

(6) Reconciliation of Inventory to Property Records – Upon completion of a physical inventory:

(a) The data listed on the inventory forms shall be compared with the individual property records. Noted differences such as location, condition and custodian shall be investigated and corrected as appropriate or alternatively, the item shall be relocated to its assigned location and custodian in the individual property record.

(b) Items not located during the inventory process shall be promptly reported to the governmental unit which shall cause a thorough investigation to be made. If the investigation determines that the item was stolen, the individual property record shall be so noted, and a report filed with the appropriate law enforcement agency describing the missing item and the circumstances surrounding its disappearance.

(7) Unaccounted for Property – For items identified as unaccounted for and reported to the State’s Chief Financial Officer, recording of the items as dispositions, or otherwise removing of the items from the property records, shall be subjected to approval of the State’s Chief Financial Officer, as provided in Section 17.041, F.S., and Rule 69I-71.003, F.A.C.

Specific Authority 274.02 FS. Law Implemented 274.02 FS. History–New

**Section II  
Proposed Rules**

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Standards**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
5F-14.001	General
5F-14.002	Definitions
5F-14.003	Grant Proposals; Criteria; Ranking; Award

**PURPOSE AND EFFECT:** This proposed new rule is for the purpose of implementing the statutory requirements of Section 570.975, Florida Statutes, established by the Florida Legislature to provide funding for renewable energy matching grants for demonstration, commercialization, research, and development projects relating to bioenergy projects.

**SUMMARY:** The rule establishes administrative guidelines for implementing Section 570.975, Florida Statutes, including criteria for grant eligibility and allocation, grant evaluation and methods of funds approval and disbursements.

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

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

SPECIFIC AUTHORITY: 570.957 FS.

LAW IMPLEMENTED: 570.957 FS.

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

DATE AND TIME: September 10, 2007, 10:00 a.m.

PLACE: George Eyster Auditorium, Conner Building, 3125 Conner Blvd., Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Tom Steckler, Deputy Director, Division of Standards, Conner Building, 3125 Conner Blvd., Suite E, Tallahassee, FL 32399-1650; Phone: (850)488-0645; Fax (850)922-8971. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Tom Steckler, Deputy Director, Division of Standards, Conner Building, 3125 Conner Blvd., Suite E, Tallahassee, FL 32399-1650; Phone: (850)488-0645; Fax (850)922-8971

THE FULL TEXT OF THE PROPOSED RULES IS:

5F-14.001 General.

This part implements the Farm to Fuel Grants Program, providing for grants for bioenergy projects.

Specific Authority 570.957 FS. Law Implemented 570.957 FS. History–New

5F-14.002 Definitions.

The words, terms and phrases used in this Chapter, unless otherwise indicated, shall have the meaning set forth in Section 570.957, F.S. In addition, when used in this chapter, the following words, phrases, or terms shall have the following meanings:

(1) “Biomass” means: Organic matter available on a renewable or recurring basis. Biomass includes, but is not limited to, crops and trees, agricultural food and feed crop residues, wood and wood wastes and residues, aquatic plants, grasses, animal wastes and residues, and other organic waste materials and residues.

(2) “Matching Funds or Other In-Kind Contributions” means:

(a) Actual cash outlays contributed, including, but not limited to, cash outlays for wages, rental expenses, travel expenses, indirect costs, purchases of equipment, material and supplies, and construction costs, as a direct benefit to the project, or;

(b) Non-cash contributions necessary and reasonable for proper and efficient accomplishment of project objectives, the value of which must be established using the following guidelines:

1. Rates for donated or volunteer services of any person must be consistent with their regular rate of pay, or the rate of pay of those paid for similar work at a similar level of experience in the labor market, including the value of fringe benefits.

2. The value of donated expendable property such as office supplies or workshop supplies must not exceed the fair market value of the property.

3. The value of donated real property must not exceed the fair market value of the property.

4. Donated space must be valued at fair rental value of comparable space and facilities in a privately-owned building in the same locale.

5. The value of loaned equipment can not exceed its fair rental value.

6. In-kind travel expense must be valued at the approved State rate as specified in Section 112.061, F.S.

Specific Authority 570.957 FS. Law Implemented 570.957 FS. History--New \_\_\_\_\_.

5F-14.003 Grant Proposals; Criteria; Ranking; Award.

(1) REQUEST FOR GRANT PROPOSALS.

(a) The department shall issue a request for grant proposals ("RFGP"). The RFGP shall include a copy of the grant application form, instructions for submission of the grant application, and contact information for the department.

(b) The RFGP shall be issued by advertisement in the Florida Administrative Weekly, download at the department's internet site at <http://www.floridafarmtofuel.com>, and requests for hard copies can be made by calling the department's purchasing office at (850)488-7552.

(2) QUALIFIED APPLICANTS. Qualified applicants are those applicants identified in Section 570.957(2)(a), F.S.

(3) APPLICATIONS. Applications for the Farm to Fuel Grants Program shall be submitted to the Department of Agriculture and Consumer Services, ATTN: Farm to Fuel Grants Program, 3125 Conner Boulevard, Suite E, MS-C17, Tallahassee, FL 32399-1650 as follows:

(a) Eight copies of the application shall be submitted in hard copy format, using form number DACS-03102, Florida Farm to Fuel Grants Program Application, which is herein adopted and incorporated by reference. The form is listed by form number, and by the subject title and effective date. A copy of the form may be obtained by writing to: Department of

Agriculture and Consumer Services, ATTN: Farm to Fuel Grants Program, 3125 Conner Boulevard, Suite E, MS-C17, Tallahassee, FL 32399-1650 or by accessing the internet at <http://www.floridafarmtofuel.com>. One copy shall be submitted in electronic format on compact disc at the same time as the hard copies. Acceptable formats for electronic versions are Microsoft Word for Windows versions 6.0 or higher; and Rich Text Format. Acceptable formats for electronic versions of the signed commitment letters required by form number DACS-03102, from third parties are Adobe PDF; Microsoft Word for Windows versions 6.0 or higher; and Rich Text Format.

(b) Applications must be received by the department no later than 5:00 p.m. on the date specified by the department in the RFGP.

(c) The application filing deadline shall be extended by the department when the department determines specifically for this grant program that extenuating circumstances exist, such as a hurricane or other natural disaster. Any deadline extension shall apply for all applicants. The department shall publish notice of the deadline extension on the department's web site.

(d) A total of \$25 million in grant money shall be disbursed for projects classified into two categories as follows:

1. A total of \$3 million in grant money shall be awarded for projects classified by applicants as Research and Development or Demonstration. Under this category, the minimum allowable amount for an application to be eligible for consideration for an award shall be \$100 thousand and the maximum allowable amount shall be \$500 thousand.

2. A total of \$22 million in grant money shall be awarded for projects classified by applicants as Commercialization. Under this category, the minimum allowable amount for an application to be eligible for consideration for an award shall be \$250 thousand and the maximum allowable amount shall be \$7 million.

(e) Completeness. Any application which does not include all required information shall be determined incomplete and ineligible for the award of the grant sought. The department shall notify the applicant of the determination of ineligibility.

(f) An applicant is not eligible for award of a grant if the department determines that the applicant:

1. Has a pending civil, criminal or administrative action alleging that the applicant has committed violations of Florida Statutes or the rules promulgated thereunder; or

2. Has not satisfied a fine, penalty or other judgment arising out of any civil, criminal or administrative action brought by any governmental agency based upon violation of Florida Statutes or the rules promulgated thereunder.

(4) ELIGIBILITY. In order to be eligible for consideration, the following eligibility requirements must be met:

(a) For matching funds, the minimum allowable amount for an application to be eligible for consideration for award shall be 25% of the total project costs.

(b) Grant applications for Commercialization projects must be technically feasible. Technical Feasibility shall be determined through consultation and coordination with persons having expertise with renewable energy technologies. Technical Feasibility means the extent to which the proposed project is technically feasible based on pilot project demonstrations, laboratory testing, scientific modeling, proven commercial production or engineering or chemical theory that supports the proposal.

(5) MATCHING FUNDS.

(a) All matching funds and other in-kind contributions, including third party in-kind contributions, shall be verifiable from the applicant's and/or its partner's records, and shall not be included as contributions for any other state-assisted project or program.

(b) Expenses related to a proposed project incurred prior to the award announcement are not eligible as matching funds or in-kind contributions.

(c) State funds are not eligible as matching funds or in-kind contributions.

(6) RANKING.

(a) The criteria listed in this subsection shall apply to grants evaluated pursuant to Section 570.957, FS.

(b) The department shall use a point system to score grants. In scoring grants, points shall be awarded as follows:

Criteria	Max Points Possible Commercialization	Max Points Possible R&D/Demonstration
1- Florida-Grown Biomass	30	30
2- Energy Efficiency	10	10
3- Cost Share Percentage	20	20
4- Expand Agribusiness	30	30
5- Market Potential	20	10
6- Economic Development	20	N/A
7. Innovative Technology	10	20
8. Project Progress and Timelines	10	N/A
Total Numerical Rating	150	120

1- Florida Grown Biomass: The project produces bioenergy from Florida grown crops or biomass.

Minimum (0 points): No bioenergy production potential from Florida grown biomass resources or this element of the evaluation criteria was not addressed.

Maximum (30 points): Project results in significant bioenergy production from Florida grown biomass resources.

2- Energy Efficiency: The degree to which a project demonstrates efficient use of energy and material resources.

Minimum (0 points): No consideration for energy efficiency or material resources or this element of the evaluation criteria was not addressed.

Maximum (10 points): Project incorporates energy efficient products, material resources and practices including process improvements that lead to source reduction, waste minimization, and on-site recycling.

3- Cost Share Percentage: The availability of matching funds or other in-kind contributions applied to the total project from the applicant.

All projects are to use the following scale:

2 points = 25% up to and including 32% of total project cost.

4 points = Greater than 32% up to and including 39% of total project cost.

6 points = Greater than 39% up to and including 46% of total project cost.

8 points = Greater than 46% up to and including 53% of total project cost.

10 points = Greater than 53% up to and including 60% of total project cost.

12 points = Greater than 60% up to and including 67% of total project cost.

14 points = Greater than 67% up to and including 74% of total project cost.

16 points = Greater than 74% up to and including 81% of total project cost.

18 points = Greater than 81% up to and including 88% of total project cost.

20 points = Greater than 88% of total project cost.

4- Expand Agribusiness: The project has a reasonable assurance of enhancing the value of agricultural products or will expand agribusiness in the state.

Minimum (0 points): No enhancement of value or expansion of agribusiness, or this element of the evaluation criteria was not addressed.

Maximum (30 points): Significant potential for enhancing the value of agricultural products and expanding agribusiness in Florida.

5- Market Potential: Preliminary market and feasibility research has been conducted by the applicant or others and shows there is a reasonable assurance of a potential market.

Minimum (0 points): No research conducted or this element of the evaluation criteria was not addressed.

Maximum (20 points for Commercialization projects and 10 points for Research and Development or Demonstration projects): Documented recent market and feasibility research papers published in reputable trade journals clearly indicating significant market potential for Florida.

6- Economic Development: The degree to which the project demonstrates an increase for in-state capital investment and economic development in metropolitan and rural areas, including the creation of jobs and the future development of a commercial market for bioenergy. (Not a criterion for Research and Development or Demonstration projects)

Minimum (0 points): No contribution in Florida or this element of the evaluation criteria was not addressed.

Maximum (20 points): Significant potential for economic development in Florida.

7- Innovative Technology: The project incorporates an innovative new technology or an innovative application of an existing technology.

Minimum (0 points): No innovative new technology or innovative application of existing technology or this element of the evaluation criteria was not addressed.

Maximum (10 points for Commercialization projects and 20 points for Research and Development or Demonstration projects): Project includes the use of an innovative new technology or an innovative application of existing technology.

8- Project Progress & Timelines: The degree to which the project demonstrates the capability to begin development expeditiously, establishes a readily identifiable ability to show steady progress, and meets project objectives and exhausts grant funds within the 2-year grant agreement timeframe. Project complexity shall be taken into consideration when evaluating this criterion. (Not a criterion for Research and Development or Demonstration projects).

Minimum (0 points): Project demonstrates no ability to expeditiously begin project and show distinct progress and/or project objectives will not be met and grant funds will not be exhausted within the 2-year grant agreement timeframe.

Maximum (10 points): Project demonstrates capacity to expeditiously initiate project, to achieve distinct periodic progress, and to accomplish project objectives and expend funds within grant agreement timeframe.

(b) The department shall establish a review group of no less than four (4) people, one (1) of which shall be from the Department of Environmental Protection. Each reviewer shall individually review grant applications, and score each application according to the point system provided in paragraph (6)(a), with the exception of Criterion #6 – Economic Development. With respect to Criterion #6 – Economic Development, this criterion shall be reviewed and scored by a representative from the Office of Tourism, Trade, and Economic Development.

(c) Scored point totals from all reviewers shall be scored and ranked as follows: On each eligible application, reviewers shall individually score each category by assigning a number within the range specified for that category. After all categories on each individual application have been scored, each reviewer shall total the category scores for that application. After all application categories have been scored independently by all reviewers, the totals shall be compiled and the applications, as a whole, ranked. For example, the top scored application by all reviewers shall be assigned a ranking number of 1, the second highest scored application shall be assigned a ranking number

of 2, and the third highest scored application shall be assigned a ranking number of 3, and so on, until all eligible applications are ranked.

#### (7) AWARD.

(a) For each category, the department shall award grants based upon highest ranking and availability of funding, with 1 being the highest ranking. Grants shall be awarded to the top ranked application first, then to the second highest ranked application, and so on until the total amount of the fiscal appropriation in each state fiscal year is met. The maximum amount for a Commercialization project shall be \$7 million and the maximum amount for a Research and Development or Demonstration project shall be \$500 thousand.

(b) For each category, the department shall award up to the total amount requested in individual grant applications to the top ranked applicants up to the maximum amount allowed under paragraph (7)(a). If funds are not available to award the total amount requested by an applicant due to awards of grants to higher ranked applicants, the department may award partial grants to applicants up to the amount of the fiscal appropriation remaining for each category in each state fiscal year that funds are made available.

(c) In the instance of a ranking tie between two or more applicants, the applicant proposing the higher percentage of matching funds shall be ranked higher. In the instance of a ranking tie between two or more applicants, and those applicants propose the same percentage of matching funds, the higher ranking application shall be determined by lot, i.e. a coin toss.

#### (8) ADMINISTRATION.

(a) Grant funds must be awarded through a formal grant agreement executed between the department and the grant applicant. The grant agreement must contain all provisions required by Florida Statutes and Florida Administrative Code. If the agreement is not executed within 45 days of the announcement of the award, the grant shall not be awarded to that grant applicant and the department will award the grant amount to the next highest ranked applicant.

(b) Grant agreements are subject to the availability of an appropriation and shall be limited to no longer than two years in duration for Commercialization projects and three years in duration for Research and Development or Demonstration projects.

(c) Grant funds shall be distributed as reimbursements to recipients upon receipt of a formal invoice, supporting documentation, and upon department grant manager approval for compliance with all requirements of the grant agreement, this rule chapter, and the Florida Statutes.

(d) Invoices shall be submitted by grantees not more frequently than once per month, and not less frequently than once per quarter.

Specific Authority 570.957 FS. Law Implemented 570.957 FS. History–New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Tom Steckler, Deputy Director, Division of Standards, Conner Building, 3125 Conner Blvd., Suite E, Tallahassee, FL 32399-1650; Phone: (850)488-0645; Fax (850)922-8971

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Paul Driggers, Director, Division of Standards

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 1, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 29, 2007

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Food Safety**

RULE CHAPTER NO.: RULE CHAPTER TITLE:  
5K-4 Food

RULE NO.: RULE TITLE:  
5K-4.020 Food Permits; Requirements and Fees

**PURPOSE AND EFFECT:** The rule amendment revises the definition for a bottling plant, revises the form number for the Annual Food Permit Application, deletes unnecessary language, and changes the fee schedule for annual permit fees charged to food establishments. This increase in permit fees impacts most food establishments permitted by the Division of Food Safety.

**SUMMARY:** This rule makes a minor clarification concerning the definition of a bottle plant; corrects the form number for the Annual Food Permit Application required to obtain a food permit; deletes unnecessary language relating to the Department’s authority to inspect a food facility; and modifies the fee schedule for annual permit fees charged to food establishments to obtain a food permit.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** No statement of estimated regulatory costs 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.

**SPECIFIC AUTHORITY:** 500.09, 500.12, 570.07(23) FS.  
**LAW IMPLEMENTED:** 500.04, 500.09, 500.10, 500.12(1)(a), (b), (c), (d), 500.121, 500.171, 500.172, 500.177 FS.

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

**DATE AND TIME:** September 7, 2007, 10:00 a.m., Eastern Time

**PLACE:** Eyster Auditorium, The Conner Building, 3125 Conner Boulevard, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the agency at least

48 hours before the hearing by contacting Dr. John Fruin at (850)245-5520. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771 (TDD).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Dr. John Fruin, Chief, Division of Food Safety, Bureau of Food and Meat Inspection, 3125 Conner Boulevard, Mail Stop C-18, Tallahassee, FL 32399-1650; telephone: (850)245-5520

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

5K-4.020 Food Permits; Requirements and Fees.

(1) As used in this rule, the following definitions shall apply in determining food permit fees:

(a) Bottling plant. A processor or packer or both of juices, drinks, carbonated beverages or non-carbonated beverages in hermetically sealed containers (excluding bottled drinking water).

(b) Canning plant. A processor or packer or both of fruit, vegetables, seafoods or other foods in hermetically sealed containers.

(c) Convenience store. A business that is engaged primarily in the retail sale of groceries or motor fuels or special fuels and may offer food services limited to coffee from urns, or iced or frozen drinks, with no retail food processing.

(d) Convenience store with limited food service. A convenience store where food is prepared and intended for individual portion service, but limited to the display of snack foods or pastries, and/or heating or cooking of hot dogs, sausages, prepackaged pizza or meat pastries, regardless of whether consumption is on or off the premises or whether there is a charge for the food, but without retail food processing.

(e) Convenience store with significant food service. A convenience store that has retail food processing activities consisting of on-site cooking or other preparation of hot entrees, chicken (fried, roasted or grilled), sandwiches, salads, or desserts for consumption on or off the premises. The term also applies to such foods brought to a location for sale on individual customer order or by buffet-style display.

(f) Food salvage center. A firm specializing in sorting, segregating and re-working damaged foods, primarily for wholesale distribution.

(g) Food storage warehouse. A cold storage warehouse, a dry storage warehouse, or a commercial food distribution center.

(h) Grocery store. A retail food store stocking a wide variety of foods and engaged in retail food processing which contains four or fewer check-out registers and less than 15,000 total square footage, including display, preparation and storage areas.

(i) Health food store. A retail food store engaged primarily in the sale of prepackaged vitamins, minerals, nutritional supplements and foods intended for health conscious persons but with no food service or retail food processing.

(j) Health food store with food service. A health food store where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided, regardless of whether consumption is on or off the premises, or whether there is a charge for the food, but with no retail food processing.

(k) Limited Sales. Any business fitting any of the definitions in this subsection with gross food sales less than \$15,000.00 annually.

(l) Meat market. A retail food store engaged primarily in the cutting, processing and selling of meats or poultry, or both. A limited number of other foods may be stocked, but inventory and sales are predominantly meat or poultry or both.

(m) Minor food outlet. Any retail establishment that sells groceries and may offer food service to the public limited to coffee from urns, or iced or frozen drinks, but neither the grocery sales nor the food service is a major retail function based on allocated space or gross sales. No retail food processing may be performed.

(n) Minor food outlet, only non-perishable foods. A minor food outlet which sells, stores or offers only commercially prepackaged, non-potentially hazardous, non-perishable foods and at which there is no food processing activity, no food service or any activity related to repackaging of foods. Commercially prepackaged ice, not bagged on the premises, may be sold.

(o) Minor food outlet with limited food service. A minor food outlet where food is prepared and intended for individual portion service, but limited to the display of snack foods or pastries, and/or heating or cooking of hot dogs, sausages, prepackaged pizza or meat pastries, regardless of whether consumption is on or off the premises or whether there is a charge for the food, and without retail food processing.

(p) Minor food outlet with significant food service. A minor food outlet that has retail food processing activities consisting of on-site cooking or other preparation of hot entrees, chicken (fried, roasted or grilled), sandwiches, salads, or desserts for consumption on or off the premises. The term also applies to such foods brought to a location for sale on individual customer order or by buffet-style display.

(q) Mobile vendor. Persons selling foods other than fresh fruits or vegetables from trucks, trailers or similar self-propelled conveyances.

(r) Processor, other non-perishable foods. A processor or packager of grain products, snack foods, candy, table syrup, honey, coffee, tea, spices or other non-perishable foods not defined elsewhere in this section.

~~(s)(w)~~ Processor, other perishable foods. A processor of cheese, packaged sandwiches, bulk or packaged salads, or other perishable foods not defined elsewhere in this section.

(t) Rabbit or game processor. A processor of rabbits, quail, deer, or other bird or animal species normally considered game, excepting any equine, bovine, goat, sheep, swine, or chickens, turkeys, ducks, geese, squab, ratites or guineas.

(u) Retail bakery. A food establishment that bakes breads, pastries or other similar baked goods, primarily for retail sale on the premises.

(v) Retail bakery with food service. A retail bakery where food other than breads, pastries or other similar baked goods is prepared and intended for individual portion service, and includes the site at which individual portions are provided, regardless of whether consumption is on or off the premises, or whether there is a charge for the food.

(w) Retail food processing. The cutting, grinding, or slicing of meats or cheeses for bulk or packaged display; the preparation and wrapping or packaging of sandwiches, salads, or other foods for retail display; the smoking or cooking of meat, poultry, or fish for retail display or on customer request; the steaming, cracking, or cooking of crustaceans or shellfish for retail display or on customer request; the on-premises baking of breads or pastries; or the peeling, cutting, or trimming and packing of fruit or vegetables for retail display.

(x) Salvage store. A retail food store specializing in salvage foods.

(y) Seafood market. A retail food store engaged primarily in the sale of seafood. A limited number of other foods may be stocked, but inventory and sales are predominantly fish, crustaceans, or shellfish.

(z) Seafood processor. A processor of fresh or saltwater finfish, crustaceans, other forms of aquatic animal life (including, but not limited to, alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, where such animal life is intended for human consumption, primarily for wholesale distribution.

(aa) Semi-permanent vendor. Persons selling foods other than fresh fruits and vegetables from a pushcart, flea market stand, roadside stand, kiosk or similar structure and which may offer ancillary food service.

(bb) Supermarket. A retail food store stocking a wide variety of foods and engaged in retail food processing which contains five or more check-out registers or 15,000 or greater total square footage, including display, preparation and storage areas.

(cc) Wholesale bakery. A food establishment that bakes breads, pastries or other similar baked goods, primarily for wholesale distribution.

(2) No food permit shall be issued until an inspection has been made of the establishment and its equipment and methods of operation, and these found to comply with the provisions of

the Florida Food Safety Act and rules adopted thereunder. A permit number will be assigned by the department following receipt of the Annual Food Permit Application, DACS-14306 1403-06, (Rev. 06/03 10/94), herein incorporated by reference, a copy of which can be obtained from the Florida Department of Agriculture and Consumer Services, Bureau of Food and Meat Inspection, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650. The above application shall bear the signature of the applicant or applicant's agent, a satisfactory report of inspection, and a fee in the amount specified in subsection 5K-4.020(4)(5), F.A.C. Said permit number shall not be used on any label or in any advertisement of food. Permits shall be conspicuously displayed at locations for which issued and are not transferable. The provisions of this section do not apply to public food service establishments as defined in Chapter 509, F.S.

~~(3) Any agent of the department shall have access to any factory or establishment which holds a permit from the department, for the purpose of ascertaining whether or not the conditions of the permit are being complied with. Denial of access for such inspection shall be grounds for suspension of the permit.~~

~~(3)(4)~~ Any person violating this rule shall be subject to the injunction procedures of Section 500.171, F.S., and to the penalties provided in Section 500.177, F.S.

~~(4)(5)~~ Food Permit Fees.

(a) One food permit shall be issued to and one fee shall be charged to a person for all food operations at a single location, regardless of whether the location may qualify under the definitions of this subsection for two or more permits. If a location qualifies for two or more permits, only the largest applicable fee shall be charged to that location, except that any location qualifying for a Limited Sales permit shall only be charged the fee applicable to a Limited Sales permit. If the ownership or physical location of a firm changes during a calendar year, a new food permit application, a satisfactory report of inspection, and a fee in the amount specified in subsection 5K-4.020(4)(5), F.A.C., is required before a food permit shall be issued. Other license or permit fees ~~as~~ may apply to a business, however, are not voided by payment of the food permit fee. Fees charged new food permit applicants shall be the entire applicable fee if the completed application is submitted January 1 through June 30, and shall be 60 percent of the applicable fee if the completed application is submitted July 1 through December 31.

(b) The following schedule of fees is established for each food permit.

<del>Bottled Water Plant</del>	<del>\$500</del>
Bottling Plant	<u>385 350</u>
<del>Bottled Water Plant</del>	<del>500</del>
Canning Plant	<u>410 375</u>

Convenience Store	<u>330 300</u>
Convenience Store with Limited Food Service	<u>385 350</u>
Convenience Store with Significant Food Service	<u>465 425</u>
Food Salvage Center	<u>440 400</u>
Food Storage Warehouse	<u>355 325</u>
Grocery Store	<u>465 425</u>
Health Food Store	<u>300 275</u>
Health Food Store with Food Service Limited Sales	<u>385 350</u>
Meat Market	<u>100</u>
Minor Food Outlet	<u>385 350</u>
Minor Food Outlet, Only Non-perishable Foods	<u>300 275</u>
Minor Food Outlet with Limited Food Service	<u>190 175</u>
Minor Food Outlet with Significant Food Service	<u>355 325</u>
Mobile Vendor	<u>440 400</u>
Packaged Ice Plant	<u>300 275</u>
Processor, Other Non-perishable Foods	<u>250</u>
Processor, Other Perishable Foods	<u>330 300</u>
Rabbit or Game Processor	<u>410 375</u>
Retail Bakery	<u>330 300</u>
Retail Bakery with Food Service	<u>355 325</u>
Salvage Store	<u>440 400</u>
Seafood Market	<u>410 375</u>
Seafood Processor	<u>355 325</u>
Semi-permanent Vendor	<u>440 400</u>
Supermarket	<u>190 175</u>
Wholesale Bakery	<u>500</u>
	<u>465 425</u>

~~(5)(6)~~ Late Fees.

(a) The renewal fee for all food permits shall be the same as the food permit fee required by subsection 5K-4.020(4)(5), F.A.C., and shall be due annually on January 1. If the renewal fee is not received by the department within thirty days after its due date, a late fee must be paid in addition to the food permit fee required by subsection 5K-4.020(4)(5), F.A.C., before the department will issue the food permit.

(b) If a renewal fee is not paid in full by February 1, a late fee of \$100 shall be assessed against the establishment.

(c) No establishment shall be issued a food permit until all applicable fees, including late fees, are received by the department.

~~(6)(7)~~ Recovery of Cost for Reinspections.

(a) A food establishment shall pay a fee of \$110 to the department for recovery of the cost incurred to provide each reinspection of the food establishment. For the purposes of this section, a reinspection refers to any inspection conducted for the purpose of verifying compliance with Chapter 500, F.S., or the rules promulgated thereunder, following a previous unsatisfactory inspection. Such unsatisfactory inspection shall be indicated by issuance of an inspection report listing conditions which are not in compliance and which, when viewed as a whole, are more likely to contribute to food contamination, illnesses or environmental health hazards.

(b) Nothing in this section shall prohibit the department from imposing additional sanctions for violations of Chapter 500, F.S., or the rules promulgated thereunder. The costs of reinspection will be billed by invoice of the department and the reinspection fee shall be paid within 21 days receipt thereof. Failure to timely pay a reinspection fee is a violation of this chapter and shall be grounds for suspension of the establishment's food permit.

(c) The fee established for a reinspection shall include the average cost per inspection for inspectors' salary, benefits, travel, training, equipment, supervision, and other costs or charges directly related to administration of the food establishment inspection program.

(d) The fee shall be applicable for each reinspection regardless of whether the reinspection is satisfactory or unsatisfactory. Provided however, a fee for reinspection shall not be required when both of the following conditions are met:

1. The conditions which were deemed unsatisfactory in the prior inspection are in compliance and the overall finding of the reinspection is satisfactory, and
2. No previous reinspection of the establishment has been conducted during the same calendar year.

Specific Authority 500.09, 500.12(1)(b), 570.07(23) FS. Law Implemented 500.04, 500.09, 500.10, 500.12(1)(a), (b), (c), (d), 500.121, 500.171, 500.172, 500.177 FS. History--New 1-10-93, Formerly 5E-6.020, Amended 8-8-95, 3-11-98, 3-6-01, 10-30-01, 1-1-03, 11-1-04,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. John Fruin, Chief, Division of Food Safety, Bureau of Food and Meat Inspection, Department of Agriculture and Consumer Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Terry L. Rhodes, Chief of Staff, Department of Agriculture and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 17, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 27, 2007

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE NO.: 12A-16.004  
RULE TITLE: Registration

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-16.004, F.A.C. (Registration), is to clarify the registration requirements for businesses that lease or rent for hire passenger motor vehicles.

SUMMARY: The proposed amendments to Rule 12A-16.004, F.A.C. (Registration), clarify that registered sales and use tax dealers who were not engaged in the business of leasing or renting any for hire passenger motor vehicles at the time of registration are required to register their new business activity

with the Department for purposes of reporting the rental car surcharge imposed on the lease or rental of any for hire passenger motor vehicles.

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

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

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS. LAW IMPLEMENTED: 212.0606, 212.18(3) FS.

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

DATE AND TIME: September 11, 2007, 9:00 a.m.  
PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Larry Green at (850)922-4830. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-16.004 Registration.

(1)(a) Before any person may engage in or conduct business in this state of leasing or renting any for hire passenger motor vehicle, that person must register with the Department for sales and use tax purposes and obtain a certificate of registration for each place of business. Dealers who hold a valid certificate of registration, who at the time of registration for purposes of sales and use tax were not engaged in or conducting such business, are required to change their registration with the Department and register their new tax obligation at each existing place of business. ~~Registration as a sales tax dealer is sufficient registration for purposes of the surcharge.~~

(2)(a) Registration with the Department for ~~sales and use tax~~ purposes of leasing or renting any for hire passenger motor vehicle is available by using one (4) of the following methods:

1. Registering through the Department's Internet site at the address shown in the parentheses (www.myflorida.com/dor) using the Department's "e-Services" without payment of a registration fee; or



2. Filing an Application to Collect and/or Report Tax in Florida (~~Form form~~ DR-1, incorporated by reference in Rule 12A-1.097, F.A.C.) with the Department, as indicated on the registration form, with the required \$5.00 application fee.

(b) A separate application is required for each place of business.

(c) Each application submitted to the Department must contain sufficient information to facilitate the processing of the application.

(3) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.0606, 212.18(3) FS. History—New 11-14-89, Amended 8-10-92, 3-21-95, 6-19-01, 4-17-03,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Buzz McKown, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4721

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 30, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12A-16, F.A.C. (Rental Car Surcharge), were noticed in the Florida Administrative Weekly on February 2, 2007 (Vol. 33, No. 5, p. 417). A rule development workshop was held on February 20, 2007. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department.

**DEPARTMENT OF TRANSPORTATION**

RULE NO.: 14-15.002  
 RULE TITLE: Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways

PURPOSE AND EFFECT: The Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, commonly referred to as the “Florida Greenbook,” is being amended. In addition, other incorporated documents also are updated.

SUMMARY: This is an amendment to the Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, commonly referred to as the “Florida Greenbook,” and other incorporated documents.

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

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

SPECIFIC AUTHORITY: 334.048(3), 336.045(1) FS.

LAW IMPLEMENTED: 336.045 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: Robert F. Quigley, P.E., Roadway Design Office – Criteria and Standards

THE FULL TEXT OF THE PROPOSED RULE IS:

14-15.002 Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways.

(1) The *Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways*, May ~~2007~~ ~~2005~~, edition, is hereby incorporated by this rule and made a part of the rules of the Department of Transportation. A copy of the manual can be downloaded from the following website: <http://www.dot.state.fl.us/rddesign/FloridaGreenbook/FGB.htm>. ~~<http://www.dot.state.fl.us/rddesign/Florida%20Greenbook/FGB.htm>~~. A certified copy has been filed with the Department of State.

(2) The following documents also are hereby incorporated by reference and made a part of this rule:

~~(a) AASHTO *Standard Specifications for Highway Bridges*, 17th Edition (2002). A copy of the manual may be ordered from the AASHTO Bookstore website: <https://bookstore.transportation.org/>.~~

~~(a)(b) Sections 3.3.2, 3.14.1, 11 and 13 and Table 3.4.1-1 of *AASHTO Load and Resistance Factor Design (LRFD) Bridge Design Specifications*, 4th Edition (2007). A copy of the manual may be ordered from the AASHTO Bookstore website: <https://bookstore.transportation.org/>.~~

(b) Department of Transportation *Structures Manual, Volume 8 – FDOT Modifications to Manual for Conditions Evaluation and Load Resistance Factor Rating (LRFR) of Highway Bridges*. A copy of the manual can be downloaded from the following website: <http://www.dot.state.fl.us/structures/StructuresManual/CurrentRelease/FDOTStructuresManual.htm>.

(c) Sections 2.11 and 2.12 of Department of Transportation *Structures Manual, Volume I – Structures Design Guidelines* ~~*Design Guidelines*~~. A copy of the manual can be downloaded from the following website: <http://www.dot.state.fl.us/structures/StructuresManual/CurrentRelease/FDOTStructuresManual.htm>.

(d) AASHTO *Guide Specifications for Structural Design of Sound Barriers* (1989) with the 2002 *Interim to Guide Specifications for Structural Design of Sound Barriers*. A copy of the manual may be ordered from the AASHTO Bookstore website: <https://bookstore.transportation.org/>.

(e) AASHTO *Standard Specifications for Structural Supports for Highway Signs, Luminaires and Traffic Signals* (2001), with 2002 and 2003 Interims ~~except as noted in Chapter 17, Section H.2 of *The Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways*~~. A copy of the manual may be ordered from the AASHTO Bookstore website: <https://bookstore.transportation.org/>.

(f) Chapter 4 of Department of Transportation *Drainage Manual*. A copy of the manual can be downloaded from the following website: <http://www.dot.state.fl.us/rddesign/dr/Manualsandhandbooks.htm>. ~~<http://www.dot.state.fl.us/rddesign/dr/Manuals%20and%20handbooks.htm>~~

(g) Department of Transportation *Structures Manual, Volume 9 – FDOT Modifications to Standard Specifications for Structural Supports for Highway Signs, Luminaires and Traffic Signals (LTS-4)*. A copy of the manual can be downloaded from the following website: <http://www.dot.state.fl.us/structures/StructuresManual/CurrentRelease/FDOTStructuresManual.htm>.

(h) Department of Transportation *Bridge Load Rating, Permitting and Posting Manual* (2006). A Copy of the manual can be downloaded from the following website: <http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/85001005.pdf>.

Specific Authority ~~334.048(3)~~ ~~334.044(2)~~, 336.045(1) FS. Law Implemented 336.045 FS. History–New 1-22-76, Amended 7-13-81, 6-24-84, Formerly 14-15.02, Amended 8-25-86, 11-29-89, 11-1-94, 5-15-01, 7-9-02, 11-24-05, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kevin Thibault, Assistant Secretary for Engineering and Operations, for Stephanie C. Kopelousos, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 7, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 3, 2007

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

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

**DEPARTMENT OF CITRUS**

RULE NO.: 20-13.011  
 RULE TITLE: Ambersweet: Classification and Standards

PURPOSE AND EFFECT: Repeal of Classification Standards set for Ambersweets.

SUMMARY: Repeal of Classification Standards set for Ambersweets.

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

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

SPECIFIC AUTHORITY: 601.10(1),(7), 601.11, 601.9910(3) FS.

LAW IMPLEMENTED: 601.11, 601.9910 FS.

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

DATE AND TIME: September 19, 2007, 10:30 a.m.

PLACE: Department of Citrus Building, 1115 East Memorial Boulevard, Lakeland, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alice P. Wiggins, Administrative Assistant, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148 or [awiggins@citrus.state.fl.us](mailto:awiggins@citrus.state.fl.us)

THE FULL TEXT OF THE PROPOSED RULE IS:

20-13.011 Ambersweet: Classification and Standards.

~~(1) Classification: The market classification of the citrus hybrid generally known as “Ambersweet” shall be “Orange,” a hybrid between orange (*C. sinensis*), mandarin (*C. reticulata*), and grapefruit (*C. paradisi*).~~

~~(2) Identification: The proper identification of this citrus fruit shall be “Ambersweet Orange” or “Orange” whenever this fruit is identified.~~

~~(3) Standards: All state laws and rules applicable to the maturity of oranges shall be applicable to this fruit.~~

Specific Authority 601.10(1),(7), 601.11, 601.9910(3) FS. Law Implemented 601.11, 601.9910 FS. History–New 8-16-90, Amended 8-22-95, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kenneth O. Keck, General Counsel  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth O. Keck, General Counsel  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 18, 2007

Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.036, 373.0361, 373.042, 373.0421, 373.0831, 373.116, 373.117, 373.118, 373.149, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.229, 373.239, 373.243 FS. History–New 10-1-89, Amended 11-15-90, 2-10-93, 3-30-93, 7-29-93, 4-11-94, 7-15-98, 7-28-98, 7-22-99, 12-2-99, 8-3-00, 9-3-00, 4-18-01, 4-14-02, 9-26-02, 1-1-03, 2-1-05, 10-19-05, 1-1-07,\_\_\_\_\_.

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

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

PURPOSE AND EFFECT: The proposed amendment to the Basis of Review For Water Use Permit Applications will allow agricultural permittees to submit the required Irrigation Water Use Form for winter and spring crops to the District by September 1 of each year, rather than August 1 of each year.

SUMMARY: The Basis of Review For Water Use Permits, incorporated by reference in Rule 40D-2.091, F.A.C., is proposed to be amended to require submittal of the Irrigation Water Use Form for winter and spring crops to the District by September 1 of each year.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.042, 373.0421, 373.0831, 373.116, 373.117, 373.118, 373.149, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.229, 373.239, 373.243 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: Karen A. Lloyd, Assistant General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-2.091 Publications Incorporated by Reference.

The following publications are hereby incorporated by reference into this Chapter, and are available from the District upon request:

- (1) "Basis of Review for Water Use Permit Applications" (      /07) (~~4-07~~);
- (2) through (6) No change.

Basis of Review

3.0 REASONABLE WATER NEEDS

3.3 AGRICULTURE

REPORTING REQUIREMENTS FOR IRRIGATION WATER USE WITHIN THE SWUCA

Field Preparation/Crop Establishment – Irrigation for field preparation/crop or plant establishment and supplemental irrigation shall be documented separately by noting the beginning and ending dates for these activities. Additionally, quantities for crop protection shall be documented separately by noting the beginning and ending hour and date of each use. The permittee shall note whether tailwater recovery is used. This information shall be submitted to the District on the Irrigation Water Use Form by March 1 for annual crops, February 1 for summer and fall crops, and ~~September~~ August 1 for winter and spring crops (including strawberries).

1-1-03,\_\_\_\_\_

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen A. Lloyd, Assistant General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 29, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 10, 2007

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Building Code Administrators and Inspectors Board**

RULE NO.: 61G19-6.0035  
RULE TITLE: Application for Provisional and/or Standard Certification

PURPOSE AND EFFECT: The proposed rule amendment clarifies that unlicensed activity is not recognized for the purpose of establishing experience requirements for certification.

SUMMARY: The proposed rule amendment clarifies that unlicensed activity is not recognized for the purpose of establishing experience requirements for certification.

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

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

SPECIFIC AUTHORITY: 468.606, 468.609 FS.

LAW IMPLEMENTED: 468.609 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Board of Cosmetology, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G19-6.0035 Application for Provisional and/or Standard Certification.

(1)(a) through (e) No change.

(f) For the purposes of this section, any unlicensed activity shall not be recognized for the purposes of providing required experience.

(2) through (3) No change.

Specific Authority 468.606, 468.609 FS, Law Implemented 468.609 FS. History--New 11-28-95, Amended 1-1-97, 2-23-99, 6-3-03,\_\_\_\_\_.

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: February 23, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 20, 2007

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

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

**DEPARTMENT OF JUVENILE JUSTICE**

**Residential Services**

RULE NOS.:	RULE TITLES:
63E-3.001	Purpose and Scope
63E-3.002	Definitions
63E-3.003	Administration of the Serious or Habitual Juvenile Offender (SHO) Program
63E-3.004	Sanitation
63E-3.005	Safety and Security

63E-3.006	Continuity of Operations Planning
63E-3.007	Youth Admission
63E-3.008	Intake
63E-3.009	Orientation
63E-3.010	Case Management
63E-3.011	Behavior Management
63E-3.012	Youth Services
63E-3.013	Construction
63E-3.014	Program Monitoring and Evaluation
63E-3.015	Research Projects

PURPOSE AND EFFECT: The rule implements the standards and requirements described in Section 985.47, Florida Statutes, pertaining to serious or habitual juvenile offender programs.

SUMMARY: Standards and requirements are established for serious or habitual juvenile offender programs, including administration, operations, safety and security, intake and orientation, case management, behavior management, program monitoring and research.

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

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

SPECIFIC AUTHORITY: 985.47 FS.

LAW IMPLEMENTED: 985.47 FS.

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

DATE AND TIME: Tuesday, September 11, 2007, 10:00 a.m.

PLACE: DJJ Headquarters, 2737 Centerview Drive, General Counsel's Conference Room 312, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Lydia Monroe, 2737 Centerview Dr., Ste. 312, Tallahassee, FL 32399-3100, e-mail: [lydia.monroe@djj.state.fl.us](mailto:lydia.monroe@djj.state.fl.us)

THE FULL TEXT OF THE PROPOSED RULES IS:

63E-3.001 Purpose and Scope.

This rule establishes the standards and requirements for the department's administration, operation and implementation of the Serious or Habitual Juvenile Offender (SHO) program for a child who has been found to have committed a delinquent act or violation of law, in the case currently before the court, and who meets at least one criteria for placement under Section 985.47(1), F.S.

Specific Authority 985.47, 985.64 FS. Law Implemented 985.47 FS. History--New \_\_\_\_\_.

63E-3.002 Definitions.

For the purpose of this rule the following words shall have the meanings indicated.

(1) Admission – The admitting of a youth, committed by the court, into a specific residential commitment facility.

(2) Alert System – A method of alerting staff that a youth has physical health, mental health, or security issues that may require individual attention or closer supervision. An alert system is a tool for staff to use in making treatment, security and safety decisions as they relate to youth behavior, but does not provide detailed information about the conditions that resulted in the youth being identified for inclusion in the alert system.

(3) Authority for Evaluation and Treatment (AET) or Authority for Evaluation and Treatment For Youth Over 18 Years of Age – The document that, when signed by a parent or guardian if the youth is 18 years or younger or signed by the youth if he or she is over 18 years of age, gives the department the authority to assume responsibility for the provision of necessary and appropriate physical and mental health care to a youth in the department's physical custody. The Authority for Evaluation and Treatment (HS 002, May 2007) and the Authority for Evaluation and Treatment For Youth Over 18 Years of Age (HS 003, May 2007) are incorporated into this rule and are accessible electronically at [http://www.djj.state.fl.us/forms/health\\_services\\_forms\\_index.html](http://www.djj.state.fl.us/forms/health_services_forms_index.html).

(4) Assessment – An evaluation of the youth to determine treatment needs. The assessment process is a gender-specific, comprehensive assessment of a youth that is based on the systematic review of all existing information and updated information secured through interviews and assessment tools. The assessment process identifies risk factors and protective factors, including the youth's strengths, and culminates in prioritization of the youth's criminogenic needs.

(5) Balanced Approach to Restorative Justice (BARJ) – A blueprint for putting the restorative justice philosophy into practice that involves active participation of victims, the community, and youthful offenders. The BARJ approach focuses on accountability to victim and the community, competency development, and community safety.

(6) Behavior Management System – An organized system designed to promote positive behavior through the giving or taking of rewards or privileges based on youth behavior. Behavior management within the SHO program shall be based on specific techniques that have been found to be effective with male offenders 13 years of age or older, and take into account their level of cognitive ability, emotional maturity, and other personal characteristics.

(7) Case Management Process – Refers to the process a residential commitment program uses to assess a youth, develop goals to address the youth's criminogenic risks and needs, review and report the youth's progress, and plan for the youth's transition to the community upon release. This process

is implemented within the contest of BARJ that focuses on accountability, competency development and community safety.

(8) Classification and Placement Administration – The Department's unit responsible for providing statewide direction and oversight responsibilities to regional placement supervisors and their commitment staff.

(9) Commitment Manager – A department employee responsible for coordinating the placement of youth in residential commitment programs with the department's Classification and Placement Administration and the programs.

(10) Commitment/Transfer Packet – A compilation of legal, medical, and social history documents provided to a residential commitment program for each committed youth.

(11) Community Service – Public service or work performed by youth that benefits the community while developing the youth's community awareness, increasing their accountability, providing opportunities for youth to make reparations for harm caused to the community, and developing their skill competencies.

(12) Comprehensive Physical Assessment – A comprehensive physical assessment (exam) performed by a physician (MD), osteopathic physician (DO), physician's assistant (PA), or advanced registered nurse practitioner (ARNP). The purpose of this assessment is the establishment of a data point which is used to facilitate the following: (1) identification and treatment of acute, chronic, and functional medical and dental problems; (2) promotion of growth and development; (3) prevention of communicable diseases; and (4) provision of health education.

(13) Continuity of Operations Plan (COOP) – For purposes of this rule, a plan that provides for the continuity of mission-essential functions of a residential commitment program in the event an emergency prevents occupancy of its primary physical plant or facility.

(14) Contracted Provider – An entity contractually providing juvenile services to the department.

(15) Designated Health Authority – The individual who is responsible for the provision of necessary and appropriate health care to youth in a residential commitment program. Individual Designated Health Authorities must be a physician (MD) or osteopathic physician (DO) who holds a clear and active license pursuant to Chapter 458 or Chapter 459, F.S., respectively, and meet all requirements to practice independently in the State of Florida.

(16) Designated Mental Health Authority – A specified licensed mental health professional who, by agreement, employment, contract or other arrangement, provides and/or supervises the provision of mental health care within a detention center or residential program.

(17) Direct-Care Staff – An employee whose primary job responsibility is to provide care, custody, and control of youth committed to the facility. This definition includes those who directly supervise staff responsible for the daily care, custody, and control of youth.

(18) DJJ ID Number – A number generated by the Juvenile Justice Information System (JJIS) that is used to identify each youth entered into JJIS.

(19) Evidence-based Treatment and Practices – Treatment and practices, which have been independently evaluate and found to reduce the likelihood of recidivism or at least two criminogenic needs, with a juvenile offending population. The evaluation must have used sound methodology, including, but not limited to, random assignment, use of control groups, valid and reliable measures, low attrition, and appropriate analysis. Such studies shall provide evidence of statistically significant positive effects of adequate size and duration. In addition, there must be evidence that replication by different implementation teams at different sites is possible with similar positive outcomes.

(20) Face Sheet – Youth specific demographic information that is generated by the Juvenile Justice Information System (JJIS).

(21) Facility Entry Physical Health Screening – A standardized initial health screening, conducted at the time of a youth's admission or re-admission to each residential commitment program. The purpose of this screening is to ensure that the youth has no immediate health conditions or medical needs that require emergency services. This screening shall be conducted and documented using the Facility Entry Physical Health Screening form and the Facility Entry Physical Health Screening Body Chart (either the male body chart or female body chart depending on the gender of the youth being screened). The Physical Entry Health Screening form (HS 010, dated February 2007) and its accompanying Facility Entry Physical Health Screening Body Charts – Male / Female are incorporated into this rule and are available electronically at [http://www.djj.state.fl.us/forms/health\\_services\\_forms\\_index.html](http://www.djj.state.fl.us/forms/health_services_forms_index.html).

(22) Facility Entry Screening – The gathering of preliminary information used in determining a youth's need for emergency services, further evaluation, assessment, or referral.

(23) Grievance Procedure – A procedure for addressing youth grievances in residential programs.

(24) High-risk Restrictiveness Level – One of five statutorily authorized restrictiveness levels, defined in Section 985.03(44), F.S., to which courts commit youth to the department.

(25) Institutional Review Board (IRB) – The department's IRB reviews research proposals that seek access to departmental records or youth in the department's care, custody, or under the departments' supervision. The board looks at all aspects of a research proposal and evaluates potential risks and benefits to participating juveniles and the

department, as well as the researcher's plan to diminish risks. The IRB makes recommendations to the department's administration who then decides whether or not the proposal is approved.

(26) Involuntary Civil Commitment of Sexually Violent Predators: Refers to Sections 394.910-394.932, F.S., which sets forth the process, that determines if individuals whose offense(s) have been of a sexual nature meet the statutory criteria for civil commitment to the Department of Children and Family Service.

(27) Jimmy Ryce Act for Violent Sexual Offenders – Residential Program Notification Checklist – The checklist sent, along with supporting documents, to the youth's JPO to be reviewed by the Department of Children and Families to determine eligibility for civil commitment as a sexually violent predator pursuant to Sections 394.910-394.932, F.S. The checklist (DJJ/BCS Form 23) dated February 2005, is incorporated by reference and is accessible electronically at [http://www.djj.state.fl.us/forms/residential\\_rule\\_63E\\_forms.html](http://www.djj.state.fl.us/forms/residential_rule_63E_forms.html).

(28) Juvenile Justice Information System (JJIS) – The department's electronic information system used to gather and store information on youth having contact with the department.

(29) Juvenile Probation Officer (JPO) – The officer responsible for the direct supervision of a youth in the community or on post-commitment probation or conditional release.

(30) Licensed Mental Health Professional – A psychiatrist licensed pursuant to Chapter 458 or 459, F.S., a psychologist licensed pursuant to Chapter 490, F.S., a mental health counselor, marriage and family therapist, or clinical social worker licensed pursuant to Chapter 491, F.S., or a psychiatric nurse as defined in Section 394.455(23), F.S.

(31) Massachusetts Youth Screening Instrument, Second Version (MAYSI-2) – The mental health and substance abuse screening instrument designed to identify signs of mental/emotional disturbance or distress and authorized by the department for use at intake into the juvenile justice system and upon admission to a residential commitment program.

(32) Orientation – The process that occurs within 24 hours of the youth's admission whereby facility staff inform the youth of the rules, expectations, services, and goals of the residential program.

(33) Performance Plan – An individualized plan developed by the treatment team and youth that stipulate measurable goals the youth must achieve prior to release from the program. Performance plan goals are based on the prioritized needs identified during assessment of the youth and may be updated as appropriate. The plan identifies the youth's and staffs' responsibilities and the timelines associated with completion of each goal. The performance plan also serves as the basis for the youth's post-residential services plan since it includes the

transition goals and activities identified at the transition conference conducted at least 60 days prior to the youth's anticipated release.

(34) Performance Summary – A written document used to inform the youth, committing court, youth's JPO, parent or guardian, and other pertinent parties of the youth's performance in the program, including status of and progress toward performance plan goals, academic status, behavior and adjustment to the program, significant incidents (positive and negative), and justification for a request for release, discharge or transfer, if applicable. The Performance Summary form (RS 007) dated September 2006, is incorporated by reference and is accessible electronically at [http://www.djj.state.fl.us/forms/residential\\_rule\\_63E\\_forms.html](http://www.djj.state.fl.us/forms/residential_rule_63E_forms.html).

(35) Physically Secure – The use of hardware security devices, such as fencing and locks, to ensure that all entrances and exits of the program are under the exclusive control of program staff, preventing youth from leaving the program without permission.

(36) Predisposition Report (PDR) – A multidisciplinary assessment reporting the youth's needs, recommendations as to a classification of risk for the youth in the context of his or her program and supervision needs, and a plan for treatment that recommends the most appropriate placement setting to meet the youth's needs with the minimum program security that reasonably ensures public safety (subsection 63D-1.002(3), F.A.C.)

(37) Pre-Release Notification and Acknowledgement – A three-part form initiated by a residential commitment program to give prior notification to the JPO of a youth's planned release, then allows for the JPO to add additional information pertinent to the release, and finally allows for the court's approval of the release. This form (RS 008, September 2006) is incorporated into this rule and is accessible electronically at [http://www.djj.state.fl.us/forms/residential\\_rule63E\\_forms.html](http://www.djj.state.fl.us/forms/residential_rule63E_forms.html).

(38) Program – A contracted or state-operated non-residential environment providing supervision of youth who have been identified to receive services within the community. This includes, but is not exclusively limited to, non-secure detention, home detention, Intensive Delinquency Diversion Services (IDDS) programs, conditional release programs, screening and intake units, and day treatment programs.

(39) Program Director – The on-site administrator of a residential commitment program for juvenile offenders, whether state or privately operated; who is accountable for the on-site operation of the program.

(40) Protective Action Response (PAR) – The department-approved verbal and physical intervention techniques and the application of mechanical restraints used in accordance with Chapter 63H-1, F.A.C.

(41) Protective Action Response Certification – Certification awarded to an employee who has successfully completed PAR training as described in this rule. Only employees who are PAR certified are authorized to use PAR.

(42) Qualified Researcher – As defined for this rule is any person who has been approved through the department's Institutional Review Board (IRB) proposal process to conduct a research project with youth in the care, custody and supervision of the department.

(43) Sexually Violent Predator (SVP) – As defined in Section 394.912, F.S. For purposes of this chapter of this rule, SVP eligible refers to a youth being subject to the requirements of Sections 394.910-394.932, F.S.

(44) Safety and Security Coordinator – The person responsible for the oversight of the facility's safety and security program which includes, but is not limited to: facility security, fire safety and awareness, disaster preparedness, and the oversight of equipment and tool management within the facility.

(45) Sick Call Care – The health care delivery system component intended to provide care in response to episodic complaints of illness or injury of a non-emergency nature.

(46) Temporary Release – Any court-approved period of time during which an eligible youth is allowed to leave a residential program without the direct supervision of program staff or properly screened and trained interns or volunteers. The purpose of temporary release activities is to provide youth with opportunities to develop skill competencies and prepare for transition upon release or discharge from the program. Examples of temporary release include, but are not limited to, home visits and community employment.

(47) Transfer – The movement of a youth from one residential program to another, at the same restrictiveness level, a lower restrictiveness level, or a higher restrictiveness level.

(48) Transition Conference – A conference conducted at least 60 days prior to a youth's anticipated release at which the youth, residential staff, the youth's JPO and/or post-residential service provider, the youth's parent(s) or guardian(s), and other pertinent parties establish transition activities, responsibilities, and timelines necessary for the youth's successful release and reintegration into the community.

(49) Transition Planning – The process of establishing transition activities to facilitate a youth's successful release and reintegration into the community.

(50) Treatment Team – A multidisciplinary team consisting of representatives from the program's administrative, educational, vocational, residential, medical, mental health, substance abuse, and counseling components which assesses each youth to identify his needs and risk factors, develop rehabilitative treatment goals, ensure service delivery, and assesses and reports the youth's progress. The youth is a member of the treatment team.

(51) Victim Notification of Release – Unless victim notification rights have been waived, a letter that a residential commitment program sends to the victim, or the next of kin in cases of homicide, or the parent or legal guardian in cases involving minor victims, prior to any discharge or release, including a temporary release, of a youth whose committing offense meets the criteria for victim notification pursuant to Chapter 960, F.S. This form (RS 011, dated September 2006) is incorporated into this rule and is accessible electronically at [http://www.djj.state.fl.us/forms/residential\\_rule63E\\_forms.html](http://www.djj.state.fl.us/forms/residential_rule63E_forms.html).

Specific Authority 985.47, 985.64 FS. Law Implemented 985.47 FS. History–New \_\_\_\_\_.

63E-3.003 Administration of the Serious or Habitual Juvenile Offender (SHO) Program.

A SHO program for youth at least 13 years of age at the time of disposition for the current offense shall include the following:

(1) A treatment modality for youth that includes evidence-based treatment and practices of changing negative or inappropriate behavior and promotes positive pro-social behavior;

(2) An on-site administrator who is accountable for the daily operation of the program. This administrator is ultimately responsible for ongoing program planning and evaluation to ensure the integrity, safety, security, and effective operation of the program;

(3) A facility management team established by the on-site administrator that will meet at least monthly to discuss the ongoing operational issues of the program, strategize resolution of problems and ensure contract compliance;

(4) A Program Director who is responsible for ensuring that the daily operations of the program are conducted in a manner that provides a positive quality of life for the youth. Each program shall consist of at least 9 months of intensive secure residential treatment and will not exceed the maximum term of imprisonment that an adult may serve for the same offense. Conditional release assessment shall be provided in accordance with Section 985.46, F.S. The components of the program shall include, but not be limited to:

(a) Shelter;

(b) Security and Safety;

(c) Clothing;

(d) Food;

(e) Process to address youth grievances;

(f) Access to the Abuse Hotline, and/or Central Communications Center;

(g) Diagnostic evaluation services;

(h) Appropriate treatment modalities, including substance abuse intervention, mental health services, and sexual behavior dysfunction interventions and gang-related behavior interventions;

(i) Prevocational and vocational services;

(j) Job training, job placement, and employability-skills training;

(k) Case Management Services;

(l) Educational services, including special education services for youth with disabilities and pre-GED literacy;

(m) Self-sufficiency planning;

(n) Independent living skills;

(o) Parenting skills;

(p) Recreational and leisure time activities to include large muscle exercise;

(q) Community involvement opportunities commencing, where appropriate, with the direct and timely payment of restitution to the victim;

(r) Graduated reentry into the community;

(s) A diversity of forms of individual and family treatment appropriate to and consistent with the child's needs;

(t) Consistent and clear consequences for misconduct;

(u) Opportunities for expression of religious beliefs;

(v) Family visitation;

(w) Access to incoming mail and opportunities to send outgoing mail; and

(x) Telephone access.

(5) Pre-employment screened employees (Level 2) pursuant to Chapter 435 and Section 985.644(5), F.S.;

(6) Orientation training in accordance with job responsibilities within the first 15 days of employment. This training, at a minimum shall include:

(a) The Department's mission and how the program fits and interacts within the overall continuum of care;

(b) The Program's mission, philosophy and treatment approach;

(c) The program rules and the behavior management system;

(d) Personnel policies;

(e) Job responsibilities;

(f) Confidentiality (Section 985.04, F.S.);

(g) Introduction to safety and security issues;

(h) Child abuse reporting (as defined in Chapters 39 and 827, F.S.);

(i) Incident reporting; and

(j) Professional Ethics issues and employee standards of conduct, including disciplinary and legal consequences for noncompliance with departmental or facility rules.

(7) Direct-care employees who are certified in Protective Action Response (PAR) within 90 days of hire. Staff who are not PAR certified may provide direct-care supervision of youth only if directly supervised by a PAR certified staff as set forth in Chapter 63H-1, F.A.C.

Specific Authority 985.47(10), 985.64 FS. Law Implemented 985.47(10) FS. History–New \_\_\_\_\_.



63E-3.004 Sanitation.

(1) The SHO program is responsible for ensuring the physical plant and its grounds are maintained in a safe and sanitary manner in compliance with Florida Administrative Code (F.A.C.) provisions in the following areas:

(a) Water supply: Rule 64E-12.003, F.A.C., (8-7-96).

(b) Food Service: Chapter 64E-11, F.A.C.:

1. General: Rule 64E-11.001, F.A.C. (8-28-96).

2. Definitions: Rule 64E-11.002, F.A.C. (7-14-03).

3. Food Supplies: Rule 64E-11.003, F.A.C. (7-14-03).

4. Food Protection: Rule 64E-11.004, F.A.C. (7-14-03).

5. Personnel: Rule 64E-11.005, F.A.C. (7-14-03).

6. Food Equipment and Utensils: Rule 64E-11.006, F.A.C. (7-14-03).

7. Sanitary Facilities and Control: Rule 64E-11.007, F.A.C. (7-14-03).

8. Other Facilities and Operations: Rule 64E-11.008, F.A.C. (3-15-98).

9. Temporary Food Service Events: Rule 64E-11.009, F.A.C. (3-15-98).

10. Procedure When Infection Is Suspected: Rule 64E-11.011, F.A.C. (2-21-91).

11. Manager Certification: Rule 64E-11.012, F.A.C. (7-14-03).

12. Certificates and Fees: Rule 64E-11.013, F.A.C. (7-14-03).

(c) Housing: Rule 64E-12.005, F.A.C. (8-7-96).

(d) Insect and Rodent Control: Rule 64E-12.006, F.A.C. (8-7-96).

(e) Laundry: Rule 64E-12.008, F.A.C. (6-18-87).

(f) Poisonous or Toxic Substances: Rule 64E-12.009, F.A.C. (6-18-87).

(g) Garbage and Rubbish: Rule 64E-12.010, F.A.C. (8-7-96).

(h) Recreational Areas: Rule 64E-12.011, F.A.C. (8-7-96).

(2) The superintendent or designee shall conduct a weekly sanitation inspection and document findings.

(3) Biohazardous waste shall be disposed of in accordance with OSHA Standard 29 CFR 1910.1030. Youth shall not be allowed to clean, handle, or dispose of any other person's biohazardous material, bodily fluids or human waste.

(4) All facilities shall be inspected annually by the appropriate persons in reference to state health, sanitation and food service standards.

Specific Authority 985.47, 985.64 FS. Law Implemented 985.47 FS. History-New \_\_\_\_\_.

63E-3.005 Safety and Security.

(1) The Program Director of a SHO program shall designate a Safety and Security Coordinator to oversee the facility's safety and security program and systems. The coordinator's duties and responsibilities shall include, at a minimum, the following:

(a) Ensuring that the facility has operating procedures addressing safety and security;

(b) Ensuring that the physical plant, grounds and perimeter are maintained so that the environment is safe and secure for youth, staff, visitors and the community;

(c) Conducting the program's internal security audit on a monthly basis per the facility operating procedure and overseeing follow-up corrective action as needed;

(d) Conducting internal safety inspections on a monthly basis per the facility operating procedure and overseeing follow-up corrective action as needed;

(e) Working with the Program Director and other program staff to develop corrective actions warranted as a result of safety and security deficiencies found during any reviews, audits, or inspections, and overseeing implementation of actions that ensure the deficiencies are corrected and appropriate systems are in place to maintain compliance;

(f) Serving as, or working cooperatively with, the program's Continuity of Operations Plan (COOP) Coordinator, and

(g) Ensuring that staff are sufficiently trained on any safety and security procedures and appropriate use of security features and equipment commensurate with their job duties.

(2) Physical security features for a SHO program shall meet the requirements the department has established for programs designated as high-risk. The required physical security features include a security fence of at least 12 feet in height with an inside overhang or razor wire; electronic door locks with manual override on entry, exit, and passage doors; a closed circuit video taped television surveillance system with inside and outside cameras; a sally port with intercom; an electric or manual secure pedestrian gate with intercom capability; secure windows that are break-resistant or screened glass; sleeping room doors that open outward; exterior security lighting; electronic search equipment; and radio or cell phone communication devices for staff.

(3) Direct-care staffing for an SHO program shall be based on the high-risk level of the resident population. At a minimum, the staff to youth ratio is 1 staff to 8 youth during the awake shifts, 1:12 during the sleep shift and 1:5 for off campus activities.

(4) The program shall institute a tool management system to prevent youth from using equipment and tools as weapons or a means of escape. Tool management shall address, at a minimum:

(a) Inventorying tools and procedures addressing missing tools;

- (b) Storing tools;
  - (c) Training youth to use tools appropriately and safely;
  - (d) Issuing tools to youth and staff;
  - (e) Training staff on procedures and on appropriate and safe tool usage;
  - (f) Replacing and disposing of dysfunctional tools (in disrepair or unsafe condition); and
  - (g) Assessing youth to determine whether they may participate in vocational training, work projects, public service, or disciplinary work activities that involve the use of tools.
- (5) The program shall maintain strict control of flammable, poisonous, and toxic items. At a minimum, the program shall:

- (a) Maintain a complete inventory of all such items used in the facility.
- (b) Maintain a current list of personnel identified by position title or function, who are authorized to handle these items.
- (c) Not allow youth to handle these items and restrict their access to areas where these items are being used.
- (d) Dispose of hazardous items and toxic substances or chemicals in accordance with Occupational Safety and Health Administration (OSHA) standards.
- (e) Maintain Material Safety Data Sheets (MSDS) on site as required by OSHA.

Specific Authority 985.47, 985.64 FS. Law Implemented 985.47 FS. History—New \_\_\_\_\_.

63E-3.006 Continuity of Operations Planning.

(1) The Program Director shall oversee the development of a Continuity of Operations Plan (COOP). The intent is for each program to have a planned and comprehensive approach to effectively manage emergencies and disaster events, including those that require the program to re-locate its youth and staff while maintaining operations, safety, and security. The program's COOP shall:

- (a) Address, but not be limited to, fire and fire prevention/evacuation, severe weather, disturbances or riots, bomb threats, taking of hostages, chemical spills, flooding, or terrorist threats or acts;
- (b) Be conspicuously posted in the facility and readily available to staff members, youth, and visitors, and shall be disseminated to appropriate local authorities. If the plan is too voluminous to post, the program shall post a notice that identifies the various locations within the facility where staff can easily access the plan;
- (c) Identify the key facility personnel and define their specific responsibilities during emergency or disaster situations;
- (d) Specify the equipment and supplies required to maintain the continuous operation of services during an emergency or disaster, plans to ensure the provision of such, and directions as to their location within the facility for

provisions that can be kept on-site. Equipment and supplies may include, but are not limited to, food, medicine, first aid supplies, vehicles, generators, clothing, cell phones, alternative housing plans, flashlights, batteries, fire safety equipment, computers (laptops), information on computer disks that ensures care, custody and control of youths and assists in the continuous and uninterrupted delivery of departmental services and ensures public safety;

(e) Indicate essential or key personnel (designated by the Program Director) who, due to their position and/or training, are responsible during an emergency or disaster for ensuring that the program remains operational and responsive to the needs of the youth, as well as continued to ensure the safety of youth, staff, and the public;

(f) Be compatible with or combined with the program's COOP;

(g) Be compatible with the department's Residential Region's Disaster Plan and its COOP.

(2) The program shall have a COOP that provides for the continuity of care and custody of its youth and the protection of the public in the event of an emergency that prevents occupancy of the program's primary facility/building(s). The program's COOP shall be:

- (a) Compatible with the department Residential Region's COOP;
- (b) Readily available to staff;
- (c) Reviewed and updated annually;
- (d) Submitted to the Regional Residential Directors upon their request and per their instructions; and
- (e) Approved by the Division of Emergency Management, a division of the Department of Community Affairs having oversight of the development of comprehensive COOP for state agencies.

Specific Authority 985.47, 985.64 FS. Law Implemented 985.47 FS. History—New \_\_\_\_\_.

63E-3.007 Youth Admission.

(1) Based on coordination of admissions initiated by the regional commitment manager or commitment manager supervisor, a residential commitment program shall accept new admissions Monday through Friday between 8:00 a.m. and 5:00 p.m. unless otherwise specified in its contract with the department.

(2) A residential commitment program shall inspect the commitment or transfer packet prior to a youth's admission and, if any core documents are not included in the packet, shall contact the JPO or JPO supervisor to request the missing documents be faxed or electronically transmitted to the program. The core documents are as follows:

- (a) DJJ face sheet;
- (b) Current commitment order;
- (c) Predisposition report;
- (d) Commitment conference summary; and

Individual healthcare record, if it exists from a prior commitment or placement in detention. The following documents shall be included in the individual healthcare record, or in the commitment or transfer packet if the individual healthcare record has not been created:

1. The current original Authority for Evaluation and Treatment;

2. Comprehensive physical assessment;

3. Immunization records; and

4. Tuberculosis skin test (Mantoux) results, unless contraindicated.

(3) If the JPO or JPO supervisor does not provide any missing core documents upon request, a residential commitment program may elect to not admit a youth, thereby rejecting the youth. However, within two hours of a decision to reject a youth, the program shall notify the Regional Director for Residential and Correctional Facilities and the Regional Director for Probation and Community Intervention of this action.

(4) A residential commitment program shall communicate internally as follows:

(a) Program staff responsible for admission are notified when a new admission is scheduled to arrive and the youth's name, date and time of anticipated arrival, mode of transportation, medical and mental health needs, and any safety or security risks are documented in the logbook.

(b) Regardless of the youth's condition upon admission, the designated health authority is notified of an admission with any of the following medical problems documented in the commitment packet: asthma; allergies with anaphylaxis; adrenal insufficiency; cancer or history of cancer; cardiac arrhythmias, disorders or murmurs; congenital heart disease; cystic fibrosis; developmental disability; diabetes; history of EpiPen use; eating disorders; head injuries that occurred within the two weeks prior to admission; hearing, speech or visual deficits; hemophilia; hepatitis; human immunodeficiency virus (HIV) or AIDS, hypo or hyperthyroidism, hypertension; kidney failure (with or without dialysis); neuromuscular conditions; pregnancy or having given birth within the two weeks prior to admission; seizure disorders; sickle cell anemia; spina bifida; systemic lupus erythematosus; and active tuberculosis.

(c) Information included in the commitment or transfer packet is distributed to program staff as their job functions dictate.

(5) Within 24 hours of admission, a residential commitment program shall refer to the department's circuit legal counsel any commitment order appearing to be in conflict with Chapter 985, F.S., or otherwise questionable. The program shall maintain documentation of the referral.

(6) When a youth is admitted to a residential commitment program, the program shall make notifications as follows:

(a) Within 24 hours of any admission or on the first regular workday of the following week when the youth is admitted on a holiday, a weekend or a Friday afternoon, the program shall update the JJIS Bed Management System or, if a program does not have access to JJIS, shall notify the regional commitment manager.

(b) The program shall notify the youth's parents or guardians by telephone within 24 hours of the youth's admission, and the program shall send written notification within 48 hours of admission.

(c) The program shall notify the committing court in writing within five working days of any admission.

(d) Copies of the letter sent to the committing court will suffice as official notification to the youth's JPO and, if known at the time of admission, the youth's post-residential services counselor.

(7) Although it is the intent that deoxyribonucleic acid (DNA) samples be collected prior to a youth's admission to a residential commitment program, if a youth who meets the DNA testing criteria per Chapter 943, F.S., is admitted to the facility without DNA testing, the program shall contact Florida Department of Law Enforcement (FDLE) to verify whether or not a DNA sample is on file for the youth. If not, the program shall collect DNA samples, using the test kit and accompanying instructions provided by FDLE, submit them to FDLE no later than 45 days prior to a youth's release, and document these actions in the youth's individual management record.

(8) If the residential commitment program suspects that a youth admitted without the violent sexual predator screening documentation qualifies pursuant to Sections 394.910-394.932, F.S., the program shall notify the youth's JPO within three days of the youth's admission. If the JPO does not respond within five working days, the program shall notify the JPO's supervisor. If not resolved within 10 days of the program's original request, the program shall notify the department's residential monitor assigned to the program.

Specific Authority 985.47, 985.64 FS. Law Implemented 985.47 FS. History--New \_\_\_\_\_.

63E-3.008 Intake.

(1) Youth intake will commence upon the arrival of the youth to the facility. The following activities shall occur during intake:

(a) A strip search of youth being admitted to the SHO program is required. The strip search of the youth shall be conducted upon arrival to the facility as follows:

1. The strip search shall be conducted in a private room with two staff members present, both of the same sex as the youth being searched. As an alternative when two staff of the same sex are not available, the search can be conducted by one

staff of the same sex, while staff of the opposite sex is positioned to observe the staff person conducting the search, but cannot view the youth.

2. Strip searches shall be conducted visually, without touching the unclothed youth.

(b) The intake process shall document visible body markings, i.e. scars, bruises, tattoos, or other physical injuries. This may be accomplished when staff conduct a strip search, during the physical screening, or when the youth showers.

(2) The following entry screenings shall be completed immediately upon a youth's admission to a program. These screenings are used to ensure that the youth has no emergency medical, mental health, or substance abuse conditions of a nature that render admission unsafe.

(a) The Physical Health Screening may be conducted by non-medical program staff responsible for youth intake. This screening is conducted to identify physical health needs requiring attention.

(b) The Mental Health Screening may be conducted by non-clinical program staff responsible for youth intake. This screening is conducted to identify mental health needs requiring attention. Either the MAYSI-2 or clinical mental health and clinical substance abuse screening must be administered upon each youth's admission to a residential commitment. Direct care staff trained in its administration may conduct MAYSI-2 screening. Clinical mental health screening must be conducted by a licensed mental health professional and clinical substance abuse screening must be conducted by a qualified substance abuse professional as defined in Section 397.311(24), F.S., and in accordance with subsection 65D-30.003(15), F.A.C. (12-12-05), using valid and reliable screening instruments.

(c) The Substance Abuse Screening may be conducted by non-clinical program staff responsible for youth intake.

(3) Unless a youth is being admitted into a program directly from secure detention, a correctional facility, or another program, a shower, including shampooing hair, is required.

(a) An ectoparasiticide or an ovicide may be used routinely for all new admissions if the program's designated health authority deems it appropriate, if it is used in accordance with current guidelines, and if it is not contraindicated. In the absence of such a routine protocol approved by the designated health authority, an ectoparasiticide and an ovicide shall not be routinely used, and shall be used only if an infestation with lice or scabies is present and use is ordered by the designated health authority, is in accordance with current guidelines, and is not contraindicated.

(b) Two staff of the same gender as the youth shall supervise the newly admitted youth during this shower.

(4) Clothing that is appropriate for size and climate shall be issued to each youth consistent with the program's dress code.

(5) A residential commitment program shall inventory each youth's personal property upon admission and document the inventory by listing every item. Program staff shall immediately secure in a locked area all money, jewelry and other items of value. After all personal possessions have been inventoried and documented, the staff conducting the inventory, the youth, and a witness shall sign and date the documentation to attest to its accuracy. The program shall:

(a) Maintain a copy of documentation of the personal property inventory.

(b) Ask the youth if he or she wants a copy of the personal property inventory documentation and, if so, provide it.

(c) Offer a copy of the inventory documentation to the youth's parents or guardians.

(d) Send inventoried property to the youth's home or store such property until the youth's release from the program.

(6) All contraband such as weapons and narcotics, excluding narcotics that are verified as having been prescribed for a medical condition, shall be confiscated by the Program Director or designee for disposal or storage, with all illegal contraband submitted to the law enforcement agency having local jurisdiction.

(7) Any medications brought into the residential commitment program when the youth is admitted shall be in the original container issued by the pharmacist with a current and complete label. The program shall verify by telephone the legitimacy of the prescription and the contents of the container with the issuing pharmacist or the prescribing physician. If the prescribing physician or dispensing pharmacist is not available, the program shall contact its designated health authority to provide verification. This verification contact shall be recorded in the youth's individual management record. If the youth is arriving from a juvenile or adult detention center or another residential program where the prescription has already been verified, further verification is not required. The Designated Health Authority or designee shall be notified of the type of medication that is brought with the youth when admitted and this information shall be recorded in the youth's healthcare record.

(8) Based on a review of all documentation and interactions with the youth, the Program Director or designee shall make an initial classification of the youth for purposes of room or living area assignment within the program. To determine the offender's risk of escape, the program shall use, at a minimum, the Predisposition Report and face sheet in the Juvenile Justice Information System (JJIS) to secure information about the youth's past history of escapes and escape attempts. Assignment to a group or staff advisor shall also be based on this initial classification. If the program has an orientation unit that houses newly admitted youth, a copy of the classification form shall be sent to the orientation unit. Factors to consider when classifying the youth shall include, but are not limited to:

- (a) Sex;
- (b) Age;
- (c) Size;
- (d) Emotional maturity;
- (e) Gang affiliation;
- (f) Medical or mental health problems;
- (g) History of violence;
- (h) Sexual aggression;
- (i) Predatory behavior;
- (j) Risk of escape and risk to the public; and
- (k) Skill levels.

(9) When mental health, substance abuse, physical health, security risk factors, or special needs related to a newly admitted youth are identified during or subsequent to the classification process, this information shall be immediately entered into the program's in-house alert system and the JJIS alert system.

(10) The program shall ensure that a current photograph and critical information are obtained and easily accessible for use in verifying the youth's identity as needed during his stay in the program. The program shall ensure that a current photograph of each youth is maintained in the individual management record and the individual healthcare record. A photograph shall be made available to law enforcement or other criminal justice agencies to assist in apprehending the youth in the event of escape. The program may store this critical information electronically, however, a hard copy of the information on each youth shall be maintained in an administrative file that is easily accessible and mobile in the event of an emergency situation that results in the program having to relocate quickly or in the event the information is needed when the computer is inoperative. The critical information shall include, but not be limited to, the following:

- (a) Youth's full name, Social Security number, and DJJ ID number;
- (b) Admission date;
- (c) Date of birth, gender, and race;
- (d) Name, address, and phone number of parent(s) or legal guardian;
- (e) Name, address, and phone number of the person with whom the youth resides and his or her relationship to the youth;
- (f) Person(s) to notify in case of an emergency (and contact information);
- (g) JPO's name, circuit/unit, and contact information;
- (h) Names of committing judge, state attorney, and public defender (or attorney of record) with contact information on each;
- (i) Committing offense and judicial circuit where offense occurred;
- (j) Notation of whether or not the judge retains jurisdiction;

(k) Victim notification contact information, if notification is required;

(l) Physical description of youth to include height, weight, eyes and hair color, and any identifying marks;

(m) Overall health status, including chronic illnesses, allergies, mental health status and/or physical disabilities, and medications being taken; and

(n) Personal physician (if known).

(11) Consistent with departmental procedures addressing participation in the National School Lunch and Breakfast Program, residential commitment program staff of state-operated programs and contracted programs that are classified as not-for-profit programs shall complete an Individual Determination Report form for each youth admitted to the program.

Specific Authority 985.47, 985.64 FS. Law Implemented 985.47 FS. History—New

63E-3.009 Orientation.

(1) Youth admitted to the SHO program shall receive orientation to the program within 24 hours of admission.

(2) Orientation to the program shall include the following:

(a) Review of expectations, program rules and the behavior management system. This information shall be conspicuously posted including all program rules, schedules and youth responsibilities to allow easy access for staff and youth. Program staff shall discuss with each youth:

1. Services available;

2. Daily schedule;

3. Expectations and responsibilities of youth;

4. Written rules governing conduct;

5. Written behavioral management system and possible disciplinary actions;

6. Availability of and access to medical and mental health services;

(b) Items considered contraband. Youth shall be advised that bringing illegal contraband into the program or possessing illegal contraband while in the program is a violation of law for which the youth may be prosecuted;

(c) Performance planning process that involves the development of goals for each youth to achieve;

(d) Program's dress code for youth and their expectations for each youth to engage in hygiene practices;

(e) Programs procedures on visitation, mail, and use of the telephone;

(f) Anticipated length of stay in the program and what the youth must do in order to successfully complete the program and be eligible for release. Staff should also explain that the youth must complete each performance plan goal in order to be recommended for release from the program and that the release decision is ultimately up to the committing court;

(g) High-risk commitments are restricted to necessary, supervised off-campus activities, i.e. health and court-related activities. However, during the final 60 days of their residential stay and with court approval, youth in high-risk programs may be granted permission to leave the facility.

(h) Program's youth grievance procedures. A residential commitment program shall establish written procedures specifying the process for youth to grieve actions of program staff and conditions or circumstances in the program related to the violation or denial of basic rights. These procedures shall establish each youth's right to grieve and ensure that all youth are treated fairly, respectfully, without discrimination, and that their rights are protected. The procedures shall address each of the following phases of the youth grievance process, specifying timeframes that promote timely feedback to youth and rectification of situations or conditions when grievances are determined to be valid or justified. A program's grievance process shall have the following components:

1. Informal phase wherein the youth attempts to resolve the complaint or condition with staff on duty at the time of the grieved situation;

2. Formal phase wherein the youth submits a written grievance that requires a written response from a supervisory staff person; and

3. Appeal phase wherein the youth may appeal the outcome of the formal phase to the program director or designee.

a. Program staff shall be trained on the program's youth grievance process and procedures.

b. Program staff shall explain the grievance process to youth during their program orientation and shall post the written procedures throughout the facility for easy access by youth.

c. Youth shall be given free access to grievance forms and accompanying instructions and program staff shall assist a youth in filing a grievance if needed.

d. The program shall maintain documentation on each youth grievance and its outcome for at least one year.

(i) What to do in the case of an emergency, including procedures for fire drills and building evacuation.

(j) Ensure that each newly admitted youth is familiar with the physical design of the facility, advising the youth which areas are accessible and which are not accessible to youth.

(k) Room Assignment. Shall introduce each newly admitted youth to other program staff and youth. The youth shall be informed of any assignments to a staff advisor and youth group, if applicable. In addition, each youth shall be assigned to a treatment team.

(l) Access to the Abuse Registry.

Specific Authority 985.47, 985.64 FS. Law Implemented 985.47 FS. History—New \_\_\_\_\_.

63E-3.010 Case Management.

(1) The treatment team shall assess each youth; develop appropriate performance plan and transition plan goals, and conduct treatment team meetings to review each youth's progress in the context of the Balanced and Restorative Justice (BARJ) approach. Residential case management shall address the three BARJ components:

(a) Accountability;

(b) Competency Development; and

(c) Community Safety.

(2) The SHO program shall establish multidisciplinary treatment teams to plan and manage each youth's case and ensure services that meet individualized needs. Treatment teams shall be multidisciplinary in membership to include, at a minimum, representatives from program administration, direct care staff, and treatment staff to represent areas such as education, vocational, medical, mental health, and recreation, as needed. The youth shall also be a member of the treatment team. The role of the treatment team is to participate in the following processes:

(a) Assessment of the youth;

(b) Development and implementation of the youth's performance plan;

(c) Active participation in progress reviews and treatment team meetings;

(d) Development of performance summaries; and

(e) Development of the youth's transition plan.

(3) Assessment of the youth shall be completed within the first 30 days of admission to the program. The treatment team, with the youth, shall identify the:

(a) Risk factors that pre-dispose a youth to antisocial behavior and, if effectively addressed, would decrease the youth's likelihood that he will engage in antisocial behaviors; and

(b) Strengths and protective factors that, if effectively promoted, would build the youth's resiliency and decrease the likelihood that he will engage in antisocial behaviors.

(4) Areas of assessment shall include, at a minimum, the following:

(a) Relationships to include family relationships (parents, legal guardians, siblings, grandparents, delinquent youth's children), peer relationships (pro-social peers, isolation from pro-social peers, and antisocial peers), dating relationships, relationships with significant adults other than family or legal guardians, and relationship boundaries;

(b) Academic skills;

(c) Employability and/or vocational skills;

(d) Substance abuse or addiction and level thereof;

(e) Mental health;

(f) Life skills;

(g) Social skills;

(h) Leisure and recreational interests;

- (i) Physical health;
- (j) Sexual development;
- (k) History of sexual abuse, physical abuse, domestic violence, emotional abuse, neglect, and/or abandonment;
- (l) Specialized needs and abilities;
- (m) Delinquency history and status;
- (n) Responsibility for criminal actions and harm to others;
- (o) Community involvement and connections;
- (p) Court ordered sanctions and treatment recommendations;
- (q) Amenability to treatment;
- (r) Proclivity toward violence;
- (s) Tendency toward gang involvement; and
- (t) Potential for rehabilitation.

(5) The program shall file and maintain any completed assessment and all reassessment results in the youth's individual management record.

(6) All youth admitted shall have a Performance Plan developed within 30 calendar days of admission to the program. The Performance Plan goals shall be measurable, individualized, and based upon prioritized needs that reflect the risk and protective factors identified during the initial classification process. The plan shall identify the youth's responsibilities to accomplish the goals, and the responsibilities of staff to enable the youth to accomplish their goals. It shall also stipulate timelines for the completion of each goal. The treatment team shall revise a youth's performance plan based on reassessment results, a youth's demonstrated progress or lack of progress on a goal or goals, newly acquired or revealed information, or demonstration of antisocial behavior not yet addressed or insufficiently addressed.

(7) At a minimum, the youth, the treatment team leader, and all other parties who have significant responsibilities in goal completion shall sign the performance plan. Within 10 working days a copy will be provided to the following, and the youth's individual management record must document the date the performance plan was sent:

- (a) Youth Case File – original;
- (b) Committing Court;
- (c) JPO;
- (d) Parent or Guardian;
- (e) DCF, if applicable;
- (f) The youth.

(8) Progress reviews. The treatment team is responsible for bi-weekly reviews for youth. Of these two reviews each month, one shall be formal and the other can be informal. A formal review involves a meeting of the treatment team to discuss the youth's progress. Informal reviews can consist of the treatment team leader meeting only with the youth. At a minimum, progress review documentation shall include the following elements:

- (a) Youth's name;
- (b) Date of the review;
- (c) Youth's progress in the program; and
- (d) Any comments from the treatment team members, including direct care staff and the youth.

(9) Performance summaries shall be completed every 90 days beginning 90 days from the signing of the youth's performance plan, unless the committing court requests monthly performance summaries, in which case the performance summary shall be completed every 30 days beginning 30 days following completion of the performance plan. Areas that shall be addressed in the performance summary include, but are not limited to:

- (a) The youth's status on each performance plan goal;
- (b) The youth's academic status;
- (c) The youth's behavior, including:
  2. Level of motivation and readiness for change;
  1. Initial adjustment to program;
  3. Interactions with peers;
  4. Interactions with staff;

(d) The youth's overall behavior adjustment; for youth receiving mental health or substance abuse services, their progress shall be addressed in a manner that complies with the confidentiality requirements set forth in both state and federal statutes;

- (e) Significant incidents (positive or negative); and
- (f) The justification for a request for release, discharge or transfer, if applicable.

(10) The staff member who prepared the summary, the treatment team leader, the Program Director or designee, and the youth shall review, sign and date the Performance Summary. Program staff shall give the youth the opportunity to add comments to the Performance Summary prior to signing it. Within 10 working days the program shall distribute the performance summary to the:

- (a) Committing court,
- (b) Youth's JPO,
- (c) Parents or guardians; and
- (d) Other pertinent parties.

(11) If the Performance Summary is notification of the program's intent to release or discharge a youth, the residential program shall send the original of the release or discharge summary, together with the Pre-Release Notification form, to the youth's JPO (rather than directly to the court). The program shall place the original performance summaries and copies of the youth's release or discharge summary and the Pre-release Notification form in the youth's individual management record.

(12) Transition Planning. The program shall begin planning for the youth's transition back to the community upon admission to the program. It is critical that all parties involved with the youth communicate with each other on a regular basis

to ensure information is transferred in a timely manner, and job tasks related to the youth's transition are assigned and completed within the designated timeframes.

(a) The residential commitment program is responsible for the timely notification of a youth's release from the program to the youth's JPO and other pertinent parties.

Notification of Release form shall be sent to the youth's JPO at least 45 days prior to the youth's targeted transition date (90 days prior for sex offenders). No section of this form can be left blank and all arrangements made for the youth must be clearly stated on this form.

(b) The SHO program is responsible for notifying the JPO of all youth subject to the provisions of the Chapter 394, Florida Statutes, not less than 210 days prior to the anticipated release of the youth. No youth subject to the provisions of the Chapter 394, Florida Statutes, will be released until the Sexual Predator Unit at the Department of Children and Families (DCF) has determined eligibility. All documentation required by DCF will be sent to the youth's JPO at the time of notification of anticipated release. This documentation includes:

1. Residential Program Notification Checklist;
2. Youth's Performance Plan;
3. Youth's Performance Summary;
4. Physical health summary (not a comprehensive physical);
5. Summary of youth's institutional adjustment (can be part of the Performance Summary); and
6. Any psychological or psychiatric reports.

(c) Prior to a youth's release, the program shall conduct a transition conference to plan and assign responsibilities for transition activities necessary to facilitate the youth's successful reintegration into the community. Transition activities established during the transition conference, together with the associated responsibilities and timelines for completion, shall be documented on the youth's performance plan. The youth's treatment team leader or designee shall coordinate with the youth's JPO and Post-residential Services Counselor (if different than the JPO) to schedule the transition conference. The transition conference shall be conducted not less than 60 days prior to the youth's targeted release date.

(d) At a minimum, the Program Director or designee and the youth's treatment team leader shall represent the program at the exit conference. In the event other members of the youth's treatment team are unable to attend, they shall provide input to the treatment team leader prior to the conference. The program shall invite the JPO, Post-residential Services Counselor (if different than the JPO), and parent or guardian to the exit conference. The youth shall also be in attendance at the conference. The residential program shall send a youth's complete official case record, including the cumulative individual healthcare record, to the JPO within five (5) working days of the youth's release.

(13) Transfers to other residential programs shall be accomplished as follows:

(a) Transfers may be requested for the following reasons:

1. The youth has committed new law violations. If the request for transfer is based solely on a new law violation, the program shall notify the Transfer Administrator immediately if the charges are not petitioned, not prosecuted, dismissed, or the youth is found not guilty, and the transfer shall be immediately revoked;

2. The youth has demonstrated continued non-compliance with program rules even though the program has made reasonable efforts to intervene and manage the behavior;

3. The treatment needs of the youth have changed, and the program does not have the capacity to meet those needs;

4. The youth is a member of a criminal street gang and needs to be separated from other gang member(s) in the program;

5. The program has determined that a transfer is necessary to protect the public; or

6. The program is closing or reducing capacity.

(b) The program requesting the transfer shall submit a request for transfer to the Regional Transfer Administrator. This request shall list the specific violations or reasons for the request.

(c) The program shall send written notification of the date, time and location of the transfer staffing to the youth's parent(s) or legal guardian(s), copying the youth, the youth's JPO, the DCF Foster Care Worker, if applicable, and any attorneys of record including the defense attorney and the appropriate state attorney. A copy of the transfer Performance Summary that includes the specific violations or reasons for transfer (as listed on the request for Transfer), shall be attached to the notification letter.

(d) If the youth's transfer is denied, the youth shall stay in the program or return to the program (if in detention).

(e) If the youth is approved for transfer the program shall ensure the youth's records and property are taken to the detention center if the youth is securely detained. If the youth is not detained, the program shall arrange transportation of the youth and their records and property to the receiving program.

Specific Authority 985.47(10), 985.64 FS. Law Implemented 985.47(10) FS. History—New \_\_\_\_\_.

#### 63E-3.011 Behavior Management.

(1) Consistent with its philosophy and treatment approach, the SHO program shall establish a behavior management system that is responsive to the characteristics of the program's population. The program's behavior management system shall foster accountability for behavior and compliance with the residential community's rules and expectations.

(a) The Behavior Management System shall be designed to:

1. Maintain order and security;



2. Promote safety, respect, fairness, and protection of rights within the residential community;

3. Provide constructive discipline and a system of positive and negative consequences to encourage youth to meet expectations for behavior;

4. Provide opportunities for positive reinforcement and recognition for accomplishments and positive behaviors;

5. Promote pro-social means for youth to meet their needs;

6. Promote constructive dialogue and peaceful conflict resolution;

7. Minimize separation of youth from the general population; and

8. Complement the performance planning process.

(b) The program's behavior management system shall not:

1. Be used solely to increase a youth's length of stay;

2. Be used to deny a youth's basic rights;

3. Promote the use of group discipline; or

4. Allow youth to sanction other youth.

Specific Authority 985.47(10), 985.64 FS. Law Implemented 985.47(10) FS. History--New \_\_\_\_\_.

#### 63E-3.012 Youth Services.

(1) Life and Social Skills. Life skills are defined as survival skills needed by youth to function successfully in everyday life situations. Each program is expected to promote youth competency development in life skills such as, but not limited to:

(a) Recognizing and avoiding high-risk situations that could endanger self or others;

(b) Controlling impulsive behaviors;

(c) Coping;

(d) Decision-making;

(e) Problem-solving;

(f) Organizing;

(g) Planning;

(h) Managing time; and

(i) Searching and applying for jobs, job interviewing, and engaging in behaviors appropriate for work situations.

(2) Each program shall promote youth competency development in social skills to help them interact positively and constructively with others. Social skills include, but are not limited to:

(a) Communicating effectively and constructively;

(b) Recognizing emotional cues from others;

(c) Improving relationship skills, such as differentiating positive and negative relationships; establishing positive relationships and avoiding negative ones; understanding relationship dynamics to include gender differences, relationship boundaries, dating relationships and behaviors, peer relationships, family relationships, relationships with employers and other authority figures, and relationships with other significant adults;

(d) Differentiating and appropriately responding to social contexts; and

(e) Engaging in constructive dialogue and peaceful conflict resolution.

(3) The residential commitment program shall provide youth with instruction on the impact of crime. Staff trained in this instruction shall teach youth about the impact of crime on victims and the community, heighten youth's awareness and increase their empathy through exposure to victim speakers in person or via videotape, re-direct youths' thinking to promote personal accountability for harm they caused to others, including making amends, and facilitate use of peaceful conflict resolution strategies.

(4) Participation in the educational program is mandatory for students of compulsory school-attendance age, as defined in Section 1003.21, F.S. For programs operated by private providers, the school district may provide educational services directly or may contract with a private provider to deliver its own educational program. Youth identified with disabilities, as defined by IDEA, will have a Individualized Education Plan developed and implemented according to the individual needs of the youth.

(5) The educational program at the SHO program shall establish an educational and prevocational training component consistent with juvenile justice education standards that includes:

(a) Basic Achievement Skills Inventory (BASI) or other common assessment tools identified by the Florida Department of Education;

(b) Performance plan goals (student outcomes) focused on post-placement needs. Based on the student assessment and identification of youth's needs, performance goals (educational, prevocational training outcomes) must be developed in conjunction with the youth. Performance goals must target educational and prevocational services that will assist the youth in acquiring the skills most needed to increase success upon release from the residential program to the community;

(c) Educational and vocational curricula that are approved by the local school district, reviewed and revised at least annually and as needed based on skill acquisition demonstrated by youth in pre-testing and post-testing.

(d) Educational staff that are qualified, competent and trained in the residential program's philosophy, treatment approach(es), behavior management system, and other treatment components of the program, as well as program safety and security procedures. They shall be trained specifically on how to work effectively with the program's population. Staff shall also be trained in how to integrate support services with instruction and funding procedures for accessing resources. Educational staff shall receive in-service training in areas including but not limited to instructional

delivery, understanding youth behavior and learning styles, and processes and procedures commonly used in juvenile justice educational programs.

(e) The testing and provision of special education services to youth requiring these services.

(6) SHO program shall provide opportunities for youth to participate in recreation, leisure and physical fitness activities that are appropriate for adolescents. Such activities shall be scheduled and reflected on the program's daily activity schedule. Youth shall be provided the opportunity for daily recreational activities, one hour of which allows the youth to engage in large muscle activity. In addition to structured outdoor recreational activities or activities in a gymnasium, the program shall provide activities that are non-physical in nature, such as board games, reading, art projects, and other such activities.

(7) Content of television programming, videos, movies, and video games shall be age appropriate and shall not promote violence, criminal activity, sexual situations, abusive situations, or inappropriate language. Program staff shall not allow youth to view television, videos, or movies that are rated above PG.

(8) Programs allowing youth to participate in water related activities shall have a water safety plan, which at a minimum, shall address the following:

(a) Age and maturity of the youth who will participate;

(b) Identification of swimmers and non-swimmers;

(c) Special needs youth;

(d) Type of water in which the activity is taking place (pool or open water);

(e) Water conditions (clarity, turbulence, etc.);

(f) Bottom conditions;

(g) Lifeguard-to-youth ratio and positioning of lifeguards; and

(h) Equipment needed for the activity.

(9) Off-Campus Activities. Youth committed to high-risk level commitment are restricted to necessary, supervised off-campus activities, i.e. health and court-related activities. During the final 60 days of their residential stay and with court approval, youth in high-risk programs may be granted permission to leave facility grounds (supervised and, under limited circumstances, unsupervised) to engage in transitional activities (enrollment in school, performance of community service, and home visits of no more than 72 hours). A risk assessment shall be conducted on all youth prior to any off campus activity.

(10) The Program Director shall ensure access to and provision of physical health services to all youth committed to the program. The health care delivery system shall include the following components:

(a) Intake Screenings and Assessments (also known as "routine medical and dental screening and evaluation") upon entry and at other specified times;

(b) Follow-up assessments at specified intervals (also known as "periodic evaluations") and ongoing treatment by licensed health care professionals as required by the presence of a chronic condition, a change in a youth's physical or mental health status, or the initiation of a new medication or medical regimen;

(c) Episodic care including first aid and/or emergency care;

(d) Sick call care;

(e) Medication management systems that facilitate the safe, effective, and documented storage and administration of medications, both prescription and over-the-counter, for acute and chronic physical, mental, and dental health conditions;

(f) Infection control measures to prevent the spread of disease;

(g) Age appropriate health education;

(h) Transitional healthcare planning; and

(i) Health care documentation system.

(11) The SHO program shall have a Designated Health Authority defined as the physician (MD or DO licensed pursuant to Chapter 458 or 459, F.S.) who, by agreement, employment, contract or other arrangement, provides and/or supervises the provision of health care within the facility.

(12) The Program Director shall ensure access to and provision of mental health services to all youth committed to the program. The mental health care delivery system shall include the following components:

(a) Mental health and substance abuse screening upon admission to determine if there are any immediate mental health or substance abuse needs;

(b) Comprehensive mental health and substance abuse evaluation or updated comprehensive evaluations for those youth identified by screening as in need of further evaluation;

(c) Access to mental health and substance abuse services, including psychotherapeutic intervention (primarily individual, group, and family counseling and psychosocial or psychoeducational skills training) and medical/somatic intervention (primarily administration and management of psychotropic medication), for youth in need of mental health and/or substance abuse treatment;

(d) Crisis intervention and suicide prevention services;

(e) Specialized services for non-routine situations where additional mental health expertise is needed, such as sex offender treatment or pharmacological treatment; and

(f) Emergency mental health and substance abuse care.

(g) A Designated Mental Health Authority will be accountable to the Program Director for ensuring that mental health services are appropriately provided in the SHO. This person shall be a licensed mental health professional

(psychiatrist licensed pursuant to Chapter 458 or 459, F.S., psychologist licensed under Chapter 490, F.S., mental health counselor, clinical social worker or marriage and family therapist licensed under Chapter 491, F.S., or a psychiatric nurse as defined in Section 394.455(23), F.S.). A licensed mental health staff shall directly supervise unlicensed mental health staff.

Specific Authority 985.47(10), 985.64 FS. Law Implemented 985.47(10) FS. History–New \_\_\_\_\_.

#### 63E-3.013 Construction.

(1) The department shall conduct an assessment of need for additional SHO programs prior to the siting or construction of more than one facility in any judicial circuit.

(2) The department shall ensure that any newly constructed or leased facility is designed to comply with the following:

(a) 25 or less beds;

(b) Separate and secure facilities;

(c) 35-square feet of space per youth for dayroom activities;

(d) Shall provide a minimum of 70 square feet of space for single room occupancy per youth. The room must have 35 square feet of clear floor space;

(e) A minimum of 35 square feet of space per youth for multipurpose room activities;

(f) A minimum of 56.25 square feet per youth for rooms used for educational purposes. Classroom size is based on a maximum of 16 youth in a class;

(g) A minimum of 50 square feet of space per youth for outside recreation;

(h) A minimum of one toilet to every eight youth, one washbasin for every eight youth and one shower for every eight youth;

(i) Ensure the facility meets the needs of disabled youth;

(j) Employ a Closed Circuit Television system that includes but is not limited to, a color digital recording equipment. The DVR must be capable of a minimum of 30 days recorded event storage within the hard drive, have a minimum setting of eight frames per second, have a minimum of 16 camera inputs, and be capable of remote viewing. All equipment must be surge protected and have a USP backup and be connected to an emergency power supply; and

(k) Siting and construction activities shall comply with local zoning codes and requirements and be in compliance with all state building codes and requirements.

Specific Authority 985.47(12), 985.64 FS. Law Implemented 985.47(12) FS. History–New \_\_\_\_\_.

#### 63E-3.014 Program Monitoring and Evaluation.

(1) Periodic reviews by the DJJ regional residential monitor shall be conducted to ensure that quality services are provided, departmental standards are maintained, and

departmental policies, related statutes, and rules are followed in contracted and state-operated programs. Monitoring is conducted monthly, quarterly, or semi-annually, based on risk factors determined in an annual assessment by the residential monitor. If there are major deficiencies noted in the residential monitor's site visit summary, the program shall submit an outcome-based corrective action plan (OBCAP) to the designated DJJ regional residential monitor.

(2) Security Audit. The DJJ region's security monitor shall conduct an audit of the programs safety and security measures at least annually. The program shall develop a corrective action plan as instructed by the regional security monitor to address any non-compliance issues identified in the security audit report. If the security monitor performs a Pre-Operational and Post-Operational Review or Quality Assurance program audit, that may be substituted as the annual security audit.

(3) For new programs or programs undergoing a change in provider, an on-site review will be conducted 30 to 45 days prior to the anticipated date of youth into the program. The review shall determine whether the program has the trained staff, policies, procedures, equipment, and supplies in place sufficient to begin accepting youth into the program. A favorable review will result in a Letter of Operation being issued by the department, authorizing the facility to begin admitting youth.

(4) A second on-site review is conducted 60 to 90 days after the facility commences operations to confirm full compliance in areas found in partial or non-compliance during the Pre-Operational Review to ascertain readiness to continue operations, and to determine additional programming needs.

(5) In some cases where federal funds are involved, audits may be conducted according to federal requirements. Other reviews or audits may be required per contract or departmental policy or as determined necessary by the department. For example, a Program Administrative Review may be conducted in a program by designated regional staff when DJJ headquarters determines a more detailed review of an incident is required. Also, an investigation may be conducted by the DJJ Inspector General's staff when determined necessary. In addition, there may be inspections or reviews required locally, for example, by the county.

Specific Authority 985.47(8), (11), 985.64 FS. Law Implemented 985.47(8), (11) FS. History–New \_\_\_\_\_.

#### 63E-3.015 Research Projects.

(1) All research project requests must follow the department's Institutional Review Board Research Proposal Review Process, prior to any contact with youth. The Institutional Review Board Research Proposal Review Process is the procedure the department utilizes to accept or deny research projects submitted to the department for consideration. The membership of the Institutional Review Board process consist of employees from all branches and

units in the department who review proposed research designs to be conducted at DJJ sites. The IRB is chaired by staff from the department's Bureau of Research and Data.

(2) No research project involving contact with youth or access to confidential information is authorized without the department's IRB and the Secretary's permission. Prior to any research project involving youth in the department's custody, the research project's lead researcher shall obtain permission from the youth and the youth's parents or legal guardian.

(3) The principal investigator of any research project shall meet the department's definition of a qualified researcher as defined by this rule.

Specific Authority 985.47(11), 985.64 FS. Law Implemented 985.47(11) FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Michael Moore, Residential Services, Policy Development and Planning

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rex Uberman, Assistant Secretary for Residential Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 20, 2007

**DEPARTMENT OF JUVENILE JUSTICE**

**Residential Services**

RULE NOS.:	RULE TITLES:
63E-7.012	Transfer, Release and Discharge
63E-7.014	Staff Training
63E-7.015	Research Projects

PURPOSE AND EFFECT: The rule establishes the requirements for the administration and operation of state operated and contracted residential commitment programs for juvenile offenders.

SUMMARY: The rule sections address the transfer and discharge of youth, the training of specified staff, and the procedure for conducting research projects in residential facilities.

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

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

SPECIFIC AUTHORITY: 20.316, 985.601, 985.64 FS.

LAW IMPLEMENTED: 985.601, 985.04, 985.441, 985.03 FS.

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

DATE AND TIME: Tuesday, September 11, 2007, 10:00 a.m.  
PLACE: DJJ Headquarters, 2737 Centerview Drive, General Counsel's Conference Room 312, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Lydia Monroe, 2737 Centerview Dr., Ste. 312, Tallahassee, FL 32399-3100, e-mail: lydia.monroe@djj.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

63E-7.012 Transfer, Release and Discharge.

(1) Transfer.

(a) A residential commitment program may request to transfer a youth to a higher, lower, or same restrictiveness level program by submitting a Request for Transfer form and a transfer Performance Summary to a regional transfer administrator designated by the department. The transfer Performance Summary shall describe efforts by the program to meet the youth's treatment needs and to modify or manage non-compliant behavior. A program's request to transfer a youth shall be based on at least one of the following:

1. A youth's new law violations;
2. The youth's continued non-compliant behavior after the program has attempted to modify or manage it;
3. The program's incapacity to meet the youth's changing treatment needs;
4. The youth's gang affiliation;
5. Protection of the public; or
6. Impending program closure or reduction in the program's bed capacity.

(b) The transfer administrator shall conduct a transfer staffing if a youth is being considered for transfer to a higher restrictiveness program, and may conduct a transfer staffing in other cases when he or she deems necessary. If the transfer administrator schedules a transfer staffing, the program requesting the transfer shall:

1. Send the Notification of Transfer Staffing form letter and the transfer Performance Summary to the youth's parents or legal guardian, copying the youth, the youth's JPO, the Department of Children and Families foster care worker, if applicable, and any attorneys of record, including the defense attorney and state attorney;
2. Designate at least one member of the youth's treatment team to participate in the staffing; and
3. Provide any additional information and documentation requested by the transfer administrator.

(c) The transfer administrator shall approve or deny the transfer request based on review of information provided by the program, consideration of any transfer staffing recommendations, verification of the youth's eligibility for admission into a program at the recommended restrictiveness level, and availability of a program that can better meet the youth's needs while protecting the public. However, if the

transfer administrator approves a request that recommends a transfer to a restrictiveness level other than that to which the court committed the youth, the transfer administrator shall submit the transfer request to the court.

(d) The residential commitment program shall include any transfer request and notification documentation in the youth's individual management record.

(e) When a transfer is granted, the initiating residential commitment program shall prepare a transfer packet. The receiving program shall inspect the packet prior to the transferred youth's admission and, if any core documents are not included in the packet, shall contact the initiating program to request the missing documents be faxed or electronically transmitted. The core documents are as follows:

1. DJJ face sheet;

2. Current commitment order;

3. Predisposition report;

4. Commitment conference summary; and

5. Individual healthcare record that includes:

a. The current original Authority for Evaluation and Treatment or a current legible copy;

b. Comprehensive physical assessment;

c. Immunization records; and

d. Tuberculosis skin test (Mantoux) results, unless contraindicated.

(f) Within 24 hours of any transfer or on the first regular workday of the following week when the youth is transferred on a holiday, a weekend or a Friday afternoon, the program shall update the JJIS Bed Management System or, if a program does not have access to JJIS, shall notify the regional commitment manager. The only exception to this notification requirement is when the regional commitment manager served as the transfer administrator who granted the transfer request.

(2) Release.

(a) When planning for the release of any youth who is clearly not subject to involuntary commitment as a Sexually Violent Predator (SVP), a residential commitment program shall comply with the following provisions.

1. A program with a designed or estimated length of stay of more than 45 days shall forward the Pre-Release Notification and Acknowledgment form, with the pre-release notification section completed, and the release Performance Summary to the youth's JPO at least 45 days, or in the case of a sex offender who is not VSP eligible, at least 90 days prior to the youth's planned release date. A residential commitment program with a designed or estimated length of stay of 45 days or less shall forward the Pre-Release Notification and Acknowledgment form, with the pre-release notification section completed, to the youth's JPO within 72 hours of the youth's admission to the program.

a. If the program does not receive the completed Pre-Release Notification and Acknowledgment form within 20 working days of the program sending it to the youth's JPO, the program shall contact the JPO or the JPO's supervisor to expedite return of the form.

b. In the event that the court directly contacts a residential commitment program to summon, subpoena, or request the youth appear at a hearing to address the release request, the program shall immediately notify the youth's JPO or, if unavailable, the JPO's supervisor.

c. If the court objects to the youth's release, the program shall resubmit the Pre-Release Notification and Acknowledgment form and Performance Summary to the JPO after the youth has made progress towards meeting the court's expectations.

d. The program shall not release any youth without written notification from the JPO or the JPO's supervisor that documents the court's approval or confirms the release is considered approved when the court does not respond within 10 days of the department's request. Upon notification that a release request has been approved or is considered approved, the program shall provide written notification to the youth's parents or legal guardian of the planned release.

2. If a youth's offense is homicide pursuant to Chapter 782, F.S. (lawful representatives or next of kin considered as the victims in homicide cases), a sexual offense pursuant to Chapter 794, F.S., attempted murder or a sexual offense pursuant to Chapter 777, F.S., stalking pursuant to Section 784.048, F.S., or domestic violence pursuant to Section 25.385, F.S., the program shall notify the youth's victims or their designees prior to releasing the youth unless the youth's JPO has provided the program with a waiver of notification rights signed by the victims or their designees.

a. The program shall track youth whose victims or designees require notification while maintaining confidentiality that protects the identity of victims.

b. The program shall mail the Victim Notification of Release form letter to the victims or their designees at least 10 working days prior to the youth's release or, if circumstances beyond the program's control prevent this, as soon thereafter as possible before the youth's release. The program shall document all notifications and attempted notifications and shall copy the youth's JPO and the youth's individual management record on the notification letter.

c. Under no circumstances shall the program notify a victim or designee if he or she waived notification rights in writing, nor shall the program notify the victim or designee until the youth's JPO notifies the program of approval to release the youth.

3. The program shall also ensure the following notifications prior to a youth's release:

a. Educational and vocational staff so required post-testing may be conducted, transcripts prepared, records transferred, and the receiving community school notified.

b. Parties or entities requiring notification if the youth is a juvenile sex offender pursuant Section 985.48, F.S.; and

c. JJIS or the department's regional commitment manager. Within 24 hours of any release or on the first regular workday of the following week when the youth is released on a holiday, a weekend or a Friday afternoon, the program shall update the JJIS Bed Management System or, if a program does not have access to JJIS, shall notify the regional commitment manager.

4. Prior to a youth's release, the program shall comply with the following departure procedures:

a. Arrange transportation as necessary; and

b. Conduct a property inventory of the youth's personal possessions in the presence of the youth, documenting the inventory and verifying its accuracy with signatures of the staff conducting the inventory, the youth, and a witness. The program shall reconcile any differences between the intake and release inventories.

(b) When planning the release of any youth who, based on the department's screening, may be eligible for involuntary commitment as a SVP, a residential commitment program shall comply with the following provisions:

1. Not less than 240 days prior to the anticipated release of a youth who is potentially SVP eligible, a program with a designed or estimated length of stay of 240 days or more shall notify the JPO of the anticipated release. A program with a designed or estimated length of stay of less than 240 days shall commence notification to the JPO within 30 days of the youth's admission to the program.

2. The program shall not release any youth who is potentially SVP eligible and subject to the provisions of Chapter 394, F.S., until the Sexual Predator Unit at the Department of Children and Families (DCF) has determined eligibility and the youth's JPO has advised the program how to proceed and has provided the program with written documentation to support such action. To facilitate this eligibility determination process, the residential commitment program shall provide to the youth's JPO the documentation required by DCF.

a. A program with an estimated length of stay of 240 days or more shall provide the Jimmy Ryce Act For violent Sexual Offenders/Residential Program Notification Checklist, the performance plan, the Performance Summary, a physical health summary, a summary of the youth's institutional adjustment if not included in the Performance Summary, and any psychological or psychiatric report.

b. In the case of a program whose estimated length of stay is less than 240 days, wherein release notification commences 30 days or less after the admission of a potentially SVP eligible youth is admitted, the program shall initially provide the JPO with the Jimmy Ryce Act For Violent Sexual

Offenders/Residential Program Notification Checklist, the performance plan, a physical health summary, a summary of the youth's institutional adjustment, and any psychological or psychiatric reports. Additionally, the program shall provide the JPO with the Performance Summary and the transition plan immediately subsequent to their completion. Although the program provides existing psychological or psychiatric reports at the time it commences release notification, the program shall provide the JPO with any subsequent psychological or psychiatric reports that may be generated while the youth is still in the program.

c. If DCF determines that a youth is not subject to civil commitment as a SVP pursuant to Chapter 394, F.S., the program shall comply with the provisions set forth in paragraph 63E-7.012(2)(a) of this rule chapter.

(c) In addition to complying with the provisions of paragraph (2)(a) or (2)(b) of this section of this rule chapter, when planning for the release of any sex offender whose offense is specified in Section 943.0435, F.S., and who is subject to registration requirements pursuant to Section 985.481, F.S., a residential commitment program shall:

1. Take a digital photograph of the youth within 60 days prior to release and download the image into JJIS or provide it to the youth's JPO; and

2. Explain the registration requirements to the youth prior to release and obtain a signed statement wherein the youth acknowledges that he or she understands the requirement to register at the sheriff's office when he returns to his county of residence.

(3) Discharge. When a youth is being directly discharged rather than released to post-commitment probation or conditional release supervision, a residential commitment program shall comply with the notification requirements for release pursuant to subparagraph 63E-7.012(2)(a)1., sub-subparagraph 63E-7.012(2)(a)1.a., and subparagraphs 7.012(2)(a)2.-3., F.A.C., of this rule chapter and the departure requirements pursuant to subparagraph 63E-7.012(2)(a)4. of this rule chapter, with the following exceptions:

(a) The program shall send a discharge rather than release summary with the Pre-Release Notification and Acknowledgment form to the youth's JPO; and

(b) The program shall notify the youth's parent or legal guardian at least 30 days prior to the youth's discharge unless the youth is being discharged because he or she has reached the age of jurisdiction.

(4) If a youth in a residential commitment program is taken into custody by law enforcement as an adult for crimes that occurred prior to or during residential placement, the program shall:

(a) Complete the Request for Notification When Youth Is Ready for Release form, securing the signature of the law enforcement officer taking custody of the youth, and give him or her a copy of the form and a copy of the youth's commitment order;

(b) Contact the youth's JPO by telephone and in writing, immediately notifying him or her of the youth's status; and

(c) Document the event, notifications and attempted notifications.

(5) When a youth in a residential commitment program is arrested on a new charge or a pre-placement charge pending in juvenile court that results in the youth going to detention, the residential program shall facilitate a timely return of the youth unless the youth's continued placement in the program substantially jeopardizes safety or security.

Specific Authority 985.64, 985.601(3)(a), 20.316 FS. Law Implemented 985.601(3)(a), 985.03(44), 985.441(1)(b) FS. History—New \_\_\_\_\_.

#### 63E-7.014 Staff Training.

(1) A residential commitment program shall ensure that pre-service or certification training and in-service training for direct care staff, including documentation of training, is consistent with Chapters 63H-2 and 63H-1, F.A.C.

(2) A residential commitment program shall ensure that each non-direct care staff receives pre-service and in-service training commensurate with his or her assigned job duties, including PAR training when required pursuant to Chapter 63H-1, F.A.C. Additionally, the program shall include the following topics in pre-service training for non-direct care staff having direct contact with youth as part of their assigned job duties:

(a) Orientation to include the program's mission, philosophy and treatment approach, incident reporting, child abuse reporting, and confidentiality pursuant to Section 985.04, F.S;

(b) Professionalism and ethics;

(c) Unique needs and treatment issues of the program's targeted population;

(d) Restorative justice principles and their application in the program;

(e) Program-specific safety and security procedures, including the program's COOP and Disaster Plan; and

(f) Implementation of the program's behavior management system.

(3) In order to specify the minimum required training and any additional training that the program deems necessary, a residential commitment program shall develop and implement a written annual training plan that addresses training for non-direct care staff. This plan, which specifies training topics, projected training dates, and targeted participants by staff types or classes, shall be consistent with training requirements

pursuant to Chapter 985, F.S., this rule chapter, Chapter 63H-1, F.A.C., and any additional staff training specified in a provider's contract with the department.

(4) A residential commitment program shall document training for each non-direct care staff consistent with the documentation requirements specified in Chapter 63H-2, F.A.C., for direct care staff.

(5) A residential commitment program shall ensure that any other service provider regularly on-site in the program receives orientation and training commensurate with his or her assigned role and function. This training shall include professionalism and ethics, safety and security, abuse and incident reporting, confidentiality pursuant to Section

985.04, F.S., and other topics as deemed necessary by the program.

Specific Authority 985.64, 985.601(3)(a), 985.601(8), 20.316 FS. Law Implemented 985.601(3)(a), 985.601(8) FS. History—New \_\_\_\_\_.

#### 63E-7.015 Research Projects.

(1) For purposes of this section, research is defined as a systematic investigation designed for the gathering and analysis of information to develop or contribute to generalized knowledge. Research proposals from researchers within the department and from other institutions are subject to the department's Institutional Review Board (IRB) Process and must be approved in writing by the DJJ Secretary or designee prior to its implementation, including contact with youth or access to youth records for the purposes of such research. Proposals or requests that are not subject to the department's IRB process include:

(a) Requests from state and federal government agencies for existing data and information collected by the department for program management and evaluation purposes if they are to be used for the same purposes by the requesting agencies and a data sharing agreement exists between the aforementioned entities;

(b) Research and evaluation deemed necessary by the department for program management and reporting and conducted by the department's unit specifically designated to conduct research and evaluation activities;

(c) Data collection and data analysis conducted by any department unit for purposes of program management and reporting on their daily operations;

(2) The recommendation of the IRB for approval of a research proposal shall be based on:

(a) The likelihood that the research will not cause harm to the subjects;

(b) The requester's plan to seek informed assent from each perspective participant and consent from his or her legally authorized representative and to provide supporting documentation of acquired assent and consent;

(c) The requester’s plan to take adequate precautions to protect the privacy and confidentiality of subjects and their information;

(d) The support from the residential commitment programs to serve as research sites;

(e) A determination that the associated workload for departmental staff will not interfere with their capacity to perform regularly assigned job functions; and

(f) The potential of the research to provide the department and other juvenile justice stakeholders with information that can be used to improve services to youth or otherwise reduce juvenile delinquency.

(3) The principal investigator, meaning the person who requested the IRB to review the research proposal and who is conducting and/or directing the research project, shall ensure any department approved research project is implemented as approved by the department. The principal investigator shall secure authorization from the IRB prior to implementing any changes in the approved research design and methodology. Additionally, the principal investigator shall report any anticipated and unanticipated problems and changes involving risk to subjects and others to the IRB director for review. Any violation or deviation from IRB requirements, approved research protocol, or human subjects may result in termination of departmental approval.

(4) The principal investigator shall submit a copy of the final report published on the authorized research project to the department for review at least 90 days prior to its submission for publication.

(5) A residential commitment program shall not permit commencement of any research project in or associated with the program without an IRB letter of approval signed by the department’s Secretary or designee.

Specific Authority 985.04, 985.64, 20.316 FS. Law Implemented 985.04 FS. History–New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Pamela Brantley, Residential Services, Policy Development and Planning

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rex Uberman, Assistant Secretary for Residential Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 20, 2007

**DEPARTMENT OF HEALTH**

**Board of Nursing Home Administrators**

RULE NO.: 64B10-12.002                      RULE TITLE: Application for Licensure

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete application fee for “initial licensure” and to delete “nonrefundable” reference from description of application fee and to add “application fee for licensure by endorsement”.

SUMMARY: The rule amendment will delete application fee for “initial licensure” and to delete “nonrefundable” reference from description of application fee and to add “application fee for licensure by endorsement”.

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

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

SPECIFIC AUTHORITY: 468.1685(1), 468.1695(2) FS.

LAW IMPLEMENTED: 456.013(2), 468.4685(4), 468.1705(1), 468.1735 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin # C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-12.002 Application for Licensure.

(1) The ~~nonrefundable~~ application fee for licensure by initial licensure/ endorsement and provisional licensure shall be \$250.00 each.

(2) The ~~nonrefundable~~ application fee for preceptor is \$50.00.

Specific Authority 468.1685(1), 468.1695(2) FS. Law Implemented 456.013(2), 468.4685(4), 468.1705(1), 468.1735 FS. History–New 12-26-79, Formerly 21Z-12.02, Amended 1-22-90, Formerly 21Z-12.002, 61G12-12.002, 59T-12.002, Amended 11-4-02, 2-15-06, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Nursing Home Administrators

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Nursing Home Administrators

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 29, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 6, 2007



**DEPARTMENT OF HEALTH**

**Board of Nursing Home Administrators**

RULE NO.:                    RULE TITLE:  
64B10-12.009                Initial Licensure Fee

PURPOSE AND EFFECT: The Board proposes the rule amendment to increase initial licensure fee for nursing home administrators.

SUMMARY: The rule amendment will increase initial licensure fee for nursing home administrators.

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

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

SPECIFIC AUTHORITY: 456.025, 468.1685(1) FS.

LAW IMPLEMENTED: 456.025 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr, Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin # C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-12.009 Initial Licensure Fee.

The initial licensure fee for nursing home administrator's license whether by examination or endorsement shall be \$500.00 ~~\$250~~. An applicant not eligible for licensure may receive a refund of the initial licensure fee.

Specific Authority 456.025, 468.1685(1) FS. Law Implemented 456.025, 468.1685(1) FS. History—New 6-14-82, Formerly 21Z-12.009, 61G12-12.009, Amended 2-13-95, Formerly 59T-12.009, Amended 2-26-02, 8-17-05,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing Home Administrators

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Nursing Home Administrators

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 29, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 6, 2007

**DEPARTMENT OF HEALTH**

**Board of Podiatric Medicine**

RULE NO.:                    RULE TITLE:  
64B18-14.002                Penalties

PURPOSE AND EFFECT: The Board proposes the rule amendment to identify the range of penalties for licensees who fail to provide their last known address or fail to notify the Board of changes in their supervisor.

SUMMARY: A penalty range is identified for licensees who fail to provide their last known address or who fail to notify the Board of changes in their supervisor.

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

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

SPECIFIC AUTHORITY: 456.039(3), 456.072, 456.073(3), 456.079, 461.003, 461.005, 461.013 FS.

LAW IMPLEMENTED: 456.033, 456.053, 456.062, 456.063, 456.067, 456.072, 456.073(3), 456.079, 461.012, 461.013 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Executive Director, Board of Podiatric Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B18-14.002 Penalties.

(1) No change.

(2)(a) through (tt) No change.

(uu) Failure to provide the last known address of record pursuant to Section 456.035, F.S., shall impose a penalty of suspension until compliance and payment of fine from \$500 to \$2,000.

(vv) Failure to notify the Board of changes in supervisor pursuant to Section 461.0135, F.S., shall impose suspension to revocation and a fine of \$1,000 to \$4,000.

Specific Authority 456.039(3), 456.072, 456.073(3), 456.079, 461.003, 461.005, 461.013 FS. Law Implemented 456.033, 456.053, 456.062, 456.063, 456.067, 456.072, 456.073(3), 456.079, 461.012, 461.013 FS. History—New 11-21-79, Amended 8-31-81, Formerly 21T-14.02, Amended 10-14-86, 12-8-88, 1-19-92, 4-26-93, Formerly 21T-14.002, 61F12-14.002, Amended 2-25-96, 5-29-97, Formerly 59Z-14.002, Amended 11-17-97, 8-24-00, 8-13-02, 4-26-04, 6-14-06, 10-10-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Podiatric Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Podiatric Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 22, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 20, 2007

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE NO.: 64B18-14.009
RULE TITLE: Minor Violations; Notices of Compliance

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete the requirement for obtaining an education course on HIV within six months of licensure.

SUMMARY: The requirement for obtaining an education course on HIV within six months of licensure will be removed from the rule.

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

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

SPECIFIC AUTHORITY: 456.072(3), 456.073, 461.005 FS.

LAW IMPLEMENTED: 456.073 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Executive Director, Board of Podiatric Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B18-14.009 Minor Violations; Notices of Compliance.

(1) through (3) No change.

(4)(a) through (r) No change.

(s) Failure to obtain an education course on human immunodeficiency virus and acquired immune deficiency syndrome within six (6) months of licensure as required by Section 456.033, F.S.

(5) No change.

Specific Authority 456.072(3), 456.073, 461.005 FS. Law Implemented 456.073 FS. History--New 4-1-91, Formerly 21T-14.009, 61F12-14.009, Amended 2-25-96, 6-17-97, Formerly 59Z-14.009, Amended 8-8-99,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Podiatric Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Podiatric Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 22, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 20, 2007

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE NO.: 64B18-14.010
RULE TITLE: Citations

PURPOSE AND EFFECT: The Board proposes the rule amendment to update violations and penalties.

SUMMARY: Violations and penalties will be updated.

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

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

SPECIFIC AUTHORITY: 456.072, 456.077, 461.005 FS.

LAW IMPLEMENTED: 456.057, 456.062, 456.072, 456.077, 461.012, 461.013(7) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Executive Director, Board of Podiatric Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE 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) CME violations. Podiatrist

(Section 456.077(2) and 461.013(1)(w), F.S.).

1. Failure to document 40 of the 40 required hours.

\$5,000 fine and reprimand

~~Within one year of the date of the citation is issued, Respondent must submit certified documentation of completion of all CME requirements for the period for which the citation was issued; prior to renewing the license for the next biennium, Respondent must document compliance with the CME requirements for the relevant period; AND~~

~~\$500 fine per category~~

~~2. Failure to document required~~

~~two (2) hour medical errors, HIV/AIDS, Florida laws and rules, or risk management CME.~~

~~3. Documentation of some, but not all 40 hours of required CME for license renewal.~~

\$125 fine for each hour not documented

~~3. Failure to document any of the required hours.~~

~~\$5,000 fine and reprimand~~

(b) CME violations: Podiatric X-ray Assistant

\$150 fine

Failure to document required eight (8)

hour recertification course.

(c) Practice on a delinquent license for a period of up to three months

\$500 fine for Podiatrist;

\$150 fine for Podiatric X-ray Assistant

(Sections 461.012(1)(a) and 461.013(1)(w), F.S.).

(d) Failure to notify Department of change of current mailing address and Place of practice.

\$500 fine for Podiatrist;

\$150 fine for Podiatric X-ray Assistant

(Sections 461.013(1)(h) and 456.035(1), F.S.)

(e) Failure to provide medical record of one patient in a timely manner. (Section 456.057, F.S.)

\$500 fine and proof records were provided

(f) Failure to provide the disclaimer required for free or discounted services.

\$500 fine

(Sections 456.062, 456.077(2) and 461.013(1)(w), F.S.)

(g) Soliciting patients.

\$500 fine

(Sections 456.072(1)(x), 456.077(2), 461.013(1)(k), and 461.013(1)(w), F.S.)

(h) Failure to comply with the requirements of profiling or credentialing.

\$500 fine

(Section 456.072(1)(v) and 456.077(2), F.S.)

(i) Failure to pay the one time assessment fee of \$375.00

Citation fine of \$500.00 plus payment of cost and the \$375.00 assessment fee.

(j) Failure to timely pay required costs and fines. (Section 456.077(2), F.S.)

\$2,500 fine and compliance of outstanding costs and fines within sixty days

(k) Failure to comply with Sections 381.026 and (l) Failure to comply with Section 456.039(3)(b)

\$250 fine and compliance within ten days

a fine of \$50.00 per day

(Section 456.077(2), F.S.)

381.0261, F.S., referencing patients bill of rights.

(Section 456.077(2), F.S.)

(4) through (5) No change.

Specific Authority 456.072, 456.077, 461.005 FS. Law Implemented 456.057, 456.062, 456.072, 456.077, 461.012, 461.013(7) 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 11-23-00, 8-13-02, 7-26-04, 6-14-06, 10-11-06, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Podiatric Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Podiatric Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 22, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 20, 2007

**DEPARTMENT OF HEALTH**

**Division of Family Health Services**

RULE NO.: 64F-17.001 RULE TITLE: Materials Incorporated by Reference PURPOSE AND EFFECT: To incorporate a department manual by reference and to update other materials currently incorporated by reference.

SUMMARY: The Procedure Manual for Sponsors of Day Care Homes is being incorporated by reference.

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

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

SPECIFIC AUTHORITY: 383.011(2)(c) FS.

LAW IMPLEMENTED: 383.011(1)(i) 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: Julia P. Forrester; 4052 Bald Cypress Way; Tallahassee, FL 32399-1703; (850)245-4005

THE FULL TEXT OF THE PROPOSED RULE IS:

64F-17.001 Materials Incorporated by Reference.

(1) Title 7 Code of Federal Regulations, Part 226, as published January 1, 2007~~6~~, and Title 7 Code of Federal Regulations, Parts 3015 and 3016, as published January 1, 2007~~6~~, are incorporated by reference.

(2) The Department of Health's publications entitled "Procedure Manual for Sponsors of Unaffiliated Centers," dated August 1, 2006, and "Procedure Manual for Sponsors of Day Care Homes," dated April 1, 2007, are ~~is~~ incorporated by reference.

(3) Copies of materials incorporated by reference may be obtained from www.doh.state.fl.us/ccfp or by writing to the Department of Health, 4052 Bald Cypress Way, Bin #A-17, Tallahassee, Florida 32399-1727.

Specific Authority 383.011(2)(c) FS. Law Implemented 383.011(1)(i) FS. History--New 7-22-99, Amended 2-20-04, 4-10-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Phillip Reeves

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Annette Phelps

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 8, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Economic Self-Sufficiency Program**

RULE NOS: 65A-1.301, 65A-1.704, 65A-1.705 RULE TITLES: Citizenship, Family-Related Medicaid Eligibility Determination Process, Family-Related Medicaid General Eligibility Criteria

PURPOSE AND EFFECT: Amendments to the rules will align citizenship requirements for Medicaid applicants and recipients with the federal law, the Deficit Reduction Act of 2005, Public Law 109-171 (DRA). Text has also been edited for technical deficiencies.

SUMMARY: Proposed amendments will revise language to be consistent with federal requirements for individuals who declare to be a U.S. citizen or national. These individuals are required to provide proof of U.S. citizenship and identity, unless they meet a federal exemption.

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

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

SPECIFIC AUTHORITY: 409.918, 409.919, 414.45 FS.

LAW IMPLEMENTED: 409.902, 409.903, 409.904, 409.918, 409.919, 410,033, 414.095, 414.31 FS.

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

DATE AND TIME: September 10, 2007, 1:30 p.m.

PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, FL 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Pat Whitford, Economic Self-Sufficiency Services, Telephone (850)410-3479

THE FULL TEXT OF THE PROPOSED RULES IS:

65A-1.301 Citizenship.

(1) The individual whose needs are included must meet the citizenship and noncitizen status established in: P.L. 104-193, The Personal Responsibility and Work Opportunity Reconciliation Act of 1996; P.L. 105-33, the Balanced Budget Act of 1997; P.L. 105-185, the Agricultural Research, Extension, and Education Reform Act of 1998; P.L. 105-306, the Noncitizen Benefit Clarification and Other Technical Amendments Act of 1998; P.L. 109-171, the Deficit Reduction Act of 2005; and, the Immigration and Nationality Act.

(2) For Medicaid, an individual who indicates they are a U.S. citizen, and who is not subject to an exemption, must provide proof of U.S. citizenship and identity as specified in P.L. 109-171, the Deficit Reduction Act of 2005 as amended by P.L. 109-432, Tax Relief and Health Care Act of 2006. The Department will assist with obtaining documentation if the applicant or recipient indicates they are having a problem obtaining the documentation.

(3)(2) The eligibility specialist must verify confirm the immigration status of ~~all~~ non-U.S. citizens through the United States Citizenship and Immigration and Naturalization Service (USCIS) (INS). Verification will be requested electronically using the alien number, or based on a USCIS or prior Immigration and Naturalization Services (INS)) document provided by the applicant. The system of verification is known as the Verification Information System-Customer Processing System (VIS-CPS) Systematic Alien Verification for Entitlement System (SAVE) Program. SAVE verification must be obtained when the alien provides an INS document that does not clearly indicate alien status. When the noncitizen alien provides neither an alien number nor an USCIS INS document to indicate their status, the noncitizen alien must contact the USCIS INS to obtain documentation or verification of noncitizen alien status. The department will assist in obtaining documentation this effort if requested ~~to do so~~. If the noncitizen alien provides any form of USCIS INS documentation, regardless of the expiration date, showing an eligible Immigration Act section, the eligibility specialist must accept the documentation and verify the individual's status through SAVE. Electronic verification of an eligible immigrant status ~~through SAVE~~ is acceptable proof

~~documentation~~ of the individual's eligible status for all programs. Automated verification ~~by telephone~~ is attempted first. If automated verification cannot be obtained, noncitizenship status must be verified manually (i.e., secondary verification) through use of an USCIS INS form. Benefits will not be withheld when VIS-CPS SAVE indicates secondary (i.e., manual) verification is required and response from the secondary verification is pending, provided all other technical factors of eligibility are met. Benefit recovery is required when such individuals are determined to not have been ~~no longer~~ in an eligible noncitizen alien status.

(4)(3) Noncitizens who would experience an undue hardship in obtaining current USCIS INS documentation, hospitalized noncitizens or noncitizens with a medical disability will be considered eligible for benefits on the noncitizen factor of eligibility while awaiting the return of USCIS INS secondary or manual verification. Undue hardship includes living a prohibitive distance from the USCIS INS office, lack of transportation, inability to travel to or attend appointments due to a medical condition, or a long waiting period for an appointment with the USCIS INS. However, these individuals are subject to recoupment for any benefits issued while verification is pending should they subsequently be determined to have been in an ineligible noncitizen ~~alien~~ status.

Specific Authority 409.919, 414.45 FS. Law Implemented 409.903, 409.904, 410.033, 414.095(3), 414.31 FS. History—New 4-9-92, Amended 11-22-93, Formerly 10C-1.301, Amended 4-18-99, \_\_\_\_\_.

65A-1.704 Family-Related Medicaid Eligibility Determination Process.

(1) No change.

(2) Simplified Eligibility for Pregnant Women.

(a) through (b) No change.

(c) The following information must be verified or obtained, as indicated below, prior to approval for Medicaid for a pregnant woman.

1. through 3. No change.

4. A declaration of citizenship is required. The applicant's statement on the Health Insurance Application for Pregnant Woman, CF-ES 2700, 08/2006, is acceptable as a declaration of citizenship. U.S. citizens must provide proof of their U.S. citizenship and identity, if they are not subject to an exemption as specified in P.L. 109-171, the Deficit Reduction Act of 2005 as amended by P.L. 109-432, Tax Relief and Health Care Act of 2006.

5. Non-citizens must provide proof of immigration status through the USCIS. The department will request verification of immigration status of noncitizens electronically through the VIS-CPS using the noncitizen's alien number. If the pregnant woman is a non-citizen, she may provide her aAlien number to the eligibility public assistance specialist on the application.

If the information is not on the application, it may be provided ~~obtained~~ by telephone. The pregnant woman's eligibility as a non-citizen will be determined in accordance with Section 1137 of the Social Security Act. ~~As a non-citizen, she will be requested to provide verification of her immigration status and the SAVE system will be used to verify this information.~~

- ~~6.5.~~ No change.
- ~~7.6.~~ No change.
- (d) No change.
- (3) through (5) No change

Specific Authority 409.919 FS. Law Implemented 409.902, 409.903, 409.904, 409.919 FS. History--New 10-8-97, Amended 2-7-01, 10-21-01, 4-1-03, 2-4-04, \_\_\_\_\_.

65A-1.705 Family-Related Medicaid General Eligibility Criteria.

- (1) through (7) No change.
- (8) Medicaid Applications Due to KidCare.
- (a) through (b) No change.
- (c) Prior to approval for Medicaid;

1. Children who are U.S. citizens must have their citizenship and identity verified unless they are exempt from the requirement as specified in P.L. 109-171, the Deficit Reduction Act of 2005 as amended by P.L. 109-432, Tax Relief and Health Care Act of 2006:

2. Verification of immigration status will be required for children who are not citizens. Immigration status will be verified. This requirement will be met through the VIS-CPS SAVE system and completion of a KidCare Program Immigration Status Statement, CF-ES 2083, Oct. 2002 (incorporated by reference). Information about immigration status and the receipt of Medicaid will be sent to parents when they are asked to complete the Immigration Status Statement form. If the requested information is not provided within thirty (30) days, the application will be denied, unless a request for an extension is made or there are extenuating circumstances known to the department justifying an extension. If the verification or information is difficult for the parent or caretaker to obtain, the eligibility specialist must provide assistance obtaining the verification or information when requested.

- (d) through (h) No change.
- (9) No change.

Specific Authority 409.918, 409.919 FS. Law Implemented 409.902, 409.903, 409.904, 409.818, 409.919 FS. History--New 10-8-97, Amended 9-28-98, 4-5-99, 11-23-99, 2-15-01, 9-24-01, 4-1-03, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Nathan Lewis

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jennifer Lange

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 27, 2007

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Family Safety and Preservation Program**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
65C-20.008	Application
65C-20.009	Staffing Requirements
65C-20.010	Health Related Requirements
65C-20.011	Health Records
65C-20.012	Enforcement
65C-20.013	Large Family Child Care Homes (LFCCH)
65C-20.014	Gold Seal Quality Care Program

**PURPOSE AND EFFECT:** The rule modifications contained in this document will establish minimum child care licensing standards for safety, enforcement and disciplinary sanctions, child discipline, transportation and Gold Seal Accreditation. In addition, training requirements for substitutes have been modified and training exemptions have been removed for operators, employees and substitutes. These modifications will provide better continuity between licensed child care programs for those standards involving safety, enforcement, disciplinary sanctions, child discipline, transportation and Gold Seal.

**SUMMARY:** The 2006 Legislature passed Senate Bill 1510 which requires the Department to establish minimum child care health and safety licensing standards for family day care homes including, uniform enforcement and disciplinary sanctions, child discipline, and transportation. Senate Bill 1510 also requires the Department to establish minimum standards for uniform enforcement and disciplinary sanctions for large family child care homes.

In addition, training requirements for family day care homes and large family child care homes related to substitutes have been modified and training exemptions have been removed for certain operators, employees and substitutes.

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

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

**SPECIFIC AUTHORITY:** 402.281, 402.310, 402.313, 402.3131 FS.

**LAW IMPLEMENTED:** 402.281, 402.310, 402.313, 402.3131 FS.

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

DATES AND TIME: September 11, 2007, 9:00 a.m. (Tallahassee); September 12, 2007, 9:00 a.m. (Orlando)

PLACES: Department of Children and Families, 1317 Winewood Blvd., Building 4, Tallahassee, FL 32399; Department of Children and Families, 400 W. Robinson St., Hurston South Tower, 1st Floor, Conference Room B, Orlando, FL 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mike Boland (850)921-8228

THE FULL TEXT OF THE PROPOSED RULES IS:

65C-20.008 Application.

(1) Application for a license or for renewal of a license to operate a family day care home must be made on CF-FSP Form 5133, August 2007 April 2006, Application for a License to Operate a Family Day Care Home, which is incorporated by reference may be obtained from the licensing authority or on the Department of Children and Family Services' website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare) by clicking on the forms link.

(2) No change.

(3) A submitted CF-FSP Form 5133 will not be considered complete until the licensing authority receives proof of background screening clearance on the operator/applicant of the family day care home and on all other household members who are subject to background screening pursuant to s. 402.313(3), F.S. Prior to taking care of children, the designated substitute for the operator must comply with background screening requirements and the licensing authority must receive proof of background screening clearances.

Specific Authority 402.313 FS. Law Implemented 402.313 FS. History--New 7-2-98, Amended 7-13-03, 9-12-04,\_\_\_\_\_.

65C-20.009 Staffing Requirements.

(1) through (2) No change.

(3) Staff Training.

(a) Prior to licensure and prior to caring for children, all family day care home operators and substitutes who work 40 hours or more per month on average during a 12 month period must:

1. Successfully complete the Department of Children and Family Services' 30 clock-hour Family Child Care Home training, as evidenced by successful completion of a competency based examination(s) offered by the Department of Children and Family Services or its designated representative with a weighted score of 70 or better. Family day care home operators who successfully completed the mandatory 30 clock-hour Family Child Care Home training prior to January 1, 2004 are not required to fulfill the competency examination requirement. Documentation of course completion may either be a single Family Child Care

Home (30 Hr) certificate or certificates for the Beginning July 1, 2006, the 30 clock hour Family Child Care Home training will be replaced by five (5) individual training courses which total 30 clock-hours of training: Family Child Care Home Rules and Regulations; Health, Safety and Nutrition; Identifying and Reporting Child Abuse and Neglect; Child Growth and Development; and Behavioral Observation and Screening.

a. ~~Child care personnel have one (1) opportunity, if they choose, to exempt from one (1) or more of the department's Introductory Child Care Training courses prior to attending training by successful completion of corresponding competency examinations with a weighted score of 70 or better.~~

b. ~~Beginning July 1, 2006 the Department of Children and Family Services or its designated representative shall exempt individuals from the Health, Safety, and Nutrition; Child Growth and Development; and Behavioral Observation and Screening courses who meet one (1) of the following educational qualifications:~~

~~(I) Associate's degree or higher with six (6) college credit hours in early childhood education/child growth and development or degree in elementary education with certification to teach any age birth through 6th grade; or~~

~~(II) An active National Early Childhood Credential (NECC) or an active Birth Through Five Florida Child Care Professional Credential (FCCPC).~~

e. ~~The Family Child Care Home training completed successfully after July 1, 2004 will be documented on the child care training transcript only. Training completed successfully prior to July 1, 2004 will be documented either on CF-FSP Form 5267, April 2006, Child Care Training Course Completion Certificate, which is incorporated by reference, or on the Department of Children and Family Services' child care training transcript.~~

2. Training completed successfully will be documented on the training transcript or on CF-FSP 5267, April 2006, Child Care Training Course Completion Certificate, which is incorporated by reference. CF-FSP 5267 may be obtained from the licensing authority or on the Department of Children and Family Services' website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare) by clicking on the training link.

3.2. Complete a single course of training in early literacy and language development of children ages birth through five (5) that is a minimum of five (5) clock-hours or .5 CEUs. Proof of completion will be documented on the certificate of course completion, classroom transcript, or diploma. In order to meet this requirement, individuals must complete one (1) of the following:

a. One (1) of the department's online literacy courses available on the Department of Children and Family Services' website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare); or

b. One (1) of the department's approved literacy training courses. A list of these courses may be obtained from the licensing authority or on the Department of Children and Family Services' website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare) (no additional courses will be approved by the department); or

c. One (1) college level early literacy course (for credit or non-credit) if taken within the last five (5) years.

~~4.3.~~ Certificate(s) of course completion for infant and child cardiopulmonary resuscitation (CPR) procedures and first aid training, which must be current and valid at all times. Certificates of course completion are valid based on the time frames established by each first aid and CPR training program, not to exceed three (3) years. Online CPR courses are not acceptable to meet this standard. CPR training must be completed by classroom instruction.

(b) Family day care home substitutes who work less than 40 hours a month on average during a 12 month period shall complete the Department of Children and Family Services' six (6) clock-hour Family Child Care Home Rules and Regulations training, as evidenced by successful completion of a competency based examination offered by the Department of Children and Family Services or its designated training representative ~~3-clock-hour Fundamentals of training~~ prior to caring for children. ~~Training completed successfully will be as~~ documented on the Department of Children and Family Services' CF-FSP Form 5267 ~~or and~~ the Department of Children and Family Services' child care training transcript.

1. The operator of the family day care home must sign a statement attesting to the number of hours that the substitute works in operators' home. The statement must be placed in the substitute's file.

2. Family day care substitutes who have successfully completed the three (3) clock-hour Fundamentals of Child Care Training or 30 clock-hour Family Child Care Home training are not required to complete the six (6) clock-hour Family Child Care Home Rules and Regulations course ~~(3 clock-hour Fundamentals of Child Care training)~~.

Specific Authority 402.313 FS. Law Implemented 402.313 FS. History—New 7-2-98, Amended 5-21-00, 7-13-03, 9-12-04, 4-12-07, \_\_\_\_\_.

#### 65C-20.010 Health Related Requirements.

##### (1) General Requirements.

(a) No change.

(b) All areas and surfaces accessible to children shall be free from toxic substances and hazardous materials. All potentially harmful items including cleaning supplies, flammable products, poisonous, toxic, and hazardous materials must be labeled. These items as well as knives, sharp tools and other potentially dangerous hazards shall be stored separately and locked or inaccessible to children out of a child's reach.

(c) through (e) No change.

(f) Family day care homes caring only for infants under 12 months of age, shall not be required to have an outdoor play area; however, infants in care shall be provided opportunities for outdoor time each day that weather permits. For all other family day care homes, including those providing evening care, the outdoor space shall maintain safe and adequate fencing, or walls, be fenced a minimum of four (4) feet in height if the family day care home property borders any of the following:

(g) Fencing, including gates, must be continuous and shall not have gaps that would allow children to exit the outdoor play area. The bottom or base of the fence must remain at ground level and free from erosion or buildup to prevent inside or outside access by children or animals.

##### (h) Outdoor Play Space and Outdoor Equipment.

1. All family day care homes shall provide outdoor equipment and play activities suitable to each child's age and development.

2. All playground equipment shall be securely anchored, unless portable or stationary by design, in good repair, maintained in safe condition, and placed to ensure safe usage by the children. Maintenance shall include checks at least every other month of all supports, above and below the ground, all connectors, and moving parts.

3. Permanent or stationary playground equipment must have a ground cover or other protective surface under the equipment that provides resilience and is maintained to reduce the incidence of injuries to children in the event of falls.

4. All equipment, fences, and objects on the family day care home's premises shall be free from sharp, broken and jagged edges and properly placed to prevent overcrowding or safety hazards in any one (1) area.

5. All equipment used in the outdoor play area shall be constructed to allow for water drainage and maintained in a safe and sanitary condition.

~~(i)(g)~~ All in-ground swimming pools and above-ground swimming pools more than one (1) foot deep shall have either a fence or barrier on all four (4) sides, at a minimum of four (4) feet in height, separating the home from the swimming pool; or a pool alarm that is operable at all times when children are in care. The fence or barrier shall not have any gaps or openings that would allow a young child to crawl under, squeeze through, or climb over the barrier. All spas and hot tubs must meet the same barrier requirements for in-ground and above-ground swimming pools, or spas and hot tubs may be covered with a safety cover, as defined in Section 515.25(1), F.S., that complies with ASTM F1346-91 (Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Hot Tubs, and Spas) at all times when children are in care. A copy of ASTM F1346-91 (2003), Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Hot Tubs, and Spas, may be obtained



from the licensing authority or on the Department of Children and Family Services' website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare) by clicking on the forms link. The exterior wall of the home with an ingress and egress, does not constitute a fence or barrier. All doors or gates in the fence or barrier shall be locked at all times when children are in care and when the pool is not being used by the children in care. In addition to the fence, barrier or pool alarm, the family day care home operator shall ensure that all exterior doors leading to the pool, spa, or hot tub area remain locked at all times while children are in care. Barriers may be temporary in nature but must be sturdy and meet all the above requirements and be in place during all times when children are in care. The wall of an above-ground swimming pool may be used as its barrier; however, such structure must be at least four (4) feet in height. In addition, any ladder or steps that are the means of access to an above ground pool must be removed at all times while children are in care and when the pool is not being used by the children in care.

(j)(4) If a family day care home uses a swimming pool, it shall be maintained by using chlorine or other suitable chemicals. If the family day care home uses a swimming pool that exceeds three (3) feet in depth at the family day care home site, one (1) person who has completed a basic water safety course such as offered by the American Red Cross, YMCA or other organization, must be present when children have access to the swimming area. If the family day care home uses swimming pools not at the family day care home site or takes the children to water areas such as a beach or lake for swimming activities, the family day care home operator must provide one (1) person with a certified lifeguard certificate or equivalent, who must be present when children are in the swimming area, unless a certified lifeguard is on duty.

(k)(4) A family day care home must include a designated area where each child can sit quietly or lie down to rest or nap.

(l)(4) Each child in care must be provided safe and sanitary bedding to be used when napping. Bedding means a cot, bed, crib, mattress, playpen or floor mat. Air mattresses and foam mattresses may not be used for napping. Mats must be at least one (1) inch thick and covered with an impermeable surface.

(m)(4) Children one (1) year of age or older may nap or sleep on beds used by the family provided individual linens are provided for each child. Each child shall have a separate bed, cot, crib, playpen, mattress or floor mat, except that two (2) sibling preschool children may share a double bed. Sleeping refers to the normal night time sleep cycle and playpens, air mattresses, foam mattresses, and mats may not be used for care when children are sleeping. The operator must prepare a written plan outlining the sleeping arrangements of the children in care to be provided to the licensing counselor upon request. If the children are sleeping overnight, the operator

must ensure accepted bedtime routines, such as brushing teeth and washing face and hands ~~washing~~. Toothbrushes, towels and wash cloths may not be shared.

(n)(4) Children up to one (1) year of age must be in an individual crib, portacrib or playpen with sides. Crib sides must be raised and secured while an infant is in the crib and bar spacings may not exceed two and three-eighths inches. Cribs must meet the construction regulations as outlined in Title 16, Parts 1508 & 1509, Code of Federal Regulations. No double or multi-deck cribs, cots or beds may be used. When napping or sleeping, young infants that are not capable of rolling over on their own shall be positioned on their back and on a firm surface to reduce the risk of Sudden Infant Death Syndrome (SIDS), unless an alternative position is authorized in writing by a physician. The documentation shall be maintained in the child's record.

(o)(4) A minimum distance of 18 inches must be maintained between individual napping space. Napping spaces shall not be designated in kitchens, bathrooms, utility rooms, or garages. If separate rooms are used for napping, the doors to each room shall remain open to allow the operator to respond to emergencies and needs of the children.

(p)(4) Potable drinking water shall be available to children of all ages at all times.

(q)(4) Single service paper or plastic plates, utensils, and cups shall not be reused. Plates, utensils, cups, bottles and sippy cups provided by the family day care home that are not disposable shall be washed, rinsed and sanitized between uses. All bottles and sippy cups brought from home shall be individually labeled with the child's first and last name and returned to the custodial parent or legal guardian daily.

(r)(4) Rodents and vermin shall be exterminated. Pest control shall not take place while rooms are occupied by children.

(s)(4) All parts of the home, both indoors and outdoors, including the furnishings, equipment, and plumbing shall be kept clean and sanitary, free from hazards, in an orderly condition and in good repair at all times. The family day care home shall have an operable smoke detector and fire extinguisher with a current certificate, at least one (1) operable corded telephone, and lighting that allows for safe movement and egress for children in care. At all times and appropriate for the activity, lighting in family day care homes must be sufficient enough to allow the operator to visually observe and supervise children in care. The home must have proper ventilation, and the temperature must be maintained between 65 and 82 degrees Fahrenheit.

(t)(4) If the operator chooses to supply food, the operator shall provide nutritious meals and snacks of a quantity and quality to meet the daily nutritional needs of the children. The USDA MyPyramid, April 2005, which is incorporated by reference, shall be used to determine what food groups to serve at each meal or snack and the serving size of the selected foods

for children ages two (2) and older. The categories “oils” and “discretionary calories” may not be considered food groups. Copies of the USDA MyPyramid may be obtained from licensing authority, the local county health department or from the USDA website at [www.mypyramid.gov](http://www.mypyramid.gov). Using the USDA MyPyramid for Young Children, breakfast shall consist of at least three (3) different food groups; lunch and dinner shall consist of at least four (4) different food groups and snacks shall consist of at least two (2) different food groups. If a special diet is required for a child by a physician, appropriate documentation shall be maintained in the child’s file for as long as the child is in care. If the custodial parent or legal guardian notifies the family day care home of any known food allergies, written documentation must be maintained in the child’s file.

(4) Communicable Disease Control.

(a) No change.

(b) The family day care home shall have a designated isolation area for a child who becomes ill. The child’s condition shall be closely observed. Any child who is suspected of having a communicable disease or who has a fever of 101 degrees Fahrenheit or higher, in conjunction with any of the signs and symptoms listed in paragraph 65C-20.010(4)(a), F.A.C., shall be placed in the isolation area. Linens and disposable items shall be changed after each use. The condition shall be reported to the custodial parent or legal guardian and the child shall be removed from the family day care home. Such children shall not return to the home without medical authorization, or until the signs and symptoms of the disease are no longer present.

(5) Medication.

(a) through (f) No change.

(g) All medicine must have child resistant caps and shall be stored separately and locked or inaccessible to children ~~not of a child's reach~~.

~~(h)~~(g) Medication which has expired or is no longer being administered shall be returned to the custodial parent or legal guardian or discarded if the child is no longer enrolled in care at the family day care home.

Specific Authority 402.313 FS. Law Implemented 402.313 FS. History--New 7-2-98, Amended 1-4-01, 7-13-03, 9-12-04, 4-12-07, \_\_\_\_\_.

65C-20.011 Health Records.

(1) No change.

(2) Enrollment and Medical Authorization.

(a) The operator shall obtain enrollment information from the child’s custodial parent or legal guardian prior to accepting the child into care. This information shall be documented on CF-FSP Form 5219, July 2006 ~~June 2005~~, Child Care Application for Enrollment, which is incorporated by reference, or an equivalent that contains all the information

required by the department’s form. CF-FSP Form 5219 may be obtained from the local Department of Children and Family Services district service center or the local licensing agency.

Specific Authority 402.313 FS. Law Implemented 402.313 FS. History--New 7-2-98, Amended 5-21-00, 7-13-03, 9-12-04, 4-12-07, \_\_\_\_\_.

65C-20.012 Enforcement.

~~(1) Pursuant to Section 402.313, F.S., family day care homes may be fined a maximum of \$100 per violation, per day for noncompliance with any of the applicable provisions of Sections 402.301-.319, F.S.~~

(1) Definitions.

(a) “Day” means a calendar day.

(b) “Probation” is a licensing status wherein the Department or local licensing agency issues a deadline for a home to remedy a violation or violations, which are within the control of the operator, to become compliant with licensing standards.

(c) “Provisional” is a licensing status wherein the Department or local licensing agency allows the home to operate for a designated period of time although one or more licensing standards, beyond the control of the operator, have not been met.

(d) “Standards” are requirements that must be met for licensure as a family day care home and that are identified on the CF-FSP Form 5318, August 2007, Family Day Care Home Standards Classification Summary and CF-FSP Form 5317, August 2007, Large Family Child Care Home Standards Classification Summary incorporated in this rule by reference.

(e) “Violation” means a finding of noncompliance with a licensing standard.

1. “Class I Violation” is an incidence of noncompliance with a Class I standard as described on CF-FSP Form 5318 and CF-FSP Form 5317. Class I violations are the most serious in nature, posing an imminent threat to a child including overt abuse or negligence and which could or does result in death or serious harm to the health, safety and well-being of a child.

2. “Class II Violation” is the second or subsequent incidence of noncompliance with an individual Class II standard as described on CF-FSP Form 5318 and CF-FSP Form 5317. Class II violations are less serious in nature than Class I violations and could be anticipated to pose a threat to the health, safety and well-being of a child, but the threat is not imminent.

3. “Class III Violation” is the third or subsequent incidence of noncompliance with an individual Class III standard as described on the CF-FSP Form 5318 and CF-FSP Form 5317. Class III violations are less serious in nature than either Class I or Class II violations and pose a low potential for harm to children.

4. “Technical Support Violations” are the first or second occurrence of noncompliance with an individual Class III standard or the first occurrence of noncompliance with a Class II standard.

(2) Authority. The operation of a family day care home is prohibited unless registered, or licensed, as required by county ordinance or resolution. The department or local licensing agency shall have the authority to seek an injunction in the circuit court where the home is located to stop the continued operation of a family day care home that is not licensed or registered. For licensed family day care homes, the department or local licensing agency shall also have the authority to seek an injunction in the circuit court where the home is located to stop the continued operation if the family day care home is in violation of the minimum standards. Pursuant to Section 120.60(6), F.S., an emergency suspension order may also be used to stop the continued operation if the family day care home poses immediate serious danger to the public health, safety, or welfare of the children who are enrolled.

(3) Disciplinary Sanctions.

(a) Enforcement of disciplinary sanctions shall be applied progressively for each standard violation. In addition, providers will be offered technical assistance in conjunction with any disciplinary sanction. The Department may take into consideration the actions taken by the facility to correct the violation when determining the appropriate disciplinary sanction.

(b) Some violations may have disciplinary sanctions levied for each child or employee record found in noncompliance within a standard on any one inspection.

(c) Each standard violation has an assigned classification. Some violations, as identified within the Family Day Care Home Standards Classification Summary and Large Family Child Care Standards Classification Summary, may escalate from one class to another based on the nature, severity, and/or repetition of the violation within a two (2) year period.

(d) A violation of any standard(s) that results in harm to a child may escalate to a Class I violation.

(e) Disciplinary sanctions for licensing violations that occur within a two (2) year period shall be progressively enforced as follows:

1. Class I Violations.

a. For the first Class I violation the Department shall, at a minimum, issue an administrative complaint imposing a fine not less than \$100 nor more than \$500 for each violation. The Department may impose other disciplinary sanctions in addition to the fine.

b. For the second Class I violation the Department shall, at a minimum, issue an administrative complaint placing the provider’s license or registration on probation status for a period not to exceed six (6) months. The Department may also levy a fine not less than \$100 nor more than \$500 for each violation in addition to any other disciplinary sanction.

c. For the third and subsequent Class I violations, the Department shall issue an administrative complaint to suspend, deny, or revoke the license or registration. The Department may also levy a fine not less than \$100 nor more than \$500 ay for each violation in addition to any other disciplinary sanction.

2. Class II Violations.

a. For the first Class II violation, the Department shall issue a formal warning letter stating the Department’s intent to take administrative action if further violations of the standard occur. The violation will be classified as “Technical Support”.

b. For the second Class II violation, the Department shall issue an administrative complaint imposing a fine in the amount of \$50 per day for each violation. This violation, and subsequent violations, of the same standard within a two-year period will be classified as “Class II”.

c. For the third Class II violation, the Department shall issue an administrative complaint imposing a fine in the amount of \$60 per day for each violation.

d. For the fourth Class II violation, the Department shall, at a minimum, issue an administrative complaint placing the provider’s license or registration on probation status for a period not to exceed 6 (six) months. The Department may also issue an administrative complaint imposing an additional fine of \$75 per day for each violation.

e. For the fifth and subsequent Class II violations, the Department shall issue an administrative complaint to suspend, deny, or revoke the license or registration. The Department may also issue an administrative complaint imposing an additional fine of \$100 per day for each violation.

3. Class III Violations.

a. For the first Class III violation, technical assistance shall be provided. The violation will be classified as “Technical Support”.

b. For the second Class III violation, the Department shall issue a formal warning letter stating the Department's intent to take administrative action if further violations of the standard are found. The violation will be classified as “Technical Support”.

c. For the third Class III violation, the Department shall issue an administrative complaint imposing a fine in the amount of \$25 per day for each violation. This Class III violation and subsequent Class III violations, of the same standard within a two-year period, will be classified as “Class III”.

d. For the fourth Class III violation, the Department shall issue an administrative complaint imposing a fine in the amount of \$30 per day for each violation.

e. For the fifth Class III violation the Department shall, at a minimum, issue an administrative complaint placing the provider’s license or registration on probation status for a

period not to exceed 6 (six) months. The Department may also issue an administrative complaint imposing an additional fine of \$40 per day for each violation.

f. For the sixth and subsequent Class III violation, the Department shall issue an administrative complaint to suspend, deny, or revoke the license or registration. The Department may also issue an administrative complaint imposing an additional fine of \$50 per day for each violation.

(4)(3) Access. The family day care home operator must allow access to the entire premises of the family day care home to inspect for compliance with family day care home minimum standards. Access to the family day care home also includes access by the parent, legal guardian, and/or custodian, to their child(ren) while in care.

(5) Child Discipline.

(a) Family day care homes shall adopt a discipline policy consistent with Section 402.305(12), F.S., including standards that prohibit children from being subjected to discipline which is severe, humiliating, frightening, or associated with food, rest, or toileting. Spanking or any other form of physical punishment is prohibited.

(b) All family day care home operators, including substitutes, must comply with the family day care home's written discipline policy.

(c) A copy of the written discipline policy must be available for review by the parents or legal guardian and the licensing authority.

(6) Child Abuse or Neglect.

(a) Pursuant to Section 402.301(1), F.S., acts or omissions that meet the definition of child abuse or neglect provided in Chapter 39, F.S., constitute a violation of the standards in subsection 402.301-319, F.S.

(b) Failure to perform the duties of a mandatory reporter pursuant to Section 39.201, F.S. constitutes a violation of the standards in subsection 402.301-319, F.S.

(7) Transportation.

(a) When any vehicle is regularly used by a family day care home to provide transportation, the driver shall have a valid Florida driver's license in accordance with Sections 322.01-.70, F.S.

(b) All family day care homes must maintain current insurance coverage on all vehicles used to transport children in care and documentation thereof.

(c) The maximum number of individuals transported in a vehicle shall not exceed the manufacturer's designated seating capacity or the number of factory installed seat belts.

(d) Each child, when transported, must be in an individual factory installed seat belt or federally approved, properly installed, child safety restraint, unless the vehicle is excluded from this requirement by Florida Statute.

(e) An adult must remain within sight and hearing of children being transported in a vehicle so as to be able to respond to the needs of the children at all times.

(f) Prior to transporting children and upon the vehicle(s) arrival at its destination, the following shall be conducted by the driver(s) of the vehicle(s) used to transport the children:

1. A log shall be maintained for all children being transported in the vehicle. The log shall be retained for a minimum of six months. The log shall include each child's name, date, time of departure and time of arrival, and signature of the driver to verify the fact that all children have left the vehicle.

2. Upon arrival at the destination, the driver of the vehicle shall:

a. Mark each child off the log as the child departs the vehicle.

b. Conduct a physical inspection and visual sweep of the vehicle to ensure that no child is left in the vehicle, and

c. Sign, date and record the driver's log immediately, verifying that all children were all accounted for and that the visual sweep was conducted.

(g) Smoking is prohibited in all vehicles while being used to transport children.

Specific Authority 402.310 FS. Law Implemented 402.310, 402.319(5) FS. History--New 7-2-98, Amended 7-13-03, 9-12-04, 4-12-07, \_\_\_\_\_.

65C-20.013 Large Family Child Care Homes (LFCCH).

(1) through (3) No change.

(4) LFCCH Personnel.

(a) through (c) No change.

(d) Prior to caring for children, the employee and substitute for the employee must within 5 working days after starting work, submit to the employer a complete set of information necessary to conduct a screening under this section.

(5) LFCCH Staff Training:

(a) No change.

(b) Large Family Child Care Home Operators. In addition to the training requirements identified in 65C-20.009(3)(a), F.A.C., large family child care home operators must:

1. Possess a CF-FSP 5306, April 2006, Staff Credential Verification Confirmation or one (1) of the following credentials for a minimum of one (1) year prior to Large Family Child Care Home Licensure:

a. An active National Early Childhood Credential (NECC); an active Birth Through Five or School-Age Florida Child Care Professional Credential (FCCPC) (formerly known as the Child Development Associate Equivalency); an active Florida Department of Education Child Care Apprenticeship Certificate (CCAC), Early Childhood Professional Certificate (ECPC) or School-Age Professional Certificate (SAPC); or meet the formal educational qualification requirement outlined

on CF-FSP Form 5211, April 2006, Staff Credential Application, which is incorporated by reference. An Employment History Recognition Exemption will not be accepted to meet the minimum staff credential requirements for Large Family Child Care Home.

a. A candidate must complete CF-FSP Form 5211, April 2006, Staff Credential Application.

(c) Large Family Child Care Home Substitutes. Prior to taking care of children, substitutes for the operator of a large family child care home and substitutes for the large family child care home employee who work 40 hours or more per month on average during a 12 month period shall be at least 18 years of age and must:

1. Successfully complete the Department of Children and Family Services' 30 clock-hour Family Child Care Home training, as evidenced by successful completion of a competency based examination(s) offered by the Department of Children and Family Services or its designated representative with a weighted score of 70 or better. Individuals who have successfully completed the mandatory 30 clock-hour Family Child Care Home training prior to January 1, 2004 are not required to fulfill the competency examination requirement. ~~Beginning July 1, 2006, the 30 clock-hour Family Child Care Home training will be replaced by five (5) individual training courses which total 30 clock-hours of training: Family Child Care Home Rules and Regulations; Health, Safety and Nutrition; Identifying and Reporting Child Abuse and Neglect; Child Growth and Development; and Behavioral Observation and Screening.~~

2. Training completed successfully will be documented on the training transcript or on CF-FSP 5267, April 2006, Child Care Training Course Completion Certificate, which is incorporated by reference. CF-FSP 5267 may be obtained from the licensing authority or on the Department of Children and Family Services' website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare) by clicking on the training link.

(a) A copy of the CF-FSP Form 5267 or training transcript must be included in each staff member's child care personnel record and maintained at each child care facility.

(b) A copy of the CF-FSP Form 5267 or training transcript for the director of a child care facility must be included in the department's official licensing file.

~~Completion of the 30 clock-hour Family Child Care Home training shall be documented on the Department of Children and Family Services CF-FSP Form 5267 or the Department of Children and Family Services child care training transcript.~~

~~a. Child care personnel have one (1) opportunity, if they choose, to exempt from one (1) or more of the department's Introductory Child Care Training courses prior to attending training by successful completion of corresponding competency examinations with a weighted score of 70 or better.~~

~~b. Beginning July 1, 2006 the Department of Children and Family Services or its designated representative shall exempt individuals from the Health, Safety, and Nutrition; Child Growth and Development; and Behavioral Observation and Screening courses who meet one (1) of the following educational qualifications:~~

~~(I) Associate's degree or higher with six (6) college credit hours in early childhood education/child growth and development or degree in elementary education with certification to teach any age birth through 6th grade; or~~

~~(II) An active National Early Childhood or an active Birth Through Five Florida Child Care Professional Credential.~~

3.2. Complete a single course of training in early literacy and language development of children ages birth through five (5) that is a minimum of five (5) clock-hours or .5 CEUs. Proof of completion will be documented on the certificate of course completion, classroom transcript, or diploma. In order to meet this requirement, substitutes for the operator of a large family child care home and substitutes for the large family child care home employee who work 40 hours or more per month on average during a 12 month period must complete one (1) of the following:

(d) Large Family Child Care Home Employees in a large family child care home. Employees in a large family child care home shall be at least 18 years of age and must:

1. Within 90 days of employment in the child care industry, begin the Department of Children and Family Services' 30 clock-hour Family Child Care Home training. The training shall be successfully completed within 12 months from the date on which the training began, as evidenced by the successful completion of a competency examination offered by the Department of Children and Family Services or its designated representative with a weighted score of 70 or better, and may not exceed 15 months from the date of employment in the child care industry. All individuals who have successfully completed the mandatory 30 clock-hour Family Child Care Home training prior to January 1, 2004 are not required to fulfill the competency examination requirement. ~~Beginning July 1, 2006, the 30 clock-hour Family Child Care Home training will be replaced by five (5) individual training courses which total 30 clock-hours of training: Family Child Care Home Rules and Regulations; Health, Safety and Nutrition; Identifying and Reporting Child Abuse and Neglect; Child Growth and Development; and Behavioral Observation and Screening.~~

2. Training completed successfully will be documented on the training transcript or on CF-FSP 5267, April 2006, Child Care Training Course Completion Certificate, which is incorporated by reference. CF-FSP 5267 may be obtained from the licensing authority or on the Department of Children and Family Services' website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare) by clicking on the training link.

a. A copy of the CF-FSP Form 5267 or training transcript must be included in each staff member's child care personnel record and maintained at each child care facility.

b. A copy of the CF-FSP Form 5267 or training transcript for the director of a child care facility must be included in the department's official licensing file.

~~a. Child care personnel have one (1) opportunity, if they choose, to exempt from one (1) or more of the department's Introductory Child Care Training courses prior to attending training by successful completion of corresponding competency examinations with a weighted score of 70 or better. The Family Child Care Home training must be documented on the Department of Children and Family Services CF-FSP Form 5267 or the Department of Children and Family Services child care training transcript.~~

~~b. Beginning July 1, 2006 the Department of Children and Family Services or its designated representative shall exempt individuals from the Health, Safety, and Nutrition; Child Growth and Development; and Behavioral Observation and Screening courses who meet one (1) of the following educational qualifications:~~

~~(I) Associate's degree or higher with six (6) college credit hours in early childhood education/child growth and development or degree in elementary education with certification to teach any age birth through 6th grade; or~~

~~(II) An active National Early Childhood Credential or an active Birth Through Five Florida Child Care Professional Credential.~~

~~3.2. Within 12 months of date of employment in the child care industry, complete a single course of training in early literacy and language development of children ages birth through five (5) that is a minimum of five (5) clock-hours or .5 CEUs. Proof of completion will be documented on the certificate of course completion, classroom transcript, or diploma. In order to meet this requirement, employees must complete one (1) of the following:~~

~~a. One (1) of the department's online literacy courses available on the Department of Children and Family Services website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare); or~~

~~b. One (1) of the department's approved literacy training courses. A list of these courses may be obtained from the licensing authority on the Department of Children and Family Services' website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare) (no additional courses will be approved by the department); or~~

~~c. One (1) college level early literacy course (for credit or non-credit) if taken within the last five (5) years.-~~

~~(e) Substitutes for an employee at a large family child care home. Prior to caring for children, substitutes for an employee at a large family child care home who work less than 40 hours a month on average during a 12 month period shall complete the department's six (6) clock-hour Family Child Care Home Rules and Regulations training, as evidenced by successful completion of a competency based examination offered by the~~

Department of Children and Family Services or its designated representative training prior to caring for children as documented on the Department of Children and Family Services' CF-FSP Form 5267 and the Department of Children and Family Services' child care training transcript ~~three (3) clock-hour Fundamentals of Child Care Training or completed Fundamentals of Child Care Training.~~ Large family child care substitutes who have successfully completed the three (3) clock-hour Fundamentals of Child Care or the 30 clock-hour Family Child Care Home training are not required to complete the six (6) clock-hour Family Child Care Home Rules and Regulations ~~three (3) clock-hour Fundamentals of Child Care training~~ course.

(7) LFCCH Supervision.

(b) Additional Supervision Requirements.

1. In addition to the number of staff required to meet staff to child ratios, if there are more than six (6) preschoolers participating on field trips away from the large family child care home, there must be one (1) additional adult present, per each six (6) preschoolers, or any fraction thereof, to provide direct supervision to the children. If some children remain in the home the adult supervision staff-to-child ratios as required in Section 402.302(7), F.S., shall apply and be maintained. In addition, one (1) staff on the field trip and one (1) staff member remaining on the premises with children must have a valid and current certificate(s) of course completion for infant and child cardiopulmonary resuscitation (CPR) procedures and first aid training. At no time shall the total number of children exceed the capacity as defined in Section 402.302(8)~~434~~, F.S.

(8) Transportation.

(a) When any vehicle is regularly used by a large family child care home to provide transportation, the driver shall have a valid current Florida driver's license in accordance with Sections 322.01-.70, F.S.

(b) through (d) No change.

(e) An adult must remain within sight and hearing sound of children being transported in a vehicle so as to be able to respond to the needs of the children at all times.

(f) No change.

(g) Smoking is prohibited in all vehicles being used to transport children.

(h) When one (1) staff takes some children on a field trip and one (1) staff remains on the premises with the remainder of the children in care, the operator or employee transporting children is totally responsible for the care and supervision of those children and shall follow the transportation guidelines for a family day care home as defined in subsection 65C-20.012(7), F.A.C.

(9) No change.

(10) Child Discipline.

(a) Large family child care homes shall adopt a discipline policy consistent with Section 402.305(12), F.S.

(b) All large family child care home operators and personnel, including substitutes, must comply with the large family child care home's written disciplinary policy. Such policies shall include standards that prohibit children from being subjected to discipline which is severe, humiliating, frightening, or associated with food, rest, or toileting. Spanking or any other form of physical punishment is prohibited by all child care personnel.

(c) Copy of the written discipline policy must be available for review by the parents or legal guardian and the licensing authority.

Specific Authority 402.3131 FS. Law Implemented 402.302, 402.305, 402.3131 FS. History—New 5-21-00, Amended 1-4-01, 7-13-03, 9-12-04,\_\_\_\_\_.

#### 65C-20.014 Gold Seal Quality Care Program.

##### (1) Definitions

(a) "Active" refers to the status of a Gold Seal Quality Care Accrediting Association that has met all of the criteria of a Gold Seal Quality Care Accrediting Association for accreditation.

(b) "Effective" refers to the beginning date of a Gold Seal Quality Care provider's designation certificate issued by the Child Care Program Office.

(c) "Expired" refers to the end date of a provider's Gold Seal Quality Care provider's designation certificate issued by the Child Care Program Office.

(d) "Gold Seal Quality Care Accrediting Association" refers to an accrediting association that has applied for and been approved by the Department as a Gold Seal Quality Care Accrediting Association.

(e) "Inactive" refers to the status of a Gold Seal Quality Care Accrediting Association where all criteria for accreditation are no longer being successfully met.

(f) "Nationally Recognized" refers to an association whose accrediting body is recognized, accepted and present in at least five (5) states or which had been approved as a Gold Seal Quality Care Accrediting Association by the Department prior to July 1, 2007.

##### (2) Provider Requirements.

(a) Gold Seal Quality Care Provider Designation Certificate Pursuant to Section 402.281(1), F.S., family day care homes and large family child care homes seeking to obtain designation as a Gold Seal Quality Care provider shall provide the Department with documentation of accreditation by an accrediting association that has been approved by the Department. A list of approved accrediting associations may be obtained from the licensing authority or on the Department of Children and Family Services' website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare).

##### (b) Gold Seal Quality Care Enforcement.

1. Gold Seal Quality Care providers must maintain national accreditation in order to retain their designation. A family day care home's Gold Seal designation will be terminated upon expiration of accreditation. In order to obtain and maintain Gold Seal Quality Care provider designation, a family day care home must meet the additional criteria outlined in Section 402.281(3), F.S.

2. If Gold Seal Quality Care designation is revoked by the Department, termination of the designation will be effective on the last day of the current period of licensure.

3. If the family day care home's accreditation is revoked by the accrediting agency, the family day care home's Gold Seal Quality Care designation will be terminated effective the date of revocation.

##### (3) Accrediting Association Requirements.

(a) Accrediting associations seeking recognition as a Gold Seal Quality Care Accrediting Association must complete and attest to the requirements referenced on CF-FSP Form 5315 August 2007 Gold Seal Quality Care Accrediting Application, which is incorporated by reference. CF-FSP Form 5315 may be obtained on the Department of Children and Family Services' website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare). Applications are accepted during the months of January and July. Denial of an application requires a minimum of a six month waiting period, from the date of denial, before re-submission during the next scheduled acceptance month.

(b) Active Gold Seal Quality Care Associations must re-apply every five (5) years by submitting form CF-FSP 5315 that may be obtained on the Department of Children and Family Services' website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare). Re-applications must be received a minimum of six (6) months prior to end of the five (5) year period. Failure to submit form CF-FSP 5315 every five (5) years or denial of the application will place the accrediting association in an inactive state, during which the association is not recognized as a Gold Seal Quality Care Accrediting Association. Child care settings receiving accreditation certificates from an inactive association shall not be recognized as a Gold Seal Quality Care Provider.

(c) Inactive Gold Seal Quality Care Accrediting Associations wishing to become active must be in compliance with all requirements outlined on CF-FSP 5315 as a new applicant before being reinstated as an active Gold Seal Quality Care Accrediting Association, pending the Department of Children and Family Services' approval.

Specific Authority 402.281 FS. Law Implemented 402.281 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Senior Management Analyst Supervisor

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Deborah Russo, Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 7, 2007  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 22, 2007

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Family Safety and Preservation Program**

RULE NOS.:	RULE TITLES:
65C-22.001	General Information
65C-22.003	Training.
65C-22.004	Health Related Requirements.
65C-22.006	Record Keeping.
65C-22.008	School Age Child Care
65C-22.009	Gold Seal Quality Care Program
65C-22.010	Enforcement

PURPOSE AND EFFECT: The rule modifications contained in this document establish a uniform system of procedures and disciplinary sanctions for child care licensing standards, establishes sanctions for the Gold Seal Quality Care program and minimum standards for Gold Seal Quality Care Accrediting Associations.

SUMMARY: The 2006 Legislature passed Senate Bill 1510 which requires the Department to establish minimum licensing standards for child care facilities that include a system of uniform enforcement and disciplinary sanctions, as well as associating licensing standard violations with Gold Seal Quality Care accreditation. The proposed rules also require the Department to establish minimum standards for Gold Seal Accrediting Associations.

The proposed rule eliminates a \$25 processing fee collected by the Department for the renewal of the Florida Director Credential Certification.

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

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

SPECIFIC AUTHORITY: 402.281, 402.305, 402.310 FS.

LAW IMPLEMENTED: 402.281, 402.305, 402.310 FS.

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

DATES AND TIME: September 11, 2007, 9:00 a.m. (Tallahassee); September 12, 2007, 9:00 a.m. (Orlando)

PLACES: Department of Children and Families, 1317 Winewood Blvd., Bldg 4, Tallahassee, FL 32399; Department of Children and Families, 400 W. Robinson St., Hustron South Tower, 1st Floor, Conference Room B, Orlando, FL 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mike Boland (850)921-8228

THE FULL TEXT OF THE PROPOSED RULES IS:

65C-22.001 General Information.

(1) Application.

(a) Application for a license or for renewal of a license to operate a child care facility must be made on CF-FSP Form 5017, August 2007, Application for a License to Operate a Child Care Facility, which is incorporated by reference. CF-FSP Form 5017 may be obtained from the licensing authority or on the Department of Children and Family Services' website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare) by clicking on the forms link.

(2) License.

(a) through (b) No change.

(c) The licensed capacity, as reflected on the annual license, may never exceed the total number of children in care on site and while on field trips.

(10) Attendance. Daily attendance of children shall be taken and recorded by the child care facility personnel, documenting the time when each child enters and departs a child care facility or program. The custodial parent or guardian may document the time when their child(ren) enter and depart the child care facility or program. Such records shall be maintained for a minimum of four (4) months. Attendance forms used for Voluntary PreKindergarten or School Readiness may be used if applicable.

~~(11) Child Safety. Pursuant to s. 402.301, F.S., acts or omissions that meet the definition of child abuse or neglect provided in Chapter 39, F.S., constitute a violation of the standards in Section 402.301-309, F.S.~~

Specific Authority 402.281, 402.305 FS. Law Implemented 402.281, 402.305, 402.3055, 402.308 FS. History—New 6-1-97, Amended 3-17-99, 7-26-00, 1-4-01, 7-13-03, 9-12-04,4-12-07.

65C-22.003 Training.

(1) through (5) No change.

(6) Annual In-Service Training.

(a) through (b) No change.

(c) Documentation of the in-service training requirement must be recorded on CF-FSP Form 5268, April 2006 September 2005, Child Care In-Service Training Record, which is incorporated by reference, and included in the child care facilities' personnel records. CF-FSP 5268 may be obtained from the licensing authority or on the Department of Children and Family Services' website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare). A new in-service training record is required each fiscal year. The in-service training records for the previous two (2) fiscal years must also be maintained at the child care facility for review by the licensing authority.

Specific Authority 402.305 FS. Law Implemented 402.302, 402.305 FS. History—New 6-1-97, Amended 7-2-98, 3-17-99, 7-26-00, 10-10-01, 4-2-02, 7-13-03, 9-12-04, 6-30-05, 4-12-07,\_\_\_\_\_.



## 65C-22.004 Health Related Requirements.

(1) No change.

(2) First Aid, Cardiopulmonary Resuscitation and Emergency Procedures.

(a) through (c) No change.

(d) Emergency Procedures and Notification.

1. Emergency telephone numbers, including ambulance, fire, police, poison control center, Florida Abuse Hotline, the county public health unit, and the address of and directions to the facility, including major intersections and local landmarks, must be posted on or near all facility telephones and shall be used to protect the health, safety and well-being of any child in daycare.

Specific Authority 402.305 FS. Law Implemented 402.305 FS. History—New 6-1-97, Amended 3-17-99, 7-26-00, 1-4-01, 7-13-03, 9-12-04, 4-12-07,\_\_\_\_\_.

## 65C-22.006 Record Keeping.

(1) through (2) No change.

(3) Enrollment Information. The facility operator shall obtain enrollment information from the child's custodial parent or legal guardian, prior to accepting a child in care. This information shall be documented on CF-FSP Form 5219, July June 2005, Child Care Application for Enrollment, which is incorporated by reference, or an equivalent form that contains all the information required by the Department of Children and Family Services on CF-FSP Form 5219. CF-FSP Form 5219 may be obtained from the licensing authority or on the Department of Children and Family Services' website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare).

Specific Authority 402.305 FS. Law Implemented 402.305 FS. History—New 6-1-97, Amended 7-2-98, 3-17-99, 7-26-00, 1-4-01, 7-13-03, 9-12-04, 4-12-07,\_\_\_\_\_.

## 65C-22.008 School Age Child Care.

(1) through (2) No change.

(3) School Age Child Care Standards.

(a) through (d) No change.

(e) General Requirements.

1. All school-age child care program facilities must be clean, in good repair, and free from health and safety hazards and from vermin infestation. During the hours that the program is in operation, no portion of the building shall be used for any activity which endangers the health and safety of the children.

2. All areas and surfaces accessible to children shall be free from toxic substances and hazardous materials.

3. All potentially harmful items including cleaning supplies, flammable products, poisonous, toxic, and hazardous materials must be labeled. These items, as well as knives and sharp tools and other potentially dangerous hazards, shall be stored separately and locked or ~~out of a child's reach~~ inaccessible to children.

(f) through (i) No change.

(j) Outdoor Play Area.

1. There shall be a minimum of 45 square feet of usable, safe and sanitary outdoor play area per each school-aged child; one (1) year of age or older. A minimum outside play area shall be provided for one-half (1/2) of the licensed capacity this identified population.

2. Based on the outdoor square footage, the total number of children using the play area may not exceed the outdoor capacity. The outdoor play area shall be calculated at the rate of 45 square feet per child in any group using the play area at any one (1) time.

Specific Authority 402.302, 402.305 FS. Law implemented 402.302, 402.305 FS. History—New 9-12-04, Amended 4-12-07,\_\_\_\_\_.

65C-22.009 Gold Seal Quality Care Program.(1) Definitions.

(a) "Active" refers to the status of a Gold Seal Quality Care Accrediting Association that has met all of the criteria of a Gold Seal Quality Care Accrediting Association for accreditation.

(b) "Effective" refers to the beginning date of a Gold Seal Quality Care provider's designation certificate issued by the Child Care Program Office.

(c) "Expired" refers to the end date of a provider's Gold Seal Quality Care provider's designation certificate issued by the Child Care Program Office.

(d) "Gold Seal Quality Care Accrediting Association" refers to an accrediting association that has applied for and been approved by the Department as a Gold Seal Quality Care Accrediting Association.

(e) "Inactive" refers to the status of a Gold Seal Quality Care Accrediting Association where all criteria for accreditation are no longer being successfully met.

(f) "Nationally Recognized" refers to an association whose accrediting body is recognized, accepted and present in at least five (5) states or which had been approved as a Gold Seal Quality Care Accrediting Association by the Department prior to July 1, 2007.

(2) Provider Requirements.

(a) Gold Seal Quality Care Provider Designation Certificate.

Pursuant to Section 402.281(1), F.S., family day care homes and large family child care homes seeking to obtain a designation as a Gold Seal Quality Care provider shall provide the Department with documentation of accreditation by an accrediting association that has been approved by the Department. A list of approved accrediting associations may be obtained from the licensing authority or on the Department of Children and Family Services' website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare).

(b) Gold Seal Quality Care Enforcement.

1. Gold Seal Quality Care providers must maintain national accreditation in order to retain their designation. A family day care home's Gold Seal designation will be terminated upon expiration of accreditation. In order to obtain and maintain Gold Seal Quality Care provider designation, a family day care home must meet the additional criteria outlined in Section 402.281(3), F.S.

2. If Gold Seal Quality Care designation is revoked by the Department, termination of the designation will be effective on the last day of the current period of licensure.

3. If the family day care home's accreditation is revoked by the accrediting agency, the family day care home's Gold Seal Quality Care designation will be terminated effective the date of revocation.

(3) Accrediting Association Requirements. Accrediting associations seeking recognition as a Gold Seal Quality Care Accrediting Association must complete and attest to the requirements referenced on CF-FSP Form 5315 August 2007 Gold Seal Quality Care Accrediting Application, which is incorporated by reference. CF-FSP Form 5315 may be obtained on the Department of Children and Family Services' website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare). Applications are accepted during the months of January and July. Denial of an application requires a minimum of a six month waiting period, from the date of denial, before re-submission during the next scheduled acceptance month.

(b) Active Gold Seal Quality Care Associations must re-apply every five (5) years by submitting form CF-FSP 5315 that may be obtained on the Department of Children and Family Services' website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare). Re-applications must be received a minimum of six (6) months prior to end of the five (5) year period. Failure to submit form CF-FSP 5315 every five (5) years or denial of the application will place the accrediting association in an inactive state, during which the association is not recognized as a Gold Seal Quality Care Accrediting Association. Child care settings receiving accreditation certificates from an inactive association shall not be recognized as a Gold Seal Quality Care Provider.

(c) Inactive Gold Seal Quality Care Accrediting Associations wishing to become active must be in compliance with all requirements outlined on CF-FSP 5315 as a new applicant before being reinstated as an active Gold Seal Quality Care Accrediting Association, pending the Department of Children and Family Services' approval.

Specific Authority 402.281 FS. Law implemented 402.281 FS. History--New \_\_\_\_\_.

65C-22.010 Enforcement.

(1) Definitions.

(a) "Day" means a calendar day.

(b) "Probation" is a licensing status wherein the Department or local licensing agency issues a disciplinary action imposing a deadline for a facility to remedy a violation or violations, which are within the control of the facility, to become compliant with licensing standards.

(c) "Provisional" is a licensing status wherein the Department or local licensing agency allows a facility to operate for a designated period of time although one or more licensing standards, beyond the control of the operator, have not been met.

(d) "Standards" are requirements that must be met for licensure as a child care facility and that are identified on the CF-FSP Form 5316, August 2007, Child Care Facility Standards Classification Summary, incorporated in this rule by reference.

(e) "Violation" means a finding of noncompliance by the Department or local licensing agency with a licensing standard.

1. "Class I Violation" is an incidence of noncompliance with a Class I standard as described on CF-FSP Form 5316. Class I violations are the most serious in nature, pose an imminent threat to a child including overt abuse or negligence and which could or does result in death or serious harm to the health, safety and well-being of a child.

2. "Class II Violation" is the second or subsequent incidence of noncompliance with an individual Class II standard as described on CF-FSP Form 5316. Class II violations are less serious in nature than Class I violations and could be anticipated to pose a threat to the health, safety and well-being of a child, although the threat is not imminent.

3. "Class III Violation" is the third or subsequent incidence of noncompliance with an individual Class III standard as described on CF-FSP Form 5316. Class III violations are less serious in nature than either Class I or Class II violations and pose a low potential for harm to children.

4. "Technical Support Violations" are the first or second occurrence of noncompliance of an individual Class III standard or the first occurrence of noncompliance of a Class II standard.

(2) Disciplinary Sanctions.

(a) Enforcement of disciplinary sanctions shall be applied progressively for each standard violation. In addition, providers will be offered technical assistance in conjunction with any disciplinary sanction. The Department may take into consideration the actions taken by the facility to correct the violation when determining the appropriate disciplinary sanction.

(b) Some violations may have disciplinary sanctions levied for each child or employee record or action found in noncompliance within a standard on any one inspection.

(c) Each standard violation has an assigned classification. Some violations, as identified within the Child Care Facility Standards Classification Summary, may escalate from one class to another based on the nature, severity, and/or repetition of the violation within a two (2) year period.

(d) A violation of any standard(s) that results in harm to a child may escalate to a Class I violation.

(e) Disciplinary sanctions for licensing violations that occur within a (two) 2 year period shall be progressively enforced as follows:

#### 1. Class I Violations.

a. For the first Class I violation, the Department shall, at a minimum, issue an administrative complaint imposing a fine not less than \$100 nor more than \$500 per day for each violation. The Department may impose other disciplinary sanctions in addition to the fine.

b. For the second Class I violation, the Department shall, at a minimum, issue an administrative complaint placing the provider's license on probation status for a period not to exceed 6 (six) months. The Department may also levy a fine not less than \$100 nor more than \$500 per day for each violation in addition to any other disciplinary sanction.

c. For the third and subsequent Class I violations, the Department shall issue an administrative complaint to suspend, deny or revoke the license. The Department may also levy a fine not less than \$100 nor more than \$500 per day for each violation in addition to any other disciplinary sanction.

#### 2. Class II Violations.

a. For the first Class II violation, the Department shall issue a formal warning letter stating the Department's intent to take administrative action if further violations of the standard occur. The violation will be classified as "Technical Support."

b. For the second Class II violation, the Department shall issue an administrative complaint imposing a fine of \$50 per day for each violation. This violation, and subsequent violations, of the same standard within a two(2) year period will be classified as "Class II."

c. For the third Class II violation of that standard the Department shall issue an administrative complaint imposing a fine of \$60 per day for each violation.

d. For the fourth Class II violation, the Department shall, at a minimum, issue an administrative complaint placing the provider's license on probation status for a period not to exceed six (6) months. The Department may also issue an administrative complaint imposing an additional fine of \$75 per day for each violation.

e. For the fifth and subsequent Class II violations, the Department shall issue an administrative complaint to suspend, deny, or revoke the license. The Department may also issue an administrative complaint imposing an additional fine of \$100 per day for each violation.

#### 3. Class III Violations.

a. For the first Class III violation, technical assistance shall be provided. The violation will be classified as "Technical Support".

b. For the second Class III violation, the Department shall issue a formal warning letter stating the Department's intent to take administrative action if further violations of the standard are found. The violation will be classified as "Technical Support".

c. For the third Class III violation, the Department shall issue an administrative complaint imposing a fine of \$25 per day for each violation. This violation and subsequent violations of the same standard within a two-year period will be classified as "Class III".

d. For the fourth Class III violation, the Department shall issue an administrative complaint imposing a fine of \$30 per day for each violation.

e. For the fifth Class III violation the Department shall, at a minimum, issue an administrative complaint placing the provider's license on probation status for a period not to exceed six (6) months. The Department may also issue an administrative complaint imposing a fine of \$40 per day for each violation.

f. For the sixth and subsequent Class III violations, the Department shall issue an administrative complaint to suspend, deny, or revoke the license. The Department may also issue an administrative complaint imposing a fine not to exceed \$50 per day for each violation.

#### (3) Child Abuse or Neglect Sanctions.

(a) Pursuant to Section 402.301, F.S., acts or omissions that meet the definition of child abuse or neglect provided in Chapter 39, F.S., constitute a violation of the standards in Sections 402.301-.319, F.S.

(b) Failure to perform the duties of a mandatory reporter pursuant to Section 39.201, F.S., constitutes a violation of the standards in Sections 402.301-.319, F.S.

Specific Authority 402.310, 39.201 FS. Law implemented 402.310, FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Mike Boland, Senior Management Analyst Supervisor

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Deborah Russo, Director

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: August 7, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: June 22, 2007