a) A small employer carrier shall take into account all information that it obtains or that is presented on behalf of a employee to make a determination, based on the relevant facts and circumstances, whether or not the employee has 18 months of creditable coverage.

(b) A carrier shall treat the employee as having furnished a certificate if the employee:

1. Attests to the period of creditable coverage;

2. Presents relevant corroborating evidence of some creditable coverage during the period; and

3. Cooperates with the carrier's efforts to verify the employee's coverage.

(3)(a) For this purpose, cooperation includes:

1. Providing, upon the carrier's request, written authorization for the carrier to request a certificate on behalf of the employee; and

2. Cooperating in efforts to determine the validity of the corroborating evidence and the dates of creditable coverage.

(b) A carrier may refuse to credit coverage if the employee fails to cooperate with the carrier's efforts to verify coverage; however, the carrier may not consider a employee's inability to obtain a certificate to be evidence of the absence of creditable coverage.

(4) Documents that may establish creditable coverage and waiting periods in the absence of a certificate include:

(a) Explanations of benefit (EOB) claims or other correspondence from a group health plan or carrier indicating coverage;

(b) Pay stubs showing a payroll deduction for health coverage;

(c) A health insurance identification card;

(d) A certificate of coverage under a group health policy;

(e) Records from medical care providers indicating health coverage;

(f) Third party statements verifying periods of coverage; and

(g) Any other relevant documents that evidence periods of health coverage.

(5) Creditable coverage and waiting period information may be established through means other than documentation, such as by a telephone call from the carrier to a third party verifying creditable coverage.

(6) If, in the course of providing evidence such as a certificate of creditable coverage, a employee shall demonstrate dependent status, the carrier shall treat the employee as having furnished a certificate showing the dependent status if the employee:

(a) Attests to the dependency and the period of the status; and

(b) Cooperates with the carrier's efforts to verify the dependent status.

Specific Authority 624.308(1), 627.6561(9)(b), 627.6699(16) FS. Law Implemented 624.307(1), 627.6561, 627.6699(5)(f) FS. History–New _____.

4-154.511 Discontinuance or Modification of Policy Form.

If a carrier elects to discontinue a group health insurance policy form by consolidation with another policy form, the rate for the benefits shall be actuarially justified and approved by the Department for the consolidated group.

Specific Authority 624.308(1) FS. Law Implemented 624.307(1), 627.410, 627.6571 FS. History–New _____.

4-154.512 Prohibited Discrimination.

An issuer shall not include in a group insurance policy an "actively at work" provision that delays coverage as a result of any health status-related factor pursuant to sections 627.65625 and 641.31073, Florida Statutes.

Specific Authority 624.308(1) FS. Law Implemented 624.307(1), 627.410, 627.6571 FS. History–New _____.

4-154.513 Employee Health Care Access Act Annual and Quarterly Statement Reporting Requirement.

(1)(a) Pursuant to section 627.6699, Florida Statutes, each carrier that provides health benefit plans in this state shall file with its annual statement each year, on or before March 1 for the preceding year ending December 31, Form DI4-1094 (rev. 8/94), Report of Gross Annual Premiums and Plan Policy Exhibits for Health Benefit Plans Issued in Florida, which is hereby adopted and incorporated by reference and may be obtained from the Bureau of Life and Health Forms & Rates, 200 East Gaines Street, Tallahassee, Florida 32399-0328, providing information on health benefit plans written in this state.

(2) Quarterly Reports: Within 30 days following each calendar quarter each small employer carrier shall file a report on Form DI4-1117 (rev. 1/95), Florida Employee Health Care Access Act Enrollment Report, which is hereby adopted and incorporated by reference and may be obtained from the Bureau of Life and Health Forms & Rates, 200 East Gaines Street, Tallahassee, Florida 32399-0328.

Specific Authority 624.308(1), 627.6699(5)(i)3.a.,4.a.,(16) FS. Law Implemented 624.307(1), 624.424(6), 627.6699(5)(i)3.a.,4.a. FS. History–New _____.

4-154.514 Designation of Election to Become a Risk-Assuming or Reinsuring Carrier.

(1)(a) All small employer carriers shall file a designation with the Department of their election to become either a risk-assuming or a reinsuring carrier.

(b) The small employer carrier desiring to be a risk-assuming or reinsuring carrier pursuant to section 627.6699(9), Florida Statutes, shall use Form DI4-1093 (rev. 8/93), State of Florida/Small Employer Carrier's Application to Become a Risk Assuming Carrier or a Reinsuring Carrier, which is hereby adopted and incorporated by reference and may be obtained from the Bureau of Life and Health Forms & Rates, 200 East Gaines Street, Tallahassee, Florida 32399-0328.

(2)(a) The Department shall provide notice by publication of a small employer carrier's designation of election to become a risk assuming or reinsuring carrier, and shall allow 21 days from the date of publication to receive comment prior to making its decision on the election.

(b) The Department shall hold a hearing on the election if requested by the carrier.

(3) The Department shall approve or disapprove any application within 60 days of receipt of the application, based on the criteria in section 627.6699(10), Florida Statutes.

Specific Authority 624.308(1), 627.6699(16) FS. Law Implemented 624.307(1), 627.6699(9),(10) FS. History–New _____.

4-154.515 Change of Status of Small Employer Carrier's Election to Become Risk-Assuming Carrier or Reinsuring Carrier.

(1) Any small employer carrier seeking to change the election made by the carrier under section 627.6699(9)(a), Florida Statutes, to become either a risk-assuming carrier or a reinsuring carrier shall request a change of status on Form DI4-1095 (rev. 8/93), State of Florida/Small Employer Carrier's Application to Modify Previous Election to Become a Risk Assuming or a Reinsuring Carrier, which is hereby adopted and incorporated by reference and may be obtained from the Bureau of Life and Health Forms & Rates, 200 East Gaines Street, Tallahassee, Florida 32399-0328, as required by section 627.6699(9), Florida Statutes.

(2)(a) Within 60 days from the date on which the form and its attached information is filed with the Department, the Department shall hold a hearing on the request.

(b) Within 30 days after the conclusion of the hearing and the submission of any post-hearing documentation or argument, the Department shall approve or disapprove the request, based on the criteria set forth in section 627.6699(10)(b), Florida Statutes.

Specific Authority 624.308(1), 627.6699(9)(b),(16) FS. Law Implemented 624.307(1), 627.6699(9),(10),(11) FS. History–New _____.

4-154.516 Prohibited Discrimination.

An issuer shall not include in a group insurance policy an "actively at work" provision that delays coverage as a result of any health status-related factor pursuant to sections 627.65625 and 641.31073, Florida Statutes.

Specific Authority 624.308(1) FS. Law Implemented 624.307(1), 627.65625, 626.9541 FS. History–New _____.

4-154.517 Group Conversion Election and Premium Notice Form.

(1) The form:

(a) Shall be titled "Group Conversion Election and Premium Notice"; and

(b) Shall provide in the heading of the form:

1. The name of the company;

2. The address to which to return the form; and

3. A telephone number to call for further information.

(2) The group conversion election and premium notice form shall include the following:

(a) Applicant's name (last, first, middle);

(b) Applicant's sex;

(c) Applicant's address;

(d) Applicant's date of birth;

(e) Applicant's social security number;

(f) Coverage for:

1. Employee only;

2. Employee/spouse;

3. Spouse only;

4. Employee/spouse/children ;

5. Employee/children only;

6. Spouse/children;

7. Children only;

(g) For each dependent:

1. Name (last, first, middle);

2. Sex;

3. Social security number;

4. Date of birth; and

5. Relationship;

(h) Employer's name and address;

(i) Employer's group number;

(j) Employers contract/ID/plan number;

(k) Signature of employee/eligible individual;

(l) An identifying form number for the group conversion election and premium notice form.

Specific Authority 624.308(1), 627.6561(8)(a),(9)(b), 641.31071(8)(e),(10)(b), 641.36 FS. Law Implemented 624.307(1), 627.6561, 641.31071 FS. History–New _____.

4-154.518 Notice of Plan's Pre-existing Condition Exclusion Period.

(1) A health insurance issuer offering group health insurance coverage shall not impose a pre-existing condition exclusion period with respect to a employee or dependent of the employee before notifying the employee, in writing, if not contained in the evidence of coverage, of:

(a) The existence and terms of any pre-existing condition exclusion period under the plan; and

(b) The rights of individuals to demonstrate creditable coverage and any applicable waiting periods as required by section 627.6561(5), Florida Statutes.

(2) The description of the rights of individuals to demonstrate creditable coverage includes:

(a) A description of the right of the individual to request a certificate from a prior plan or issuer, if necessary; and

(b) A statement that the current plan or issuer will assist in obtaining a certificate from any prior plan or issuer, if necessary.

Specific Authority 624.308(1), 627.6561(8)(a),(9)(b), 641.31071(8)(e),(10)(b), 641.36 FS. Law Implemented 624.307(1), 627.6561, 641.31071 FS. History–New .

4-154.5181 Pre-Existing Condition.

(1) When an employee has been employed for less than 12 months and acquires a medical condition during that period and the employer changes carriers, the condition will not be considered to be a pre-existing condition for the new carrier.

(2) When a one person group becomes a two person group the pre-existing waiting period changes from 24 months to 12 months.

Specific Authority 624.308(1), 627.6561(8)(a),(9)(b), 641.31071(8)(e),(10)(b), 641.36 FS. Law Implemented 624.307(1), 627.6561, 641.31071 FS. History–New .

NAME OF PERSON ORIGINATING PROPOSED RULE: Jim Bracher, Bureau Chief, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Belinda Miller, Division Director, Division of Insurer Services, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 8, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 22, 1997

DEPARTMENT OF EDUCATION

RULE TITLE: RULE NO.:
Transfer of High School Credits 6-1.099

PURPOSE AND EFFECT: The purpose of the proposed rule is to provide procedures relating to the acceptance of transfer work and credit for high school pupils.

SUMMARY: The proposed rule provides procedures relating to the acceptance of transfer work and credit for high school pupils.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 232.23(3) FS.

LAW IMPLEMENTED: 229.515 FS.

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

TIME AND DATE: 10:00 a.m., July 24, 2000

PLACE: Room 1702, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Weigman, Deputy Director, Division of Public Schools and Community Education, Department of Education, 325 West Gaines Street, Room 514, Tallahassee, Florida 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6-1.099 Transfer of High School Credits.

(1) All evidence of work or credits earned at another school, community college, or university offered for acceptance shall be based on an official transcript authenticated by the proper school authority.

(2) Work or credits from state or regionally accredited public or private schools or institutions shall be accepted at face value, subject to validation if deemed necessary.

(3) Work or credits from nonaccredited public or private schools or institutions shall be validated by examination or scholastic performance as established in school board policies.

(4) Work or credits earned by Opportunity Scholarship students from private schools which participate in the Opportunity Scholarship Program shall be accepted at face value, subject to validation if deemed necessary.

(5) Work or credits for home education students who transfer into the public school system shall be granted based on criteria established in district school board policies, which may include one or more of the following, as appropriate:

(a) Demonstrated academic performance in the classroom;

(b) Portfolio evaluation by the superintendent or designee;

(c) Written recommendation by a Florida certified teacher selected by the parent and approved by the principal;

(d) Demonstrated performance in courses taken through dual enrollment or at other public or private accredited schools;

(e) Demonstrated proficiencies on standardized subject area assessments; or

(f) Demonstrated proficiencies on the FCAT.

Such policies must provide the home education student at least ninety (90) days to prepare for assessments outlined in paragraphs (5)(e) and (5)(f) if required. The policies must require the validation of credits within the first ninety (90) days of the student's enrollment in the public school system. If however, assessments outlined in paragraphs (5)(e) and (5)(f) are required, validation of credits must be completed by the end of the school year.

(6) A transfer student cannot be required to spend additional time in a Florida high school in order to meet Florida graduation requirements provided the student has met all requirements of the school district, state, or country from which he or she is transferring. However, to receive a Florida high school diploma, a transfer student must pass the appropriate state test required for graduation.

Specific Authority 232.23(3) FS. Law Implemented 229.515 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Betty Coxe, Deputy Commissioner of Educational Programs, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Gallagher, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 14, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 15, 1999

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: RULE NO.:

Discipline Procedures for Students with Disabilities 6A-6.03312

PURPOSE AND EFFECT: The purpose of this rule is to outline discipline procedures for students with disabilities as outlined in PL105-17 (20 USC 1415) – Individuals with Disabilities Education Act, 1997. The effect is to have a State Board of Education rule which is consistent with federal law.

SUMMARY: This rule provides definitions related to discipline for students with disabilities; provides for short term removals, long term removals including the process for a manifestation determination, interim alternative educational settings; provides for protections for students not yet eligible for special education and related services; describes expedited due process hearings; indicates referral to and action by law enforcement and judicial authorities.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 230.23(4)(m), 232.26(1)(a),(2),(4) FS.

LAW IMPLEMENTED: 232.26(1),(4) FS.

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

TIME AND DATE: 9:00 a.m., July 25, 2000

PLACE: Room LL03, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Shan Goff, Bureau Chief, Bureau of Instructional Support and Community Services, Department of Education, 325 West Gaines Street, Room 614, Tallahassee, Florida 32399-0400, (850)488-1570

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.03312 Discipline Procedures for Students with Disabilities.

For students whose behavior impedes their learning or the learning of others, strategies, including positive behavioral interventions, strategies, and supports to address that behavior must be considered in the development of the student's individual educational plan. Procedures for providing discipline for students with disabilities must be consistent with the requirements of this rule.

(1) Definitions.

(a) Change of placement. For the purposes of removals of a student with a disability from the student's current educational placement under this rule, a change of placement occurs when:

1. The removal is for more than 10 consecutive school days, or

2. A series of removals constitutes a pattern because the removals cumulate to more than ten (10) school days in a school year, and because of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

(b) Controlled substance. A controlled substance is a drug or other substance identified through the Controlled Substances Act, 21 U.S.C. 812(c), and Section 893.02, Florida Statutes.

(c) Weapon. A weapon is defined in Section 790.001(13), Florida Statutes, and includes a dangerous weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury. This term does not include a pocket knife with a blade of less than two and one-half inches in length.

(d) Individual Educational Plan (IEP) Team. An IEP team must meet the requirements specified in Rule 6A-6.03028, FAC.

(e) Manifestation Determination. A manifestation determination examines the relationship between the student's disability and a specific behavior that may result in disciplinary action.

(f) Interim Alternative Educational Setting. An interim alternative educational setting (IAES) is a different location where educational services are provided for a specific time period due to disciplinary reasons.

(g) Expedited Due Process Hearings. Expedited due process hearings may be held at the request of either the parent or the school district regarding disciplinary actions. These hearings must meet the requirements prescribed in subsection (5) of Rule 6A-6.03311, FAC., except that the written decision must be mailed to the parties within forty-five (45) days of the school district's receipt of the parent's request or the filing of the district's request for the hearing without exceptions or extensions.

(h) Short Term Removals. A short term removal is the removal of a student with a disability for a total of ten (10) school days or less in a school year that does not constitute a change in placement as defined in paragraph (1)(a) of this rule.

(i) Long Term Removals. A long term removal is the removal of a student with a disability for more than ten (10) school days in a school year which may or may not constitute a change in placement as defined in paragraph (1)(a) of this rule.

(2) Authority of School Personnel. Consistent with the district's Code of Student Conduct and to the extent removal would be applied to students without disabilities, school personnel may order:

(a) The removal of a student with a disability from the student's current placement for not more than ten (10) consecutive school days.

(b) Additional removals of a student with a disability of not more than ten (10) consecutive days in that same school year for separate incidents of misconduct as long as those removals do not constitute a change in placement as defined in paragraph (1)(a) of this rule.

(3) Manifestation Determination. A manifestation determination, consistent with the following requirements, must be made any time disciplinary procedures result in a change of placement.

(a) The IEP team and other qualified personnel:

1. Considers all relevant evaluation and diagnostic information including information supplied by the parents of the student, observations of the student, the student's current IEP and placement, and any other relevant information, then

2. Determines, in relationship to the behavior subject to disciplinary action:

a. Whether the student's IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the student's IEP and placement;

b. Whether the student's disability impaired the ability of the student to understand the impact and consequences of the behavior subject to disciplinary action; and

c. Whether the student's disability impaired the student's ability to control the behavior subject to disciplinary action.

(b) If the IEP team and other qualified personnel determine that the student's behavior was not related to the disability, the relevant disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner in which they would be applied to students without disabilities. However, services consistent with subsection (5) of this rule must be provided.

(c) With the exception of placement in an interim alternative educational setting, as described in paragraph (6)(b) of this rule, if the IEP team determines the student's behavior was related to the disability, the student cannot be placed by school personnel in another setting unless the IEP team determines that it is the most appropriate placement.

(d) If the IEP team and other qualified personnel determine that any of the requirements of subparagraph (3)(a)2. of this rule were not met, the behavior must be considered a manifestation of the student's disability.

(e) The review described in paragraph (3)(a) of this rule may be conducted at the same IEP meeting that is required by paragraph (4)(d) of this rule.

(f) Any deficiencies in the student's IEP or placement or in their implementation identified during the manifestation determination must be remedied immediately.

(g) If a parent disagrees with the manifestation determination decision made by the IEP team pursuant to this rule, the parent may request an expedited due process hearing as described in subsection (7) of this rule.

(4) Long Term Removals. For all such removals:

(a) The school district must notify the parent of the removal decision and provide the parent with a copy of the notice of procedural safeguards as required in Rule 6A-6.03311, FAC., on the same day as the date of the removal decision;

(b) An IEP meeting must be held within ten (10) school days of the removal decision in order to perform a manifestation determination review as described in subsection (3) of this rule;

(c) Services consistent with subsection (5) of this rule must be provided;

(d) Either before or not later than ten (10) business days after either first removing the student for more than ten (10) school days in a school year or beginning with a removal that constitutes a change in placement:

1. If the school district did not conduct a functional behavioral assessment (FBA) and implement a behavior intervention plan (BIP) before the behavior that resulted in the removal, the IEP team must meet to develop an assessment plan.

2. If the student has a BIP, the IEP team shall meet to review the plan and its implementation and modify the plan and its implementation as necessary to address the behavior.

(e) As soon as practicable after developing the assessment plan and completing the FBA, as prescribed in paragraph (4)(d) of this rule, the IEP team must meet to develop appropriate behavioral interventions to address the behavior and shall implement those interventions.

(f) If subsequently, a student with a disability who has a BIP and who has been removed from the student's current placement for more than ten (10) school days in a school year is subjected to a removal that does not constitute a change in placement as described in paragraph (1)(a) of this rule:

1. The IEP team members shall review the BIP and its implementation to determine if modifications are necessary.

2. If one or more of the IEP team members believe that modifications are needed, the IEP team shall modify the plan and its implementation to the extent the IEP team determines necessary.

(5) Free Appropriate Public Education for Students with Disabilities who are Suspended or Expelled.

(a) A school district is not required to provide services to a student with a disability during short-term removals totaling ten (10) school days or less in a school year if services are not provided to students without disabilities during such removals.

(b) A school district must provide a free appropriate public education (FAPE) to a student with a disability, consistent with the requirements of this rule, beginning on the eleventh cumulative school day of removal in a school year.

(c) A school district must provide services to a student with a disability who has been removed for more than ten (10) school days in a school year to the extent necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals in the student's IEP.

1. If the removal is for not more than ten (10) consecutive school days in a school year and is not considered a change in placement, consistent with paragraph (1)(a) of this rule, school personnel, in consultation with the student's special education teacher, shall determine the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the student's IEP goals.

2. If the removal is due to behavior that was determined not to be a manifestation of the student's disability, the IEP team shall determine the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the student's IEP goals.

(6) Interim Alternative Educational Settings (IAES).

(a) The IEP team determines the IAES, unless it is determined by an administrative law judge in accordance with paragraph (7)(c) of this rule.

1. The IAES must be selected so as to enable the student to continue to progress in the general curriculum and to continue to receive services and modifications, including those described in the student's current IEP, that will enable the student to meet IEP goals.

2. The IAES must include services and modifications to address the behavior that resulted in the change of placement and that are designed to prevent the misconduct from recurring.

(b) School personnel may place a student in an IAES for the same amount of time a student without a disability would be placed, but for not more than forty-five (45) calendar days without the consent of the parent or guardian if the student:

1. Carries a weapon to school or to a school function, or

2. Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function.

(c) School personnel must notify the parent of an IAES placement decision and provide the parent with a copy of the notice of procedural safeguards, consistent with Rule 6A-6.03311, FAC., on the day the placement decision is made.

(7) Expedited Hearing.

(a) An expedited hearing may be requested:

1. By the student's parent if the parent disagrees with a manifestation determination or with any decision regarding a change in placement under this rule.

2. By the school district if the school district demonstrates by substantial evidence that maintaining the current placement of the student is substantially likely to result in injury to the student or to others (prior to removal to an interim alternative education setting) during the pendency of a due process hearing or an appeal as prescribed in subsection (5) of Rule 6A-6.03311, FAC.

(b) School district personnel may seek subsequent expedited hearings for alternative placements if after the initial forty-five (45) day term has expired, the district maintains the student's dangerous behavior is still likely to result in injury to the student or others.

(c) An administrative law judge may order a change in the placement of a student with a disability to an appropriate interim alternative or another educational setting for not more than forty-five (45) days if the administrative law judge, in an expedited due process hearing:

1. Determines that the school district has demonstrated by substantial evidence that maintaining the current placement of the student is substantially likely to result in injury to the student or others;

2. Considers the appropriateness of the student's current placement;

3. Considers whether the school district has made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services; and

4. Determines that the interim alternative educational setting (IAES) that is proposed by school personnel who have consulted with the student's special education teacher meets the requirements of subsection (6) of this rule.

(d) In reviewing a decision with respect to the manifestation determination, the administrative law judge shall determine whether the school district has demonstrated that the student's behavior was not a manifestation of the student's disability consistent with the requirements of subsection (3) of this rule.

(e) In reviewing a decision to place a student in an IAES, the administrative law judge shall apply the requirements of subsection (6) of this rule.

(8) Student's Placement During Proceedings.

(a) If a request for a hearing is made to challenge placement in the IAES, the manifestation determination or disciplinary action resulting from the student's involvement with a weapon, illegal drug, controlled substance, or dangerous behavior, the student must remain in the IAES pending the decision of the administrative law judge or until the expiration of the forty-five (45) day time period, whichever occurs first, unless the parent and the school district agree otherwise.

(b) If a student is placed in an IAES pursuant to paragraphs (6)(b) and (7)(c) of this rule, and school personnel propose to change the student's placement after expiration of the forty-five (45) day time period, during the pendency of any proceeding to challenge the proposed change in placement, the student must remain in the placement prior to the IAES except as provided in paragraph (7)(b) of this rule.

(c) Except as specified in paragraph (8)(b) of this rule, if the request for a hearing is to challenge the manifestation determination, the student's placement shall be consistent with the requirements of Section 230.23(4)(m)5., Florida Statutes.

(9) Protections for Students not Yet Eligible for Special Education and Related Services. A regular education student who is the subject of disciplinary actions may assert any of the protections afforded to a student with a disability if the school district had knowledge of his or her disability before the misbehavior occurred for which the disciplinary action is being taken.

(a) Basis of knowledge. A school district is determined to have knowledge that a student may have a disability if:

1. The parent has expressed concerns in writing (or orally, if unable to write) to school district personnel that the student needs special education and related services;

2. The behavior or performance of the student demonstrates the need for special education;

3. The parent has requested an evaluation to determine a need for possible special education services; or

4. The teacher of the student or other school district personnel have expressed concern about the student's behavior or performance to the special education director or to other appropriate school district personnel in accordance with the district's child find or special education referral system.

(b) Exception. A school district would not be deemed to have knowledge if, as a result of receiving the information specified in subsection (9) of this rule, the school district:

1. Conducted an evaluation and determined that the student was not a student with a disability; or

2. Determined that an evaluation was not necessary; and

3. Provided notice to the student's parents of the determination that the student was not a student with a disability as required by Rule 6A-6.03311, FAC.

(c) Conditions that Apply if No Basis of Knowledge.

1. If there is no basis of knowledge that the student is a student with a disability prior to disciplinary action, the student may be disciplined in the same manner as a student without a disability.

2. If an evaluation request is made for the student during the time period of the disciplinary action, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services. After considering the evaluation results and information provided by the parents, if the student is determined to be a student with a disability, the school district shall provide special education and related services consistent with the requirements of subsection (5) of this rule.

(10) Student Records in Disciplinary Procedures. School districts shall ensure that the special education and disciplinary records of students with disabilities are transmitted, consistent with the provisions of Section 228.093, Florida Statutes, and Rule 6A-1.0955, FAC.:

(a) For consideration by the person making the final determination regarding the disciplinary action, and

(b) For consideration by the appropriate authorities to whom school districts report crimes.

Specific Authority 230.23(4)(m)4., 232.26(1)-(4) FS. Law Implemented 232.26(1),(4) FS. History–New .

NAME OF PERSON ORIGINATING PROPOSED RULE: Betty Coxe, Deputy Commissioner of Educational Programs, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Gallagher, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 24, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 18, 2000

DEPARTMENT OF EDUCATION

Board of Regents

RULE TITLE: RULE NO.:
Tuition, Fee Schedule and Percentage of Cost 6C-7.001

PURPOSE AND EFFECT: Establish authority for universities to charge other than the standard out-of-state tuition for students whose residence is in a state which borders the university's service area.

SUMMARY: Authorizes universities to use a plan approved by the Board of Regents to charge other than the standard out-of-state tuition for students residing in a state which borders the university's service area.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory cost was not developed.

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

SPECIFIC AUTHORITY: 240.209(1),(3)(e) FS., CS/CS/HB 1567, 2000 Legislature.

LAW IMPLEMENTED: 240.209(3)(e) FS., CS/CS/HB 1567, 2000 Legislature.

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

TIME AND DATE: 9:00 a.m., July 21, 2000

PLACE: University Center, Florida State University, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mary-Anne Bestebreurtje, Corporate Secretary, Florida Board of Regents, 1454 Florida Education Center, 325 West Gaines Street, Tallahassee, Florida 32399-1950

THE FULL TEXT OF THE PROPOSED RULE IS:

6C-7.001 Tuition, Fee Schedule and Percentage of Cost.

(1) through (3) No change.

(4) The following tuition shall be levied and collected effective the fall semester indicated for each student regularly enrolled, unless provided otherwise in this chapter.

(a) through (d) No change.

(e) Pursuant to CS/CS/HB 1567, 2000 Legislature, a university may use a plan, approved by the Board, for a differential out-of-state tuition fee for students who are residents of another state that borders the university's service area.

(5) No change.

Specific Authority 240.209(1),(3)(e) FS. Law Implemented 240.209(3)(e),(h), 240.235(1), 240.124, 240.117 FS., Conference Committee Report on General Appropriations Act, 2000, CS/CS HB 1567, 2000 Legislature. History–Adopted 4-8-79, Renumbered 12-16-74, Amended 6-28-76, 7-4-78, 8-6-79, 9-28-81, 12-14-83, 7-25-84, 10-2-84, 10-7-85, Formerly 6C-7.01, Amended 12-25-86, 11-16-87, 10-19-88, 10-17-89, 10-15-90, 9-15-91, 1-8-92, 11-9-92, 7-22-93, 8-1-94, 11-29-94, 4-16-96, 8-12-96, 9-30-97, 12-15-97, 8-11-98, 9-30-98, 8-12-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Judy G. Hample, Executive Vice Chancellor, State University System

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Adam W. Herbert, Chancellor, State University System

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 14, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 26, 2000

DEPARTMENT OF EDUCATION

Board of Regents

RULE TITLE: RULE NO.:
Special Fees, Fines and Penalties 6C-7.003

PURPOSE AND EFFECT: To add a rule authorizing university transportation access fees.

SUMMARY: The rule is amended to authorize a campus transportation access fee.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regularly cost was prepared.

SPECIFIC AUTHORITY: 240.209(1),(3)(e)8.q. FS.

LAW IMPLEMENTED: CS/CS/HB 1567, 2000 Legislative Session.

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

TIME AND DATE: 9:00 a.m., July 20, 2000

PLACE: University Center, Florida State University, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mary-Anne Bestebreurtje, Corporate Secretary, Florida Board of Regents, 1454 Florida Education Center, 325 West Gaines Street, Tallahassee, Florida 32399-1950

THE FULL TEXT OF THE PROPOSED RULE IS:

6C-7.003 Special Fees, Fines and Penalties.

The Board must authorize all fees assessed. Accordingly, the specific fees listed in this section, and the tuition defined in Rule 6C-7.001, are the only fees that may be charged without the specific approval of the Board, except as authorized in Rule 6C-8.002. For purposes of clarification, the term "at cost" or "cost" as used in this rule includes those increased costs that are directly related to the delivery of the goods or services.

(1) through (33) No change.

(34) Transportation Access Fee – Each university is authorized to assess a transportation access fee.

(34) through (38) renumbered (35) through (39) No change.

Specific Authority 240.209(1),(3)(e),(h),(r), 240.235, 240.531(3) FS. Law Implemented 240.209(1),(3)(e),(h), 240.2097, 240.227(20), 240.235(1), 240.264-.267, 240.531(3), 240.533(4)(a), 832.07(1) FS., CS/CS/HB 1567, 2000 Legislative Session. History–Derived from 6C-2.74 and 6C-2.76, Amended and Renumbered 12-17-74, Amended 2-22-76, 6-22-76, 6-28-76, 11-1-76, 9-8-77, 2-14-79, 9-28-81, 12-7-82, 12-13-83, 10-2-84, 1-8-86, Formerly 6C-7.03, Amended 8-11-86, 12-25-86, 6-2-87, 10-17-89, 4-10-90, 1-7-91, 7-2-91, 9-15-91, 8-4-92, 11-9-92, 4-12-93, 5-30-93, 9-23-93, 8-1-94, 1-24-96, 4-16-96, 12-15-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Carl W. Blackwell, Vice Chancellor, Administration and Finance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Adam W. Herbert, Chancellor, State University System

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 14, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 26, 2000

DEPARTMENT OF EDUCATION

State Board of Independent Colleges and Universities

RULE TITLES:	RULE NOS.:
Fair Consumer Practices	6E-1.0032
Permission to Operate	6E-1.0035

PURPOSE AND EFFECT: Amendments to rules are required as a result of changes to the federal refund policy for colleges, a need to adjust the fee structure which supports the board, and a need to strengthen the requirements for colleges to operate in Florida without providing classes in the state. The effect is that the state's refund policy will be consistent with the federal one, the fees will be adjusted to reflect rising costs in the eight years since they have been changed, and consumers will be protected against institutions providing substandard education.

SUMMARY: The proposed refund policy amendments simplify the current language, while retaining the statutorily mandated provisions. Instead of requiring 100% refunds in specified cases, the proposed language allows each college to determine and publish what those cases will be, and to retain a 5% administrative fee. Instead of restating federal guidelines, the proposed language simply states that those guidelines shall be followed if applicable. The proposed amendments to Permission to Operate provide that foreign or out-of-state colleges wishing to maintain an office in Florida to recruit students, or to do occasional seminars in Florida, shall be evaluated and approved by a governmental or accrediting agency whose standards meet or exceed the Board's standards for licensure, a consumer protection issue. The proposed fees will be determined at a workshop which has been noticed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The selective changes to the fees assessed by the Board will result in an updated annual income to cover the more costly services provided by the Board, which is supported solely by fees, not General Revenue. These changes will reflect only workload costs, not Base Fees; therefore they would not apply to accredited exempt or religious colleges, and would be based upon the expense involved in specific licensure or other activities. Fees for site visits, for example, would be changed to include actual travel expenses as well as an administrative fee.

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

SPECIFIC AUTHORITY: 246.041(1)(e), 246.051(1), 246.071, 246.093(1), 246.095(2)(e), 246.101(1) FS.

LAW IMPLEMENTED: 246.041(1)(n), 246.093, 246.095(2)(e), 246.101(1) FS.

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

TIME AND DATE: 11:00 a.m., Wednesday, July 19, 2000

PLACE: Radisson Resort, 11775 Heron Bay Boulevard, Coral Springs, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sandra Knight, Deputy Director, State Board of Independent Colleges and Universities, Department of Education, 2586 Seagate Drive, Suite 200, Tallahassee, FL 32301, telephone (850)488-8695

THE FULL TEXT OF THE PROPOSED RULES IS:

6E-1.0032 Fair Consumer Practices.

(1) All nonpublic colleges, centers of out-of-state institutions, and branch locations shall separately demonstrate compliance with fair consumer practices. "Fair consumer practices" refers to the honest, accurate and equitable conduct of business and academic relations between colleges and their students or potential students. Information regarding fair consumer practices may be provided in the college's usual publications, such as catalogs and brochures. If ongoing complaints show a pattern of misinformation, lack of disclosure, or discrepancies between printed, electronic, ~~written~~ and verbal information being given to prospective students, the board may require that colleges prepare additional documents, to be individually signed and dated by students, to address the problem. Significant deviations from fair consumer practices shall be grounds for denial or revocation ~~or probation~~ of licensure or certificate of exemption pursuant to Sections 246.095(5) and Section 246.111, Florida Statutes, and Rule 6E-2.0061, FAC.

(2) Colleges shall specifically conform to fair consumer practices in the following areas:

(a) through (b) No change.

(c) Student financial assistance: Accurate information about the availability of financial assistance shall be provided to enrolled and prospective students. Each college or center shall use a clearly and unambiguously worded statement, to be signed and dated by each student applying for and receiving a student loan, to the effect that the student understands that he or she is obligated to repay the loan, and when repayments will begin. This statement shall be accurately translated in writing into the individual student's language if the student is not fluent in English and shall also be verbally explained and emphasized to each student.

(d) Placement assistance: The extent of placement services shall be specifically described. For occupational and professional programs, the college or center shall provide students with accurate and unexaggerated information relating to market and job availability, and information regarding the relationship of programs of study to the state licensure standards for practicing specific occupations and professions in Florida.

(e) No change.

(f) Refund policy:

1. The college or center shall have an equitable prorated refund policy for all students. This policy shall be prominently displayed in the catalog and uniformly administered. Any nonrefundable fees or charges shall be clearly disclosed. The policy shall provide a formula for proration of refunds based upon the length of time the student remains enrolled. The college shall not consider that all or substantially all tuition for an entire program or term is earned when a student has been enrolled for only a minimal percentage of the program or term. The refund policy shall provide for cancellation of any obligation within three working days, pursuant to s. 246.041(1)(n)3.e., Florida Statutes. Refunds shall be made within thirty days of the date that the college determines that the student has withdrawn. The college shall disclose in its catalog, in conjunction with the refund policy, the office to which a notice of withdrawal shall be delivered.

2. Refund policies which pertain to students who are receiving Title IV Federal Student Financial Assistance or veterans' benefits shall be in compliance with applicable federal regulations.

3. ~~A fair and equitable refund policy, for students participating in Title IV Federal Student Financial Assistance Programs, shall contain the following provisions for students who are not first-time students at the institution. A first-time student is a student who has not previously attended at least one class at the institution or received a refund of 100% of tuition and fees (less any permitted administrative fee) under the institution's refund policy for attendance at the institution. A student remains a first-time student until the student either withdraws, drops out, or is expelled from the institution after attending at least one class, or completes the period of enrollment for which he or she has been charged. Refund policies which pertain to first-time students who are receiving Title IV Federal Student Financial Assistance shall be in compliance with federal regulations. Institutions which adopt refund policies which are more favorable to the student shall be regarded as being in compliance with these provisions.~~ Tuition and fees shall be refunded in full, less an administrative fee not to exceed 5 percent of the term's tuition, if notice of withdrawal from the college or center is received prior to the end of the drop/add period and is submitted in compliance with the college's published withdrawal policy ~~written documentation is received from the student~~. ~~Tuition and fees shall also be refunded in full, for the current term under the following circumstances:~~

~~(i) For institutions that charge on a credit hour basis, credit hours dropped during the drop/add period;~~

~~(ii) Courses cancelled by the college or center;~~

~~(iii) Involuntary call to active military duty;~~

~~(iv) Documented death of the student or member of his or her immediate family (parent, spouse, child, sibling);~~

~~(v) illness of the student of such severity or duration, as approved by the college and confirmed in writing by a physician, that completion of the period of enrollment for which the student has been charged is precluded;~~

~~(vi) Exceptional circumstances, with approval of the president of the college or center (or designee).~~

~~A refund of at least 25 percent of the total tuition and fees paid shall be made if the student totally withdraws from the college or center and the student's last date of attendance is prior to the expiration of 25 percent of the period of enrollment for which the student was charged.~~

4. The college shall identify in its catalog the criteria for refunds when a student drops a course due to circumstances determined by the college to be exceptional and beyond the control of the student, which may include but not be limited to serious illness, death, involuntary call to active military duty, or other emergency circumstances or extraordinary situations.

5. Institutions which adopt refund policies which are more favorable to the student shall be regarded as being in compliance with these provisions.

Specific Authority 246.041(1)(e), 246.051(1), 246.071, 246.095(2), 246.111(2) FS. Law Implemented 246.041(1)(n), 246.085, 246.095, 246.111 FS. History–New 10-19-93, Amended _____.

6E-1.0035 Permission to Operate.

(1) Definitions. As used in s. 246.093, Florida Statutes, and this rule, these terms are defined:

(a) "Minimal presence in Florida" means a physical location in Florida.

(b) "Regular, continuous, credit-bearing educational program" means an educational program bearing college credit applicable to a degree as defined in s. 246.021(5), Florida Statutes, and Rule 6E-1.003(5)-(8), FAC., which program

enrolls students in Florida on a systematic, continuous basis, and which offers educational programs in Florida through classes, seminars, or other methods of delivery on an ongoing basis.

(2) For a college to establish a minimal presence in Florida as specified in s. 246.093, Florida Statutes, but not to provide a regular, continuous, credit-bearing educational program in Florida which would be subject to licensure, the college shall first receive permission from the board. Permission to operate will not be required or granted if the presence in Florida is solely used for banking, mail forwarding, or similar functions, and students or prospective students will not be contacted or recruited from the Florida location. Permission is contingent upon the college's demonstrating to the board that the following standards are met:

(a) The college is legally authorized to operate by the state or other agency of jurisdiction where the instruction takes place;

(b) The college has been evaluated and approved by an agency, either governmental or accrediting, which is determined by the Board to have standards at least comparable to the Board's licensure standards;

(c)~~(b)~~ The college's financial condition is stable;

(d)~~(c)~~ The college's operation in Florida is housed in facilities meeting the applicable requirements of Rule 6E-2.004(9), FAC.; and

(e)~~(d)~~ The college provides accurate written and verbal representations and advertisements regarding its academic programs and the scope of its operations in Florida.

(3) Application for permission shall be made by executing and filing Form SBICU 600, Application for Permission to Operate in Florida, effective April 2000, which is hereby incorporated by reference and made a part of this rule. Copies of this form may be obtained without cost by contacting the State Board of Independent Colleges and Universities, Department of Education, Tallahassee, Florida 32399. The executed form shall be accompanied by:

(a) A written description of the activities proposed for the Florida operation, prepared by the board of control of the college;

(b) Current documentation issued by the state or other agency of jurisdiction where the instruction provided by the college takes place, affirming that the college is legally authorized to operate and to offer all programs to be referred to by the Florida operation;

(c) Current documentation issued by the governmental or accrediting agency evaluating and approving the college, including a copy (in English) of the agency's standards by which the college was approved, and accompanied by the additional fee for the review of accrediting agencies;

(d)~~(c)~~ A current audited financial statement prepared by independent certified public accountants, reflecting the financial condition of the entire college and, when necessary, translated into U.S. dollars;

(e)~~(d)~~ Information required by Rule 6E-2.004(9), FAC., for the college's physical location in Florida; and

(f)~~(e)~~ Copies of all publications, including a current catalog describing the academic programs offered at other locations, and all advertisements to be distributed in Florida.

(4) If any recruiting of prospective students is to occur through the Florida operation, all personnel meeting the definition of "agent" in Section 246.021(1), Florida Statutes, shall be trained by the college and licensed by the Board pursuant to Section 246.087(2), Florida Statutes, and Rule 6E-2.010, FAC., prior to their communicating with the public.

(5) Permission for operation in Florida may be granted for periods of up to one (1) year, and shall specifically list all permitted locations and activities. The Board shall require periodic written reports of the Florida operation during the period of permission, when it is determined that such reports will assist the Board in monitoring the authorized activities.

(6) No additional activities shall be implemented by the permitted Florida operation without prior written approval by the Board.

(7) A new application and fee shall be submitted by the institution prior to the expiration of an existing Permission to operate, and prior to initiating any new or additional activities in Florida.

(8) Written or verbal statements disseminated in or outside Florida regarding the Florida operation shall contain the following disclosure: NOTICE: This college has a limited permission to operate in Florida under the provisions of Section 246.093, Florida Statutes, and Rule 6E-1.0035, Florida Administrative Code, but is not licensed to offer regular, continuous, credit-bearing educational programs in the State of Florida. For more information, contact the State Board of Independent Colleges and Universities, Department of Education, Tallahassee, Florida 32399, telephone (850)488-8695.

(9) Violation of any requirement of Section 246.093, Florida Statutes or Rule 6E-1.0035, FAC., shall be sufficient grounds for action to revoke, place on probation, or deny the permission to operate in Florida, pursuant to the provisions of Sections 120.57 and 246.111, Florida Statutes, and Rule 6E-2.0061, FAC.

Specific Authority 246.041(1)(e), 246.051(1), 246.071, 246.093(1) FS. Law Implemented 246.011(4), 246.021(1), 246.081(2), 246.087(2), 246.093, 246.101(5)(f) FS. History–New 5-13-87, Amended 11-27-88, 12-10-90, 10-19-93, 4-11-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sandra Knight, Deputy Director, State Board of Independent Colleges and Universities

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: C. Wayne Freeberg, Executive Director, State Board of Independent Colleges and Universities

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 21, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 2, 2000

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Community Planning

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Delegation of Local Government Comprehensive Plan Evaluation and Appraisal Report Sufficiency Review to Regional Planning Council	9J-34
RULE TITLES:	**RULE NOS.:**
Purpose	9J-34.001
Definitions	9J-34.002
Delegation Authorized	9J-34.003
Request for Delegation	9J-34.004
Delegation Limitations and Prohibitions	9J-34.005
Delegation Agreement	9J-34.006
Termination of Delegation Agreement	9J-34.007

PURPOSE, EFFECT AND SUMMARY: The purpose and effect is to revise the rule to conform to current statutory requirements.

SUMMARY OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 163.3191(10) FS.

LAW IMPLEMENTED: 163.3191 FS.

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

TIME AND DATE: 9:00 a.m. – 11:00 a.m., July 26, 2000

PLACE: The Randall Kelley Training Center, Third Floor, Room 305, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

Any person requiring special accommodation at the hearing because of a disability or physical impairment should contact Ray Eubanks, Community Program Administrator, Division of Community Planning, Bureau of State Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)488-4925, Suncom 277-4545 at least seven days before the date of the hearing. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) or 1-(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ray Eubanks, Community Program Administrator, Division of Community Planning, Bureau of State Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

THE FULL TEXT OF THE PROPOSED RULES IS:

9J-34.001 Purpose.

Specific Authority 163.3191(10) FS. Law Implemented 163.3191 FS. History–New 7-10-95, Repealed _____.

9J-34.002 Definitions.

Specific Authority 163.3191(10) FS. Law Implemented 163.3191 FS. History–New 7-10-95, Repealed _____.

9J-34.003 Delegation Authorized.

Specific Authority 163.3191(10) FS. Law Implemented 163.3191 FS. History–New 7-10-95, Repealed _____.

9J-34.004 Request for Delegation.

Specific Authority 163.3191(10) FS. Law Implemented 163.3191 FS. History–New 7-10-95, Repealed _____.

9J-34.005 Delegation Limitations and Prohibitions.

Specific Authority 163.3191(10) FS. Law Implemented 163.3191 FS. History–New 7-10-95, Repealed _____.

9J-34.006 Delegation Agreement.

Specific Authority 163.3191(10) FS. Law Implemented 163.3191 FS. History–New 7-10-95, Repealed _____.

9J-34.007 Termination of Delegation Agreement.

Specific Authority 163.3191(10) FS. Law Implemented 163.3191 FS. History–New 7-10-95, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE IS: Ray Eubanks, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Beck, Director, Division of Community Planning, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 7, 2000

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Relocation Assistance Regulations	14-66
RULE TITLES:	**RULE NOS.:**
Purpose	14-66.001
Scope	14-66.002

Definitions	14-66.003
Public Information	14-66.004
Advisory Services	14-66.005
Written Notices	14-66.006
Relocation Assistance Program	14-66.007
Moving and Related Expenses	14-66.008
Replacement Housing Payments	14-66.009
Mobile Homes	14-66.010
Claim Filing and Documentation	14-66.011
Appeal Rights	14-66.012

PURPOSE AND EFFECT: The purpose of this rule is to promulgate regulations governing the provision of relocation services, moving costs, replacement housing costs, and other related expenses and to ensure that each person displaced as a direct result of transportation projects is treated fairly, consistently, and equitably, so that such person will not suffer disproportionate injury as a result of projects designed for the benefit of the public as a whole and to ensure that the Florida Department of Transportation implements these regulations in a manner that is efficient and cost effective. This amendment also restructures the rule chapter by repealing 11 of the current 12 rules and consolidating material into an amended Rule 14-66.007.

SUMMARY: This amendment restructures the rule chapter by repealing 11 of the current 12 rules and consolidating material into an amended Rule 14-66.007.

SPECIFIC AUTHORITY: 334.044(2) FS.

LAW IMPLEMENTED: 339.09(2),(3) FS.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost has been Prepared.

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

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

TIME AND DATE: 2:00 p.m., July 26, 2000

PLACE: Room 479, Haydon Burns Building (Fourth Floor Conference Room Near the Office of Right of Way), 605 Suwannee Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James C. Myers, Administrative and Management Support Level IV, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULES IS:

14-66.001 Purpose.

Specific Authority 20.05, 334.044(2) FS. Law Implemented 339.09(2),(3) FS. History–New 8-9-72, Amended 1-12-83, Formerly 14-66.01, Amended 11-24-92, Repealed _____.

14-66.002 Scope.

Specific Authority 20.05, 334.044(2) FS. Law Implemented 339.09(2),(3) FS. History–New 8-9-72, Amended 1-12-83, Formerly 14-66.02, Amended 11-24-92, Repealed _____.

14-66.003 Definitions.

Specific Authority 20.05, 334.044(2) FS. Law Implemented 339.09(2),(3) FS. History–New 8-9-72, Amended 1-12-83, Formerly 14-66.03, Amended 11-24-92, Repealed _____.

14-66.004 Public Information.

Specific Authority 20.05, 334.044(2) FS. Law Implemented 339.09(2),(3) FS. History–New 8-9-72, Formerly 14-66.04, Amended 11-24-92, Repealed _____.

14-66.005 Advisory Services.

Specific Authority 20.05, 334.044(2) FS. Law Implemented 339.09(2),(3) FS. History–New 8-9-72, Formerly 14-66.05, Amended 11-24-92, Repealed _____.

14-66.006 Written Notices.

Specific Authority 20.05, 334.044(2) FS. Law Implemented 339.09(2),(3) FS. History–New 8-9-72, Formerly 14-66.06, Amended 11-24-92, Repealed _____.

14-66.007 ~~Project Determination of Adequate~~ Relocation Assistance Program.

Pursuant to Sections 339.09 and 421.55, Florida Statutes, the Department may expend transportation tax revenues on federal and non-federal-aid projects which shall include relocation assistance and moving costs to persons displaced by transportation facilities or other related projects. ~~Prior to proceeding with right-of-way negotiations on a project which will necessitate the relocation of any person, the Department will make a determination that:~~

(1) The purpose of this rule is to promulgate regulations governing the provision of relocation services, moving costs, replacement housing costs, and other related expenses and to ensure that each person displaced as a direct result of transportation projects is treated fairly, consistently, and equitably, so that such person will not suffer disproportionate injury as a result of projects designed for the benefit of the public as a whole, and to ensure that the Department implements these regulations in a manner that is efficient and cost effective. This rule shall apply to all persons displaced by any applicable transportation project on which negotiations for right-of-way acquisition begin after the effective date of this rule. The provisions of 49 C.F.R. Part 24, Uniform Relocation Assistance and Real Property Acquisition Regulations (effective March 15, 1999), as modified herein, are incorporated into this rule by reference. The Department shall require, as a condition of financial participation, that the requirements of this rule be met by the administering Agency on transportation projects or project phases:

(a) that are federalized;

(b) for which there is any anticipation or intent to federalize. Anticipation includes discussion by local or state officials regarding the intended or potential use of federal funds in any phase of the project;

(c) that are on the State Highway System; or

(d) are intended to be on the State Highway System.

(2) This rule does not apply to projects on or intended to be on the State Highway System which are funded by Department long term loan programs to governmental entities which have independent statutory authority to provide transportation projects on the State Highway System.

(3) Definitions. The following definitions, as well as those stated in 49 C.F.R. Part 24, Subpart A, shall apply as used in the context of this rule:

(a) "Agency" shall mean any state, county, district, authority or municipal office, department (including the Florida Department of Transportation), division, board, bureau, commission, or other separate unit of government created or established by law and any other public or private entity, person, partnership, corporation, or business entity acting on behalf of any Agency.

(b) "Carve Out" shall mean the method used in making a typical homesite determination, whereby, that portion of the parent tract which is typical for residential use in the area is separated from the parent tract for the purpose of the replacement housing payment computation.

(c) "Department" shall mean the Florida Department of Transportation.

(d) "Direct Loss Payment" shall mean a remuneration made to displaced persons for personal property that cannot be moved or which the displaced person chooses not to move and is in the form of either of the following:

1. On-Premise Signs remuneration is limited to the lesser of the sign's depreciated reproduction cost minus proceeds from its sale, salvage value, or the costs that would be incurred to move the sign, if it could be moved. If the sign cannot be moved without violating local, state, or federal codes, payment will be limited to the sign's depreciated reproduction cost minus proceeds from its sale or salvage value.

2. Tangible Personal Property remuneration is limited to the lesser of the fair market value of the item for continued use at the displacement site, less the proceeds from its sale, or the estimated cost of moving the item; there shall be no allowance for storage. (The Agency may determine the effort to sell an item is not necessary and when payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling price.)

(e) "Displaced Person" shall mean any person who moves from the real property or moves his or her personal property from the real property as defined in 49 C.F.R. Part 24.2 and is used interchangeably with "displacee" and "relocatee."

(f) "Displacement Dwelling" shall mean the dwelling from which a displaced person is required to move due to a transportation project.

(g) "Displacement Site" shall mean, for purposes of a non-residential fixed payment, the parent tract on which the business is operating.

(h) "Domicile" shall mean the place where a person has his or her true, fixed, permanent home and principal establishment and to which he or she has, when absent, the intention of returning.

(i) "Family" shall mean two or more individuals who are living together and intend to live together at the replacement dwelling.

(j) "Federalized Project" shall mean any project with federal participation in any project phase.

(k) "Gross Monthly Income" shall mean salaries, wages, and all other amounts, whether in cash or in-kind, paid or given to the displaced person.

(l) "Initiation of Negotiations" shall mean the date the initial written offer of just compensation is delivered by the Agency to the owner or representative of the owner to purchase real property for a project.

(m) "Major Exterior Attribute" shall mean any major appurtenant structure exterior to a residential dwelling, or an aesthetically valuable view which substantially contributes to the quality or standard of living of the displaced person(s).

(n) "Market/Economic Rent" shall mean the Agency's determination of the reasonable income expectancy of a dwelling or other property if it were available for rent, and the rent justifiably payable for the right of occupancy of land or improvements.

(o) "Person" shall mean any individual, family, partnership, corporation, or association.

(p) "Personal Property" shall mean, generally, moveable items not permanently affixed to and a part of the real estate, which typically can be removed without serious injury either to the real estate or to the items themselves.

(q) "Post-Move Inventory" shall mean a list of personal property actually moved to the replacement site as a part of a relocation. Such list is prepared by the displaced person or the Agency after the move is completed and is confirmed as correct by the Agency's representative and the displaced person(s).

(r) "Pre-Move Inventory" shall mean a list of items to be included in a move. Such list is prepared prior to the move and confirmed by the displaced person(s).

(s) "Typical Homesite Determination" shall mean a determination, for replacement housing payment computation purposes, of the portion of a tract of land which is typical for residential use in the area.

(4) Advisory Services. The Agency will provide relocation advisory services in accordance with 49 C.F.R. Part 24.205.

(5) Written Notices. The following written notices will be furnished to each displaced person to provide information regarding the benefits and services available to him or her:

(a) A General Information notice shall be furnished to each displaced person as required in 49 C.F.R. Part 24, Subpart C.

(b) A 90-Day Notice will be furnished to each displaced person as delineated in 49 C.F.R. Part 24, Subpart C.

(c) A Notice of Eligibility shall be furnished to all displaced persons. The Notice of Eligibility shall:

1. Be delivered at the time of initiation of negotiations for owners, and no later than 14 days from the date of initiation of negotiations for tenants; and

2. Provide an explanation of all services and payments to which the occupant is entitled and identify the address of the nearest relocation assistance office where additional information concerning relocation assistance may be obtained.

(d) A Statement of Eligibility shall be furnished to each residential displaced person and shall include:

1. The amount of the maximum payment for which the displaced person is eligible;

2. An identification of the comparable replacement dwelling upon which such amount is based. The comparable replacement dwelling upon which the payment eligibility is based must be available to the displaced person at the time the Statement of Eligibility is delivered; and

3. A statement of the occupancy requirement necessary for obtaining the full amount of the payment.

(6) Relocation Planning. If a transportation project necessitates the relocation of any person, prior to proceeding with right-of-way negotiations, the Agency shall determine the following:

(a)~~(1)~~ Within a reasonable period of time prior to displacement, adequate replacement dwellings shall ~~will~~ be available or provided for each displaced person and ~~(~~such determination shall be accompanied by an analysis of all relocation issues involved and a specific plan to resolve such issues~~)~~; and

(b)~~(2)~~ The relocation program adequately provides ~~is realistic and is adequate to provide~~ orderly, timely, and efficient relocation of displaced persons, including, when appropriate, Housing of Last Resort as required in 49 C.F.R.~~,~~ Part 24, and these regulations.

(7) Moving and Related Expenses. Any person, family, business, farm operation, or non-profit organization which qualifies as a displaced person is entitled to payment of his or her actual moving and related expenses, as the Agency determines to be reasonable and necessary, as outlined in 49 C.F.R. Part 24, subject to the following provisions:

(a) In a residential or non-residential self-move, if the Agency questions the reasonableness of a moving expense, the Agency shall obtain an estimate of customary charges for the appropriate moving activity from a reputable moving firm. If the charges submitted by the commercial moving firm are substantially less than the charges submitted by the displaced person, for the same activity, the Agency shall reimburse the lesser amount.

(b) Prior to moving personal property for a residential move, performed by a commercial mover, or any non-residential move, when the move is expected to exceed $10,000, at least two estimates of move costs shall be obtained by the Department or the displaced person(s). The amount of the payment is limited to the lower of the two estimates. When a move is expected to cost less than $10,000, a single move estimate prepared by a commercial mover or a qualified Department employee shall be sufficient.

(c) In the event the Agency requires a move to be monitored, eligibility for payment shall be contingent on a written agreement between the Agency and the displaced person(s) as to:

1. The date and time the move is to begin;

2. The items that are listed as part of the realty in the appraisal report and which are not eligible for moving expense reimbursement; and

3. The displaced person's list of items to be moved.

(d) The displaced person shall provide the Agency with, or allow the Agency to take, pre-move and post-move inventories. If the pre-move and post-move inventories differ, the Agency will reimburse only costs associated with the actual personal property moved.

(e) After the displaced person receives actual direct loss payment for the items, upon request by the Agency, the displaced person shall transfer to the Agency ownership of personal property that has not been moved, sold, or traded. In the event the Agency acquires personal property as part of the real estate transaction, such personal property shall not be eligible for Relocation Assistance benefits.

(f) If no effort to sell personal property is made by the displaced person(s) and the personal property is abandoned, the displaced person is entitled to neither payment for moving said personal property nor payment for direct loss upon its abandonment.

(g) A business, non-profit organization, or farm operation must provide the Agency with notice of the approximate date of the start of the move at least seven days in advance.

(h) In a non-residential move, the displaced person(s) shall not give permission to a mover to begin the move before receiving authorization from the Agency.

(i) For moves requiring special handling, complete move specifications shall be written by the displaced person(s) or the Agency, or the Agency's designee.

(j) A business may be eligible to choose a fixed payment in-lieu of payment for actual moving and related expenses, and actual reasonable reestablishment expenses, as provided by 49 C.F.R. Parts 24.303 and 24.304. The displaced business is

eligible for a fixed payment if the Agency determines that the business meets all qualifying criteria under 49 C.F.R. Part 24.306(a) and (b).

(k) All pollutants or contaminants, as defined in Chapters 376 and 403, Florida Statutes, which are not hazardous wastes, shall not be abandoned and shall be disposed of or moved to the replacement site by the displaced person owner/operator in accordance with those Chapters.

1. The Department shall pay the lesser of the cost of disposal or the cost to move, if the displaced person(s) chooses to dispose of the material. If the displaced person(s) is not permitted to move the pollutant or contaminant, the Department shall pay the actual, reasonable cost of disposal.

2. If the displaced person(s) chooses to move the material to the replacement site, the Department shall pay the actual, reasonable, and necessary costs associated with the move.

3. If the applicable law prohibits the displaced person from obtaining the necessary permit to move the hazardous material to the replacement site, the Department shall pay for the cost of disposal and transportation to the disposal site. The displaced person shall be responsible for the disposal of such material.

4. If disposal of hazardous material is a part of the normal operation of the displaced business, the Department shall not pay for the cost of such disposal. If, however, the operation maintains a schedule for the pick-up or transportation of hazardous material to a disposal site and is required to move the material at an unscheduled time, the Department shall pay the actual, reasonable, and necessary extra costs associated with the move.

(l) All underground or above-ground storage tanks shall be emptied and removed from the site by the displaced owner/operator in accordance with Chapter 376, Florida Statutes, and rules of the Department of Environmental Protection, effective _____, governing underground or above-ground storage tanks.

1. If the displaced person(s) chooses to dispose of the tank contents, the Department shall pay the lesser of the cost of disposal or the cost to move.

2. If the displaced person(s) chooses to move the tank contents to the replacement site, the Department shall pay the actual, reasonable, and necessary costs associated with the move.

3. In cases where the owner/operator is required by Chapter 376, Florida Statutes, and/or rules of the Department of Environmental Protection, effective _____, governing underground or above-ground storage tanks, to remove tanks, the Department will not reimburse the costs associated with such removal.

(m) While transporting any hazardous material or substance to a replacement site or disposal site the Department shall not be considered the owner or shipper of any hazardous material or substance. In no case shall the Department contract with licensed shippers for the disposal of or moving of hazardous materials nor shall the Department be noted or identified on any manifest relating to the disposal of or moving of hazardous material.

(n) Any individual or business which generates solid waste shall make a hazardous waste determination pursuant to the Resource Conservation and Recovery Act (RCRA), and the Florida Resource and Management Act. All hazardous waste, as defined in 40 C.F.R. Parts 261.2 and 262.11, must be disposed of in accordance with Chapter 403, Florida Statutes, and Title 40 C.F.R. Part 262, at the sole cost of the individual or business before the subject site is vacated.

(8) Replacement Housing Payments. Individuals and families displaced from a dwelling acquired for a transportation project are eligible for replacement housing payments in accordance with the payments delineated in 49 C.F.R. Part 24, Subpart E.

(a) A displaced person is eligible for the replacement housing payment for a 180-day homeowner-occupant if he or she meets the criteria of 49 C.F.R. Part 24, Subpart E.

(b) Typical Homesite Determination.

1. Typical Tract for Area: If the acquired dwelling is located on a tract typical in size for residential use in the area, the maximum purchase additive payment is the probable selling price of a comparable replacement dwelling on another typical tract, less the acquisition price of the acquired dwelling and the tract on which it is situated. If an uneconomic remnant remains after a partial taking and the owner declines to sell that remnant to the Agency, the fair market value of the remainder will not be added to the acquisition cost of the acquired dwelling for the purposes of computing the replacement housing payment.

2. Large Tract for Area: If the acquired dwelling is located on a tract larger in size than is typical for residential use in the area, the maximum purchase additive payment is the probable selling price of a comparable replacement dwelling on a typical tract, less the sum of the acquisition price of the acquired dwelling (on the portion of land typical in size for residential use in the area), plus any severance damages to the dwelling or typical homesite area.

3. Higher and Better Use Tract: If the acquired dwelling is located on a tract where the fair market value is established as a higher and better use than residential, the maximum replacement housing payment is the probable selling price of a comparable replacement dwelling on a typical tract, less the sum of the acquisition price of the acquired dwelling (on the portion of land typical in size for residential use in the area), plus any severance damages to the dwelling or typical homesite.

4. Joint Residential/Business Use: If the acquired dwelling was part of a property that contained another dwelling unit or space used for non-residential purposes, only that portion of the acquisition payment which is actually attributable to the displacement dwelling shall be considered its acquisition cost

when computing the price differential. To determine what constitutes the typical homesite, a tract typical for residential use in the area must be used, even if a portion of that tract is used for other than residential purposes.

5. Carve-Outs of Homesites: When determining the typical homesite portion of the acquisition price, the actual price paid for the portion of the homesite in the taking area plus the value of the residential improvements in the taking area, plus any severance damages to either the remainder of the dwelling or homesite area shall be used. If damages are assigned to the entire remainder without an allocation between the remainder of the homesite and the excess land remaining, the damages shall be prorated between these remainders to establish the acquisition price of the dwelling, including the structure and land. In areas where a typical homesite cannot be determined due to differences in tract sizes within a residential area, the area actually utilized for residential purposes by the displaced person shall be used to compute the replacement housing payment. Consideration shall be given to locations of driveways and fences, outbuildings, gardens, and pools, and to the area maintained for residential usage. If all or part of areas occupied by non-residential structures must be included in order to create a homesite tract typical of the area, the typical homesite shall be figured using whatever portion of those areas are necessary. For replacement dwellings which are on tracts larger than typical for residential use in the area where the excess land is used for nonresidential purposes, the replacement housing payment shall be calculated using the actual cost of the replacement dwelling plus the prorated portion of the site which is typical for residential use.

6. If the site of the comparable replacement dwelling lacks a major exterior attribute of the displacement dwelling site, (e.g., the site is significantly smaller or does not contain a swimming pool), the contributory value of such attribute shall be subtracted from the acquisition cost of the displacement dwelling for purposes of computing the payment.

(c) Displaced person(s) are not required to relocate to the same occupancy status (owner or tenant) as existing prior to acquisition, and may choose payment benefits for an alternate occupancy status, if eligible:

1. At the displaced person's request, a dwelling which changes the occupancy status of the displaced person(s) shall be provided, if such a dwelling is available and can be provided more economically.

2. The total rental assistance payment to a 180-day owner may not exceed $5,250, unless the calculated purchase additive or mortgage interest differential payment eligibility exceeds $22,500, in accordance with 49 C.F.R. Part 24, Last Resort Housing.

3. The replacement housing payment may not exceed the maximum amount that would have been paid had the displaced person(s) remained in the same occupancy status.

(d) Single Household, Multiple Occupancy: If two or more eligible occupants of the displacement dwelling move to separate replacement dwellings and the Agency determines only one household existed, payment shall be as follows:

1. If a comparable replacement dwelling is not available and the displaced persons are required to relocate separately, a replacement housing payment will be computed for each person separately, based on housing which is comparable to the quarters privately occupied by each individual plus the full value of the community rooms shared with other occupants.

2. If a comparable replacement dwelling is available, the displaced persons are entitled to a prorated share of the singular relocation payment allowable had they moved together to a single dwelling.

(e) Multiple Household, Multiple Occupancy: If two or more eligible occupants of the displacement dwelling move to separate replacement dwellings and the Agency determines that separate households had been maintained in the displacement dwelling, the replacement housing payment computation shall be based on housing which is comparable to the quarters privately occupied by each individual plus a prorated share of the value of community rooms shared with other occupants. If two or more eligible occupants of the displacement dwelling move to a single comparable replacement dwelling, they shall be entitled to only one replacement housing payment under this subsection.

(f) Partial Ownership: When a single-family dwelling is owned by several persons, but not occupied by all of the owners, the replacement housing payment for the displaced owner-occupants is the lesser of the difference between the total acquisition price of the replacement dwelling and the amount determined by the Agency as necessary to purchase a comparable replacement dwelling or the actual cost of the replacement dwelling.

1. The displaced owner-occupants may choose a rent supplement payment instead of a purchase additive. The rent supplement shall be based on the Agency's determination of the fair market/economic rent of the displacement dwelling.

2. To receive the entire replacement housing payment, the owner-occupant must purchase and occupy a replacement dwelling for an amount equal to his or her share of the acquisition payment for the acquired dwelling plus the amount of the replacement housing payment.

(g) A 90-day tenant or owner-occupant displaced from a dwelling is entitled to a replacement housing payment as outlined in 49 C.F.R. Part 24, Subpart E.

(h) Any displaced person eligible for a rental assistance payment, except a 180-day owner occupant, may choose to use that payment as a down payment supplement, including incidental expenses, to purchase a replacement dwelling.

1. Payment shall be the amount of the down payment or percentage of the purchase price ordinarily required to obtain conventional, rather than VA or FHA, financing for the

replacement dwelling in an amount that does not require private mortgage insurance ("required down payment"), not to exceed $5,250. If the actual down payment required of the displaced person(s) exceeds the amount ordinarily required for a conventional loan, the "required down payment" shall be based upon the amount ordinarily required for a conventional loan.

2. If the actual required down payment, plus incidental expenses, exceeds the amount of rental assistance calculated and is no more than $5,250, payment shall be for the amount of the actual required down payment. If the actual required down payment, plus incidental expenses, is less than the amount of the rental assistance calculated, the payment shall be for the amount of the rental assistance calculated.

3. If the required down payment on the replacement dwelling exceeds $5,250 and the rental assistance payment allowable does not exceed $5,250, the down payment supplement shall be limited to $5,250. If the rental assistance payment allowable exceeds $5,250, the full amount of the rental assistance payment shall be used as the down payment supplement under the provisions of Last Resort Housing as outlined in 49 C.F.R. Part 24.

4. If other than conventional financing (e.g., VA or FHA) is obtained by the displaced person, he or she shall be advised that, in order to claim the maximum payment benefits, a down payment equal to that required for conventional financing, up to $5,250, must be paid for the replacement dwelling.

5. The full amount of the down payment assistance payment shall be applied to the purchase price of the replacement dwelling and related incidental expenses and shall be shown on an executed closing statement or similar documentation for the replacement dwelling.

6. The payment to a 90-day owner-occupant shall not exceed the amount the owner would receive as a purchase additive if he or she met the 180-day occupancy requirement.

(i) 90-day occupants may receive rental assistance payments as outlined in 49 C.F.R. Part 24, Subpart E.

(j) Displaced persons who are less than 90-day occupants are entitled to a replacement housing payment as outlined in 49 C.F.R. Part 24, Subpart E. Additionally, to be eligible for a replacement housing payment, displaced persons who are less than 90-day occupants must be in occupancy at the time the Agency obtains title to the property. The displaced person can be allowed to relocate prior to the Agency taking title to the property if the Agency determines that continued occupancy would be a danger to the health, safety, and welfare of the displaced person or in situations where replacement housing is scarce as determined by the Agency and may not be available at the time the Agency obtains title to the property.

(k) The Agency shall inform a less than 90-day occupant that it is his or her obligation to provide verification of income. No such displaced person shall be determined to be eligible for a replacement housing payment under Section 14-66.007(7)(j), unless he or she documents income through a verifiable source, such as pay stubs, signed copies of income tax returns, an employer's statement, or a bank statement.

(9) Mobile Homes. In addition to the requirements governing the provision of relocation payments to persons displaced from a mobile home or mobile home site as outlined in 49 C.F.R. Part 24, Subpart F, the following provisions also apply:

(a) Under 49 C.F.R. Part 24, Subpart F, the term "acquired" refers to a mobile home that is either acquired as part of the real property and is included in the Agency's acquisition of the fee parcel or is purchased as personal property and not included in the acquisition of the fee parcel.

(b) If the mobile home is considered personal property, the Agency will determine whether or not the mobile home can be relocated.

(c) If the mobile home can be relocated, the owner is eligible for reimbursement for the cost to move the mobile home.

(d) If the Agency determines that the mobile home cannot be relocated, the mobile home is eligible for purchase and the Agency will make an offer to purchase, based on the fair market value of the mobile home. If the mobile home owner does not agree to sell the mobile home to the Agency and the displaced person is the owner-occupant of the mobile home, the price differential described in 49 C.F.R. Part 24, shall be:

1. The lesser of:

a. The reasonable cost of a comparable replacement dwelling; or

b. The purchase price of the decent, safe, and sanitary replacement dwelling actually purchased and occupied by the displaced person;

2. Minus the higher of:

a. The salvage value, or

b. The trade-in value.

(e) If the Agency determines that it is practical to relocate the mobile home, but the owner-occupant elects not to do so, then, for the purposes of calculating a price differential under 49 C.F.R. Part 24, the cost of a comparable replacement dwelling shall be the sum of:

1. The fair market value of the mobile home;

2. The cost of any necessary modifications or repairs. Necessary modifications or repairs shall mean those needed to reestablish the mobile home to its previous state prior to displacement or to make it decent, safe, and sanitary; and

3. The estimated cost to move the mobile home to a replacement site, not to exceed a distance of 50 miles. The mobile home owner-occupant still owns the mobile home and is responsible for moving it from the acquired site. If the mobile home is abandoned, the Agency may remove it from the site.

(f) If a mobile home owner-occupant retains and re-occupies a mobile home which is not decent, safe, and sanitary, the costs necessary to bring it up to decent, safe, and sanitary standards may be claimed from the available price differential or down payment supplement. The amount claimed may not exceed the amount allowed in the replacement housing payment computation. The Agency will not disburse a payment until the mobile home meets decent, safe, and sanitary standards.

(g) If the Agency acquires or purchases a mobile home as personal property, the mobile home owner shall provide, upon request, a bill of sale and a transfer of the title for the mobile home to the Agency.

(10) Claim Filing and Documentation. Each relocation payment claim shall be accompanied by complete documentation supporting expenses incurred, such as bills, receipts, and appraisals. The Agency shall ensure that each displaced person receives reasonable assistance necessary to complete and file any required claim for payment.

(a) Displaced persons shall provide the Agency with valid copies of the closing statement for the replacement dwelling or other documentation of expenses incurred in order to receive reimbursement for incidental closing expenses. Reimbursable expenses which are incurred by the origination of a new mortgage for the replacement dwelling shall be based upon the lesser of the balance of the mortgage on the acquired dwelling or the balance of the new mortgage on the replacement dwelling. Eligible expenses are reimbursable regardless of the length of time a mortgage has been in effect on the acquired dwelling.

(b) In order for a displaced person to receive reimbursement for a rent supplement, the displaced person shall provide the Agency with evidence of rent and utility costs at the displacement dwelling, rent and utility costs at the replacement dwelling, and gross monthly household income.

(c) In order to receive reimbursement for a down payment supplement the displaced person(s) shall provide the Agency with a copy of the purchase contract and a copy of the closing statement for the replacement dwelling.

(d) The eligible displaced person(s) shall certify that the displacement dwelling is the domicile of the displaced person(s) and the length of time he or she has occupied the displacement dwelling. The displaced person(s) shall also certify the date that the replacement dwelling was occupied and shall state to the best of his or her knowledge, the replacement dwelling meets decent, safe, and sanitary requirements.

(e) Payments shall be made after the move is completed unless a hardship exists.

(f) When advance payments due to hardship are made, displaced persons shall demonstrate the need therefor by providing evidence of low funds, and shall certify in writing that the payment satisfies any further claim for reimbursement of items for which that claim is intended, and that the displaced person will comply with applicable provisions in the move of their personal property.

(g) Displaced persons shall provide written authorization in the application if a replacement housing payment is to be made to other parties on their behalf. If an eligible displaced person wishes the payment for moving costs to be made directly to a vendor, such request must be made in writing.

(h) If a condemnation suit has been filed, prior to receiving a replacement housing payment, the displaced person(s) must agree to a condemnation clause in the written claim for payment. The condemnation clause requires:

1. Upon final determination of the condemnation proceedings, the replacement housing payment shall be recomputed using the acquisition price established by the court or by stipulated settlement and the lesser of the actual price of the decent, safe, and sanitary replacement dwelling or the cost of a comparable replacement dwelling.

2. If the amount awarded exceeds the actual price of a decent, safe, and sanitary replacement dwelling or comparable replacement dwelling, the displaced person(s) shall refund to the Agency an amount equal to the amount of the excess. The refund will not exceed the full amount of the initial replacement housing payment calculation.

(i) In the event the Department determines that the acquisition of a portion of property will require a displacement, the Department will offer to relocate the affected person.

(11) Appeal Rights. Any aggrieved person may file a written appeal with the Agency in any case in which the person believes that the Agency has failed to properly consider the person's claim for assistance under this rule. Such assistance may include those provisions outlined in 49 C.F.R. Part 24, and include the person's eligibility for, or the amount of, a payment required under moving and related expenses, or replacement housing payments. The written appeal shall be filed no later than 60 days after the person receives written notification from the Agency of the claim determination. A person may have legal or other representation in connection with his or her appeal, but solely at his or her expense. The Agency shall consider a written appeal regardless of form. If full relief requested is not granted, a notice of denial shall be issued, providing notice of appeal rights in accordance with Sections 120.569 and 120.57, Florida Statutes, and Rule Chapter 28-106, F.A.C. The aggrieved person may file a request for administrative hearing.

(a) If a request for administrative hearing is not timely filed, the notice of denial shall be conclusive and final Agency action. Requests for administrative hearing must be filed within 21 calendar days of receipt of the notice of the Department's or Agency's denial. A request for administrative hearing is filed when it is received by the Clerk of Agency Proceedings.

(b) All requests for administrative hearings shall conform to the requirements of Rule Chapter 28-106, F.A.C., and be in accordance with Chapter 120, Florida Statutes. Requests may be for a formal hearing in accordance with Section 120.57(1), Florida Statutes, or an informal hearing pursuant to Section 120.57(2), Florida Statutes. Requests for an administrative hearing shall be made in writing and filed with the Clerk of Agency Proceedings, Florida Department of Transportation, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458. Requests for an administrative hearing for all other Agencies shall be made in writing and filed with the Clerk of Agency Proceedings for the Agency issuing the denial.

Specific Authority ~~20.05,~~ 334.044(2) FS. Law Implemented 339.09(2),(3), 421.55 FS. History–New 8-9-72, Formerly 14-66.07, Amended 11-24-92, _____.

14-66.008 Moving and Related Expenses.

Specific Authority 20.05, 334.044(2) FS. Law Implemented 339.09(2),(3) FS. History–New 8-9-72, Formerly 14-66.08, Amended 11-24-92, Repealed _____.

14-66.009 Replacement Housing Payments.

Specific Authority 20.05, 334.044(2) FS. Law Implemented 339.09(2),(3), 421.55(3) FS. History–New 8-9-72, Amended 1-12-83, Formerly 14-66.09, Amended 11-24-92, 8-17-93, Repealed _____.

14-66.010 Mobile Homes.

Specific Authority 20.05, 334.044(2) FS. Law Implemented 339.09(2),(3) FS. History–New 11-24-92, Repealed _____.

14-66.011 Claim Filing and Documentation.

Specific Authority 20.05, 334.044(2) FS. Law Implemented 339.09(2),(3) FS. History–New 11-24-92, Repealed _____.

14-66.012 Appeal Rights.

Specific Authority 20.05, 334.044(2) FS. Law Implemented 339.09(2),(3) FS. History–New 11-24-92, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ken Towcimak, Director, Office of Right of Way

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Thomas F. Barry, Jr., P.E., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 13, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 21, 2000

STATE BOARD OF ADMINISTRATION

State Board of Administration

RULE TITLE: RULE NO.:

Revenue Bonds Issued Pursuant to Section 215.555(6), Florida Statutes 19-8.013

PURPOSE AND EFFECT: These rules amend the bonding issuing procedures for the Florida Hurricane Catastrophe Fund, pursuant to Section 215.555(6), Florida Statutes.

SUMMARY: Proposed amended rule 19-8.013 implements statutory changes enacted during the 1999 legislative session.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Board has prepared a statement and found the cost to be minimal.

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

SPECIFIC AUTHORITY: 215.555(3) FS.

LAW IMPLEMENTED: 215.555(2),(3),(4),(5),(6),(7) FS.

REGARDLESS OF WHETHER OR NOT ONE IS REQUESTED, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m. – 12:00 Noon, Tuesday, July 18, 2000

PLACE: Room 116 (Hermitage Conference Room), 1801 Hermitage Blvd., Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jack Nicholson, Chief Operating Officer of the Florida Hurricane Catastrophe Fund, State Board of Administration, P. O. Drawer 13300, Tallahassee, FL 32317-3300, (850)413-1340

THE FULL TEXT OF THE PROPOSED RULE IS:

19-8.013 Revenue Bonds Issued Pursuant to Section 215.555(6), Florida Statutes.

(1) This rule establishes the Board's policy regarding the issuance of revenue bonds pursuant to Section 215.555(6), Florida Statutes. The rule provides definitions; interprets certain terms in Section 215.555, Florida Statutes; establishes factors for determining when to issue revenue bonds, the amount of any such revenue bonds, and the source for repayment of any such revenue bonds; and establishes procedures for levying emergency assessments pursuant to Section 215.555(6)(a)3., Florida Statutes.

(2) Definitions. The terms defined below will be capitalized in this rule.

(a) The "Board" is the Florida State Board of Administration.

(b) The "Fund" is the Florida Hurricane Catastrophe Fund established pursuant to Section 215.555, Florida Statutes.

(c) The "Corporation" is the Florida Hurricane Catastrophe Fund Finance Corporation created by Section 215.555(6)(c), Florida Statutes.

(d) The "Department" is the Florida Department of Insurance.

(e) An "Event" or a "Covered Event" is a hurricane as defined in Section 215.555(2)(b), Florida Statutes, and in Article V of the Reimbursement Contract adopted and incorporated by reference in Rule 19-8.010.

(f) "Assessable Insurer" means Authorized Insurers writing property and casualty business in this state and includes any entity created pursuant to Section 627.351, Florida Statutes. Surplus lines insurers are not assessable insurers. Reinsurers are not assessable insurers.

(g) "Assessable Lines" are those lines of property and casualty business subject to assessment under Section 215.555(6)(a)3., Florida Statutes, as more fully described in subsection (5), below.

(h) "Authorized Insurer" means an insurer as defined in Section 215.555(2)(c), and Section 624.09(1), Florida Statutes~~, and Rule 19-8.021(4)~~. For purposes of this rule, Authorized Insurer includes any joint underwriting association or similar entity created pursuant to Section 627.351, Florida Statutes.

(i) "Emergency Assessment" means the assessment levied by the Department at the direction of the Board on all property and casualty business in this state, pursuant to and subject to the exceptions in Section 215.555(6)(a)3., Florida Statutes, and as more fully described in subsection (5) of this rule.

(j) "Participating Insurer" means an insurer which writes Covered Policies in this state and which has entered into a reimbursement contract with the Board, pursuant to Section 215.555(4)(a), Florida Statutes.

(k) "Covered Policies" means an insurance policy covering residential property, as defined in Section 215.555(2)(c), Florida Statutes, and in Article V of the reimbursement contract adopted and incorporated by reference in Rule 19-8.010.

(l) "Contract Year" means the Contract Year for the Fund which begins June 1 of each calendar year and ends May 31 of the following calendar year.

(m) The "Balance of the Fund as of December 31" of any Contract Year or "the Balance" means the net current market value of the assets in the Florida Hurricane Catastrophe Trust Fund maintained and administered by the Board, exclusive of projected amounts budgeted for administration for the then current state fiscal year and the amount of mitigation funds required to be expended each fiscal year pursuant to Section 215.555(7)(c), Florida Statutes, exclusive of any funds paid to Participating Insurers to extinguish the Board's reimbursement obligations for a Covered Event occurring and paid before December 31, exclusive of any funds paid as an advance pursuant to Section 215.555(4)(e), Florida Statutes, inclusive of any interest earned on advances paid pursuant to Section 215.555(4)(e), Florida Statutes, as reported on the Fund's financial statements as of December 31, and exclusive of obligations expected to be paid with receipts from Emergency Assessments. If the Fund has exhausted all its cash and interest earnings thereon before December 31, the balance of the fund will be zero.

(3) Interpretations of Section 215.555, Florida Statutes, regarding the issuance of revenue bonds. For purposes of this subsection of this rule, all references to statutory subdivisions are to Section 215.555, Florida Statutes.

(a) Limited Liability of the Fund.

(1) The Board interprets the first sentence in subparagraph 1 of paragraph (c) of subsection (4), which reads: "The contract shall also provide that the obligation of the board with respect to all contracts covering a particular contract year shall not exceed the actual claims-paying capacity of the fund up to a limit of $11 billion for that contract year, unless the board determines that there is sufficient estimated claims-paying capacity to provide $11 billion of capacity for the current contract year and an additional $11 billion of capacity for subsequent contract years ~~balance of the fund as of December 31 of that year, together with the maximum amount that the board is able to raise through the issuance of revenue bonds under subsection (6);~~" and the introductory language in subparagraph 2. of paragraph (d) of subsection (4), which reads: "In determining reimbursements pursuant to this subsection, the contract shall provide that ~~the board determines that the projected year-end balance of the fund, together with the amount that the board determines that it is possible to raise through revenue bonds issued under subsection (6) and through other borrowing and financing arrangements under paragraph (7)(b), are insufficient to pay reimbursement to all insurers at the level promised in the contract,~~ the board shall...[pro-rate];" and the proration provision in subsubparagraph c. of subparagraph 2. of paragraph (d) of subsection (4); which reads: "Thereafter, establish, based on reimbursable losses, the prorated reimbursement level at the highest level for which any remaining fund balance or bond proceeds are sufficient," to mean that, for Covered Events which occur in any one Contract Year, the Fund's liability under the reimbursement contracts entered into, pursuant to paragraph (a) of subsection (4), with Participating Insurers writing Covered Policies, is limited to the Balance of the Fund as of December 31 of the Contract Year in which the Covered Events have occurred plus the amount the Board has raised or is able to raise through the issuance of revenue bonds pursuant to the provisions of subsection (6).

(2) The Board notes the requirement in paragraph (c) of subsection (4) to publish estimates of the Fund's anticipated borrowing capacity in May and October of each year and states that, although the Board will in good faith attempt to sell revenue bonds up to the amounts estimated, the Fund's liability is nevertheless limited to the Balance of the Fund as of December 31 and the amount which the Board is able to raise through the issuance of revenue bonds, not the amount which the Board estimates it is able to raise through such issuance. Therefore, the Board's obligations to Participating Insurers for Covered Events in any one Contract Year are limited to the Balance of the Fund as of December 31 plus the amount the

Board is able to raise through the issuance of revenue bonds, making good faith efforts to sell revenue bonds ~~in the calendar years~~ following ~~the calendar year in which the~~ Covered Event~~s have occurred~~.

(3) For example, assume the following: a Covered Event occurs in August of Contract Year A, which Contract Year A begins June 1 of the calendar year, causing $12 billion of residential property damage and resulting in the Fund's being contractually obligated to pay those of its Participating Insurers which had ~~incurred~~ reimbursable losses from that Covered Event; the Fund estimates in October of Contract Year A that its estimated ~~anticipated~~ borrowing capacity is $5.5 billion; the Balance of the Fund as of December 31 of Contract Year A is $2 billion; and assume finally that the Board is able to raise $4.5 billion from the proceeds of revenue bonds, while maintaining the on-going viability of the Fund to pay reimbursement losses for Covered Events in more than one Contract Year, as set out in subsection (4) of this rule. Under the circumstances just described, the Board's obligations under its reimbursement contracts for the Covered Event which occurred in Contract Year A are limited to $6.5 billion, which is the sum of the $2 billion balance and the $4.5 billion in revenue bond proceeds.

(b) Obligations of the Fund.

(1) Based on the interpretation of limited liability set out immediately above, the Board interprets the term "obligations," as used in paragraph (a) of subsection (2), which reads: "'Actuarial indicated' means, with respect to premiums paid by insurers for reimbursement provided by the fund, an amount determined according to principles of actuarial science to be adequate, but not excessive, in the aggregate, to pay current and future obligations and expenses of the fund, including additional amounts if needed to pay debt service on revenue bonds issued under this section and to provide required debt service coverage in excess of the amounts required to pay actual debt service on revenue bonds issued under subsection (6), and determined according to principles of actuarial science to reflect each insurer's relative exposure to hurricane losses;" in the second sentence of subsection (3), which reads: "Moneys in the fund may not be expended, loaned, or appropriated except to pay obligations of the fund arising out of reimbursement contracts entered into under subsection (4), payment of debt service on revenue bonds issued under subsection (6), costs of the mitigation program under subsection (7), costs of procuring reinsurance, and costs of administration of the fund;" in the first sentence of subparagraph 1 of paragraph (c) of subsection (4), which reads: "The contract shall also provide that the obligation of the board with respect to all contracts covering a particular contract year shall not exceed the actual claims-paying capacity of the fund up to a limit of $11 billion for that contract year, unless the board determines that there is sufficient estimated claims-paying capacity to provide $11 billion of capacity for the current contract year and an additional $11 billion of capacity for subsequent contract years ~~balance of the fund as of December 31 of that year, together with the maximum amount that the board is able to raise through the issuance of revenue bonds under subsection (6)~~;" and subsection (m) of subsection (2), which reads: "'Actual claims-paying capacity' means the sum of the year-end balance of the fund as of December 31 of a contract year, plus any reinsurance purchased by the fund, plus the amount the board is able to raise through the issuance of revenue bonds under subsection (6);" and the first sentence in subsubparagraph 3. of paragraph (a) of subsection (6), which reads: "If the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds, the board shall direct the Department of Insurance to levy an emergency assessment on each insurer writing property and casualty business in this state," and elsewhere throughout Section 215.555, to mean its obligations for each Contract Year under each reimbursement contract entered into annually with Participating Insurers.

(2) This means that the Balance of the Fund as of December 31 of each Contract Year is available to pay losses reimbursable under the reimbursement contract for that Contract Year and, if no losses are reimbursed or if only part of the Balance is to be used to pay reimbursable losses, that the Balance of the Fund will be carried forward for use in subsequent Contract Years. However, if the Balance of the Fund as of December 31 is to be exhausted to pay reimbursable losses for Covered Events, whether or not revenue bonds are issued to pay for those reimbursable losses, then reimbursement premiums received in the following Contract Years will not be used to pay for reimbursable losses in prior Contract Years but instead will be used to pay debt service on any pre-event funding obligations prior to the receipt of any Emergency Assessments, to replenish the Fund, and to pay for reimbursable losses for those subsequent Contract Years. Thus, reimbursement premiums collected in Contract Years following the Contract Year in which the Covered Event(s) occurred are expected to be used to provide debt service coverage, as defined in paragraph (i) of subsection (2) and will be used, if needed, as set forth in Section 215.555(6)(a)1. and (6)(c), Florida Statutes, to pay debt service, as defined in paragraph (h) of subsection (2). Funds available for debt service shall be allocated as follows: as between tax-exempt and taxable bonds, parity will always be respected; subject to the preceding clause, and to the extent Emergency Assessments are available, such Emergency Assessments will be allocated and paid first to fund the debt service on any tax-exempt bonds outstanding and then to fund the debt service on any taxable bonds outstanding.

(c) Moneys in the Fund Are Insufficient.

1. The Board interprets the word "insufficient" in the first sentence of subsubparagraph 1. of subparagraph (a) of subsection (6), which reads: "Upon the occurrence of a hurricane and a determination that the moneys in the fund are or will be insufficient to pay reimbursement at the levels promised in the reimbursement contract, the board may take the necessary steps under paragraph (b) or paragraph (c) for the issuance of revenue bonds for the benefit of the fund;" and in the first sentence of subsubparagraph 3. of subparagraph (a) of subsection (6), which reads: "If the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds, the board shall direct the Department of Insurance to levy an emergency assessment on each insurer writing property and casualty business in this state," to mean that the Balance of the Fund as of December 31 is likely to be exhausted. For purposes of this rule, the Balance of the Fund "is likely to be exhausted" if the Board reasonably determines, based on the data and information available at the time of the determination, that loss reimbursements to Participating Insurers will exceed 95% of the Balance of the Fund as of December 31 of the Contract Year. The Board shall base its determination of the likelihood of exceeding 95% of the Balance of the Fund as of December 31 on the meteorological severity of the Covered Event; the geographical area impacted by the Covered Event; estimates of losses from the insurance industry, from individual insurers, from federal, state, and local emergency response entities, from loss reports submitted to the Board by Participating Insurers, from reviews of loss reports by the Fund's Administrator, and from information provided by modeling companies ~~the Fund's modeling company~~; from claims development patterns derived from known historical events; from an analysis of market shares of Participating Insurers in the impacted area; and from any other credible sources of loss information.

2. The Board interprets the use of the word "insufficent" in the first sentence of subpargraph 3. of paragraph (a) of subsection (6), which reads: "If the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds, the board shall direct the Department of Insurance to levy an emergency assessment on each insurer writing property and casualty business in this state," in conjunction with the fifth sentence of subparagraph 1. of paragraph (a) of subsection (6), which reads: "If reimbursement premiums received under subsection (5) or earnings on such premiums are used to pay debt service on revenue bonds, such premiums and earnings shall be used only after the use of the monies derived from assessments under subparagraph 3," to mean that, if a Covered Event occurs which exhausts the Balance of the Fund as of December 31 of the Contract Year in which the event occurs and if Emergency Assessments are levied to provide revenues to pay debt service on revenue bonds issued to pay reimbursable losses related to such Covered Event, then reimbursement premiums collected in Contract Years following the Contract Year in which the Event occurred will be used initially to provide debt service coverage and are expected to be used to pay debt service only if the amounts raised through Emergency Assessments are not sufficient to make the required debt service payments on the revenue bonds issued for the Covered Event. If reimbursement premiums are used for debt service in the event of a temporary shortfall in the collection of emergency assessments, then the amount of the premiums so used shall be reimbursed to the Fund when sufficient emergency assessments are received.

(4) Determinations Regarding Bond Issuance.

(a) General Factors for Use in Determining Whether to Issue Bonds. Based on the requirements of Section 215.555, on all rules adopted pursuant thereto, and on the foregoing interpretations, the Board determines that the Legislature intended the Fund to be a sustainable, permanent, and continuing trust fund established within the meaning of Article III, s. 19 of the Florida Constitution which is available to pay reimbursable losses for Covered Events in more than one year. The Board further determines that the Legislature deliberately and purposefully limited the Fund's liability as to Covered Events in any one Contract Year in order to provide for an on-going Fund. The Board determines that in its fiduciary capacity regarding the Fund, it is prudent to adopt the interpretations set out in this rule and to conform all its other policies, rules, and methods of operation to those fiduciary responsibilities and interpretations.

(b) Quality of Bonds to be Issued. The Board finds that in order to fulfill its fiduciary responsibilities to maintain and enhance the on-going viability and credibility of the Fund and to operate in the most cost-efficient manner, all revenue bonds issued to pay reimbursable losses shall be investment grade bonds, except to the extent that revenue bonds other than investment grade are needed to pay a small amount of legitimate but unexpected reimbursable losses. Upon the occurrence of such an exception, any revenue bonds issued will be issued only after a determination by the Board that such bonds are fiscally responsible, in light of the Board's fiduciary responsibilities under the reimbursement contracts entered into with Participating Insurers pursuant to Section 215.555(4), Florida Statutes.

(c) Specific Procedures Regarding Issuance of Bonds on a Pre-Event Basis. Pursuant to subparagraph 1. of paragraph (a) of subsection (6), the Board is authorized to enter into contracts for the issuance of revenue bonds in the absence of a Covered Event "upon a determination that such action would maximize the ability of the fund to meet future obligations." In making a determination to authorize the issuance of revenue bonds on a pre-event basis ("in the absence of a hurricane"), the Board shall consider the following factors: the current

balance of the Fund; projected amounts of future reimbursement premiums; projected amounts of earnings on collected reimbursement premiums; the projected frequency and magnitude of future Covered Events; current and projected interest rates on revenue bonds; current and projected market conditions for the sale of revenue bonds; projected credit ratings for the Fund and for revenue bonds issued on behalf of the Fund; current and projected availability of bond insurance or other credit enhancement for revenue bonds; the costs of issuance of revenue bonds; the debt service requirements of the revenue bonds; the estimated value, both monetary and non-monetary, of the issuance of pre-event bonds on the costs of post-event bonds in terms of benchmark pricing, secondary market trading, investor education, being a first-time issuer post-event, ~~education of Fund staff,~~ confidence of insurers and reinsurers in the Fund's ability to issue revenue bonds post-event, market education, and document preparation; and any other factors relevant to the determination at the time such determination is made.

(d) Specific Procedures for Issuance of Revenue Bonds on a Post-Covered Event Basis. The Board will take the following steps upon the occurrence of a Covered Event for which the Balance of the Fund is likely to be exhausted to pay reimbursable losses.

1. Upon the occurrence of a Covered Event, the Board will determine, pursuant to Section 215.555 and all rules adopted thereunder, including Rule~~s~~ 19-8.001 ~~and 19-8.011~~, the projected reimbursable losses of Participating Insurers. The Board will then determine, based on the current balance of the Fund and the then projected Balance of the Fund on December 31, whether or not the Fund has or will have sufficient funds on hand to reimburse Participating Insurers for their reimbursable losses. If the Board determines that the funds on hand are or will be insufficient, then the Board will estimate the total reimbursable losses payable by the Fund. The Board will then determine the shortfall which shall be covered by the issuance of revenue bonds or through incurrence of other indebtedness, as appropriate. ~~The maximum amount of the shortfall the Board is authorized to reimburse is the amount most recently determined by the Board, pursuant to paragraph (c) of subsection (4), to be the Fund's anticipated borrowing capacity, which is prudent to maintain the on-going viability of the Fund.~~

2. Based on the amount of the shortfall determined in accordance with subparagraph 1., above, the Board will determine the percentage of direct premium written for Assessable Lines (see subsection (5), below), if any, which may be necessary to service the outstanding revenue bonds. The assessment percentage will be determined as follows:

a. The Board will review the incurred losses and projected losses from the Covered Event, taking into account the Covered Event's size, intensity, forward speed, area of impact, and any other factors applicable to that specific Covered Event.

b. The Board will review all available information, both from the Department and from the National Association of Insurance Commissioners, regarding direct premiums written for Assessable Lines in Florida, reportable pursuant to Section 624.424, Florida Statutes.

c. The Board will review and assess existing market conditions regarding the issuance and sale of bonds or the incurrence of other indebtedness to determine the revenues which will be required to pay debt service on any debt issued or other indebtedness incurred.

d. Based on the specific information described above and on any other information applicable and pertinent to the specific Covered Event and the then-current market conditions, the Board will determine the assessment percentage necessary to pay debt service.

3. After the assessment percentage has been determined, the Trustees of the Board will consider formal approval of the assessment percentage at a regularly-scheduled meeting of the Trustees. After approval of the assessment percentage, the Trustees will, at the same regularly-scheduled meeting, consider formal approval of a resolution directing the Department to levy the assessment on all Assessable Insurers for all Assessable Lines.

4. Immediately subsequent to the meeting at which the Trustees have approved the assessment percentage and directed the Department to levy the assessment, the Executive Director of the Board will provide written instructions to the Department of all pertinent details regarding the Emergency Assessment, including the name and address of the Master Trustee or Custodian designated to receive the Emergency Assessment payments.

(5) Procedures regarding Levying Emergency Assessments Pursuant to Section 215.555(6)(a)3., Florida Statutes.

(a) If the Board directs the Department to levy Emergency Assessments, then the Department shall issue Orders to each Assessable Insurer levying an Emergency Assessment for the lines of business set out in paragraph (e), below.

(b) Pursuant to the Order issued by the Department levying the Emergency Assessment, each Assessable Insurer shall pay directly to the entity identified in the Order, by July 1 of each year, an amount equal to the required percentage of its direct written premium for the prior calendar year from all property and casualty business in this state except for workers' compensation and accident and health. The required percentage will be no more than 4 percent <u>for any one contract year and no more than 6 percent in the aggregate</u> and will be determined in accordance with Section 215.555(6)(a)3., Florida Statutes, and the procedures set out in subsection (4) of this rule. The lines of business which will be subject to assessment are set out in paragraph (f), below.

(c) Pursuant to Section 215.555(6)(a)3.,(6)(b)3., and (6)(c)6., Florida Statutes, the annual Emergency Assessments shall continue until the revenue bonds issued with respect to which the assessment was imposed have been retired, unless adequate provision has been made for the full payment of such bonds pursuant to the documents authorizing the issuance of such revenue bonds.

(d) Pursuant to Section 215.555(6)(a)3., Florida Statutes, an Assessable Insurer shall not in any calendar year be subject to assessments in excess of 4 percent for any one contract year and no more than 6 percent in the aggregate, under Section 215.555(6), Florida Statutes, and this rule.

(e) Lines of Business Subject to Assessment.

1. The lines of business described in subparagraph 2., below, are the lines of business subject to the Emergency Assessment under Section 215.555(6)(a)3., Florida Statutes. For ease of reference, the lines of business are written and listed as they appear on Form 2, Exhibit of Premiums and Losses (commonly known as "page 15"), in the property and casualty annual statement of the National Association of Insurance Commissioners required to be filed with the Department pursuant to Section 624.424, Florida Statutes.

2. Assessable Lines. Note that the numbers below preceding the names of the lines of business do not correspond to the line numbers on page 15 of the property and casualty annual statement referenced in subparagraph 1., immediately above.

1. Fire
2. Allied Lines
3. Multiple Peril Crop
4. Farmowners Multiple Peril
5. Homeowners Multiple Peril
6. Commercial Multiple Peril (non-liability)
7. Commercial Multiple Peril (liability)
8. Mortgage Guaranty
9. Ocean Marine
10. Inland Marine
11. Financial Guaranty
12. Medical Malpractice
13. Earthquake
14. Other Liability
15. Products Liability
16. Private Passenger Auto No-Fault
17. Other Private Passenger Auto Liability
18. Commercial Auto No-Fault
19. Other Commercial Auto Liability
20. Private Passenger Auto Physical Damage
21. Commercial Auto Physical Damage
22. Aircraft (all perils)
23. Fidelity
24. Surety
25. Burglary and Theft
26. Boiler and Machinery
27. Credit
28. Aggregate Write Ins

Specific Authority 215.555(3) FS. Law Implemented 215.555(2),(3),(4),(5),(6),(7) FS. History–New 9-18-97, Amended 11-23-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jack Nicholson, Chief Operating Officer, Florida Hurricane Catastrophe Fund, State Board of Administration

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Trustees of the State Board of Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 13, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 5, 2000

DEPARTMENT OF CORRECTIONS

RULE TITLE: RULE NO.:
Protective Management 33-602.221

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to substantially reword the existing rule, providing definitions of terms, applicable forms, and clarification of procedures relating to, placement in, and conditions of, protective management.

SUMMARY: The proposed rule clarifies: procedures for placement in protective management; restrictions on canteen items; exercise restrictions and fitness programs; increase the minimum number of hours for exercise; staff contacts; provisions relating to special risk inmates; review of and release from protective management; and, procedures relating to maintenance of records relating to protective management.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.34, 945.05 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: Giselle Lylen Rivera, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial Rewording of Rule 33-602.221 follows. See Florida Administrative Code for present text.)

33-602.221 Protective Management.

(1) Definitions.

(a) Administrative Confinement refers to a special management status which segregates inmates from the general population usually pending other formal decisions such as disciplinary confinement, close management, protective management or transfer.

(b) Classification refers to the system of processes which divides inmates into groups for a variety of purposes including facility placement, custody assessment, work and program assessment and placement, housing assessment and placement, periodic reviews, and community, transition, and special needs assessments.

(c) Classification – External, refers to processes related to decisions regarding the custody and facility – placement of an inmate outside the secure perimeter of a facility.

(d) Classification – Internal, refers to processes related to decisions regarding housing, work, and program- placement of an inmate within the secure perimeter of a facility.

(e) Area Housing Supervisor refers to the Correctional Officer Sergeant or above in charge of the confinement unit for a particular shift.

(f) Clinical Health Care Personnel refers to a Physician, Clinical Associate, Nurse, Correctional Medical Technician Certified (CMTC), Psychologist, or Psychologist Specialist.

(g) Institution Classification Team (ICT) refers to the committee consisting of the Warden or Assistant Warden, Classification Supervisor, and Chief of Security that is responsible for making work, program, housing and inmate status decisions at a facility and for making other recommendations to the State Classification Office (SCO).

(h) Investigating Official, where used herein, refers to the person in charge of the investigation of the circumstances involving an inmate's confinement. This person must be a Shift Supervisor, Institutional Inspector, Classification Supervisor, or above. The investigating official is authorized to assign others of lesser rank to conduct the investigation.

(i) Protective Management refers to a special management status for the protection of inmates from other inmates in an environment as representative of that of the general population as is safely possible.

(j) Senior Correctional Officer refers to a Correctional Officer Lieutenant or above.

(k) Special Management refers to the separation of an inmate from the general population in a structured environment for purposes of safety, security, and order of the facility. Statuses for inmates requiring specialized housing and supervision are administrative confinement and protective management.

(l) Special Risk Inmate refers to any inmate who has demonstrated behavior that is or could be harmful to himself.

(m) State Classification Office (SCO) refers to a staff member at the Central Office level who is responsible for the review of inmate classification decisions. Duties include the approval or rejection of Institutional Classification Team recommendations.

(2) Procedures for placement in Protective Management.

(a) Protective management is not disciplinary in nature and inmates in protective management are not being punished and are not in confinement. The treatment of inmates in protective management shall be as near that of the general population as the individual inmate's safety and security concerns permit.

(b) Inmates on death row, in close management or disciplinary confinement are not eligible for placement in protective management. However, if an inmate in one of these statuses requests protection, procedures outlined in 33-602.220 shall begin.

(c) If it is determined that the inmate needs protection, the inmate will be afforded such protection in his or her current status. Upon completion of that special status, the institutional classification team (ICT) shall make recommendations to the state classification office (SCO), who shall determine the appropriate action to resolve the inmate's protection needs.

(d) The inmate shall be interviewed by the housing supervisor and a review shall be initiated to determine if any of the inmates in the protective management unit are a threat to the inmate being placed or if the inmate being placed is a threat to other inmates in the unit. If the inmate can not be placed for these reasons the housing supervisor shall place or maintain the inmate in administrative confinement until the issue can be expeditiously resolved. The case shall be immediately forwarded to the ICT for review. The ICT shall review the case and interview the inmate and forward recommendations to the SCO. The SCO shall review the case and may interview the inmate and make a final decision to resolve protection.

(3) Protective Management Facilities.

(a) The number of inmates housed in protective management housing units shall not exceed the number of bunks in the cell. The only exception to this policy is during an emergency situation as declared by the warden or duty warden. The regional director and the emergency action center in central office shall be notified of the emergency. Such exceptions shall not continue for more than 24 hours without the specific authorization of the regional director. Prior to placing inmates in the same cell, a determination shall be made that none of the inmates constitute a threat to any of the others.

(b) All protective management housing units shall be equipped with toilet facilities and running water for drinking and other sanitary purposes and other furnishings as are provided to comparable housing units for general population inmates at the particular institution.

(c) Prior to placement of an individual in a protective management housing unit, it shall be thoroughly inspected to ensure that it is in proper order and the inmate housed in that cell shall then be held responsible for the condition of the cell.

(d) The protective management housing units shall be physically separate from other housing units, whenever possible given the physical design of the facility and the number of inmates housed in protective management shall not exceed the number of bunks in the protective housing unit. Whenever such location is not possible, physical barriers shall preclude the cross association of those in protective management with those in other statuses. Protective management housing units shall be built to permit verbal communication and unobstructed observation by the staff.

(4) Conditions and Privileges.

(a) Clothing – Inmates may wear shower slides or personal canvas shoes while in their housing units, but regulation shoes shall be required for work assignments. Otherwise the clothing for inmates in protective management shall be the same as that issued and exchanged to the general inmate population except when there is an indication of a security or health problem or when additional clothing is required for a work assignment. In such cases, when clothing is denied to an inmate it shall be noted on Form DC6-235, Record of Protective Management, stating the reasons for such denial. Form DC6-235 is incorporated by reference in (10) of this rule.

(b) Bedding and linen – Bedding and linen shall be issued and exchanged for protective management inmates the same as for the general inmate population.

(c) Personal Property – Inmates shall be allowed to retain personal property including stamps, a watch, a radio, a ring, authorized self-improvement and reading materials and similar health and comfort items as general population inmates unless there is an indication of a security problem, in which case removal or denial of any item shall be documented on Form DC6-235, Record of Protective Management, and a property receipt shall be issued. All property retained by inmates must fit into the storage area provided, which shall be the same size as provided for general population inmates.

(d) Comfort Items – Inmates in protective management shall be permitted personal hygiene items and other medically needed or prescribed items such as eye glasses and hearing aids, except when security requirements dictate otherwise. In the event that comfort items are taken from inmates in protective management, the senior correctional officer on duty shall be notified and must approve or disapprove the action taken. Action taken shall be documented on the Record of Protective Management, Form DC6-235 which must be reviewed by the chief of security. Property receipts shall be given for any personal property removed. The following comfort items shall be provided as a minimum: toothbrush, toothpaste, bar of soap, towel or paper towels, toilet tissue, and feminine hygiene products for women. Comfort items shall be the same as those provided general population inmates.

(e) Personal Hygiene – Inmates in protective management shall meet the same standards in regard to personal hygiene as required of the general inmate population.

1. As a minimum each inmate in protective management shall shower at least three times per week or every day that an inmate works.

2. Male inmates shall be required to shave at least three times per week. Hair care shall be the same as that provided to and required of the general population inmates.

(f) Diet and Meals – Inmates in protective management shall be fed in the dining room unless individual circumstances adversely affecting the safety of a particular inmate preclude dining room feeding for the inmate. If particular security reasons as determined by institution staff prevent dining room feeding, the inmate's meal shall be served in the day room or the inmate's housing unit. Inmates in protective management shall receive normal institutional meals as are available to the general population, except that if any item on the normal menu might create a security problem for a particular inmate, then another item of comparable quality shall be substituted. Substitutions shall be documented on the Record of Protective Management, Form DC6-235.

(g) Canteen Items – Inmates in protective management shall be allowed to make canteen purchases the same as general population inmates. Items sold to protective management inmates shall be restricted only when reasonably necessary for institutional safety and security.

(h) Counseling Interviews – Inmates in protective management may be removed from their housing units to attend interviews when there is no security problem involved in such removal.

(i) Visiting – A visiting schedule shall be implemented to ensure a minimum of two hours a week for inmates to receive visits. A visiting time for protective management inmates shall be set aside in the visiting park either before or after visiting hours for general population inmates, during visiting hours if separate facilities for visitation are available, or on different days from the general population. Visiting shall be limited by the warden or his or her designee when it is concluded that a threat to the inmate exists by allowing visitation in the visiting area or when supervision is limited. The warden or ICT is authorized to make exceptions for visitors who have traveled a great distance. Attorney-client visits shall be in accordance with rule 33-601.711 and shall not be restricted except on evidence that the visit would be a threat to security and order. The warden or his or her designee must approve all visits in advance.

(j) Telephone – Inmates in protective management shall be allowed to make one call per week of at least 10 minutes, except at Florida State Prison. However, if telephones are

available in the dayroom, protective management inmates shall be allowed to make calls in the same manner as general population inmates.

(k) Legal Access – inmates in protective management shall have access to the law library during evening or other hours when general population inmates are not present. If security reasons prevent a visit, access shall be provided through correspondence or visits from the inmate law clerk. All steps shall be taken to ensure the inmate is not denied needed legal access while in protective management. Indigent inmates shall be provided paper and writing utensils in order to prepare legal papers. Typewriters or typing services are not considered required items and will not be permitted in protective management housing units.

(l) Correspondence – Inmates in protective management shall have the same opportunities for correspondence and authorized self-improvement correspondence courses that are available to the general inmate population.

(m) Library – Inmates in protective management shall be allowed to visit the library and check out books at least once weekly, except as provided in rule 33-602.221(7).

(n) Exercise – an exercise schedule shall be implemented to ensure a minimum opportunity of three hours per week of exercise out of doors. The ICT is authorized to restrict exercise for an individual inmate when the inmate continues to pose a serious threat to the safety, security and order of the institution by recent demonstrations of violence, by continuing threats of physical harm, written or spoken, toward staff and other inmates; by involvement in acts which seriously interfere with the staff's daily security functions; or by actions demonstrating an extreme escape risk. Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be for the shortest length of time to accomplish the goal of safety, security and order within the institution and shall be documented on Form DC6-235, Record of Protective Management. If the inmate requests a physical fitness program handout, the wellness specialist or the housing officer shall provide the inmate with an in-cell exercise guide and document such on the Daily Record of Segregation, Form DC6-229. Form DC6-229 is incorporated by reference in (10) of this rule. Medical restrictions may also place limitations on exercise periods. Similar recreational equipment shall be available as is available for general population inmates for the exercise period provided that such equipment does not compromise the safety or security of the institution.

(o) Religious activities – Religious activities a weekly non-denominational service shall be held for protective management inmates in the chapel. This service shall be held at the protective management housing unit if security reasons prevent chapel service. The chaplain shall arrange for religious consultations between inmates and outside volunteers, counsel with clergy and the opportunity to receive religious sacraments similar to that afforded to the general population when requested.

(p) Self-improvement programs – Self-improvement programs or leisure activities shall be available in their housing area, or in separate locations within the institution that conform with the need for security. Self-improvement programs include academic education, vocational training, correspondence courses or self-directed study activities, religious activities, television, quiet activities or letter writing.

(q) Any other activities which take place outside the inmate's cell. Inmates may refuse opportunities for out-of-cell activities, however, such refusals shall constitute a portion of the required minimum hours of out-of-cell time. All out-of-cell activities and refusals shall be documented on Form DC6-235, Record of Protective Management.

(5) Work assignments.

(a) Within 10 days of the protective management determination, work opportunities consistent with medical grades shall be available to inmates in protective management during the day, evening or night hours. All inmates shall be provided the opportunity for work assignments regardless of medical grade except when precluded by doctor's orders for medical reasons. Work shall be cancelled for an individual inmate or a work squad when staff concludes the work or work assignment would subject the inmate to danger or if adequate staff protection is not available. Each occurrence of work cancellation will be documented with reasons for the action and shall be reviewed by the warden or ICT the following day. Refusal of a work assignment shall result in disciplinary action pursuant to rules 33-601.301-601.314. Inmates who refuse work assignments will not be allowed other housing unit activities. Those who accept work assignments shall be subject to awards of gain time pursuant to rule 33-601.101 in the same manner as general population.

(b) Inmates in protective management who are medically able to work and who work shall be afforded an opportunity for at least an additional 20 hours of out-of-cell time per week for activities. Each protective management unit shall have a day room or common area equipped with a similar equipment, recreational and otherwise, as those for general population provided that such equipment does not compromise the safety or security of the institution.

(c) Other privileges shall be restricted on a daily case-by-case basis when such restrictions are necessary for the security, order or effective management of the institution. All such restrictions shall be documented on Form DC6-234, Report of Protective Management, and reported to the ICT. Form DC6-234 is incorporated by reference in (10) of this rule. The ICT is authorized to restrict privileges on a continuing basis after a determination that such restrictions are necessary for the security, order, or effective management of the

institution. The ICT's decision for continuing restriction shall also be documented on Form DC6-235, Record of Protective Management.

(6) Restraint and Escort Requirements.

(a) Protective management inmates shall be handcuffed or otherwise restrained when individual security concerns associated with that inmate require such action.

(b) Protective management inmates shall be subject to searches in the same manner as general population inmates in accordance with rule 33-602.204.

(7) Contact by Staff.

(a) Inmates in protective management shall receive a personal contact a minimum of:

1. At least every hour by a correctional officer, but on an irregular schedule.

2. Daily by the area housing supervisor.

3. Daily by the officer-in-charge on duty for all shifts except in case of riot or other institutional emergency.

4. Daily by the Chief of Security (when on duty at the facility) except in case of riot or other institutional emergency.

5. Daily by a clinical health care person.

6. Weekly by the chaplain. More frequent visits shall be made upon request of the inmate if the chaplain's schedule permits.

7. Weekly by the warden and assistant wardens.

8. At least once a week by a classification officer.

9. At least once a month by a member of the Institutional Classification Team to ensure that the inmate's welfare is properly provided for, and to determine the time and method of release or any program changes.

(b) Any inmate who has demonstrated behavior that is or could be harmful to himself or herself shall be designated as a special risk inmate. If the inmate demonstrates bizarre, mentally disordered, or self-destructive behavior, the medical department shall be immediately contacted to determine if special watch or suicide watch procedures shall be initiated. Suicidal inmates shall be removed to a designated area where a correctional officer or health care staff provides observation. Visual checks shall be made in accordance with medical protocols or at least every 30 minutes and shall be documented on Form DC4-650, Observation Checklist/Restraint Observation Checklist, until the inmate is no longer considered a special risk inmate. All actions taken by staff with regard to special risk inmates shall be documented on Form DC6-229, Daily Record of Segregation, and followed with an Incident Report, Form DC6-210. Forms DC4-650 and DC6-210 are incorporated by reference in (10) of this rule.

(8) Review of Protective Management.

(a) A classification officer shall review inmates in protective management every week. The Institutional Classification Team shall also review inmates in protective management every week. The goal shall be toward returning the inmate to open population as soon as the facts of the case indicate that this can be done safely.

(b) Any inmate assigned to protective management for more than 30 days shall be given a psychological assessment by mental health professional, staff to determine his or her mental condition. The assessment shall include a personal interview. The psychologist or psychological specialist shall prepare a report to the ICT with the facts of the case. The ICT shall then make a decision regarding continuation of the protection needs. Any recommendations by the psychologist or psychologist specialist that the inmate be released from protective management shall be forwarded by the ICT to the SCO. All such assessments shall be documented in the mental health record. If the decision is to continue protective management and that protective status extends beyond 90 days, a new psychological assessment shall be completed each 90-day period.

(c) If an inmate is housed for more than 30 days, the ICT shall interview the inmate and shall prepare a formal assessment and evaluation report. Such reports may be in a brief paragraph form detailing the basis for protection, what has transpired since the last report, the decision concerning continued protection and the basis for that decision.

(d) The State Classification Office (SCO) shall review all reports prepared by the ICT concerning an inmates protective management and may interview the inmate before determining the final disposition of the inmate's protective management status. However, the State Classification Office shall conduct an onsite interview with each inmate at least once every six months or as often as necessary to determine if continuation, modification, or removal from protective management status is appropriate.

(e) If the inmate submits a request for release in writing at any time after being placed in protective management, the area housing supervisor shall provide the inmate with a Form DC6-203, Protection Waiver/Appeal Decision Form. Form DC6-203 is incorporated by reference in (10) of this rule. The inmate shall complete Form DC6-203 and return it to the area housing supervisor for submission to the ICT along with the inmate's written request. The ICT shall review the inmate's request and place the inmate on the docket. The ICT shall interview the inmate and submit their recommendation along with the DC6-203 and any other documentation to the SCO for final consideration. The SCO review and decision shall be conducted during the next routine on-site visit.

(9) Protective Management Records.

(a) A Report of Protective Management, Form DC6-234 shall be kept for each inmate placed in protective management.

(b) An Inspection of Special Housing Record, Form DC6-228 shall be maintained in each protective management area. Form DC6-228 is incorporated by reference in (10) of this rule. Each staff person shall sign the record when entering

and leaving the protective management area. Prior to leaving the protective management area, each staff member will indicate any specific problems including any inmate who requires medical attention.

(c) A Record of Protective Management, Form DC6-235 shall be maintained for each inmate as long as the inmate is in protective management. Once the inmate is released from protective management, Form DC6-235 will be forwarded to classification to be filed in the institutional inmate record. This form shall be used to record any action, remarks or disposition made on a specific inmate. Notations shall be made on Form DC6-235 by medical staff, the ICT, the SCO or other staff dealing directly with the inmate. If items are denied or removed from the inmate, the senior correctional officer on duty must approve the action. The items denied or removed will be documented on the Form DC6-235 and the chief of security will make the final decision in regard to the appropriateness of that action no later than the next working day following this action. The supervising officer will document any unusual occurrences or changes in the inmate's behavior and any action taken. Changes in housing location or any other special action will also be documented.

(10) Forms. The following forms referenced in this rule are hereby incorporated by reference. A copy of any of these forms may be obtained from the Forms Control Administrator, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) Form DC4-650, Observation Checklist/Restraint Observation Checklist, effective date _____.

(b) Form DC6-203, Protection Waiver/Appeal Decision effective date _____.

(c) Form DC6-210, Incident Report, effective date _____.

(d) Form DC6-228, Inspection of Special Housing Record, effective date _____.

(e) Form DC6-229, Daily Record of Segregation, effective date _____.

(f) Form DC6-234, Report of Protective Management, effective date _____.

(g) Form DC6-235, Record of Protective Management, effective date _____.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.34, 945.04 FS. History–New 6-23-83, Formerly 33-3.082, Amended 3-12-84, 7-10-90, 12-4-90, 4-26-98, Formerly 33-3.0082, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Stan Czerniak

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore, Secretary, Department of Corrections

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 7, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 19, 2000

SPACEPORT FLORIDA AUTHORITY

RULE TITLES:	RULE NOS.:
Scope	57-3.001
Definitions	57-3.002
General	57-3.003

PURPOSE AND EFFECT: To establish safety policies and procedures for commercial space launch activity within the State of Florida, and to ensure compliance with state and federal environmental and safety laws regarding the treatment and handling of hazardous substances related to commercial space launches.

SUMMARY: These rules define the terms found in the remainder of the rules regarding safety and set the policy for Spaceport Florida Authority to provide safety oversight for space related activities in the State of Florida.

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

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

SPECIFIC AUTHORITY: 331.310(1),(11) FS.

LAW IMPLEMENTED: 331.350(3)(a)-(d) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kenneth D. “Pete” Gunn, Safety Officer, Spaceport Florida Authority, 100 Spaceport Way, Cape Canaveral, Florida 32920, whose telephone number is (407)730-5301

THE FULL TEXT OF THE PROPOSED RULES IS:

57-3.001 Scope.

These rules apply to all persons, companies and organizations conducting or performing space launch, pre-launch or satellite processing, and solid rocket motor or space related explosives storage, transportation and use activities commercially within the State of Florida.

Specific Authority 331.350(3) FS. Law Implemented 331.350(3) FS. History–New _____.

57-3.002 Definitions.

As used in Chapters 57-3 through 57-7:

(1) "All fire level" means the minimum direct current or radio frequency energy that causes initiation of an electroexplosive initiator with a reliability of 0.999 at a confidence level of 95 percent as determined by a Bruceton

test. Recommended operating level is all fire current, as determined by test, at ambient temperature plus 150 percent of the minimum all-fire current.

(2) "Arm/Disarm device" means an electrically or mechanically actuated switch that can make or break one or more electroexplosive firing circuits; operate in a manner similar to Safe and Arm devices except that they do not physically interrupt the explosive train.

(3) "Arming plug" means a removable device that provides electrical continuity when inserted in a firing circuit.

(4) "Authority" as defined in § 331.302, F.S., means the Spaceport Florida Authority created by the Spaceport Florida Authority Act, § 331.301, 331.360, F.S.

(5) "Barricade" means an intervening barrier, natural or artificial, of such type, size and construction as to limit in a prescribed manner, the effect of an explosion on nearby buildings or exposures.

(6) "Board" or "Board of Supervisors" as defined in § 331.302, F.S., means the governing body of the Authority.

(7) "Bruceton test method" means a statistical method for determining the all-fire and no-fire characteristics of an electroexplosive device using a small sample size, both with high reliability.

(8) "CSLA" means the Commercial Space Launch Act, as codified at 49 U.S.C.§§ 70101-70119 (1998) (formerly designated as 49 U.S.C. App. § 2601 et seq.).

(9) "Deflagration" means a rapid chemical reaction in which the output of heat is enough to enable the reaction to proceed and be accelerated without input of heat from another source. Deflagration is a surface phenomenon with the reaction products flowing away from the unreacted material along the surface at subsonic velocity. The effect of a true deflagration under confinement is an explosion. Confinement of the reaction increases pressure, rate of reaction and temperature, and may cause transition into a detonation.

(10) "Detonating cord" means a flexible fabric tube containing a filler of high explosive material intended to be initiated by an electroexplosive device, often used in destruct and separation functions.

(11) "Detonation" means a violent chemical reaction within a chemical compound or mechanical mixture evolving heat and pressure. A detonation is a reaction which proceeds through the reacted material toward the unreacted material at a supersonic velocity. The result of the chemical reaction is exertion of extremely high pressure (above 10,000 PSI) on the surrounding medium forming a propagating shock wave that originally is of supersonic velocity. A detonation, when the material is located on or near the surface of the ground, is characterized normally by a crater.

(12) "Detonator" means an explosive device (usually an electroexplosive device) that is the first device in an explosive train and is designed to transform an input (usually electrical) into an explosive reaction.

(13) "DOD" means United States Department of Defense.

(14) "DOT License" means a license issued by the Secretary of Transportation pursuant to the CSLA.

(15) "EBW' means a high voltage exploding bridgewire initiator; an initiator in which the bridgewire is designed to be exploded (disintegrated) by a high energy electrical discharge that causes the explosive charge to be initiated.

(16) "EED" means a low voltage electroexplosive device.

(17) "ETX" means an explosive transfer assembly; explosive train; an arrangement of explosive or combustible elements used to perform or transfer energy to an end function.

(18) "ETS" means an explosive transfer system.

(19) "Explosion" means a chemical reaction of any chemical compound or mechanical mixture that, when initiated, undergoes a very rapid combustion or decomposition releasing large volumes of highly heated gases that exert pressure on the surrounding medium. Also, a mechanical reaction in which failure of the container causes the sudden release of pressure from within a pressure vessel, for example, pressure rupture of a steam boiler. Depending on the rate of energy release, an explosion can be categorized as a deflagration, a detonation, or pressure rupture.

(20) "Explosion proof apparatus" means an enclosure that will withstand an internal explosion of gases or vapors and prevent those gases or vapors from igniting the flammable atmosphere surrounding the enclosure, and whose external temperature will not ignite the surrounding flammable atmosphere.

(21) "Explosives" means all ammunition, munition, fillers, demolition material, solid rocket motors, liquid propellants, cartridges, pyrotechnics, mines, bombs, grenades, warheads of all types, explosive elements of ejection and aircrew egress systems, air-launched missiles and those explosive components of missile systems and space systems and assembled kits and devices containing explosive material. Explosives, explosives weight, net weight, and other like terms also refers to the fillers of an explosive item. Fillers may be explosive mixtures, propellants, pyrotechnics, military chemicals, and other toxic substances. The term does not include liquid fuels and oxidizers that are not used with missiles, rockets, and other such weapons or explosive items.

(22) "Explosive" means any chemical compound or mechanical mixture that, when subjected to heat, impact, friction, detonation, or other suitable initiation, undergoes a very rapid chemical change with the evolution of large volumes of highly heated gases that exert pressures in the surrounding medium. The term applies to materials that either detonate or deflagrate and covers all explosives including but not limited to: high, low, dynamite, propellant, and plastic explosives.

(23) "Explosive quantity distance site plan" means a formal plan for a facility storing explosives, and areas detailing explosives quantity operating and storage limits, and restrictions and resultant distance clearance requirements.

(24) "Firing circuit," means the current path between the power source and the initiating device.

(25) "Flight safety" means all arrangements intended to control safety risks during the flight of a space vehicle, and to protect persons, public and private property, and the environment, against any damage that might be caused by in-flight maneuvers of this space vehicle.

(26) "Fuse" means a system used to initiate an explosive train.

(27) "Hazard" means equipment, systems, events or situations with an existing or potential condition that may result in a mishap. This definition also applies to "hazardous."

(28) "Hazard analysis" means the analysis of systems to determine potential hazards and recommended actions to eliminate or control the hazards.

(29) "Hazardous materials" means liquids, gases, or solids that may be toxic, reactive, or flammable or that may cause oxygen deficiency either by themselves or in combination with other materials.

(30) "Hazardous operations" means activities, processes, and procedures that, because of the nature of the equipment, facilities, personnel or environment involved or function being performed, may result in bodily injury or property damage.

(31) "Hazardous substance" means any substance hazardous in nature.

(32) "Hazardous substance" is defined under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §9601, as amended by the Superfund Amendment and Preauthorization Act (SARA) of 1986, and authorities referenced therein.

(33) "Hazardous systems" means systems that incorporate hazardous commodities, to include but not be limited to liquid propellants, solid propellants, ordnance, lasers, high power Radio Frequency Emitters.

(34) "Hygroscopic" means a tendency of material to readily absorb and retain moisture from its surroundings.

(35) "Hypergolic" means a property of various combinations of chemicals to self ignite spontaneously upon contact with each other without a spark or other external initiation.

(36) "Igniter" means a device containing a specifically arranged charge of ready burning composition, usually black powder, used to amplify the initiation of a primer.

(37) "Interrupter" means a mechanical barrier in a fuse that prevents transmission of an explosive effect to some elements beyond the interrupter.

(38) “Jurisdiction” means statewide authority, applying to all those that come under the Authority’s regulations, in accordance with § 331.350(3), F.S.

(39) "Landing Area" as defined in § 331.302, F.S., means the geographical area designated by the Authority within the spaceport territory for or intended for the landing and surface maneuvering of any launch or other space vehicle.

(40) "Launch" means to place or attempt to place a launch vehicle and payload, if any, in any sub-orbital trajectory, in Earth’s orbit, into outer space, or otherwise in outer space. This includes occurrences within the atmosphere, in space, or on Earth after descending from the atmosphere, or space.

(41) "Launch Pad" as defined in § 331.302, F.S., means any launch pad used by the spaceport or spaceport user for launching of space vehicles.

(42) "Launch Services" means those activities involved in the preparation of a launch vehicle and its payload for launch and the completion of an actual launch.

(43) "Launch Vehicle" means any vehicle and/or any sub-orbital rocket constructed for the purpose of operating in, or placing a payload into, outer space.

(44) "Liquid Propellants" means liquid or gaseous substances (fuels, oxidizers, or monopropellants) used for propulsion or operation or missiles, rockets and other related devices.

(45) "Magazine" means any building or structure, except for an operating building, used for the storage of explosives, as defined in 27 C.F.R. § 55.11.

(46) "Maximum Credible Event" means in terms of hazard evaluation, the Maximum Credible Event (MCE) from a hypothesized accidental explosion, fire, or agent release that is the worst single event that is likely to occur from a given quantity and disposition of explosives. The MCE must be realistic with a reasonable probability of occurrence, considering the explosion propagation, burning rate characteristics, and physical protection given to the items involved. The MCE evaluated on this basis may then be used as a basis for effects calculations and casualty predictions.

(47) "Mishap" means an unplanned event or series of events resulting in injury, occupational illness, or damage to or loss of: equipment; public property; or private property.

(48) “National Security” means the national defense and foriegn relations of the United States, as defined in the National Industrial Security Program Operating Manual, DoD 5220.22-M.

(49) "No-fire Level" means the maximum direct current or radio frequency energy at which an electroexplosive initiator shall not fire with a reliability of 0.999 at a confidence level of ninety-five (95%) percent as determined by a Bruceton Test and shall be capable of subsequent firing within the requirements of performance specifications.

(50) "Operating Building" means any structure, except a magazine, in which operations pertaining to manufacturing, processing, handling, loading, or assembly of space related explosives or ordnance are performed.

(51) "Ordnance" means all solid rocket motors, liquid propellants, pyrotechnics, and explosives.

(52) "Ordnance component" means a component such as a squib, detonator, initiator, ignitor, or linear shape charge in an ordnance system.

(53) "Ordnance Operation" means any operations consisting of shipping, receiving, transportation, handling, test, checkout, installation and mating, electrical connection, render safe, removal and demating, and disposal of ordnance.

(54) "Payload" as defined in § 331.302, F.S., means any property or cargo to be transported aboard any vehicle launched by or from the spaceport.

(55) "Person" as defined in § 331.302, F.S., means any individual, child, university, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, nation, government (federal, state, or local), agency (government or other), subdivision of the state, municipality, county, business entity, or any other group or combination.

(56) "Pre-launch" means those activities involved in the preparation of a launch vehicle, its payload, and the conduct of a launch.

(57) "Project" as defined in § 331.302, F.S., means any development, improvement, property, launch, utility, facility, system, works, road, sidewalk, enterprise, service, or convenience, which may include coordination with the Board of Regents and the Space Research Foundation; any rocket, capsule, module, launch facility, assembly facility, operations or control facility, tracking facility, administrative facility, or any other type of space-related transportation vehicle, station, or facility; any type of equipment or instrument to be used or useful in connection with any of the foregoing; any type of intellectual property and intellectual property protection in connection with any of the foregoing including, without limitation, any patent, copyright, trademark, and service mark for, among other things, computer software; any water, wastewater, gas or electric utility system, plant, or distribution or collection system, any small business incubator initiative, including any startup aerospace company, research and development company, research and development facility, storage facility, and consulting service, or any tourism initiative, including any space experience attraction, space-launch-related activity, and space museum sponsored or promoted by the Authority.

(58) "Property damage" means partial or total destruction, impairment, or loss of tangible property, real or personal.

(59) "Public safety" means safety involving risks to the general public of the United States or foreign countries and/or their property.

(60) "Quantity/Distance (Q/D)" means the quantity of explosives material and distance separation relationships providing defined types of protection. These relationships are based on levels or risk considered acceptable for the stipulated exposures and are tabulated in the appropriate Q/D tables. Separation distances afford less than absolute safety.

(61) "Range" as defined in § 331.302, F.S., means the geographical area designated by the Authority or other appropriate body as the area for the launching of rackets, missiles, launch vehicles, and other vehicles designed to reach high altitude.

(62) "Recovery" as defined in § 331.302, F.S., means the recovery of space vehicles and payloads which have been launched from or by the spaceport.

(63) "Risk" means a measure that takes into consideration both the probability of occurrence and the consequence of a hazard to humans or property. Risk is measured in the same units at the consequence such as number of injuries, fatalities, or dollar loss.

(64) "Risk analysis" means the study of potential risk.

(65) "Safety risk" means a measure of the potential consequences of a hazard, such as the expected number of human casualties, considering the probability of the associated event and the consequences, the projected severity for people, public and private property, and the environment (not including political, financial, technical, industrial, and project risks).

(66) "Spaceport" as defined in § 331.302, F.S., means any area of land or water, or any manmade object or facility located therein, developed by the Authority under this act, which area is intended for public use or for the launching, takeoff, and landing of spacecraft and aircraft, and includes any appurtenant areas which are used or intended for public use, for spaceport buildings, or for other spaceport facilities, spaceport projects, or rights-of-way.

(67) "Spaceport launch facilities" as defined in § 331.302, F.S., shall be defined as industrial facilities in accordance with § 380.0651(3)(c) and include any launch pad, launch control center, and fixed launch-support equipment.

(68) "Spaceport system" as defined in § 331.302, F.S., means the programs, organizations, and infrastructure developed by the Authority for the development of facilities or activities to enhance and provide commercial space-related development opportunities for business, education, and government within the state.

(69) "Spaceport territory" as defined in § 331.302, F.S., means the geographical area designated in § 331.304 and as amended or changed in accordance with § 331.329.

(70) "Spaceport user" as defined in § 331.302, F.S., means any person who uses the facilities or services of any spaceport, and, for the purposes of any exemptions or rights granted under this act, said spaceport user shall be deemed a spaceport user only during the time period in which such person has in effect a

contract, memorandum of understanding, or agreement with the spaceport. Such rights and exemptions shall be granted with respect to transactions relating only to spaceport projects.

(71) "Waiver" means written and duly signed authorization given on an occasional, exceptional and limited basis, relative to the acceptance of a hazardous item that does not comply with the applicable Safety Regulations or Rules.

Specific Authority 331.303 FS. Law Implemented 331.303 FS. History–New .

57-3.003 General.

The Spaceport Florida Authority will provide safety oversight for all Authority projects, spaceport launch facilities, launch pads, landing areas, ranges, and all commercial space pre-launch, launch, payload/satellite processing, solid rocket motor and space related explosives and hazardous materials facilities, operations, and activities within its jurisdiction.

Specific Authority 331.305(17), 331.350(3) FS. Law Implemented 331.305(17), 331.350(3) FS. History–New .

NAME OF PERSON ORIGINATING PROPOSED RULE: Kenneth D. Gunn

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ed O'Connor

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 18, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 24, 2000

SPACEPORT FLORIDA AUTHORITY

RULE TITLES:	RULE NOS.:
Authority	57-4.001
Definitions	57-4.002
General	57-4.003
Responsibilities	57-4.004
Documents and Records	57-4.005

PURPOSE AND EFFECT: To establish safety policies and procedures for commercial space launch activity within the State of Florida, and to ensure compliance with state and federal environmental and safety laws regarding the treatment and handling of hazardous substances related to commercial space launches.

SUMMARY: These rules define the roles and responsibilities for the Safety Officer and the policy on handling public records requests.

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

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

SPECIFIC AUTHORITY: 331.310(1),(11) FS.

LAW IMPLEMENTED: 331.350(3)(a)-(d) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kenneth D. "Pete" Gunn, Safety Officer, Spaceport Florida Authority, 100 Spaceport Way, Cape Canaveral, Florida 32920, whose telephone number is (407)730-5301

THE FULL TEXT OF THE PROPOSED RULES IS:

57-4.001 Authority.

Authority for the administration and implementation of the Spaceport Florida Authority's safety oversight program is granted to the Authority Safety Officer.

Specific Authority 331.305(17), 331.350(3) FS. Law Implemented 331.305(17), 331.350(3) FS. History–New .

57-4.002 Definitions.

All definitions for this rule chapter are referred to in Chapter 57-3.003.

Specific Authority 331.303 FS. Law Implemented 331.303 FS. History–New .

57-4.003 General.

The Authority's Safety Officer shall have substantial experience, defined as working for at least ten years in the area of safety and explosives, through military training or practical on the job experiences, in public safety procedures and programs for space vehicle launching and related hazardous operations. The Safety Officer shall monitor and report on the safety and hazards of ground-based space operations to the Executive Director of the Authority.

Specific Authority 331.305(17) FS. Law Implemented 331.305(17) FS. History–New .

57-4.004 Responsibilities.

(1) The Authority Safety Officer is responsible for development and implementation of a comprehensive statewide loss prevention program.

(2) The Safety Officer shall:

(a) Represent the Authority, by acting as its agent, on all safety issues.

(b) Provide safety oversight for all facilities and property; spaceport launch facilities; spaceport systems; launch pads; landing areas; ranges; spaceport user operations, and all other commercial space related activities within the State of Florida.

(c) Review and approve all Safety Plans and documentations submitted in compliance with Chapters 57-5 and 57-6 of these Rules.

(d) Conduct periodic audits to ensure compliance with approved Safety Plans.

(e) Perform a periodic safety inspections of all facilities and property; spaceport launch facilities; spaceport systems; launch pads; landing areas; ranges; spaceport user operations; and all other commercial space related activities within its jurisdiction.

(f) Review and/or approve hazardous procedures to be accomplished at Authority facilities.

(g) Monitor selected hazardous operations conducted at Authority facilities and other commercial space related activities.

(h) Approve and maintain a permanent office-of-record for any explosives quantity distance site plans generated for Authority facilities and property.

(i) Maintain a permanent office-of-record for any Department of Defense Explosive Safety Board approved quantity distance site plans for facilities and properties under the jurisdiction of the Authority, but located on Department of Defense Property.

(j) Perform an annual review to insure adequacy of explosives quantity distance site plans and document findings.

(k) Investigate job-related employee accidents and other accidents occurring on the premises of the Authority or within its jurisdiction.

(l) Develop safety awareness programs for employees, agents, and subcontractors of the Authority.

(m) Advise the Executive Director on Emergency Management plans and activities.

(n) Develop and maintain emergency response procedures for Authority facilities, including coordination with local emergency response agencies, and identification of populated areas.

(o) Provide emergency response support and/or assistance, in the event of failures and mishaps during ground operations.

Specific Authority 331.314, 331.319, 331.350(3) FS. Law Implemented 331.314, 331.319, 331.350(3) FS. History–New .

57-4.005 Documents and Records.

Unless containing issues related to national security, trade secrets or proprietary information, the Authority's safety documents and records, including correspondence, inspection reports, reference documents, maps and computer files, shall be open and available for public access upon any public request for the information. Regarding public information commingled with information related to national security, trade secrets or proprietary information, five (5) business days will be required to allow the security officer, acting as an agent of the Authority, to separate and secure any item related or pertaining to national security, trade secret or proprietary information. The public information shall be made available to the requester in accordance with Chapter 57-2 of the Florida Administrative Code.

Specific Authority 331.314, 331.319, 331.350(3) FS. Law Implemented 331.314, 331.319, 331.350(3) FS. History–New .

NAME OF PERSON ORIGINATING PROPOSED RULE: Kenneth D. Gunn

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ed O'Connor

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 18, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 24, 2000

SPACEPORT FLORIDA AUTHORITY

RULE TITLES:	RULE NOS.:
Scope	57-5.001
Definitions	57-5.002
General Requirements	57-5.003
Storage; General	57-5.004
Conflicts	57-5.005

PURPOSE AND EFFECT: To establish safety policies and procedures for commercial space launch activity within the State of Florida, and to ensure compliance with state and federal environmental and safety laws regarding the treatment and handling of hazardous substances related to commercial space launches.

SUMMARY: These rules define how to store and handle explosive material for space related activities.

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

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

SPECIFIC AUTHORITY: 331.310(1),(11) FS.

LAW IMPLEMENTED: 331.350(3)(a)-(d) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kenneth D. "Pete" Gunn, Safety Officer, Spaceport Florida Authority, 100 Spaceport Way, Cape Canaveral, Florida 32920, whose telephone number is (407)730-5301

THE FULL TEXT OF THE PROPOSED RULES IS:

57-5.001 Scope.

These rules apply to all persons, companies and organizations conducting or performing space launch, pre-launch or satellite processing, and solid rocket motor activities related to explosives storage, transportation or use commercially within the State of Florida with the following exceptions:

(1) These rules shall not apply to the transportation of space related explosives while under the jurisdiction of and in compliance with the regulations of the United States Department of Transportation, 49 C.F.R., Parts 177-379 (1999).

(2) These rules shall not apply to the regular Armed Forces of the United States, or to any duly organized military force of any state or territory thereof.

(3) These rules shall not apply to the transportation and use of explosives in the normal and emergency operations of federal agencies such as the Federal Bureau of Investigation or the Secret Service.

Specific Authority 331.350(3) FS. Law Implemented 331.350(3) FS. History–New .

57-5.002 Definitions.

All definitions for this rule chapter are referred to in Chapter 57-3.003.

Specific Authority 331.303, 331.314 FS. Law Implemented 331.303, 331.314 FS. History–New .

57-5.003 General Requirements

(1) No person shall either store, handle, or transport space related explosives when such storage, handling, and transportation constitutes an undue hazard to life and property which shall be determined by the Safety Officer of the Authority.

(2) Quantities of explosives handled at any location within the state shall be restricted according to the Safety Officer's discretion under standards set forth in chapter three of the DOD's Contractor's Safety Manual for Ammunition and Explosives, DoD 4145.26-M.

Specific Authority 331.314, 331.350(3), 331.353 FS. Law Implemented 331.314, 331.350(3), 331.353 FS. History–New .

57-5.004 Storage; General.

(1) All explosives, except when being transported, or readied for launch, shall be kept in magazines which meet the requirements of 27 C.F.R. § 55, Subpart K. Detonators, initiators, and other initiating explosives, shall not be stored in the same magazine with other explosives.

(2) The land surrounding explosive magazines shall be kept clear of brush, dried grass, leaves and other combustible materials for a distance of at least 25 feet in each direction.

(3) Magazines shall only be used for the storage of explosive supplies and shall be of the proper Class, which is clean and dry and free of combustible material, as defined in the DOD Contractor's Safety Manual for Ammunition and Explosives, DoD 4145.26-M and in 27 C.F.R. § 55, Subpart K.

(4) No matches, flame producing devices or fire of any kind shall at any time be permitted inside of or within 50 feet of a magazine.

Specific Authority 331.314, 331.350(3), 331.353 FS. Law Implemented 331.314, 331.350(3), 331.353 FS. History–New .

57-5.005 Conflicts.

Nothing contained in the Rules shall be in conflict with provisions of the National Security Act of 1947, as it exists (1999), or the Espionage and Sabotage Act of 1954, as it exists (1999).

Specific Authority 331.314, 331.350(3), 331.353 FS. Law Implemented 331.314, 331.350(3), 331.353 FS. History–New .

NAME OF PERSON ORIGINATING PROPOSED RULE: Kenneth D. Gunn

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ed O'Connor

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 18, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 24, 2000

SPACEPORT FLORIDA AUTHORITY

RULE TITLES:	RULE NOS.:
Scope	57-6.001
Definitions	57-6.002
General Requirements	57-6.003
Safety Plans	57-6.004

PURPOSE AND EFFECT: To establish safety policies and procedures for commercial space launch activity within the State of Florida, and to ensure compliance with state and federal environmental and safety laws regarding the treatment and handling of hazardous substances related to commercial space launches.

SUMMARY: These rules set the safety guidelines for launch and pre-launch activity in the State of Florida, particularly for the commercial space sector. They also set forth the requirement of safety plan to conduct commercial space activity in Florida.

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

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

SPECIFIC AUTHORITY: 331.310(1),(11) FS.

LAW IMPLEMENTED: 331.350(3)(a)-(d) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kenneth D. "Pete" Gunn, Safety Officer, Spaceport Florida Authority, 100 Spaceport Way, Cape Canaveral, Florida 32920, whose telephone number is (407)730-5301

THE FULL TEXT OF THE PROPOSED RULES IS:

57-6.001 Scope.

This rule applies to all persons, companies, and organizations conducting or performing space launch; pre-launch or payload/satellite processing; solid rocket motor storage, transportation, servicing, processing; or space related hazardous materials and explosives storage, transportation, operations and use activities commercially within the State of Florida.

Specific Authority 331.350(3) FS. Law Implemented 331.350(3) FS. History–New .

57-6.002 Definitions.

All definitions for this rule chapter are referred to in Chapter 57-3.003.

Specific Authority 331.303 FS. Law Implemented 331.303 FS. History–New .

57-6.003 General Requirements.

The following requirements must be satisfied in order to conduct pre-launch and launch activities under the Authority's jurisdiction:

(1) DOT License Requirements under License Number LSO 97-002A.

(2) Failure Tolerance/Risk Acceptability Requirements: including and limited to License Number LSO 97-002A, the DOD Contractor's Safety Manual for Ammunition and Explosives (DoD 4145.26-M), the Department of Air Force's Quantity Distance Site Plan RFP-D-4423 (AFSC-CCAFS-87-02) and the Air Force Manual 91-201 Explosive Safety Standards.

(3) System Safety Program and Analysis Requirements: Air Force Manual 91-201 Explosive Safety Standards and including but limited to License Number, LSO 97-002A, the DOD Contractor's Safety Manual for Ammunition and Explosives (DoD 4145.26-M), the Department of Air Force's Quantity Distance Site Plan RFP-D-4423 (AFSC-CCAFS-87-02) and the Air Force Manual 91-201 Explosive Safety Standards.

(4) Safety Documentation Requirements: including and limited to License Number, LSO 97-002A, the DOD Contractor's Safety Manual for Ammunition and Explosives (DoD 4145.26-M), the Department of Air Force's Quantity Distance Site Plan RFP-D-4423 (AFSC-CCAFS-87-02) and the Air Force Manual 91-201 Explosive Safety Standards

(5) All applicable Approval Processes including and limited to License Number, LSO 97-002A, the DOD Contractor's Safety Manual for Ammunition and Explosives (DoD 4145.26-M), the Department of Air Force's Quantity Distance Site Plan RFP-D-4423 (AFSC-CCAFS-87-02) and the Air Force Manual 91-201 Explosive Safety Standards.

Specific Authority 331.350(3) FS. Law Implemented 331.350(3) FS. History–New .

57-6.004 Safety Plans.

The following requirements must be satisfied by commercial space users under the Authority's jurisdiction:

(1) The Safety Officer shall require users of Authority facilities engaging in commercial space launch vehicle operations to submit a Ground Safety Plan. Such plan shall detail how the operator(s) plan to satisfy the requirements of Chapters 57-3 through 57-7 pertaining to launch vehicle operators on Authority facilities.

(2) Process Safety Management Plan (OSHA 1910.119).

Specific Authority 331.350(3) FS. Law Implemented 331.350(3) FS. History–New .

NAME OF PERSON ORIGINATING PROPOSED RULE: Kenneth D. Gunn

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ed O'Connor

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 18, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 24, 2000

SPACEPORT FLORIDA AUTHORITY

RULE TITLES:	RULE NOS.:
Scope	57-7.001
Definitions	57-7.002
General Requirements	57-7.003
Hazardous Material Selection	57-7.004
Hazardous Material Test Requirements	57-7.005
Hazardous Materials System Hardware Requirements	57-7.006

PURPOSE AND EFFECT: To establish safety policies and procedures for commercial space launch activity within the State of Florida, and to ensure compliance with state and federal environmental and safety laws regarding the treatment and handling of hazardous substances related to commercial space launches.

SUMMARY: These rules are to ensure proper selection, testing, and handling of hazardous materials when involved in space related activities in the State of Florida.

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

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

SPECIFIC AUTHORITY: 331.310(1),(11) FS.

LAW IMPLEMENTED: 331.350(3)(a)-(d) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kenneth D. "Pete" Gunn, Safety Officer, Spaceport Florida Authority, 100 Spaceport Way, Cape Canaveral, Florida 32920, whose telephone number is (407)730-5301

THE FULL TEXT OF THE PROPOSED RULES IS:

57-7.001 Scope.

These rules apply to all persons, companies and organizations conducting or performing space launch, pre-launch or satellite processing, and solid rocket motor or space related hazardous materials use, storage, and transportation activities commercially within the State of Florida with the following exceptions:

(1) These rules shall not apply to the transportation of space related explosives when under the jurisdiction of and in compliance with the regulations of the United States Department of Transportation, 49 C.F.R., Parts 177-379 (1998).

(2) These rules shall not apply to the regular Armed Forces of the United States, or to any duly organized military force of any state or territory thereof.

(3) These rules shall not apply to the transportation and use of in the normal and emergency operations of federal agencies such as the Federal Bureau of Investigation or the Secret Service.

Specific Authority 331.314 FS. Law Implemented 331.314 FS. History New _____.

57-7.002 Definitions.

All definitions for this rule chapter are referred to in Chapter 57-3.003.

Specific Authority 331.303 FS. Law Implemented 331.303 FS. History–New _____.

57-7.003 General Requirements.

(1) No person shall store, handle or transport space related hazardous materials when such storage, handling, and transportation constitutes an undue hazard to life or property.

(2) Quantities of hazardous materials handled at any location within the state shall be restricted by the Safety Officer of the Authority.

Specific Authority 331.314 FS. Law Implemented 331.314 FS. History–New _____.

57-7.004 Hazardous Material Selection.

The selection of hazardous materials shall be based on flammability and combustibility, toxicity and compatibility.

(1) The least flammable liquid or material shall be used where feasible.

(2) The least toxic liquid or material shall be used where feasible.

(3) Materials that do not give off a toxic gas if ignited shall be used where feasible.

(4) Hazardous materials, including leakage, shall not come into contact with a non-compatible material that can cause a hazard during ground operations.

(5) Hazardous materials shall not retain a static charge that presents an ignition source to ordnance or propellants or a shock hazard to personnel during ground operations.

Specific Authority 331.314 FS. Law Implemented 331.314 FS. History–New _____.

57-7.005 Hazardous Material Test Requirements.

(1) If the physical properties of the material or liquid are unknown, testing shall be performed to determine the hazard.

(2) Safety documentation shall include a listing of all hazardous materials and liquids on space flight hardware and ground processing equipment or is used during ground operations.

Specific Authority 331.314 FS. Law Implemented 331.314 FS. History–New _____.

57-7.006 Hazardous Materials System Hardware Requirements.

(1) Hazardous chemical hardware shall be designed to prevent hazardous chemicals from spilling or leaking, and, thereby, injuring personnel, property, or contaminating the environment.

(2) Hazardous chemical systems which release caustic, toxic, or reactive chemicals shall be designed such that the flow path contains two independent safeties to prevent an inadvertent release.

(3) Components of hazardous chemical systems shall feature redundant mechanical or welded seals at all fittings to prevent the inadvertent flow or release of caustic, toxic, and/or reactive chemicals.

(4) Bi-propellant systems that incorporate both a fuel and an oxidizer shall be designed in such a manner that a malfunction of either the oxidizer or fuel subsystems cannot result in mixing during ground operations. In general, all hazardous chemical systems shall be designed to preclude the inadvertent mixing of hazardous chemicals, especially in cases where chemical reactions could have catastrophic consequences to public safety.

(5) Mono-propellant systems that feature a fuel and a catalytic bed shall incorporate at least two independent safeties in the flow path to prevent inadvertent fuel contact with the catalytic bed during ground operations.

Specific Authority 331.314 FS. Law Implemented 331.314 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kenneth D. Gunn

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ed O'Connor

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 18, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 24, 2000

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Minimum Standards for Nurse Registries	59A-18
RULE TITLES:	**RULE NOS.:**
Purpose	59A-18.001
Definitions	59A-18.002
License Required	59A18.003
Licensure Requirements, Procedures, and Fees	59A-18.004
Registration Policies	59A-18.005
Administrator	59A-18.006
Registered Nurse and Licensed Practical Nurse	59A-18.007
Licensed Practical Nurse	59A-18.008
Certified Nursing Assistant and Home Health Aide	59A-18.0081
Homemakers or Companions	59A-18.009
Acceptance of Patients or Clients	59A-18.010
Medical Plan of Treatment	59A-18.011
Clinical Records	59A-18.012
Administration of Drugs and Biologicals	59A-18.013
Homemaker, Companion or Sitter Registration Requirements	59A-18.014
Surveys and Inspections	59A-18.015
Penalties	59A-18.016
Supplemental Staffing for Health Care Facilities	59A-18.017

PURPOSE AND EFFECT: The purpose of this rule amendment is to update the rule, including rule reduction, language clarification, and minor changes to conform to changes in the Florida Statutes.

SUMMARY: The proposed rule amendment includes rule reductions through deletion of language that is already in the Florida Statutes and deletion of unnecessary record keeping requirements. Rule 59A-18.003 is repealed and the contents through (2) are moved to 59A-18.004(1); (3) is deleted since the requirement has been removed from the statutes. Rule 59A-18.008 giving requirements for licensed practical nurses is repealed and the language relocated to rule 59A-18.007 on registered nurses and licensed practical nurses. Rule 59A-18.014 on homemaker, companion or sitter registration is repealed since the statutory requirement was removed.

To conform to changes in the Florida Statutes, home health aides are added as a type of independent contractor and changes are made in background screening. A variable survey cycle, based on nurse registry performance, replaces the annual licensure survey. The fine for failure to file a timely application for renewal of license is reduced from a $100 per day to $50 per day, with a maximum of $2500 instead of $5000. The amount of licensing fees is increased to cover the costs of licensing and inspection of nurse registries as permitted in the Florida Statutes. Nurse registries are given more time to get signed medical plans of treatment from physicians. The requirement that independent contractors get physical exams and tuberculin tests every two years is deleted. Language is added or changed to further clarify such areas as change of ownership procedures, partnerships, geographic service area, home health aide education and responsibilities.

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

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

SPECIFIC AUTHORITY: 400.462, 400.4785, 400.484, 400.495, 400.497, 400.506, 400.512, 400.515 FS.

LAW IMPLEMENTED: 400.462, 400.4785, 400.484, 400.495, 400.497, 400.506, 400.512, 400.515 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m. – 1:00 p.m., July 20, 2000

PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Conference Room D, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Pat Guilford, Agency for Health Care Administration, Home Care Unit, 2727 Mahan Drive, Bldg. 1, Room 203, Tallahassee, FL 32308, (850)414-6010. Agendas and copies of the draft rule can be obtained by contacting this office.

THE FULL TEXT OF THE PROPOSED RULES IS:

59A-18.001 Purpose.

The purpose of this rule is to provide for the licensure of nurse registries and to provide for the development, establishment and enforcement of basic standards that will ensure the safe and adequate care of persons receiving health care services in their home, ~~or~~ in a health care facility licensed under Chapter 395 or Chapter 400, Florida Statutes (F.S.), or other business entity ~~under Parts I, II, IV, or V of Chapter 400, F.S~~.

Specific Authority 400.497, 400.506 FS. Law Implemented 400.492, 400.506 FS. History–New 2-9-93, Amended _____.

59A-18.002 Definitions.

When used in this rule, unless the context otherwise requires, the term:

(1) "AHCA" means Agency for Health Care Administration. ~~"Agency" means the Agency for Health Care Administration~~.

(2) "Assistance with activities of daily living" means a certified nursing assistant or a home health aide providing an individual, assistance with activities promoting self-care and

independence, to include the following: ~~"Certified Nursing Assistant" means any person who has been issued a nursing assistant certificate by the state agency authorized by Chapter 400.211, F.S.~~

(a) Ambulation. Providing physical support to enable the patient to move about within or outside of the patient's place of residence. Physical support includes holding the patient's hand, elbow, under the arm, or holding on to a support belt worn by the patient to assist in providing stability or direction while the patient ambulates.

(b) Bathing. Helping the patient in and out of the bathtub or shower, adjusting water temperatures, washing and drying portions of the body which are difficult for the patient to reach, and being available while the patient is bathing. Can also include washing and drying the patient who is bed-bound.

(c) Dressing. Helping the patient put on and remove clothing.

(d) Eating. Helping with feeding patients who require assistance with feeding themselves.

(e) Personal hygiene. Helping the patient with shaving and with oral, hair, skin and nail care.

(f) Toileting. Reminding the patient about using the toilet, assisting him to the bathroom, helping to undress, positioning on the commode, and helping with related personal hygiene, including assistance with changing of an adult brief. Also includes assisting with positioning the patient on the bedpan, and helping with related personal hygiene.

(g) Assistance with physical transfer. Providing verbal and physical cueing, physical assistance, or both while the patient moves from one position to another, for example between the following: a bed, chair, wheelchair, commode, bathtub or shower, or a standing position. Transfer can also include use of a mechanical lift, if a home health aide or CNA is trained in its use.

(3) "Caregiver" means a person who has been entrusted with or has assumed the responsibility for frequent and regular care of or services to a disabled adult or an elderly person on a temporary or permanent basis and who has a commitment, agreement, or understanding with that person or that person's guardian that a caregiver role exists. "Caregivers" include, for example, relatives, household members, guardians, friends, neighbors, and employees and volunteers of facilities. ~~"Companion or sitter" means a person who cares for an elderly handicapped, or convalescent individual and accompanies such individual on trips and outings and may prepare and serve meals to such individual.~~

(4) "Change of ownership" means when a nurse registry is purchased by a new person, corporation or partnership from the person or entity which currently holds the nurse registry license. A one hundred percent stock purchase of the current corporate or partnership owner, or a change in the principals in the existing corporation or partnership, does not constitute a change of ownership, if that corporation or partnership continues to be the owner of the nurse registry. ~~"Department" means the Department of Health and Rehabilitative Services.~~

(5) "Entity" means a ~~person~~, partnership, corporation, or other business organization.

(6) "FBI" means the Federal Bureau of Investigation.

(7) "Financial instability," pursuant to s. 400.126(1)(d), F.S., means the nurse registry cannot meet its financial obligation. Evidence such as the issuance of bad checks or an accumulation of delinquent bills shall constitute prima facie evidence that the ownership of the nurse registry lacks the financial ability to operate.

(8)~~(6)~~ "Geographic~~al~~ Service Area" means the area, as specified on the license, in which the nurse registry may refer its independent contractors to provide services to patients or clients in their homes or to provide staffing in facilities ~~counties in which a nurse registry is licensed to serve~~.

~~(7) "Homemaker" means a person who performs household chores that includes housekeeping, meal planning and preparation, shopping assistance, and routine household activities for an elderly, handicapped, or convalescent individual.~~

(9)~~(8)~~ "Independent Contractor" means a person who~~, exercising independent employment,~~ contracts through a referral from a nurse registry to provide services to patients or clients in their homes or places of ~~–~~residence or to provide supplemental staffing at health care facilities or other business entities according to his/her scope of practice. The independent contractor maintains control over the method and means of delivering the services provided, and is responsible for the performance of such services ~~own methods and without being subject to the control of his employer, except as to the result of the services~~ provided.

(10)~~(9)~~ "Licensed Practical Nurse," as defined in s. 464.003(5), F.S., means a person who is currently licensed to practice nursing pursuant to Chapter 464 of the Florida Statutes.

~~(10) "Nurse Registry" means any person that procures, offers, promises, or attempts to secure health care related contracts for registered nurses, licensed practical nurses; certified nursing assistants, sitters, companions, or homemakers, who are compensated by fees as independent contractors, including both contracts for the provision of services to patients and contracts to provide private duty or for staffing at health care facilities licensed under Chapter 395, F.S., or Chapter 400, F.S.~~

(11) "Nurse registry services" means referral of independent contractors to provide health care related services ~~provided~~ to a patient or client in the person's home or place of residence or through staffing in a health care facility ~~person~~ by ~~an individual compensated by fees as~~ an independent contractor referred through a nurse registry. Such services shall be limited to:

(a) Nursing care provided by licensed registered nurses or licensed practical nurses; or

(b) Care and services provided by certified nursing assistants or home health aides; or

(c) Homemaker or companion~~, or sitter~~ services provided pursuant to s. 400.509 ~~400.478~~, F.S.

~~(12) "Physician" means a doctor of medicine, osteopathy, chiropractic or podiatry licensed to practice pursuant to Chapters 458, 459, or 460, F.S.~~

(12)~~(13)~~ "Plan of treatment" means written plan of care and treatment, including a medical plan of treatment, signed within 24 days ~~96 hours~~ by the physician to assure the delivery of safe and adequate care provided by a licensed ~~professional~~ nurse to a patient in the home.

(13)~~(14)~~ "Registered Nurse," as defined in s. 464.003(4), F.S., means a person who is currently licensed to practice pursuant to Chapter 464, F.S.

~~(15) "Screening" means the assessment of the background of nurse registry personnel and persons registered under s. 400.509 and includes employment history checks, checks of references, records checks of the department's central abuse registry and tracking system under Chapter 415, F.S., and statewide criminal records correspondence checks through the Department of Law Enforcement. An initial screening is not required for personnel continuously registered with the nurse registry since September 30,1990.~~

~~(16) "Continuously registered" means an individual's employment history, references, records check by the department's central abuse registry under Chapter 415, F.S., and statewide criminal records correspondence through the Department of Law Enforcement has been completed since September 30, 1990, and the individual has been registered with the same registry.~~

~~(17) "Supplemental staffing" means services provided to a health care facility on a temporary basis by licensed health care personnel and certified nurse assistants.~~

Specific Authority 400.497, 400.506 FS. Law Implemented 400.497, 400.506 FS. History–New 2-9-93, Amended 1-27-94, _____.

59A-18.003 License Required.

Specific Authority 400.497, 400.506 FS, Law Implemented 400.497, 400.506 FS. History–New 2-9-93, Amended 1-27-94, Repealed _____.

59A-18.004 Licensure Requirements, Procedures, and ~~License~~ Fees.

~~A license issued by the agency to operate a nurse registry, is based upon the results of an initial survey and an annual survey conducted by agency representatives t determine compliance with the requirements of Chapter 400.506, F.S., and with these rules. A license shall not be granted to anyone under 18 years of age or to anyone who cannot provide evidence of financial ability to operate, which shall consist of a first year projected operating budget to include evidence of liability insurance, and evidence of sufficient assets, credit and projected revenues to cover expenses.~~

(1) Prior to operating a nurse registry as defined under s. 400.506, F.S., it shall make application for a license on AHCA form 1, Application for Licensure-Nurse Registry, revised July, 1999, incorporated by reference. The application shall be accompanied by a $830 non-refundable licensure fee. The receipt of a license from AHCA shall be based upon compliance with all applicable rules and regulations, as evidenced by a signed application under oath and upon the results of a survey conducted by AHCA representatives. It is unlawful to operate a registry without first obtaining from AHCA a license authorizing such operation.

(2) The license shall be displayed in a conspicuous place in public view within the licensed premises. The registry license is not transferable. Sale of the licensed nurse registry, assignment, lease or other transfer, whether voluntary or involuntary, shall require relicensure by the new owner prior to taking over the operation, pursuant to s. 400.497(3), F.S. The prospective owner shall submit, at least 30 days prior to the effective date of the change, an application for a new license.

(3) A license shall not be granted to anyone under 18 years of age.

(4)~~(1)~~ An initial licensure application shall include: ~~Initial licensure – An application for an initial license to operate a nurse registry shall be submitted for a new operation or change of licensee accompanied by a non-refundable license fee of $689.00 for each site in operation to be licensed, and must be submitted and signed under oath on AHCA Form 3110-7001, Aug. 93, "Application for Licensure, Nurse Registry", which is incorporated by reference, provided by the agency, and shall include:~~

~~(a) All of the information required by Section 400.506, F.S.;~~

(a)~~(b)~~ Name of the registry, address and telephone number;

(b)~~(c)~~ Name of owner or licensee, address and telephone number;

(c)~~(d)~~ Ownership control and type;

(d)~~(e)~~ Services provided;

(e)~~(f)~~ Geographic area served;

(f) Hours of operation;

(g) The name of the registry's administrator and the name and license or certification number, if applicable, of current independent contractors, including registered nurses, licensed practical nurses, certified nursing assistants, home health aides, homemakers and companions ~~and sitters~~;

(h) Evidence of liability insurance coverage for the nurse registry;

(i)~~(h)~~ A signed affidavit from the administrator, pursuant to s. 400.512(2), F.S., stating that the administrator, the financial officer, and each contractor ~~pursuant to s. 400.512(2),~~

~~F.S.,~~ who was registered with the nurse registry on or after October 1, 1994 ~~the effective date of this rule~~, has been screened for good moral character and that the remaining contractors pursuant to s. 400.497(2), F.S., have been continuously registered with the nurse registry since before October 1, 1994 ~~with the effective date of this rule~~. ~~Said screening shall consist of:~~

1. Screening for good moral character for the administrator and the financial officer shall be in accordance with level 2 standards for screening set forth in section 400.471(4), F.S. The fingerprint card for level 2 screening for the administrator and the financial officer can be obtained from, and should be submitted to, the Agency for Health Care Administration, Home Care Unit, 2727 Mahan Drive, Building 1, Room 200, Tallahassee, Florida 32308. Screening processing fees for level 2 screening shall be made payable to the Agency for Health Care Administration. ~~Submission of the Florida Abuse Hotline Information System Background Check form (AHCA Form 3110-0003, Aug. 93) to the local DHRS screening coordinator; and~~

2. Level 1 Screening for good moral character for each contractor shall consist of:

a. Submission of the Request for Criminal History Check, AHCA form ~~(AHCA Form~~ 3110-002, June 1998 ~~Aug. 93),~~ incorporated by reference, to the Florida Department of Law Enforcement, Crime Information Bureau, Post Office Box 1489, Tallahassee, Florida 32302.

b. This ~~These~~ form~~s~~ may be obtained from the Agency for Health Care Administration, Health Facility Compliance ~~Regulation~~, Home ~~Long Term~~ Care Unit ~~Section~~, 2727 Mahan Drive, Building 1, Room 200, Tallahassee, Florida 32308. The cost of processing ~~the abuse registry check and~~ the criminal records check~~s~~ shall be borne by the nurse registry or the contractor being screened, at the determination of the administrator of the nurse registry. The checks for level 1 screening shall be made payable to ~~the Department of Health and Rehabilitative Services for the abuse registry check and~~ the Florida Department of Law Enforcement for the criminal records check.

~~2. Receipt of an approval letter from the district screening unit for all persons cleared, or~~

~~3. Receipt of a letter from the district screening unit identifying disqualifying information or potentially disqualifying information that is under review, and~~

~~4. Removal of designated contractors from client contact, when directed by the screening unit.~~

~~(i) A letter from the district screening unit for the administrator stating that he has been screened and found to be of good moral character.~~

(j) Evidence of financial ability to operate, which shall consist of a balance sheet and income and expense statement for the first year of operation which provides evidence of sufficient assets, credit and projected revenues to cover liabilities and expenses.

(k)~~(j)~~ The certificate and articles of incorporation or a current certificate of status or authorization for limited partnerships, pursuant to Chapter 260, F.S., if applicable. For general partnerships a current certificate of status or authorization or an affidavit of fictitious name must be submitted~~, and evidence of financial ability to operate~~.

(l) An affidavit of fictitious name, pursuant to s. 865.09, F.S., as filed with Florida's Secretary of State, is required when the nurse registry chooses to operate under a name other than the name of the partnership or corporation.

(m)~~(k)~~ Evidence of compliance with local zoning and fire inspection authorities for each office site.

~~(2) Each operational site of the nurse registry shall be licensed, unless there is more than 1 site within a county. If there is more than 1 site within a county only 1 site shall be required to be licensed.~~

(5) All nurse registries must apply for a geographic service area on their initial license application. Nurse registries may apply for a geographic service area which encompasses one or more of the counties within the specific AHCA area boundaries, pursuant to s. 408.032(5), F.S., and s. 400.497(8), F.S., in which the main office is located. However, any agency holding a current nurse registry license from AHCA, as of the effective date of this rule, may continue to serve clients in those counties listed on their current license.

(6)~~(3)~~ A license, unless sooner suspended or revoked, shall automatically expire 1 year from the date of issuance and shall be renewable annually.

(7)~~(4)~~ ~~Renewal of license.~~ An application ~~Applicants~~ for renewal of a ~~license to operate a~~ registry license shall be submitted ~~an application~~, as referenced in Rule 59A-18.004(1), not less than 60 days prior to expiration of the license. The submission shall include the non-refundable ~~accompanied by a~~ renewal fee of $830 ~~$689.00 on AHCA Form 3110-7001, Aug. 93, not less than 60 days prior to expiration of the license that~~ The application shall include:

~~(a) All of the information required by Section 400.506(2), F.S.; and~~

~~(b)~~ All of the information required by paragraphs (3)~~(1)~~(a) through (i) above.

(8) An application for renewal of a license shall not be required to provide proof of financial ability to operate, unless the applicant has demonstrated financial instability, in which case AHCA shall require the applicant for renewal to provide proof of financial ability to operate. Such proof may include a copy of the corporation's tax return, three corporate checking and savings account statements, or a financial statement prepared and signed by a CPA.

(9) An application for a change of ownership of a registry shall be submitted, as referenced in Rule 59A-18.004(1), not less than 60 days prior to the effective date of the change. The submission shall include the non-refundable change of ownership licensure fee of $830. The application shall include all of the information required by paragraphs (3)(a) through (m) above.

(10)~~(5)~~ A conditional license shall be issued to an applicant against whom ~~denial,~~ revocation or suspension action is pending at the time of license renewal, effective until final disposition of such proceedings by AHCA ~~the agency~~.

(11) A nurse registry has the following responsibility in terms of hours of operation:

(a) The nurse registry administrator, or his alternate, must be available to the public for any eight consecutive hours between 7 a.m. and 6 p.m., Monday through Friday of each week, excluding legal and religious holidays. Available to the public means being readily available on the premises or by telecommunications.

(b) When the administrator, or the designated alternate, are not on the premises during designated business hours, pursuant to 59A-18.004(11)(a), a staff person must be available to answer the phone and the door and must be able to contact the administrator, or the alternate, by telecommunications during the designated business hours. This individual can be a clerical staff person.

(c) If an AHCA surveyor arrives on the premises to conduct a survey and the administrator, or a person authorized to give access to patient records, is not available on the premises he, or his alternate, must be available on the premises within two hours.

(d) The nurse registry shall have written policies and procedures governing 24 hour availability to a nurse, acting within the scope of his practice act, by active patients who are receiving skilled care from licensed nurses referred by the nurse registry. These procedures shall describe an on-call system whereby designated nursing staff will be available to directly communicate with the patient. For registries which refer only CNAs or home health aides, written policies and procedures shall address the availability of an on-call nurse, acting within the scope of his practice act, during hours of patient service.

(e) Failure to be available or to respond, as defined in Rule 59A-18.004(11)(a), (b) and (c), will result in a $500 fine, pursuant to s. 400.506(4), F.S. A second incident will be grounds for denial or revocation of the agency license.

Specific Authority 400.497, 400.506 FS. Law Implemented 400.497, 400.506 FS. History–New 2-9-93, Amended 1-27-94, _____.

59A-18.005 Registration Policies.

(1) No change.

(2) Each nurse registry shall establish written procedures for the selection, documentation, screening and verification of credentials for each independent contractor referred by the registry.

(3) Each nurse registry shall confirm a new independent contractor's licensure or certification with the issuing board or department. Confirmation shall be based upon specific written requests or oral communications with the issuing authority. It shall be documented in the individual's registration file how confirmation was obtained, from whom, and who made the inquiry on behalf of the registry.

(4) Each nurse registry shall, at least annually, reconfirm the licensure or certification of all of their independent contractors who are licensed or certified.

(5) Each nurse registry shall confirm the identity of the independent contractor prior to referral. Identification shall be verified by using the individual's current driver's license or other photo identification, including the professional license or certificate.

(6)~~(2)~~ Prior to contact with patients, each independent contractor~~s~~ referred for client care must furnish to the registry the results of a Mantoux method tuberculin skin test (TST) performed pursuant to s. 381.0011(4), F.S. The independent contractor must also submit a ~~physician's~~ statement from a health care professional licensed under Chapter 458, F.S., or Chapter 459, F.S., a physician's assistant, or an advanced registered nurse practitioner (ARNP) or a registered nurse licensed under Chapter 464, F.S., under the supervision of a licensed physician, or acting pursuant to an established protocol signed by a licensed physician, based upon an examination within the last six months, that the contractor is in good health and does not appear to be at risk of transmitting communicable diseases ~~shows no apparent signs or symptoms of communicable disease. Prior to contact with patients, the independent contractor shall submit to the registry the results of a tuberculin skin test showing that the contractor is free of tuberculosis.~~ It is the responsibility of the nurse registry to ensure that patients are not placed at risk by contractors with positive tuberculosis test results TST (10 or more MM's) ~~reactors~~. Positive test reactors shall submit a ~~physician's~~ statement from a health care professional licensed under Chapter 458, F.S., or Chapter 459, F.S., that the independent contractor does not constitute a risk of communicating tuberculosis. Upon the specific written request of an individual staff member, copies of the most recent tuberculosis test result and above mentioned health statement may be released by one employer or registry and provided to another employer or registry within 2 years of the initial date of the test results and statement. Medical information is confidential and must not be disclosed without the specific consent of the person to whom it pertains. The written request to release the physical examination must be kept on file. ~~Every 2 years, each person referred for client care must submit a physician's statement~~

~~that the independent contractor does not constitute a risk of communicating diseases to any person under the care of the independent contractor and the results of a tuberculin skin test.~~ If a person is found to have, or is suspected of having, a communicable disease, that person shall be removed from contact with patients until a physician's statement is received stating that such risk does not exist.

(7) Each nurse registry shall, in its contracts with independent contractors, provide instructions as to responsibility for the payment of self-employment estimated taxes, and a statement as to the registry's commitment to compliance with civil rights requirements, pursuant to Chapter 760, F.S.

(8)~~(3)~~ Registration folders on each independent contractor must contain the ~~following~~ information required in s. 400.506(12), F.S.:

(a) ~~The name, address, date of birth, and social security number;~~ For home health aides, evidence of completion of a home health aide training course;

~~(b) The educational background and employment history of the applicant;~~

~~(c) Evidence of licensure, registration, or certification and information concerning renewal of licensure, registration, or certification.~~

(b)~~(d)~~ Evidence of a contract with the nurse registry;

(c)~~(e)~~ Evidence of background screening ~~for good moral character~~; and

~~(f) The name and address of the person to whom the contractor is sent and the amount of the fee received by the nurse registry; and~~

(d)~~(g)~~ Evidence of ~~initial and continuing education~~ HIV/AIDS training specified by the respective licensing board and that each non-licensed contractor receive a minimum of 2 hours of initial HIV/AIDS training and 1 hour biennially of continuing HIV/AIDS education units.

Each nurse registry shall establish a system for the recording and follow-up of complaints involving individuals they refer, and such records shall be kept in the individual's registration file or retained in the central files of the nurse registry.

Specific Authority 400.497, 400.506 FS. Law Implemented 400.497, 400.506 FS. History–New 2-9-93, Amended 1-27-94, _____.

59A-18.006 Administrator ~~Administration~~.

The administrator of the nurse registry shall be a full time position and:

(1) Be a licensed physician, a registered nurse, or an individual with training and experience in health service administration and at least one year of supervisory or administrative experience in the health care field.

(2) Be familiar, through training, experience or education, with the work requirements and the prerequisites for licensure or certification in each of the health care disciplines and specialties for which the registry is providing referrals.

(3)~~(2)~~ Be familiar with the rules of AHCA ~~the agency~~ and maintain them in the nurse registry;

(4)~~(3)~~ Be responsible for familiarizing each independent contractor with the law and rules of AHCA ~~the agency~~ and shall have copies of the rules available for reference;

(5)~~(4)~~ Be available, or have the alternate administrator available, at all times during operating hours as stated in 59A-18.004(11)(a) and be responsible for the total operation of the nurse registry. Available during operating hours means being readily available on the premises or by telecommunications during the above operating hours.

(6) Designate in writing a qualified individual to serve as the alternate administrator ~~qualified representative to serve~~ during absences of the administrator. During such absences, the on-site alternate administrator will have the responsibility and authority for the daily operation of the registry. The alternate administrator must meet qualifications as stated in Rule 59A-18.006(1);

(7)~~(5)~~ Be responsible for the completion, maintenance and submission of such reports and records as required by AHCA ~~the agency~~;

(8)~~(7)~~ Assure the orientation of new independent contractors; and

(9)~~(8)~~ Assure coordination, as needed, of the ~~care~~ plan of treatment by designation of an ~~the~~ individual nurse responsible for updating the plan, per the physician's order, when more than one nurse is serving the patient.

Specific Authority 400.497, 400.506 FS. Law Implemented 400.497, 400.506 FS. History–New 2-9-93, Amended 1-27-94, _____.

59A-18.007 Registered Nurse and Licensed Practical Nurse.

The registered nurse and the licensed practical nurse shall:

(1) Be responsible for the clinical records for their patients. The clinical records shall be filed with the nurse registry, for each patient or client to whom they are giving ~~receiving~~ care~~;~~ in the home or place of residence or when they assess the care being provided by non-licensed independent contractors, pursuant to s. 400.506(10)(c), F.S. Clinical notes and clinical records related to care given under a staffing arrangement are maintained by the facility where the staffing contract is arranged.

(2) No change.

(3) The licensed practical nurse shall be under the direction of a registered nurse, or a physician licensed pursuant to Florida Statutes, as required under 464.003(3)(b), F.S. ~~Be responsible for making a monthly visit to each patient receiving certified nursing assistant (CAN) services in the home to assess the quality of care being provided by the CNA and ensuring that the assessment becomes a part of the patient's file with the nurse registry. Any condition, noted at~~

~~the time of the monthly visit, which in the professional judgment of the nurse requires further medical attention, shall be reported to the attending physician and the nurse registry.~~

Specific Authority 400.497, 400.506 FS. Law Implemented 400.497, 400.506 FS. History–New 2-9-93, Amended 1-27-94, _____.

59A-18.008 Licensed Practical Nurse.

Specific Authority 400.497, 400.506 FS. Law Implemented 400.497, 400.506 FS. History–New 2-9-93, Amended 1-27-94, Repealed _____.

59A-18.0081 Certified Nursing Assistant and Home Health Aide.

The certified nursing assistant (C.N.A.) and the home health aide ~~referred for contract in a private residence~~ shall:

(1) Be limited to assisting a patient in accordance with s. 400.506(10)(b), F.S. ~~Be limited to assisting a patient with bathing, dressing, toileting, grooming, eating, physical transfer; and those normal daily routines that the patient could perform for himself were he physically able;~~

~~(2) Be evaluated monthly on each case by a registered nurse to assess the patient's condition and the quality of care being provided;~~

~~(3) Receive at least 12 hours of continuing education units each year;~~

(2)~~(4)~~ Be responsible for documenting services provided to the patient or client and for filing said documentation with the nurse registry on a regular basis. These service logs will be stored by the nurse registry in the client's file, along with the monthly nurse assessments. The service logs shall include the name of the patient or client and a listing of the services provided. ~~Be responsible for keeping records of personal health care activities provided;~~

(3)~~(5)~~ Be responsible for observing appearance and gross behavioral changes in the patient and reporting these changes to the caregiver ~~family~~ and the nurse registry or the registered nurse responsible for assessing the case when giving care in the home or to the responsible facility employee if staffing in a facility; and

(4) Be responsible to maintain a clean, safe and healthy environment, which may include light cleaning and straightening of the bathroom, straightening the sleeping and living areas, washing the patient's dishes or laundry, and such tasks to maintain cleanliness and safety for the patient;

(5) Perform other activities as taught and documented by a registered nurse, concerning activities for a specific patient and restricted to the following:

(a) assisting with the change of a colostomy bag, reinforcement of dressing,

(b) assisting with the use of devices for aid to daily living such as a wheelchair or walker,

(c) assisting with prescribed range of motion exercises,

(d) assisting with prescribed ice cap or collar,

(e) doing simple urine tests for sugar, acetone or albumin,

(f) measuring and preparing special diets, and

(g) measuring intake and output of fluids;

(h) measuring temperature, pulse, respiration or blood pressure;

(6) Be prohibited from changing sterile dressings, irrigating body cavities such as giving an enema, irrigating a colostomy or wound, performing gastric irrigation or enteral feeding, catheterizing a patient, administering medications, applying heat by any method, or caring for a tracheotomy tube~~, or providing any personal health care service not listed in section (1) above~~.

(7) For every C.N.A., a nurse registry shall have on file a copy of the person's State of Florida certification.

(8) For every home health aide, a nurse registry shall have on file documentation of successful completion of at least forty hours of training, pursuant to s. 400.506(10)(a), F.S., in the following subject areas:

(a) communication skills;

(b) observation, reporting and documentation of patient status and the care or services provided;

(c) reading and recording temperature, pulse and respiration;

(d) basic infection control procedures;

(e) basic elements of body functions that must be reported to the patient's registered nurse or physician;

(f) maintenance of a clean, safe, and healthy environment;

(g) recognition of emergencies and knowledge of emergency procedures;

(h) physical, emotional, and developmental characteristics of the populations served by the registry, including the need for respect for the patient, his privacy, and his property;

(i) appropriate and safe techniques in personal hygiene and grooming, including bed bath, sponge, tub, or shower bath; shampoo, sink, tub, or bed; nail and skin care; oral hygiene;

(j) safe transfer techniques and ambulation;

(k) normal range of motion and positioning;

(l) adequate nutrition and fluid intake;

(m) the role of the aide in the home;

(n) differences in families;

(o) food and household management;

(p) other health-related topics pertinent to home health aide services offered in the home.

(9) Individuals who earn their CNA certificate in another state must contact the Florida Certified Nursing Assistant office at the Department of Health to inquire about taking the written examination prior to working as a CNA in Florida, pursuant to part II of chapter 464, F.S.

(10) Home health aides who complete their training in another state must provide a copy of the course work and a copy of their training documentation to the nurse registry. If the course work is equivalent to Florida's requirements, the nurse registry may refer the home health aide for contract. If

the home health aide's course work does not meet Florida's requirements, the home health aide must receive training, in a school approved by the Department of Education, to the extent necessary to bring the training into compliance with Rule 59A-18.0081(6), prior to being referred for contract.

(11) CNAs and home health aides referred by nurse registries must receive a minimum of 2 hours of initial training in HIV/AIDS and 1 hour biennially of HIV/AIDS training, pursuant to s. 381.0035, F.S.; and training to maintain a current CPR certification.

Specific Authority 400.497, 400.506 FS. Law Implemented 400.497, 400.506 FS. History–New 2-9-93, Amended 1-27-94, _____.

59A-18.009 Homemakers or Companions~~, or Sitters~~.

The homemaker or companion shall:

(1) ~~The homemaker shall~~ H~~h~~ave evidence of ~~16 hours of~~ training in topics related to human development and interpersonal relationships, nutrition, shopping, food storage, use of equipment and supplies, planning and organizing of household tasks and principles of cleanliness and safety ~~and~~.

(2) The homemaker shall have the following responsibilities.

(a) To maintain the home in the optimum state of cleanliness and safety depending upon the client's and the caregiver's ~~family~~ resources:

(b) To perform the functions generally undertaken by the natural homemaker, including such duties as preparation of meals, laundry, and shopping ~~and care of children~~;

(c) To perform casual, cosmetic assistance, such as brushing the client's hair, assisting with make-up, filing and polishing nails but not clipping nails; ~~To maintain a chronological written record of services; and~~

(d) To stabilize the client when walking, as needed, by holding the client's arm or hand;

(e)~~(d)~~ To report any unusual incidents or changes in the patient's or client's behavior to the nurse registry administration and to the caregiver ~~office any incidents or problems related to their work or to the family~~.

(3)~~(2)~~ The companion ~~or sitter~~ shall have the following responsibilities:

(a) To provide companionship for the patient or client;

(b) To provide escort services such as taking the patient or client to the doctor;

(c) To provide light housekeeping tasks such as preparation of a meal or laundering the client's ~~patient's~~ personal garments;

(d) To perform casual, cosmetic assistance, such as brushing the client's hair, assisting with make-up, filing and polishing nails but not clipping nails; ~~To maintain a chronological written record of services;~~ and

(e) To stabilize the client when walking, as needed, by holding the client's arm or hand;

(f)~~(c)~~ To report any unusual incidents or changes in the patient's or client's behavior to the nurse registry administration and to the caregiver.

~~(3) The homemaker, companion or sitter shall not perform any hands-on personal care health services.~~

(4) Each nurse registry shall ensure that homemakers and companions ~~or sitters~~ understand the needs of the patients or clients to whom they are referred ~~assigned~~ and are able to recognize those conditions that need to be reported to the nurse registry office.

(5) Be responsible for providing to patient and nurse registry copies of any documentation which reflects the services provided. This documentation will be stored by the nurse registry in the client's file.

Specific Authority 400.497, 400.506 FS., Law Implemented 400.497, 400.506 FS. History–New 2-9-93, Amended 1-27-94, _____.

59A-18.010 Acceptance of Patients or Clients.

~~(1)~~ Policies for acceptance of patients or clients and termination of services to patients or clients ~~policies~~ shall include, for example, the following conditions:

(1)~~(a)~~ No patient or client shall be refused service because of age, race, color, sex or national origin, pursuant to Chapter 760, F.S.;

(2)~~(b)~~ When a patient or client is accepted for referrals of independent contractors ~~health services~~, there shall be a reasonable expectation that the requested services can be provided adequately and safely in their residence. The responsibility of the registry is to refer independent contractors capable of delivering services as defined in a specific medical plan of treatment for a patient or services requested by a client, including all visits;

(3)~~(c)~~ The nurse registry must inform the patient or client ~~must be advised~~ of their right to report abuse, neglect, or exploitation by calling the toll-free 1-800-96-ABUSE telephone number, pursuant to s. 400.495, F.S.

~~(d) The patient must be provided with information on Florida's law concerning "Health Care Advance Directives".~~

(4)~~(e)~~ When medical treatments or medications are administered, physician's orders in writing that are signed and dated shall be included in the clinical record; and

(5)~~(f)~~ When services are to be terminated, the patient or client, or the caregiver ~~their representative~~ shall be notified of the date of termination and the reason for termination, and these ~~that~~ shall be documented in the patient or client's ~~clinical~~ record.

Specific Authority 400.497, 400.506 FS. Law Implemented 400.497, 400.506 FS. History–New 2-9-93, Amended 1-27-94, _____.

59A-18.011 Medical Plan of Treatment.

(1) No change.

(2) The licensed nurse providing care to the patient is responsible for having the medical plan of treatment signed by the physician within 30 days ~~96 hours~~ from the initiation of services and reviewed by the physician in consultation with the licensed nurse at least every 2 months.

(3) through (4) No change.

(5) The initial medical plan of treatment, any amendment to the plan, additional orders or change in orders, and copy of clinical notes must be filed in the office of the nurse registry, pursuant to s. 400.506(15)(b), F.S., within 30 ~~14~~ days, pursuant to s. 400.497(7), F.S.

(6) The nurse registry shall ensure the designation as needed of the shift nurse responsible for updating the medical plan of treatment, per the physician's orders, ~~care plan~~ when more than one shift nurse is serving the patient ~~client~~.

(7) The patient, caregiver or guardian must be informed by independent contractors of the nurse registry that:

(a) he has the right to be informed of the medical plan of treatment;

(b) he has the right to participate in the development of the medical plan of treatment;

(c) he may have a copy of the medical plan of treatment if requested; and

(d) the caregiver being referred is an independent contractor of the registry.

Specific Authority 400.497, 400.506 FS. Law Implemented 400.497, 400.506 FS. History–New 2-9-93, Amended 1-27-94, _____.

59A-18.012 Clinical Records.

The licensed nurse responsible for the delivery of patient care shall maintain a clinical record, pursuant to s. 400.497(6), F.S., for each patient receiving nursing services in the home that shall include, at a minimum, the following:

(1) Identification sheet containing the patient's name, address, telephone number, date of birth, sex, and caregiver ~~next of kin~~ or guardian;

(2) Permission to release information dated and signed by the patient, caregiver ~~family~~, or guardian when applicable;

(3) Plan of treatment as required in s. 400.506(15), F.S.;

(4) Clinical and service notes, signed and dated by the nurse providing the service which shall include:

(a) ~~Initial~~ Any assessments by a registered nurse ~~and progress notes with changes in the person's condition~~;

(b) Progress notes with changes in the person's condition;

(c)~~(b)~~ Services provided;

(d)~~(c)~~ Observations;

(e)~~(d)~~ Instructions to the patient and caregiver ~~family~~;

(5) Reports to physicians;

(6) Termination summary including:

(a) The date of the first and last visit;

(b) The reason for termination of services; ~~and~~

(c) An evaluation of established goals at time of termination;

(d)~~(c)~~ The condition of the patient at the time of termination of services; and

(e) The referral to additional services, if needed.

(7) Each nurse registry shall keep clinical records received from the independent contractor licensed nurse for 5 years following the termination of service. Retained records can be stored as hard paper copy, microfilm, computer disks or tapes and must be retrievable for use during unannounced surveys.

Specific Authority 400.497, 400.506 FS. Law Implemented 400.497, 400.506 FS. History–New 2-9-93, Amended 1-27-94, _____.

59A-18.013 Administration of Drugs and Biologicals.

(1) Each nurse registry shall disseminate to its independent contractor nurses the procedures required by Chapter 464, F.S. and the rules of the Agency for Health Care Administration governing the administration of drugs and biologicals to patients ~~clients~~.

(2) The procedures shall include the following:

(a) An order for medications to be administered ~~given~~ by the ~~nurse registry~~ licensed nurse shall be dated and signed by the attending physician;

(b) An order for medications shall contain the name of the patient, the name of the drug, dosage, frequency, method or site of injection, and order ~~permission~~ from the physician if the patient or caregiver ~~family~~ are to be taught to give the medication;

(c) A verbal order for medication or change in the medication orders from the physician shall be taken by a licensed registered nurse, reduced to writing, to include the patient's name, the date, time, order received, signature and title. The physician shall acknowledge the telephone order within 30 ~~14~~ days by signing and dating the orders. A verbal order or change in medication order shall be on file in the clinical record at the nurse registry within 30 ~~14~~ days.

Specific Authority 400.497, 400.506 FS. Law Implemented 400.497, 400.506 FS. History–New 2-9-93, Amended 1-27-94, _____.

59A-18.014 Homemaker, Companion, or Sitter Registration Requirements.

Specific Authority 400.497, 400.506 FS. Law Implemented 400.497, 400.506 FS. History–New 2-9-93, Amended 1-27-94, Repealed _____.

59A-18.015 Surveys and Inspections.

(1) AHCA ~~The agency~~ shall conduct surveys, based on a variable survey cycle, and make inspections, ~~annually and conduct investigations by any duly authorized officer or employee of the agency~~ as ~~are~~ necessary, pursuant to s. 400.506(9), F.S., in order to respond to complaints or to determine compliance with the provisions of s. 400.506, F.S., and these rules.

~~(1) If, in responding to a complaint, an officer or employee of the agency has reason to believe that a crime has been committed, the appropriate law enforcement agency shall be notified; and~~

(2) Each nurse registry shall assure that files will be made available for inspection by AHCA during the nurse registry's regular hours of operation. ~~If, in responding to a complaint, an officer or employee of the agency has reason to believe that abuse, neglect, or exploitation has occurred, as defined in s. 415.102, F.S., he shall file a report under the provisions of s. 415.103, F.S.~~

(3) Nurse registries that apply for renewal of their licenses will be surveyed based on the extent of compliance on previous surveys with these rules and state laws. After two consecutive full surveys, nurse registries that had no deficiencies on the previous survey, and no confirmed complaints, will be surveyed on an unannounced basis no later than every 36 months. Nurse registries that had no patient care or independent contractor registration deficiencies that affect patient health and safety will be surveyed on an unannounced basis no later than a range of 18 to 24 months. Nurse registries that had a change of ownership since the previous survey, a complaint survey with deficiency citations, or patient care or independent contractor registration deficiencies that affect patient health and safety during the last survey will receive an unannounced survey no later than a range of 12 to 18 months. Area offices may do follow up surveys to check on correction of deficiencies at any time on an unannounced basis, prior to the next full survey cycle.

Specific Authority 400.497, 400.506 FS. Law Implemented 400.497, 400.506 FS. History–New 2-9-93, Amended 1-27-94, _____.

59A-18.016 Penalties.

(1) AHCA ~~The agency~~ will institute injunctive proceedings in a court of competent jurisdiction when violations of the provisions of s. 400.506, F.S., or any rules promulgated thereunder constitute an emergency affecting the immediate health and safety of a patient or client receiving services.

(2) AHCA ~~The agency~~ shall set and levy a fine not to exceed $5,000 ~~$500.00~~ for each violation of this chapter or of any minimum standards or rules promulgated pursuant to s. 400.506, F.S. Each day of continuing violation constitutes a separate offense.

(3) In determining if a fine is to be imposed and in fixing the amount of the fine to be imposed, if any, for a violation, AHCA ~~the agency~~ shall consider the following factors:

(a) The gravity of the violation, including the probability that death or serious physical or emotional harm to a patient or client will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of the applicable statutes or rules were violated;

(b) through (d) No change.

(4) The failure to file a timely licensure application shall result in an administrative fine, pursuant to s. 400.506(4), F.S., charged to the registry in the amount of $50.00 ~~$100.00~~ per day, each day constituting a separate violation. In no event shall such fine aggregate more than $2,500 ~~$5000.00~~.

Specific Authority 400.497, 400.506 FS. Law Implemented 400.497, 400.506 FS. History–New 2-9-93, Amended 1-27-94, _____.

59A-18.017 Supplemental Staffing for Health Care Facilities.

(1) Each nurse registry may provide staffing services to health care facilities licensed under Chapter 395, F.S., or under Parts I, II, IV, ~~or~~ V, or VI Chapter 400, F.S., or other business entities on a temporary basis by licensed nurses, home health aides, and ~~health care professionals~~, ~~including~~ certified nursing assistants. ~~Nurse registries providing supplemental staffing shall meet the following minimum standards of operation:~~

~~(1) Each nurse registry shall have an administrator who is familiar, though training, experience or education, with the work requirements and the prerequisites for licensure or certification in each of the health care disciplines and specialties for which the registry is providing the referrals.~~

~~(2) Each nurse registry shall establish written procedures for the selection, documentation, screening and verification of credentials for each licensed health care practitioner referred by the registry.~~

~~(3) Each nurse registry shall comply with the procedure set forth in s. 400.497(1)(c), F.S., for maintaining records of the employment history of all persons referred for contract and shall be subject to standards and conditions set forth in s. 400.497(2), F.S. However, an initial screening may not be required for persons who have been continuously registered with the nurse registry since September 30, 1990.~~

~~(4) Each nurse registry shall maintain a copy of each health care practitioner's license or certification; evidence of completion of required pre-service and in-service training; evidence of HIV/AIDS training; and documentation of training in the nurse's specialty in each individual's registration file.~~

~~(5) Each nurse registry shall confirm a new health care practitioner's licensure or certification with the issuing board or department. Confirmation shall be based upon specific written requests or oral communications with the issuing authority. The individual's registration file shall reflect how confirmation was obtained and from whom, and shall identify who made the inquiry on behalf of the registry.~~

~~(6) Each nurse registry shall, at least annually, reconfirm the licensure or certification of all health care professionals.~~

~~(7) Each nurse registry shall have a personal and work history reference for each professional health care contractor. References shall be verified and placed in their personnel file.~~

~~(8) Each nurse registry shall confirm the identity of the health care professional prior to referral to a health care facility. Identification shall be verified by using the individual's current driver's license or other photo identification, including the professional license or certificate.~~

(2)~~(9)~~ Each independent contractor ~~health care professional~~ shall carry their professional license or certification with them at all times during their working hours at a health care facility, and shall produce such a record for review by the health care facility, upon request.

(3)~~(10)~~ Nurse registries shall, at least annually, request a performance outcome evaluation from the health care facilities where the individual has provided services for that period of assignment. These evaluations shall be maintained in the individual's registration file.

(4)~~(11)~~ Each nurse registry shall establish a system for the recording and follow-up of complaints involving individuals they referred to health care facilities or other business entity, and such records shall be kept in the individual's registration ~~health care professional's personnel~~ file.

(5)~~(12)~~ Each nurse registry shall provide to the independent contractor ~~health care professional~~, the name of the appropriate person at the health care facility who will be responsible for orientation to the facility.

~~(13) Each nurse registry shall maintain written evidence that, prior to contact with patients, the health care professional is free from communicable disease, including evidence of a tuberculin skin test. The health evaluation and tuberculin skin test shall be within the last 6 months and repeated every 2 years.~~

~~(14) Each nurse registry shall refer individuals only for the services that they are qualified by their licensure or certification and experience to perform.~~

(6)~~(15)~~ Each nurse registry shall, upon receiving licensure and certification information, inform the health care facility or other business entity, if a licensed or certified individual being referred to the facility is on probation with their professional licensing board or certifying agency or has any other restrictions placed on their license or certification. The registry shall also advise the licensed or certified individual that this information has been given to the health care facility or other business entity and keep a copy of this information in the independent contractor's file.

(7)~~(16)~~ Each nurse registry shall maintain on file the name and address of facilities ~~persons~~ to whom the independent contractor ~~individual professional~~ is referred ~~sent~~ for contract, the amount of the fee charged, the title of the position, and the amount of the fee received by the registry.

~~(17) Each nurse registry shall maintain files and other applicable information for 5 years after the date of the last entry.~~

~~(18) Each nurse registry shall, in its contracts with independent contractors, provide instructions as to responsibility for the payment of self-employment estimated taxes, and a statement as to the registry's commitment to compliance with civil rights requirements, pursuant to Chapter 760, F.S.~~

(8)~~(19)~~ Each nurse registry shall maintain files in a organized manner and such files will be made available for inspection by the agency during the hours the registry is in operation.

Specific Authority 400.497, 400.506 FS. Law Implemented 400.497, 400.506 FS. History–New 2-9-93, Amended 1-27-94, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pat Guilford

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Anne Menard

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 7, 2000

DATE NOTICE OF PROPSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 1999

DEPARTMENT OF MANAGEMENT SERVICES

Personnel Management System

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Non-Recurring Discretionary Lump-Sum Bonuses	60L-18
RULE TITLES:	RULE NOS.:
Purpose	60L-18.001
Authority	60L-18.002
Definitions	60L-18.003
Non-Recurring Discretionary Lump-Sum Bonuses	60L-18.0031
Reporting Requirements	60L-18.0032
Non-Career Service Employees	60L-18.004

PURPOSE AND EFFECT: Establishes the policies for granting eligible employees lump-sum bonuses.

SUMMARY: The rule amendments define lump–sum bonuses as discretionary payments not to be included in the calculation for overtime payment and who is eligible to receive bonuses; combine the provisions for the awarding bonuses to Career Service and non-Career Service employees; require agency heads to approve such payments; require agencies to develop procedures governing the granting of bonuses; establish the categories under which an agency may grant a bonus; and require agencies to report to the Department on a quarterly basis the granting of bonuses.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 110.1246 FS.

LAW IMPLEMENTED: 110.1246 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A RULE HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 2:00 p.m., July 17, 2000

PLACE: Room 370J, 4040 Esplanade Way, Tallahassee, Florida 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Carol Culbreth, Human Resource Consultant, 4040 Esplanade Way, Suite 360, Tallahassee, Florida 32399-0950

THE FULL TEXT OF THE PROPOSED RULES IS:

60L-18.001 Purpose.

The purpose of this rule is to specify the criteria for implementation and administration of ~~the~~ lump-sum bonuses ~~payment~~ for eligible employees.

Specific Authority 110.1246 FS. Law Implemented 110.1246 FS. History–New 6-29-89, Formerly 22K-26.001, Amended _____.

60L-18.002 Authority.

Section 110.1246, Florida Statutes, authorizes the Department of Management Services to establish a rule providing for lump-sum bonuses ~~payments~~.

Specific Authority 110.1246 FS. Law Implemented 110.1246 FS. History–New 6-29-89, Formerly 22K-26.002, Amended 10-24-94, _____.

60L-18.003 Definitions.

For the purpose of the administration of this chapter, the following definitions shall apply:

(1) "Eligible Employee" is ~~means~~ a full-time or part-time employee who is filling an authorized and established position in the agency granting the lump-sum bonus and who, at a minimum, is meeting required performance standards ~~and is paid from salaries appropriations~~.

(2) "~~Employing~~ Agency" is ~~means~~ the agency ~~in~~ which grants the lump-sum bonus ~~the eligible employee is currently employed~~.

(3) "Lump-Sum Bonus ~~Payment~~" is a discretionary ~~means the~~ one-time payment to reward an eligible employee approved by the agency head or designee which is not included in the employee's base ~~regular~~ rate of pay and is not included in the calculation for overtime payments ~~which does not carry over into subsequent years~~.

(4) "Hard-to-Fill position" is a position for which an agency has experienced documented recruitment or retention difficulties.

Specific Authority 110.1246 FS. Law Implemented 110.1246 FS. History–New 6-29-89, Formerly 22K-26.003, Amended 10-24-94, _____.

60L-18.0031 Non-Recurring Discretionary Lump-Sum Bonuses ~~Payments – Career Service Employees~~.

An agency head or designee may approve non-recurring discretionary lump-sum bonus payments to reward an employee in the categories listed in this section. Documentation of the reason for granting any lump-sum bonus shall be maintained in the employee's personnel file. Each agency shall develop procedures governing the granting of bonuses in accordance with this rule. ~~for Career Service employees as follows:~~

(1) Recognition Bonus: ~~A non-recurring lump-sum bonus payment will not be approved more than once for the same category during any twelve (12) month period.~~

(a) Education and Training Bonus – A payment to reward an eligible employee who successfully completes an educational, training or certification course or program provided that such education or training is job related and is not required to qualify for the position.

(b) Special Project Bonus – A payment to reward an eligible employee who completes a special project, or an extraordinary work assignment, in a superior and productive manner.

(c) Exemplary Performance Bonus – A payment to reward an eligible employee who has demonstrated exemplary performance.

(2) Retention Bonus – A payment to reward an eligible employee who declines a bona fide competitive job offer. ~~An employee must be performing at a satisfactory level.~~

(3) Recruitment Bonus – A payment to reward a highly qualified applicant who accepts an appointment to a hard-to-fill position. ~~Categories of non-recurring Lump-Sum Bonus Payments:~~

~~(a) Career Commitment Bonus – The agency head may approve a lump-sum bonus for recognition of continuous employment in the Career Service. After ten (10) years of continuous employment in the Career Service, an employee is eligible for such a bonus every five (5) years.~~

~~(b) Education and Training Bonus – An agency head may approve a lump-sum bonus payment for an employee who successfully completes an educational, training, or certification course or program provided that such education or training is approved, documented and job related and is not required to qualify for the position.~~

~~(c) Special Project Bonus – An agency head may approve a lump-sum bonus payment for an employee who completes a special project, or an extraordinary work assignment, in a superior and productive manner.~~

Specific Authority 110.1246 FS. Law Implemented 110.1246 FS. History–New 10-24-94, Amended _____.

60L-18.0032 Reporting Requirements.

Each agency shall report to the Department of Management Services within 30 days from the end of each fiscal quarter all lump-sum bonuses granted. The report shall include, at a minimum, the name of each employee receiving a bonus, the employee's job classification, the dollar amount granted, the category of each bonus and the supporting documentation required in Section 60L-18.0031, F.A.C.

Specific Authority 110.1246 FS. Law Implemented 110.1246 FS. History–New _____.

60L-18.004 Non-Career Service Employees.

Specific Authority 110.1246 FS. Law Implemented 110.1246 FS. History–New 6-29-89, Formerly 22K-26.004, Amended 10-24-94, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sharon D. Larson, Director, Human Resource Management, Department of Management Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael T. Cochran, Deputy Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 12, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 19, 2000

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Building Code Administrators and Inspectors Board

RULE TITLE: RULE NO.:
Probable Cause Panel 61G19-11.001

PURPOSE AND EFFECT: The Board proposes to change the language in regards to the number of members on the Probable Cause Panel.

SUMMARY: The Board has determined it is necessary to clarify the text regarding the number of members of the Probable Cause Panel.

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

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

SPECIFIC AUTHORITY: 468.606 FS.

LAW IMPLEMENTED: 455.225(4), 468.627 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Building Code Administrators and Inspectors Board, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G19-11.001 Probable Cause Panel.

(1) No change.

(2) The probable cause panel shall be appointed by the Chair of the Board, and shall consist of at least two members. One member shall be a consumer member, if available and willing to serve, and one member may be a former member of the Board.

(3) No change.

Specific Authority 468.606 FS. Law Implemented 455.225(4), 468.627 FS. History–New 5-23-94, Amended 11-28-95, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Building Code Administrators and Inspectors Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Building Code Administrators and Inspectors Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 6, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 2, 2000

DEPARTMENT OF HEALTH

Board of Athletic Training

RULE TITLES:	RULE NOS.:
Probable Cause Determinations	64B33-1.001
Other Board Business for Which Compensation is Allowed	64B33-1.002
Unexcused Absences of Board Members	64B33-1.003
Security and Monitoring Procedures for Examination	64B33-1.004
Exemptions for Spouses of Members of the Armed Forces	64B33-1.005

PURPOSE AND EFFECT: The proposed rules are intended to set forth probable cause determinations, compensation of Board members, absences, security for examinations, and exemptions for spouses of members of the armed forces.

SUMMARY: The proposed rules set forth criteria for probable cause determinations, Board member compensation, unexcused absences; adoption of the Department's rule with regard to examination security and monitoring; and an exemption from fees for spouses of members of the armed forces.

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

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

SPECIFIC AUTHORITY: 120.53, 455.507(2), 455.534(3),(4), 455.574(1)(d), 455.621 FS.

LAW IMPLEMENTED: 455.507(2), 455.534(3),(4), 455.574(1)(d), 455.621 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., July 20, 2000

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sue Foster, Executive Director, Board of Athletic Training, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULES IS:

64B33-1.001 Probable Cause Determinations.

(1) The determination as to whether probable cause exists that a violation of the provisions of Chapters 455 and 468, Part XIII, Florida Statutes, and/or the rules promulgated pursuant thereto, has occurred shall be made by a majority vote of a probable cause panel of the Board.

(2) There shall be one probable cause panel of the board, composed of two members, one of whom may be a past board member who is not currently appointed to the board.

(3) The probable cause panel members shall be selected by the Chair of the Board, one (1) of whom shall be designated by the Chair of the Board as the presiding officer of the panel.

(4) The probable cause panel shall meet at such times as called by the presiding officer of the panel or by two members of the panel.

Specific Authority 120.53, 455.621 FS. Law Implemented 455.621 FS. History–New .

64B33-1.002 Other Board Business for Which Compensation is Allowed.

The following is defined to be other business involving the Board pursuant to Section 455.534(4), F.S.:

(1) All Board or Committee meetings required by statutes, Board rule, or Board action.

(2) Meetings of Board members with Department staff or contractors of the Department at the Department's or the Board's request.

(3) Any meeting a Board member attends at the request of the Secretary of the Department or by the Board or Board Chair.

(4) Probable Cause Panel Meetings.

(5) All participation in Board authorized meetings with professional associations of which the Board is a member or invitee. This would include all meetings of national associations of registration Boards of which the Board is a member as well as Board authorized participation in meetings of national or professional associations or organizations involved in educating, regulating, or reviewing the profession over which the Board has statutory authority.

(6) All attendance at continuing education courses for the purpose of monitoring said courses.

(7) All travel to and from Board meetings or other Board business that involves the use of all or any part of a day prior to or subsequent to completion of the Board meeting or other Board business.

Specific Authority 120.53(1), 455.534(4) FS. Law Implemented 455.534(4) FS. History–New .

64B33-1.003 Unexcused Absences of Board Members.

(1) A Board member's absence from a Board meeting shall be considered unexcused if the Board member had not received approval of the Chair or the Chair's designee prior to missing the meeting.

(2) Arriving late for a Board meeting or leaving early from a Board meeting without prior approval of the Chair or the Chair's designee shall be considered an unexcused absence.

Specific Authority 455.534(3) FS. Law Implemented 455.534(3) FS. History–New .

64B33-1.004 Security and Monitoring Procedures for Examination.

The Board adopts by reference Rule 64B-1.010, F.A.C., of the Department of Health as its rule governing examination security and monitoring.

Specific Authority 455.574(1)(d) FS. Law Implemented 455.574(1)(d) FS. History–New .

64B33-1.005 Exemptions for Spouses of Members of the Armed Forces.

Any licensed athletic trainer who is a spouse of a person on active duty with the Armed Forces of the United States, who is absent from this state because of the spouse's duties with the Armed Forces, and who, at the time the absence became necessary, was in good standing with the Board of Athletic Training, shall be exempt from biennial renewal of licensure, payment of required fees hereunder, and performance of any other act on the licensee's part to be performed.

Specific Authority 455.507(2) FS. Law Implemented 455.507(2) FS. History–New .

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Athletic Training

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Athletic Training

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 26, 2000

DEPARTMENT OF HEALTH

Board of Athletic Training

RULE TITLES:	RULE NOS.:
Licensure Requirements	64B33-2.001
Requirement for Instruction in Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome	64B33-2.002
Requirements for Continuing Education	64B33-2.003

PURPOSE AND EFFECT: The proposed rule amendments are intended to delete unnecessary language and to conform the rules to statutory requirements resulting from the newly created Board.

SUMMARY: The proposed rule amendments clarify licensure and continuing education requirements resulting from statutory changes.

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

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

SPECIFIC AUTHORITY: 455.564, 455.607, 468.705, 468.705, 468.707, 468.711 FS.

LAW IMPLEMENTED: 455.607, 468.707, 468.711(2),(3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., July 20, 2000

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sue Foster, Executive Director, Board of Athletic Training/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULES IS:

64B33-2.001 Licensure Requirements.

All candidates for licensure shall pay the application fee and shall submit a completed DOH form DOH-AT-001 entitled "STATE OF FLORIDA EXAMINATION APPLICATION FOR LICENSURE AS AN ATHLETIC TRAINER" incorporated herein by reference and effective 1/19/96, to the Department. The application can be obtained by writing the Department of Health, Board of Athletic Trainers, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258.

(1) Each applicant for licensure ~~by examination~~ shall meet the following requirements:

(a) The applicant shall submit transcripts indicating completed coursework in the following areas with a minimum of the hours specified in each area:

1. 3 semester hours or 4 quarter hours of health;

2. 3 semester hours or 4 quarter hours of human anatomy;

3. 3 semester hours or 4 quarter hours of kinesiology/biomechanics;

4. 3 semester hours or 4 quarter hours of human physiology;

5. 3 semester hours or 4 quarter hours of physiology of exercise;

6. 2 semester hours or 4 quarter hours of basic athletic training; and

7. 3 semester hours or 4 quarter hours of advanced athletic training. Coursework covering evaluation of injuries and therapeutic modalities shall meet this requirement.

(b) The applicant shall submit proof of passing the National Athletic Trainers Association Board of Certification Entry Level Certification examination, which is hereby approved by the Board.

~~(c) The applicant shall submit proof of having a baccalaureate degree from a college or university accredited by an accrediting agency recognized and approved by the U.S. Department of Education or the Commission on Recognition of Postsecondary Accreditation, or approved by the Department.~~

~~(d) The applicant shall submit proof of 800 hours of athletic training experience under the direct supervision of a licensed athletic trainer certified by the National Athletic Trainers Association or a comparable national athletic standards organization. The 800 hours should have been completed within 2 of the preceding 5 years at the time of application.~~

~~(2)(a) Applicants seeking licensure under 468.707(1)(b) shall by October 1, 1996, submit:~~

~~1. Proof of having practiced athletic training for at least 3 of the 5 years preceding application; or~~

~~2. Proof of current certification by the National Trainers Association or a comparable national athletic standards organization.~~

~~(b) Demonstration that the applicant has "Athletic Trainers Experience" or has engaged in the practice of "athletic training" for the purpose of obtaining licensure pursuant to section 468.707(1)(a) or (b) shall require evidence that the applicant has worked, with or without remuneration, in a practice setting substantially equivalent to that described in Rule 64B30-25.004(5) using the modalities within the scope of practice described in Rule 64B30-25.004(3) and (4), Florida Administrative Code.~~

(2)~~(3)~~ For all applicants, current certification in standard first aid training and cardiovascular pulmonary resuscitation from the American Heart Association shall be accepted as an equivalent to certification from the American Red Cross.

Specific Authority 468.705, 468.707 FS. Law Implemented 468.707 FS. History–New 5-29-96, Formerly 61-25.002, 64B30-25.002, Amended _____.

64B33-2.002 Requirement for Instruction on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome.

(1) Each applicant, for initial licensure and at biennial renewal, shall complete a Board approved educational course on HIV and AIDS and shall submit a certificate of completion form from the provider of such course with the application. A copy of the certificate will satisfy this requirement.

(2) The Board approves the following HIV/AIDS education courses:

(a) Basic HIV/AIDS educational courses presented by the Department of Health;

(b) Courses approved by any other board within the Department of Health; ~~and~~

(c) The American Red Cross;~~.~~

(d) Courses approved by the National Athletic Trainer's Association Board of Certification (NATABOC); and

(e) Courses approved by the Athletic Trainers' Association of Florida (ATAF).

Specific Authority 455.607, 468.705, 468.711 FS. Law Implemented 455.607, 468.707(2), 468.711(3) FS. History–New 5-29-96, Formerly 61-25.003, 64B30-25.003, Amended _____.

64B33-2.003 Requirements for Continuing Education ~~Instruction~~.

(1) In the 24 months preceding each biennial renewal period, every ~~Every~~ athletic trainer licensed pursuant to Chapter 468, part XIII, Florida Statutes, shall be required to complete 24 hours of continuing education in courses approved by the Board ~~in the 24 months preceding each biennial renewal period~~. However, athletic trainers who receive an initial license during the second half of the biennium shall only be required to complete 12 hours of continuing education in courses approved by the Board prior to renewal~~, including 4 hours of cardiopulmonary resuscitation~~. The continuing education for all athletic trainers shall include 4 hours of cardiopulmonary resuscitation (CPR) and first aid training, regardless of whether they are required to complete 24 hours or 12 hours of continuing education. Athletic trainers who receive an initial license during the 90 days preceding a renewal period shall not be required to complete any continuing education for that renewal period.

(2) For purposes of this rule, one continuing education hour is the equivalent to fifty clock minutes.

(3) Acceptable continuing education must focus on the domains of athletic training, including prevention of athletic injuries; recognition, evaluation, and immediate care of athletic injuries; rehabilitation and reconditioning of athletic injuries; health care administration; or professional development and responsibility of athletic trainers.

(4) The following continuing education is approved by the Board:

(a) Courses, professional development activities, and publication activities approved by the National Athletic Trainer's Association Board of Certification (NATABOC) in NATABOC Category A or B;

(b) Courses approved by the Athletic Trainers' Association of Florida in NATABOC Category A or B;

(c) Post-certification courses sponsored by a college or university approved by the United States Department of Education which provides a curriculum for athletic trainers in NATABOC Category C; and

(d) Cardiopulmonary resuscitation certification courses in NATABOC Category D.

(5) Category A (home study) ~~Home study~~ courses approved by the NATABOC will be acceptable for no more than 10 ~~ten~~ of the required continuing education hours. The remaining 14 hours require actual attendance and participation. For those licensees who are initially licensed during the second year of the biennial period, only 5 of the required continuing education hours may consist of home study courses. The remaining 7 hours require actual attendance and participation.

~~(6) The 24 continuing education hours shall include 4 hours of NATABOC Category D.~~

(6)~~(7)~~ Each athletic trainer shall maintain proof of completion of the required continuing education hours for a period of 4 years, and shall provide such proof to the department upon request.

Specific Authority 468.705, 468.711(2),(3), 455.564 FS. Law Implemented 468.711(2) FS. History–New 8-4-98, Formerly 64B30-25.0031, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Athletic Training

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Athletic Training

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 26, 2000

DEPARTMENT OF HEALTH

Board of Athletic Training

RULE TITLE: RULE NO.:
Fees 64B33-3.001

PURPOSE AND EFFECT: The proposed rule amendments are intended to address the initial licensure fee for those licensed in the second year of the biennium; to increase the delinquent license fee; and to set forth a fee for a duplicate license.

SUMMARY: The proposed rule amendments increase the delinquent license fee to $75; implement a duplicate license fee in the amount of $25; and clarify fees for those initially licensed in the second year of the biennium.

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

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

SPECIFIC AUTHORITY: 455.587, 468.705, 468.709 FS.

LAW IMPLEMENTED: 455.587, 468.709 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., July 20, 2000

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Athletic Training/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B33-3.001 Fees.

The following fees are prescribed for athletic trainers:

(1) The application fee shall be $100.

(2) The initial licensure fee for those initially licensed in the first year of the biennium shall be $125. For those initially licensed in the second year of the biennium, the initial licensure fee shall be $75.

(3) The biennial renewal fee shall be $125.

(4) The inactive fee shall be $50.

(5) The delinquent fee shall be $75 ~~$25~~.

(6) The reactivation fee shall be $25.

(7) The change of status fee shall be $25.

(8) The duplicate license fee shall be $25.

Specific Authority 455.587, 468.705, 468.709 FS. Law Implemented 455.587, 468.709 FS. History–New 7-12-95, Amended 5-29-96, Formerly 61-25.001, 64B30-25.001, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Athletic Training

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Athletic Training

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 26, 2000

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF INSURANCE

Division of Insurance Fraud

RULE NO.: RULE TITLE:
4K-1.001 Anti-Fraud Reward Program

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)l., Florida Statutes, published in Vol. 26, No. 22, June 9, 2000, of the Florida Administrative Weekly:

The Date Notice of Proposed Rule Development Published in Florida Administrative Weekly: July 30, 2000 should be changed to read "July 30, 1999".

The remainder of the rule reads as previously published.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: RULE TITLE:
6A-5.066 Approval of Preservice Teacher Preparation Programs

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 26, No. 16, April 21, 2000, issue of the Florida Administrative Weekly:

Paragraph (3)(b) was amended to read:

(3)(b) Curricular offerings in general education, professional education, and subject specialization designed to enable program participants, as a minimum, to demonstrate the competencies contained in the subject matter content standards specified by the Education Standards Commission in the document "Subject Matter Content Standards for Florida Teachers", which is hereby incorporated by reference and made a part of this rule, and the educator accomplished practices at the preprofessional level contained in Rule 6A-5.065, FAC. In those specialization areas for which the Education Standards Commission has not specified subject matter content standards, the subject area competencies in the "Competencies and Skills Required for Teacher Certification