

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

**DEPARTMENT OF LEGAL AFFAIRS**

RULE TITLE: Attorney Services  
 RULE NO.: 2-37.010

PURPOSE AND EFFECT: The Department intends to incorporate revised forms entitled "Request for Attorney General Approval of Private Attorney Services" and "Office of the Attorney General Attachment A for Private Attorney Services" into the rule.

SUBJECT AREA TO BE ADDRESSED: The current forms entitled "Request for Attorney General Approval of Private Attorney Services" and "Office of the Attorney General Attachment A for Private Attorney Services" have been revised and the revised forms are being incorporated by reference into the rule.

SPECIFIC AUTHORITY: 287.059 FS.

LAW IMPLEMENTED: 287.059, 16.015 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Larry Daugherty, Senior Management Analyst II, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

2-37.010 Attorney Services.

(1) The Department of Legal Affairs adopts a form to be filled out by agencies who wish to request representation by private attorneys. Form OAG-001 (rev. 9/2001), entitled "Request for Attorney General Approval of Private Attorney Services," effective \_\_\_\_\_ ~~5-18-00~~, is hereby incorporated by reference.

(2) All contracts for private attorney services shall contain an addendum entitled "Office of the Attorney General Attachment A for Private Attorney Services," Form OAG-002, (rev. 9/2001), effective \_\_\_\_\_ (~~rev. 2/2001~~), which is hereby incorporated by reference.

(3) Copies of the forms may be obtained from the General Legal Division, Office of the Attorney General, The Capitol PL-01, Tallahassee, Florida 32399-1050.

Specific Authority 287.059 FS. Law Implemented 16.015, 287.059 FS. History—New 10-7-90, Formerly 2-1.013, Amended 7-12-93, 10-29-97, 5-18-00, 6-5-01, \_\_\_\_\_.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLE: Pupil Attendance Records  
 RULE NO.: 6A-1.044

PURPOSE AND EFFECT: The purpose of this rule development is to revise existing requirements of the statewide attendance recordkeeping system to establish standards for electronic attendance recordkeeping systems so that individual school districts will no longer be required to obtain prior approval for alternate systems on a case by case basis. The effect is to maintain standards for auditable attendance records while allowing for advances in technology where appropriate and without placing undue burden on school districts.

SUBJECT AREA TO BE ADDRESSED: Pupil Attendance Records; Handbook for DOE Automated Student Recordkeeping System.

SPECIFIC AUTHORITY: 120.53(1)(b), 229.053(1), 229.555(3) FS.

LAW IMPLEMENTED: 232.021, 232.022, 232.023 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT A TIME, DATE AND PLACE TO BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

Requests for the rule development workshop should be addressed to Wayne V. Pierson, Agency Clerk, Department of Education, Room 1214, 325 West Gaines Street, Tallahassee, Florida 32399-0400.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Lavan Dukes, Education Information and Accountability Services, Department of Education, Room 814, 325 West Gaines Street, Tallahassee, Florida 32399-0400, (850)487-2280

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6A-1.044 Pupil Attendance Records.

(1) Pupil attendance records shall be maintained for any student enrolled in public schools who is earning high school credit as provided in Section 232.2462, Florida Statutes, who is funded as provided in Chapter 236, Florida Statutes, and the Appropriations Act, or who is required to be in attendance by the compulsory attendance requirements as provided in Chapter 232, Florida Statutes.

(2) ~~Beginning in the fiscal year 1988-89,~~ the automated student attendance recordkeeping system as provided for in Rule 6A-1.0014, FAC., shall be the attendance system as used in this rule.

(3) The presence, absence, or tardiness of each student shall be checked once each day at a time or times prescribed by the school board and all absent and tardy pupils shall be recorded daily in the Automated Student Attendance

Recordkeeping System as described in the Department of Education Comprehensive Management Information System Attendance Recordkeeping Handbook or daily by such alternate system of recording attendance as has been specifically approved by the Deputy Commissioner for Administration and Technology. In approving alternate systems, the Deputy Commissioner for Administration and Technology shall use the following criteria: The attendance recordkeeping system shall provide complete and accurate attendance data and shall make provision for maintaining auditable records for three (3) years or until applicable audits are completed. ~~Any alternate system shall be approved prior to implementation only upon specific application from the district.~~ The attendance records shall also show the dates of a student's enrollment, withdrawal or re-entry in the school for the applicable year. Data shall not be recorded in temporary records, and then transferred at a later date to attendance records, except for the first ten (10) days of each school year.

(4) Attendance of all pupils must be maintained during the one hundred eighty (180) day school year or the equivalent and summer school when applicable as provided by law and rules of the State Board shall be required, except for absence due to illness, or as otherwise provided by law.

(5) For the purpose of compliance with this rule, a pupil shall be deemed to be in attendance if actually present at school, or away from school on a school day and engaged in an educational activity which constitutes a part of the school-approved instructional program for that pupil. Any such attendance must be in accordance with the minimum time requirements specified by Section 228.041(13), Florida Statutes.

(6) For the purpose of recording attendance, attendance of pupils shall be reported as follows:

(a) Each pupil who is scheduled at a school center for the minimum required school day, and who is recorded as being present or tardy, shall be reported as present one (1) day.

(b) Each pupil who is scheduled at a school center for instructional purposes for a partial day, and at an area vocational-technical center, a vocational school, a community college, a university, or another school center for a partial day shall be reported as present or absent for the appropriate portion of the day at each center.

(c) The attendance of a pupil who is assigned to an on-the-job instructional program which does not require his or her presence at a school center for on-the-job instructional purposes shall be reported as being in attendance when documented through the use of a time card to report actual days in attendance and a time card or work schedule to report instructional or work hours. Both the time card and schedule should be signed by the employer or instructional supervisor.

(d) The attendance of a pupil who is assigned to an instructional program which does not require his or her regular presence at a school center for instructional purposes shall be reported as present or absent at an assigned school center.

(7) The Automated Student Attendance Recordkeeping System, or the approved alternate record, shall be retained at the school or district level as directed by the superintendent of schools.

(8) The district school board is authorized to destroy the records contained in or produced from the Automated Student Attendance Recordkeeping System after three (3) years or the completion of an audit by the state audit agency, whichever period is longer, provided that the district shall comply with the legislative intent of Chapter 257, Florida Statutes, as expressed in Section 257.37, Florida Statutes, and shall permanently preserve attendance information for each pupil as required by Rule 6A-1.0955, FAC. Attendance information must be permanently preserved for pupils not covered by Rule 6A-1.0955, FAC.

(9) The principal shall be responsible for the administration of attendance policies and procedures and for the accurate reporting of attendance in the school under his or her direction. The principal shall assure that all teachers and clerks are instructed in the proper recording of attendance, and it shall be his or her duty to see that such instructions are followed. The principal or designee shall inspect and determine the completeness and accuracy of the records contained in the Automated Student Attendance Recordkeeping System for each of the required full-time equivalent student membership periods. ~~If an approved alternate system is used, the principal or designee shall inspect for completeness and accuracy the automated record which replaces the Automated Student Attendance Recordkeeping System and therefore is the record of attendance.~~ At the end of each school year the principal or designee shall certify the completeness and accuracy of the automated attendance records indicating that all attendance records have been kept as prescribed by law and rules of the State Board. The method used to certify the records is based on internal district procedures. The automated student attendance records shall be readily accessible in a form prescribed in Subsection (12) of this rule for state auditing and monitoring purposes. An attendance record containing any material inaccuracies, resulting from willful or intentional falsification of data by or for the principal, shall be considered a false report for which the principal shall be subject to penalties as provided by law.

(10) For FTE auditing purposes, ~~beginning with the 1983-84 fiscal year,~~ if the principal or designee failed to sign an attendance record or report, a signed and dated certified statement from the principal or designee identifying that the record was the record used to report attendance for a particular school year, that the record has not been changed since that time, and that attendance was reported as prescribed by law

and rules of the State Board may be substituted for the lack of an original signature. If neither the principal nor designee is an employee of the school district when the absence of a signature on an attendance record is discovered, the superintendent or designee may sign the certified statement. If attendance records are incomplete as to verification of full-time equivalent student membership for funding purposes prior to July 1, ~~2001~~ 1988, other records maintained by the school district may be used to verify membership provided a signed and dated certified statement is appropriately attached as provided in this subsection.

(11) The Automated Student Attendance Recordkeeping System ~~or other approved alternate system~~ shall be prima facie evidence of the facts which it is required to show.

(12) Forms ESE 950 Automated Individual Student Attendance Record, Grades PK-12; ~~ESE 951 Automated 20 Day Adult Student Attendance Register; ESE 952 Automated 20 Day Student Attendance Register, Grades PK-12;~~ ESE 953 Automated Individual Student Attendance By Period Record, Grades 9-12; ~~and ESE 954 Automated Individual Student Attendance by Period Summary, Grades 9-12 and ESE 981 Automated Student Attendance by Period Summary, Grades 9-12;~~ are hereby incorporated by reference and made a part of this rule to become effective for the fiscal year 1987-88. Forms ESE 955, Automated Multi-Day Student Attendance Register, Grades PK-12; ESE 956, Automated Multi-Day Student Attendance by Period, Grades 9-12; ~~and ESE 957, Automated Multi-Day Adult Student Attendance Register;~~ are hereby incorporated by reference and made a part of this rule to become effective July, 1989. Forms ~~ESE 981 Automated Student Attendance by Period Summary, Grades 9-12; ESE 958 Adult Student Attendance Register;~~ and ESE 982 Adult Student Attendance Roster are hereby incorporated by reference and made a part of this rule to become effective November 2001 ~~October, 1991~~. These forms may be obtained from Education Information and Accountability Services, Division of Administration and Technology, Department of Education, 325 West Gaines Street ~~The Florida Education Center~~, Tallahassee, Florida 32399-0400.

Specific Authority 229.053(1), 232.02, 232.021, 232.022 FS. Law Implemented 232.021, 232.022, 232.023 FS. History—New 2-20-71, Amended 9-17-71, 10-18-71, Revised 8-19-72, Amended 11-18-72, Repromulgated 12-5-74, Formerly 6A-1.44, Amended 9-16-87, 1-11-88, 7-5-89, 10-3-91, \_\_\_\_\_.

**DEPARTMENT OF CORRECTIONS**

RULE TITLES:	RULE NOS.:
Basic Training Program – Definitions	33-601.233
Basic Training Program Selection Process	33-601.234
Basic Training Program Operation	33-601.236
Basic Training Program – Inmate Privileges and Restrictions	33-601.237
Basic Training Program – Appearance and Hygiene	33-601.238
Basic Training Program – Dormitory Regulations	33-601.239

Basic Training Program – Discipline	33-601.241
Removal from Basic Training Program	33-601.242
Basic Training Program – Employee Standards of Appearance, Conduct and Fitness	33-601.243

PURPOSE AND EFFECT: The purpose and effect of the proposed rules is to clarify procedures related to operation of the basic training program for youthful offenders.

SUBJECT AREA TO BE ADDRESSED: Basic Training Program for Youthful Offenders.

SPECIFIC AUTHORITY: 20.315, 944.09, 958.04, 958.045 FS.

LAW IMPLEMENTED: 20.315, 944.09, 946.40, 958.04, 958.045 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-601.233 Basic Training Program – Definitions.

(1) Alternative Training – authorized physical activities which are imposed by basic training program staff following an inmate’s misconduct. Alternative training is intended to correct inmate behavior by imposing minor sanctions as set forth in subsection 33-601.241(4), F.A.C.

(2) No change.

(3) Community Residential Facility – a work release center or a community-based residential substance abuse program.

(3) through (9) renumbered (4) through (10) No change.

~~(11)(10) Shock Incarceration – a training technique employed in the basic training program which utilizes intense physical training, military drill, verbally aggressive confrontation, and the immediate application of minor discipline. The intent of shock incarceration is to modify the behavior of youthful offenders and to avert long-term incarceration. The basic training program will be inclusive of the phases listed below:~~

~~(a) Phase I – will consist of an intensified military regimen not to exceed 60 days of active participation.~~

~~(b) Phase II – will consist of educational programming and personal development training provided within a quasi-military environment for a period not to exceed the length of sentence imposed by the sentencing court. Inmates will be required to participate successfully in Phase II of the Basic Training~~

Program for a minimum of 60 days. The length of time that an inmate may participate in Phases I and II combined shall be no less than 120 days.

(c) ~~Phase III will consist of the offender's placement within a community residential facility to engage in gainful employment, pay restitution, participate in substance abuse programs, enroll in general education development or adult basic education classes as provided for in s. 958.045(6) and (8), F.S.~~

(12)(11) No change.

(13)(12) Youthful Offender – refers to any person sentenced by the court or classified by the department, for purposes of being considered for basic training program participation pursuant to this rule, is defined as an inmate who was sentenced in accordance with s. 958.04, F.S., or who is designated a youthful offender by the department pursuant to subsection 33-601.221(2), F.A.C., meeting criteria established in s. 958.045(8)(b), F.S., and whose crime was committed before the inmate's 21st birthday.

Specific Authority 958.04(4)(b), 958.045(1)(b) FS. Law Implemented 958.04, 958.045 FS. History–New 2-26-89, Amended 1-25-96, 10-23-97, Formerly 33-27.003, Amended 3-13-01, Formerly 33-506.203, Amended \_\_\_\_\_.

#### 33-601.234 Basic Training Program Selection Process.

(1) In order to participate in the program, a youthful offender as defined by Chapter 958, F.S. shall meet the following criteria:

(a) No change.

(b) Meets All department designated youthful offenders must be control release criteria identified in s. 947.146(3), F.S. eligible;

(c) through (g) No change.

(h) Is classified as ~~medium~~ or minimum or community custody; and

(i) No change.

(2) ~~After an inmate has met the above criteria, T~~he classification officer ~~at the time of reception~~ will screen the youthful offender during the reception process to determine if he or she meets the program eligibility criteria. If the inmate meets the criteria, the classification officer will notify advise the inmate and explain the requirements and benefits of successful participation and completion of the program. If the inmate does not meet the criteria, the inmate will be notified and the results will be recorded on the admission summary, and The Bureau of Classification and Central Records, ~~Reception Services section~~ will be notified of any inmate who meets the criteria and is amenable to the program. The sentencing court shall be notified in writing by the Bureau of Classification and Central Records, ~~Reception Services section of the Department of Corrections,~~ requesting approval for the inmate to participate in the program. If the inmate is classified by the department as a youthful offender, the prosecuting state attorney shall, at the same time, be notified that the inmate is being considered for placement in the basic training program.

If the sentencing court disapproves the department's recommendation for the offender's placement in the basic training program, the offender shall be so notified and shall complete incarceration pursuant to the terms of the commitment order. If the sentencing court approves the department's recommendation for the offender's placement in the basic training program, the offender shall be notified of assignment to the basic training program. The department shall contact the sentencing Failure of the court to notify the department of approval for placement in the program within 21 days after receipt of the department's request to determine the status of the request for shall be considered an approval to participate by the court for placing the inmate in the basic training program. The inmate will be placed in the program after the sentencing court approves his or her placement for participation.

(3) Program Assessment. Each inmate shall be required to participate in a satisfactory manner for a minimum of 120 days in order to successfully complete the program. The IMPT shall continually assess the inmate's participation in the program and recommend that the inmate continue in the program for a specific number of days in order to repeat those days for which an overall unsatisfactory report was received. Failure to receive a satisfactory evaluation during the extended period will result in the removal of the inmate from the program pursuant to Rule 33-601.242, F.A.C. In such cases, the inmate shall be assigned to an appropriate facility to serve the duration of his or her sentence. Inmates who have successfully participated for the required time period, but who are awaiting release by the sentencing court or other releasing authority shall remain subject to the rules of the department and the basic training program. Failure to adhere to these rules may be grounds for removal from the program pursuant to Rule 33-601.242, F.A.C. Documentation of successful program completion, recommendations for extension, or removal from the program shall be completed by the IMPT and provided to the program director.

Specific Authority 958.04(4)(b), 958.045(1)(b) FS. Law Implemented 946.40, 958.04, 958.045 FS. History–New 2-26-89, Amended 11-2-90, 1-25-96, 10-23-97, Formerly 33-27.004, Amended 3-13-01, Formerly 33-506.204, Amended \_\_\_\_\_.

#### 33-601.236 Basic Training Program Operation.

(1) The basic training program will be inclusive of the phases listed below:

(a) Phase I – will consist of an intensified military regimen for a minimum of 60 days of active participation.

(b) Phase II – will consist of educational programming and personal development training provided within a quasi-military environment for a period not to exceed the length of sentence imposed by the sentencing court. Inmates will be required to participate successfully in Phase II of the Basic Training

Program for a minimum of 60 days. The length of time that an inmate may participate in Phases I and II combined shall be no less than 120 days.

(c) At the conclusion of Phase II, the offender shall be placed in a community residential facility or released to an alternative post-release program or plan in accordance with s. 958.045(6)(a) and (b), F.S.

(1) through (2) renumbered (2) through (3) No change.

(4) The IMPT shall continually assess the inmate's participation in the program and recommend that the inmate continue in the program for a specific number of days in order to repeat the days for which an overall unsatisfactory report was received.

(a) Failure to receive a satisfactory evaluation during the extended period will result in the removal of the inmate from the program.

(b) In such cases, the inmate will be assigned to an appropriate facility to serve the duration of his or her sentence upon recommendation of the ICT and approval of the SCO.

(5) Request for Sentence Modification.

(a) Inmates who have satisfactorily completed 60 days of the basic training program will be reviewed for consideration for request of sentence modification.

(b) The ICT will recommend a modification of sentence to the court that will include release to community supervision or placement in a community residential facility as a condition of community supervision. The ICT shall determine which inmates are suitable for community release based upon the inmate's employment, residence, family circumstances, and probation or post-release supervision obligations while under community supervision.

(c) The SCO shall either approve the ICT's recommendation, disapprove the recommendation, or refer the matter back to the ICT for additional information.

(d) If approved, the sentence modification package will be presented to the court for approval or disapproval.

(e) Upon receipt of the court's written action, The Bureau of Classification and Central Records shall review the sentence modification order and clear the inmate for release to community supervision.

(3) through (4) renumbered (6) through (7) No change.

Specific Authority 20.315, 944.09, 958.045 FS. Law Implemented 20.315, 944.09, 958.045 FS. History--New 2-26-89, Amended 1-25-96, Formerly 33-27.006, Amended 3-13-01, Formerly 33-506.206, Amended \_\_\_\_\_.

33-601.237 Basic Training Program – Inmate Privileges and Restrictions.

Inmates in the basic training program shall have privileges normally afforded the general inmate population modified as set forth below:

(1) through (2) No change.

(3) Visiting.

(a) No change.

(b) Phase II – Inmates will be permitted one three-hour visit weekly.

(c) Inmates will be escorted to the visiting park, strip searched, and allowed to visit in a specified visiting area. Basic training program staff will supervise basic training program inmates in the visiting area. At the conclusion of the visiting period the inmate will again be strip searched and escorted back to their housing units.

(4) through (5) No change.

Specific Authority 944.09, 958.045 FS. Law Implemented 944.09, 958.045 FS. History--New 2-26-89, Amended 1-25-96, Formerly 33-27.007, Amended 3-13-01, Formerly 33-506.207, Amended \_\_\_\_\_.

33-601.238 Basic Training Program – Appearance and Hygiene.

(1) Hair.

(a) No change.

(b) Female basic training program inmates will be provided hair bands or hair clips to secure hair longer than collar length. Unsecured hair must be above collar length. Hair must be away from the face and off the collar.

(2) through (4) No change.

Specific Authority 944.09, 958.045 FS. Law Implemented 944.09, 958.045 FS. History--New 2-26-89, Amended 1-25-96, Formerly 33-27.008, Amended 3-13-01, Formerly 33-506.208, Amended \_\_\_\_\_.

33-601.239 Basic Training Program – Dormitory Regulations.

(1) through (8) No change.

(9) Inmates shall contact the dormitory officer or supervisor about any personal problems which might arise. If the problem cannot be resolved at this level, the inmate may submit his concerns in writing on Form DC6-236, Inmate Request, to the shift supervisor officer-in-charge or program director, or continue with the official grievance process in accordance with Chapter 33-103, F.A.C. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.

Specific Authority 944.09, 958.045 FS. Law Implemented 944.09, 958.045 FS. History--New 2-26-89, Amended 1-25-96, Formerly 33-27.009, Formerly 33-506.209, Amended \_\_\_\_\_.

33-601.241 Basic Training Program – Discipline.

(1) Alternative Training.

(a) Any staff member of the basic training program, with the approval of the supervisor, has the authority to implement any of the following alternative training measures to individual inmates or groups of inmates assigned to the basic training program:

(a) through (e) renumbered 1. through 5. No change.

(b) The staff member implementing the alternative training measure shall document such action on Form DC5-603, Alternative Training. Form DC5-603 is hereby incorporated by reference. Copies of this form are available

from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(2) Review Team. ~~In addition to the responsibilities specified in Rules 33-601.301-601.314, F.A.C.,~~ The review team is authorized to impose any alternative training procedures as well as any of the following disciplinary measures:

(a) through (c) No change.

(3) Disciplinary Team. The disciplinary team is authorized to impose any discipline, including alternative training, which does not exceed 30 days disciplinary confinement and loss of gain time as specified in Rules 33-601.301-601.314, F.A.C. Upon completion of the disciplinary confinement period, inmates shall be returned to Phase I of the basic training program for completion ~~or inmates who have committed or threatened to commit violent acts shall be terminated from the program and returned to general population in order to complete the remainder of their sentences.~~

Specific Authority 944.09, 958.045 FS. Law Implemented 944.09, 958.045 FS. History–New 2-26-89, Amended 1-25-96, Formerly 33-27.012, Amended 3-13-01, Formerly 33-506.211, Amended \_\_\_\_\_.

33-601.242 Removal from Basic Training Program.

(1) No change.

(2) ~~The classification officer shall recommend r~~Removal by docketing the inmate’s case for review ~~shall be recommended by the ICT by using Form DC6-120, Inmate Classification Team Docket. Form DC6-120 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is \_\_\_\_\_ who shall forward a teletype to the SCO. The inmate will not be removed from the basic training program until the SCO has approved the inmate’s removal and transfer from the program.~~

(3) An inmate who has committed or threatened to commit violent acts will be terminated from the program and returned to an appropriate facility ~~general population~~ in order to complete the remainder of his or her sentence.

(4) In all cases, the sentencing court or other releasing authority shall be immediately notified of the inmate’s removal from the program by the ICT.

Specific Authority 958.04(4)(b), 958.045(1)(b) FS. Law Implemented 944.09, 958.04, 958.045 FS. History–New 2-26-89, Amended 1-25-96, 10-23-97, Formerly 33-27.013, Amended 3-13-01, Formerly 33-506.212, Amended \_\_\_\_\_.

33-601.243 Basic Training Program – Employee Standards of Appearance, Conduct, and Fitness.

(1) through (5) No change.

(6) ~~Employees assigned to the basic training program shall use tobacco products only in areas which are specifically approved pursuant to the department’s smoking policy as set forth in Rule 33-401.401, F.A.C.~~

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History–New 2-26-89, Amended 1-25-96, Formerly 33-27.014, 33-506.213, Amended \_\_\_\_\_.

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Close Management  
RULE NO.: 33-601.800

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to revise the conditions of confinement and the privileges provided to close management inmates.

SUBJECT AREA TO BE ADDRESSED: Close management.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-601.800 Close Management.

(1) Definitions.

(a) No change.

(b) ~~Medical Staff Clinical health care personnel – a health care professional whose primary responsibility is the provision of physical health care to inmates physician, clinical associate, nurse, Correctional Medical Technician Certified (CMTC), psychologist, psychology intern, psychology resident or psychological specialist.~~

(c) Mental Health Staff – a health care professional whose primary responsibility is the provision of mental health care to inmates.

(d)(e) Close Management (CM) – the confinement of an inmate apart from the general population, for reasons of security or the order and effective management of the institution, where the inmate, through his or her ~~own~~ behavior, has demonstrated an inability to live in the general population without abusing the rights and privileges of others.

(e)(d) No change.

(f)(e) Individualized Service Close Management Plan (ISP) – a dynamic, written description of problems, goals, and services which is developed and implemented by the multi-disciplinary services team (MDST) and the inmate. An ISP shall be developed and implemented for each CM inmate who suffers from mental impairment or is at significant risk for developing such impairment, as determined by mental health staff program plan developed for individual inmates determined to be at risk for deterioration of mental health

functioning as a result of prolonged confinement. The plan utilizes a variety of therapeutic activities, prevention, and intervention components from available mental health and program resources to prevent potential deterioration of mental health and adaptive functioning.

~~(g)(f)~~ Multi-disciplinary Services Close Management Program Team – a team of an interdisciplinary team of representatives from mental health, programs, classification, and security staff which assesses behavioral risk for each CM inmate and develops and implements an individualized service plan for each CM inmate who suffers from mental impairment or is at significant risk for developing such impairment, as This team develops and monitors close management plans for individual inmates in close management determined by mental health staff to be at risk for potential deterioration of mental health or adaptive functioning as a result of prolonged confinement.

~~(h)~~ Critical Event – inmate involvement, after CM placement, in one or more of the following behaviors: suicide attempt or other action that could have caused serious bodily harm; homicide; attempted homicide; escape; attempted escape; physical assault; attempted physical assault.

(g) through (n) renumbered (i) through (p) No change.

~~(i)(g)~~ Review – where used herein, refers to the evaluation of pertinent information or documentation concerning an inmate's confinement status to determine if changes or modifications are required or recommended.

~~(j)(h)~~ Visit – where used herein, refers to the official tour and inspection of a close management unit by a staff member.

~~(k)(i)~~ Institutional Classification Team (ICT) – the team consisting of the warden or assistant warden, classification supervisor, and chief of security, that is responsible for making work, program, housing and inmate status decisions at a facility and for making other recommendations to the State Classification Office (SCO).

~~(l)(j)~~ Institutional Classification Team Docket – the official record of an ICT hearing.

~~(m)(k)~~ Major Rule Violation – any assault, battery or attempted assault or battery; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; and any escape or escape attempt.

~~(n)(l)~~ Offender Based Information System (OBIS) – the department's computer offender database system which is utilized to organize and store security, classification, program and other offender information.

~~(o)(m)~~ Restricted Labor Squad – an armed supervision work squad consisting of individually shackled close management II or III inmates who work outside the secure perimeter on institution grounds.

~~(p)(n)~~ Senior Correctional Officer – a correctional officer lieutenant or above.

~~(e)~~ Special risk inmate – any inmate who has demonstrated behavior that is harmful to himself or herself.

~~(q)(p)~~ No change.

(2) No change.

(3) Procedures for Placement in Close Management.

(a) Close management is the confinement of an inmate apart from the general population, for reasons of security, or the order and effective management of the institution, where the inmate, through his or her own behavior, has demonstrated an inability to live in the general population without abusing the rights and privileges of others. The secretary shall designate which institutions are authorized to house close management inmates, based on the needs of the department.

(b) No change.

(c) Prior to docketing an inmate's case for close management, the classification supervisor will submit a referral to the senior psychologist for evaluation of the inmate utilizing the Close Management Referral Assessment, DC6-128. Form DC6-128 is incorporated by reference in subsection (19) paragraph (18) of this rule.

(d) Mental health staff will complete the close management referral assessment ~~mental health record review~~ within ~~five two~~ working days of receipt ~~and return it to of Form DC6-128 from~~ the classification supervisor. ~~If the senior psychologist determines that no further evaluation is needed, he or she will forward Form DC6-128 to the classification supervisor with relevant recommendations. If the senior psychologist determines that further evaluation is needed, either the senior psychologist or psychiatrist will conduct an interview and evaluation with the inmate to determine the treatment needs of the inmate. The senior psychologist or psychiatrist will forward Form DC6-128, Close Management Referral Assessment, to the classification supervisor with the recommendation for the inmate. The recommendation will include the following placement options: unrestricted placement, placement in a close management facility in which there is a provision for out patient mental health services, placement in a close management facility where intensive mental health services are available, or close management not recommended because of the inmate's current mental health condition. A summary of the clinical findings upon which the recommendation is based shall be provided to the classification supervisor.~~

(e) Upon receiving the completed close management referral ~~mental health~~ assessment, the classification supervisor will submit the case for ICT Docket. The ICT will evaluate the recommendations for close management placement and the mental health assessment, interview the inmate, and document its findings and recommendations on the Report of Close Management, Form DC6-233C. Form DC6-233C is incorporated by reference in subsection (19) paragraph (18) of this rule. The inmate will be given a minimum of forty-eight hours to prepare for the review unless waived by completing a

Close Management Wavier, Form DC6-265. Form DC6-265 is incorporated by reference in subsection (19) paragraph (18) of this rule. The inmate may present information verbally or in writing for consideration by the ICT. The team will document on Form DC6-233C that the inmate was informed of his or her allotted time to prepare for the review. The ICT is authorized to postpone the case review to allow an inmate additional time to prepare. If an extension of time is given, the team will document such postponement on form DC6-233C.

(f) through (5) No change.

(6) Close Management Facilities.

(a) No change.

(b) The only exception to paragraph Section (6)(a) is during an emergency situation as declared by the warden or duty warden. The emergency will be made known to the regional director and to the emergency action center in the central office. If the exception exists in excess of 24 hours, the warden or duty warden must get specific authorization from the regional director to continue to house inmates beyond the 24 hour period in such conditions.

(c) through (d) No change.

(e) Water Supply to CM Units. All close management cells will be equipped with toilet facilities and running water for drinking and other sanitary purposes. Water in the cell can be turned off when necessary due to misbehavior. Misbehavior is defined as any activity exhibited by an inmate which causes an interruption in the water system and its proper function, such as intentionally clogging a toilet bowl or sink with paper in order to then flood the housing area. It also includes the intentional misuse of the water for such purposes as throwing it on staff or other inmates, or mixing it with another substance for an unauthorized purpose (inmate mixes water with soap or shampoo and apply to the floor or himself or herself to hinder cell extraction). In such event, the inmate will be furnished with an adequate supply of drinking water by other means to prevent dehydration. This action can be taken in addition to formal disciplinary action being taken against the inmate pursuant to established procedures regarding disciplinary action. Any misbehavior from an inmate and subsequent action by security staff will be documented on the Daily Record of Segregation, Form DC6-229. Form DC6-229 is incorporated by reference in subsection (19) paragraph (18) of this rule.

(f) Prior to placement of an inmate in a close management cell, the cell will be thoroughly inspected by the housing officer to ensure that it is in proper order. The housing officer shall document the cell's condition on Form DC6-221, Cell Inspection. After such time, the inmate housed in that cell will be responsible for the condition of the cell. Form DC6-221 is incorporated by reference in subsection (19) paragraph (18) of this rule.

(g) No change.

(h) Inmates shall be weighed upon entering close management, at least once a week while in close management, and upon leaving close management. The weight of the inmate shall be documented on Form DC6-229, Daily Record of Segregation.

(7) Individualized Service Close Management Plan (ISP) (CMP).

(a) The multi-disciplinary services close management program team consisting of representatives from mental health, programs, classification, and security will develop an ISP, Form DC4-643A, complete a CMP when deemed necessary by mental health clinical staff. Form DC4-643A is incorporated by reference in subsection (19) of this rule.

(b) The ISP CMP will be developed based on the inmate's needs assessment and will take into consideration the inmate's behavioral risk, as determined by the MDST in accordance with subsection (8) of this rule CM level.

(c) The ISP CMP will incorporate mental health, programs, and other services required to address identified problems and to prevent the development or exacerbation of mental and other adjustment problems therapeutic activities and may include prevention and intervention components. The purpose of the plan will be to increase sensory stimulation using a variety of activities from available mental health and program resources.

(d) An ISP shall be established within 14 days of CM placement of each inmate who suffers from mental impairment, or who is at significant risk for developing such impairment, as determined by mental health staff.

(e) If an ISP exists at the time of CM placement, it shall be updated within 14 days of CM placement to reflect current problems, goals, services, and providers. The ISP shall also be updated within 14 days of an inmate's transfer between CM institutions.

(f) The MDST shall review, and if indicated, revise the ISP as needed, but not less frequently than the following:

1. Within three working days of the inmate's involvement in a critical event.

2. Within 30 days of establishing or updating an ISP.

3. 120 days after the initial (30 day) review.

4. Every 180 days after the 120 day review, until mental health staff determines that ongoing mental health care is no longer necessary, at which time the ISP will be closed.

(g) The ISP shall be signed by each member of the MDST.

(8) Behavioral Risk Assessment.

(a) The MDST shall determine behavioral risk of each CM inmate by completing the Behavioral Risk Assessment, Form DC4-729. Form DC4-729 is incorporated by reference in subsection (19) of this rule.

(b) Behavioral risk shall be determined as follows:

1. Within three working days of the inmate's involvement in a critical event.



2. Within 14 days of CM placement.

3. Each time that the MDST reviews the ISP.

(c) Security shall consider results from the behavioral risk assessment and other information relevant to staff and inmate safety and institutional security in determining the level of restraints required during out-of-cell activities such as individual or group counseling.

(d) The ICT shall consider results from the behavioral risk assessment and other information relevant to institutional adjustment, staff and inmate safety, and institutional security when making recommendations for modification of the inmate's CM status.

(e) The SCO shall consider results from the behavioral risk assessment, results from mental health evaluations that have been completed, and other information relevant to institutional adjustment, staff and inmate safety, and institutional security in its review of ICT recommendations made after CM placement.

(9) Mental Health Services.

(a) Chapter 33-404, F.A.C., Mental Health Services, shall apply to CM inmates except where otherwise specified herein.

(b) CM inmates shall be allowed out of their cells to receive mental health services as specified in an ISP unless, within the past 48 hours, the inmate has displayed hostile, threatening, or other behavior that could present a danger to others. Security staff shall determine the level of restraint required while CM inmates access services outside their cells.

(10)(8) Conditions and Privileges.

(a) through (b) No change.

(c) Personal Property – Inmates shall be allowed to retain personal property including stamps, watches, rings, writing paper, envelopes and health and comfort items unless there is a indication of a security problem. ~~Close management inmates at all levels shall be allowed to possess a “walkman” type radio with approved headphones as is allowed for general population inmates.~~ Exceptions or removal of any item will be documented on the DC6-229. An Inmate Impounded Personal Property List, Form DC6-220, will be completed by security staff and signed by the inmate designating what personal items were removed. The original will then be placed in the inmate's property file and a copy of the form will be given to the inmate for his or her records. ~~If items of clothing, bedding or personal property are removed in order to prevent the inmate from inflicting injury to himself or herself or others or to prevent the destruction of property or equipment, staff shall re-assess the need for continued restriction every 72 hours thereafter. The warden, based on this assessment, will make the final determination on the continued denial or return of the items. The items will be returned to the inmate when no further behavior or threat of behavior of the type leading to the restriction has occurred. Radios are not authorized for an inmate in close management.~~ Form DC6-220 is incorporated by reference in Rule 33-602.220, F.A.C.

(d) No change.

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

1. No change.

2. Male inmates shall be required to shave at least three times per week. ~~The possession and use of shaving powder in close management is prohibited. An inmate housed in close management who is medically exempt from using shaving razors will be clipper-shaved at least three times per week.~~

3. Hair care shall be the same as that provided to and required of the general population inmates.

(f) Diet and Meals – All inmates in close management shall receive normal institutional meals as are available to the general inmate population except that if any item on the regular menu might create a security problem in the confinement area, then another item of comparable quality shall be substituted. An alternative meal (special management meal) may be provided for any inmate in close management who uses food or food service equipment in a manner that is hazardous to himself or herself, staff, or other inmates. The issuance of a special management meal will be in strict accordance with ~~Rule 33-602.223, F.A.C.~~ Any deviation from established meal service is to be documented by security staff on the Daily Record of Segregation, Form DC6-229.

(g) Canteen Items.

1. Inmates in CMI and II, following 30 days satisfactory adjustment, will be allowed to make canteen purchases once per ~~week~~ ~~month~~ unless restricted by disciplinary action. ~~Canteen purchases are subject to the following limitations, unless modified by the ICT:~~

4. Inmates in CMI and II will be ~~allowed to purchase up restricted to a limit of~~ five non-food items ~~and five food items.~~ In making this determination, with the exception of stamps and notebook paper, it is the number of ~~non-food~~ items that is counted not the type of item. For example, three security pens counts as three items, not one item. Twenty-five stamps or fewer will count as one item and two packages or less of notebook paper will count as one item.

2. Inmates in CMIII, following 30 days satisfactory adjustment, will be allowed to make canteen purchases once ~~each every two~~ weeks unless restricted by disciplinary action. ~~Canteen purchases are subject to the following limitations, unless modified by the ICT:~~ Inmates in CMIII will be ~~allowed to purchase up restricted to~~ five non-food items and ~~ten~~ ~~four~~ food items. In making the determination, ~~with the exception of stamps and notebook paper for food,~~ it is the number of ~~food~~ items that is counted not the type of item. For example, three packages of cookies count as three items, not one item.

3. Any disciplinary reports received by an inmate ~~in which there is a guilty finding and placement in disciplinary confinement or suspension of canteen privileges~~ between the time that he or she requests canteen food items and the delivery of those items will result in disapproval of the requested items.

4. ~~The ICT has the authority to suspend privileges for canteen purchases when the inmate fails to comply with the rules and procedures established for close management. Any action taken by the ICT regarding the suspension or limiting of privileges will be documented on the Daily Record of Segregation, DC6-229.~~

(h) No change.

~~(i) Counseling Interviews — Counseling shall be provided to close management inmates in-cell or out-of-cell when deemed necessary by mental health staff. The ICT will determine whether an inmate in close management may be removed from his or her cell to attend any counseling session when they determine that it is safe to do so, or whether counseling must take place in-cell.~~

~~(i)(j) Legal Access – An inmate in close management will have access to his or her personal legal papers and law books and have correspondence access with the law library. Access to the law library will be obtained through delivery of research materials to an inmate’s cell, and access to visits with research aides certified inmate law clerks. Although the inmate may not be represented by an attorney at any administrative hearing under this rule, access to an attorney or aide to that attorney will be granted for legal visits at any reasonable time during normal business hours. Indigent inmates will be provided paper and writing utensils in order to prepare legal papers. Inmates who are not indigent will be allowed to purchase paper and envelopes for this purpose by completing Form DC6-251, CMI and II Canteen Order, or Form DC6-252, CMIII Canteen Order, within the stated time frames. Forms DC6-251 and DC6-252 are incorporated by reference in subsection (19) paragraph (18) of this rule. Typewriters or typing services are not considered required items and will not be permitted in confinement cells. Inmates with disabilities that hinder the preparation of legal correspondence will be allowed the use of auxiliary aids (writer/reader). An inmate who is provided an auxiliary aid shall also be allowed access to a research aide certified law clerk for the purpose of preparing legal documents, legal mail, and filing grievances.~~

(k) through (l) renumbered (j) through (k) No change.

~~(l)(m) Reading materials – Reading materials, including scriptural or devotional materials and books that are in compliance with admissibility requirements, are allowed in close management units unless there is an indication of a threat to the safety, security, or sanitation of the institution. If it is determined that there is a safety, security or sanitation risk, the items will be removed. Such removal of reading materials will be documented on Form DC6-229, Daily Record of Segregation. If items are removed in order to prevent the inmate from inflicting injury to himself or herself or others or to prevent the destruction of property or equipment, staff shall re-assess the need for continued restriction every 72 hours thereafter. The warden, based on this assessment, will make the final determination on the continued denial or return of the~~

items. The items will be returned to the inmate when no further behavior or threat of behavior of the type leading to the restriction has occurred. An inmate who receives services from the Bureau of Braille and Talking Book library will be allowed to have his tape player, devotional or scriptural material tapes, and other books on tape which are in compliance with Rule 33-501.401, F.A.C.

~~(m)(n) Exercise – Those inmates confined on a 24-hour basis excluding showers and clinic trips may exercise in their cells. If the inmate requests a physical fitness program handout, the wellness specialist or the confinement officer shall provide the inmate with an in-cell exercise guide and document such on the Daily Record of Segregation, Form DC6-229. However, if confinement extends beyond a 30-day period, an exercise schedule shall be implemented to ensure a minimum of three hours per week of exercise out of doors. The assignment and participation of an inmate on the restricted labor squad or other outside work squad required to work outside at least one day per week will satisfy the minimum exercise requirements for the week. Such exercise periods shall be documented on Form DC6-229. The ICT is authorized to restrict exercise for an individual inmate only when the inmate is found guilty of a major rule violation. In this instance, a major rule violation is defined as: any assault, battery or attempted assault or battery; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; escape or escape attempt. Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be for no more than 15 days per incident and for no longer than 30 days in cumulative length. Medical restrictions determined by health services staff can also place limitations on the amount and type of exercise permitted. Such restrictions of exercise periods will be documented on the Daily Record of Segregation, Form DC6-229. A disabled inmate who is unable to participate in the normal exercise program will have an exercise program developed for him that will accomplish the need for exercise and take into account the particular inmate’s limitations. Close management inmates shall be allowed equal access to outdoor exercise areas with exercise stations.~~

~~(n) At a minimum, wellness services for close management inmates at all levels shall be provided through cell-front tutoring, wellness puzzles, and the wellness education course.~~

~~(11)(9) Programs and Privileges in Close Management Units.~~

~~(a) While in a close management unit, an inmate’s movement within the institution and contacts with other individuals will be restricted. Privileges will also be limited depending on the specific close management level. If an~~

inmate transfers to a less restrictive level due to satisfactory adjustment, the adjustment period required for any privilege shall be waived.

(b) CMI. Privileges for an inmate assigned to CMI who maintains a satisfactory adjustment are as follows:

1. Participation in available approved programs, including in-cell educational opportunities, that the inmate can perform within the cell unless precluded by safety or security concerns after a minimum period of at least 60 days with a clear disciplinary record since assignment to close management;

2. Check out three one soft-back book from the library at least once per week and possess no more than three one soft back books at any given time. An inmate who receives services from the Bureau of Braille and Talking Book Library will be allowed to check out three one books on tape per week and possess no more than three books one at any given time, even though the actual number of tapes may be more than three one per book;

3. Conduct routine inmate bank transactions once per month;

4. Subscribe to one magazine and newspaper as provided for in Rule 33-210.101, F.A.C., and possess no more than four issues of each at any given time; an inmate who receives services from the Bureau of Braille and Talking Book Library will be allowed to receive up to four issues of a magazine;

5. Make one telephone call of the length allowed by Rule 33-602.205, F.A.C., every 30 days following 30 days of satisfactory adjustment as well as emergency telephone calls and telephone calls to an attorney as explained in Rule 33-602.205;

6. Receive one two-hour non-contact a personal visit by appointment after completing 30 60 days of satisfactory adjustment in close management status and having no major rule violations maintained a clear disciplinary record during this period since assignment to close management. If found guilty of any major rule violations disciplinary infractions while assigned to CMI, the inmate is eligible to be considered for visits 30 60 days following release from disciplinary confinement or the disciplinary hearing, if a penalty other than disciplinary confinement was imposed;

7. The inmate is eligible to receive one two-hour non-contact personal visits by appointment after each subsequent 30 60 day period with no major rule violations a continued clear disciplinary record and satisfactory adjustment while in the status unless security or safety concerns would preclude a visit. All visits for CMI inmates in CMI will be non-contact visits.

(c) CMII. In addition to the programs provided for CMI inmates and those privileges outlined in (11)(9)(b)1.-4.5. of this rule, the following privileges are authorized: cell front counseling and program offerings shall be made available to inmates who desire to participate.

1. CMII inmates will be eligible to receive one two-hour non-contact personal visits by appointment:

a.1. After completing 30 days of satisfactory adjustment in close management status and having no major rule violations maintained a clear disciplinary record since being assigned to close management.

b.2. If found guilty of any major rule violations disciplinary infraction while assigned to CMII, the inmate is eligible to be considered for a visits 30 days following release from disciplinary status or the disciplinary hearing if a penalty other than disciplinary confinement was imposed, with no major rule violations a continued clear disciplinary record.

c.3. The inmate is eligible to receive personal visits by appointment after each subsequent 14 30 day period with no major rule violations a continued clear disciplinary record and satisfactory adjustment while in the status unless security and safety concerns would preclude a visit. All visits for inmates in CMII will be non-contact visits.

2. CMII inmates shall be allowed to make one telephone call of the length allowed by Rule 33-602.205, F.A.C., every 14 days after 30 days of satisfactory adjustment as well as emergency telephone calls and calls to attorneys as provided in Rule 33-602.205, F.A.C.

3. CMII inmates, following 30 days satisfactory adjustment, shall be allowed access to the day room area for social purposes to include watching television programs for up to two days per week, not to exceed 4 hours per occasion or to extend beyond 10:00 PM. This is allowed only when it does not conflict with organized program activities. The number of participants at any one time will be determined by the shift supervisor in consultation with the duty warden. This determination will be based on considerations such as day room size, availability of seating, and safety and security issues associated with the availability of supervising staff as well as staff available for response should a problem develop. CMII inmates will be restrained during the above-described dayroom access unless determined by the chief of security that the inmate can safely participate without restraints.

(d) CMIII. In addition to the programs privileges provided above for CMI inmates, and those privileges outlined in (11)(9)(b)1.-4.5. of this rule, the following privileges are authorized: cell front or out of cell counseling and program offerings shall be made available to inmates who desire to participate.

1. CMIII inmates will be entitled to the following:

a.1. One two-hour contact A personal visit by appointment after completing 30 days of satisfactory adjustment in close management status and having no major rule violations maintained a clear disciplinary record since being assigned to close management. CMIII inmates shall be subject to placement on non-contact status as outlined in Rule 33-601.709, F.A.C.

b.2. If found guilty of a disciplinary infraction while assigned to CMIII, the inmate is eligible to be considered for visits 14 days following release from disciplinary status or the disciplinary hearing if a penalty other than disciplinary confinement was imposed, and the inmate has no major rule violations a continued clear disciplinary record.

c.3. The inmate is eligible to receive one two-hour contact personal visits by appointment after each subsequent 14 day period with no major rule violations a continued clear disciplinary record and satisfactory adjustment while in the status unless security or safety concern would preclude a visit. The warden will determine the conditions of the visit, whether the visit is to be contact or non-contact, and the level of supervision and restraint required.

2.4. Day room privileges after 30 days six continuous months with a clear disciplinary record and above satisfactory adjustment shall be allowed access to the day room area for social purposes to include watching television programs for up to five days per week, not to exceed 4 hours per occasion or to extend beyond 10:00 PM. This is allowed only when it does not conflict with organized program activities. The number of participants at any one time will be determined by the shift supervisor in consultation with the duty warden. This determination will be based on considerations such as day room size, availability of seating, and safety and security issues associated with the availability of supervising staff as well as staff available for response should a problem develop within the close management unit unless security and safety concerns would preclude day room activities. This privilege will be limited to once per week for up to two hours in duration. CMIII inmates shall not be restrained for dayroom activities unless security or safety concerns require otherwise.

3. CMIII inmates shall be allowed to make one telephone call of the length allowed by Rule 33-602.205, F.A.C., every seven days after 30 days of satisfactory adjustment as well as emergency telephone calls and calls to attorneys as provided in Rule 33-602.205, F.A.C.

(12)(10) Suspension of Privileges.

(a) In addition to the suspension of privileges through disciplinary action, the ICT has the authority to suspend privileges for inmates in close management status who fail to comply with the rules and procedures established for close management.

(b) The ICT shall suspend an inmate's privileges if security and safety concerns would preclude an inmate from receiving certain privileges. Any action taken by the ICT regarding the suspension or limiting of privileges will be documented on the Daily Record of Segregation, Form DC6-229. Privileges suspended by the ICT in excess of 30 90 days will require the review and approval of the SCO.

(13)(11) No change.

(14)(12) Restraint and Escort Requirements.

(a) CMI.

1. Prior to opening a cell for any purpose, including exercise, health care medical or disciplinary call-outs, telephone calls, recreation, and visiting, the all inmates in the cell shall be handcuffed behind his or her their backs. If documented medical conditions require that the inmates be handcuffed in front, waist chains will be used in addition to the handcuffs and the escort officers shall be particularly vigilant.

2.(b) No change.

3.(e) Prior to escorting an inmate from a cell the inmate shall be thoroughly searched. If the inmate is being taken outside the immediate housing unit or designated adjacent exercise area, leg irons and other restraint devices shall be applied.

(b) CMII. The same restraints and escort requirements as provided for CMI inmates above apply to CMII inmates with the exception that the senior correctional officer shall be authorized to approve unrestrained participation in group and individual counseling, dayroom access, and inside work assignments.

(c) CMIII. Unless precluded by specific safety and security concerns, CMIII inmates shall be escorted within the unit and to exercise areas attached to the unit as well as to all program and privilege activity participation without restraints. The warden shall base any determination to require restraints on the security and safety needs of his or her individual institution and CM unit.

(d) Due to the unique mission of close management units, it is understood that more than one inmate may be out of his or her cell within the unit at any one time. However, whenever inmates are being escorted in restraints, there shall be one officer with each inmate and the inmates shall be kept at a distance from each other which would preclude any unauthorized physical contact. Extreme care shall be exercised when escorting restrained inmates in areas where unrestrained inmates are present. When possible, unrestrained inmates will be returned to their cells, removed from the wing or, at a minimum, closely supervised by additional staff until the escort of restrained inmates is completed.

(15)(13) Contact by Staff.

(a) The following staff members shall be required to officially inspect and tour the close management unit. All visits by staff shall be documented on the Inspection of Special Housing Record, Form DC6-228. Form DC6-228 is incorporated by reference in subsection (19) paragraph (18) of this rule. The staff member shall also document his or her visit on the Daily Record of Segregation, Form DC6-229, if there is any discussion of significance, action or behavior of the inmate, or any other important evidential information which may have an influence or effect on the status of confinement. These visits shall be conducted at a minimum of:

1. through 3. No change.

4. Daily by medical staff a clinical health care person.

5. through 6. No change.

7. Weekly by a psychologist or his or her mental health staff designee.

8. through 9. No change.

~~10. At least once a month by a member of the ICT to ensure that the inmate's welfare is properly provided for, and to determine the time and method of release or any program changes.~~

~~(14) Special Risk Inmates.~~

~~(a) Any inmate who has demonstrated behavior that is or could be harmful to himself or herself shall be designated as a special risk inmate. If the inmate demonstrates bizarre, mentally disordered, or self destructive behavior, the health services department shall be immediately contacted to determine if special watch or suicide watch procedures shall be initiated.~~

~~(b) Suicidal inmates shall be removed to a designated area where a correctional officer or health care staff provides observation. Visual checks shall be made in accordance with medical protocols or at least every 30 minutes and shall be documented on Form DC4-650, Observation Checklist/Restraint Observation Checklist, until the inmate is no longer considered a special risk inmate. All actions taken by staff with regard to special risk inmates shall be documented on Form DC6-229 and followed with an Incident Report, Form DC6-210. Form DC4-650 is incorporated by reference in paragraph (18) of this rule. Form DC6-210 is incorporated by reference in Rule 33-602.210.~~

~~(16)(15) Review of Close Management.~~

~~(a) An ICT member shall review inmates in close management at least once every week for the first 60 days and once every 30 days thereafter. The purpose shall be toward reducing the inmate's status to the lowest management level or returning the inmate to general population as soon as the facts of the case indicate that this can be done safely. During the review, the ICT shall consider the results of the behavioral risk assessments and mental health evaluations that have been completed prior to the review, and other information relevant to institutional adjustment, staff and inmate safety, and institutional security.~~

~~(b) Any inmate assigned to close management for more than 30 days shall be given a psychological screening assessment by mental health professional staff to determine the inmate's mental condition. The assessment shall include a personal interview if deemed necessary by mental health staff. All such assessments shall be documented in the mental health record. The psychologist or psychological specialist shall prepare a report to the ICT with the facts of the case. The ICT shall then make a decision regarding continuation of confinement. Any recommendations by the psychologist or psychologist specialist that the inmate be released from close management shall be forwarded by the ICT to the SCO. If the~~

~~decision is to continue confinement, a new psychological screening assessment shall be completed at least every 90-day period.~~

~~(c) The close management program team (CMPT) will review each CMP at least 30 days after the implementation of the plan and at least every 60 days thereafter. However, the CMPT shall meet within 7 days if mental health staff determine that more immediate attention is required. All changes and or modifications will be documented on the inmate's CMP. The CMPT's review (and interview, if necessary) will include the following:~~

- ~~1. A status assessment of the inmate's participation;~~
- ~~2. A status evaluation of the close management plan's objectives and goals, and the ability to meet the inmate's needs;~~
- ~~3. A determination if changes or modifications to the current plan are needed.~~
- ~~4. The CMP will be available in the CM unit. The original will be placed in the mental health record. All changes to the plan will be attached to the original mental health record and the copy maintained in the CM unit.~~

~~(b)5. All services provided by any mental health or program staff member shall be recorded on the Daily Record of Segregation, Form DC6-229 Close Management Activity Participation Log, Form DC6-129, which shall be kept in the officers' station of the CM unit. When the form has been completely filled-out or the inmate has been released from the CM unit, a copy shall be placed in the inmate file and the original shall be filed in the mental health record. ~~Form DC6-129 is incorporated by reference in (18) of this rule.~~~~

~~(c)(d) No change.~~

~~(d)(e) The ICT shall review the report of close management prepared by the classification officer, consider the results of behavioral risk assessments and mental health evaluations and other information relevant to institutional adjustment, staff and inmate safety, and institutional security, and insert any other information regarding the inmate's status and interview the inmate. The ICT's recommendation shall be documented in OBIS and the Report of Close Management, Form DC6-233C. If it is determined that no justifiable safety and security issues exists for the inmate to remain in close management the ICT shall forward their recommendation for release to the SCO for review. For an inmate to remain in close management the ICT shall justify the safety and security issues or circumstances that can only be met by maintaining the inmate at the current level or a lower level of management.~~

~~(e)(f) The SCO shall conduct an onsite interview with each inmate at least once every six months or as often as necessary to determine if continuation, modification, or removal from close management status is appropriate. The SCO shall review all reports prepared by the ICT concerning an inmate's close management status, consider the results of behavioral risk assessments and mental health evaluations and other~~

information relevant to institutional adjustment, staff and inmate safety, and institutional security and may interview the inmate before determining the final disposition of the inmate's close management status. If it is determined that no justifiable safety and security issues exist for the inmate to remain in close management the SCO shall cause the inmate to be immediately released. For an inmate to remain in close management, the SCO shall determine based on the reports and documentation that there are safety and security issues or circumstances for maintaining the inmate at the current level or at a lower level of management. The SCO's decision shall be documented in OBIS and the Report of Close Management, Form DC6-233C. The ICT shall advise the inmate of the SCO's decision.

~~(17)(16)~~ Close Management Records.

(a) No change.

(b) A Daily Record of Segregation, Form DC6-229, shall be maintained for each inmate as long as he is in close management. Form DC6-229 shall be utilized to document any activities, including cell searches, items removed, showers, recreation, haircuts and shaves. If items that inmates in close management are not prohibited from possessing are denied or removed from the inmate, the shift supervisor or the senior correctional officer must approve the action initially. The Central Office ADA coordinator shall be contacted within 24 hours if any item is removed that would be considered an auxiliary aid or device that ensures a disabled inmate an equal opportunity as a non-disabled inmate. The items denied or removed shall be documented on Form DC6-229 and the chief of security shall make the final decision in regard to the action no later than the next working day following the action. Staff shall re-assess the need for continued restriction every 72 hours thereafter as outlined in subsection (10) of this rule. The confinement housing officer shall make a notation of any unusual occurrences or changes in the inmate's behavior and any action taken. Changes in housing location or any other special action shall also be noted. Form DC6-229 shall be maintained in the housing area for 30 days. After each 30 day review of the inmate, Form DC6-229 shall be forwarded to the ICT for review. Once reviewed, these forms shall be forwarded to classification to be filed in the institutional inmate record.

(c) An Inspection of Special Housing Record, Form DC6-228, shall be maintained in each close management area. Each staff person shall sign the record when entering and leaving the confinement area. Prior to leaving the confinement area, each staff member shall indicate any specific problems; ~~including any inmate who requires special attention.~~ Upon completion, Form DC6-228 shall be maintained in the housing area and forwarded to the chief of security on a daily weekly basis where it shall be maintained on file pursuant to the current retention schedule.

~~(18)(17)~~ Staffing Issues.

(a) Officers assigned to a confinement unit shall be reviewed ~~rotated to another assignment~~ every 18 months ~~for a period of at least one year by the chief of security to determine whether a rotation is necessary.~~ The chief of security shall review personnel records, to include performance appraisals, incident reports, uses of force, and any other documentation relevant to the officer's assignment and job performance; interview the officer and the officer's supervisors for the period of review; and shall make a recommendation to the warden as to the necessity of a rotation. The warden shall review the recommendation, request additional information, if necessary, and make the final determination as to whether the officer continues in the current assignment or is rotated to another assignment. Any officer assigned to a confinement post shall be authorized a minimum period of five days annual leave or a five day assignment to a less stressful post every six months.

(b) No change.

~~(19)(18)~~ Forms. The following forms referenced in this rule are hereby incorporated by reference. Copies of any of these forms are available from the Forms Control Administrator, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

~~(a) Form DC4-650, Observation Checklist/Restraint Observation Checklist, effective date 2-12-01.~~

~~(a)(b) Form DC6-128, Close Management Referral Assessment, effective date \_\_\_\_\_ 2-1-01.~~

~~(c) Form DC6-129, Close Management Activity Participation Log, effective date 2-1-01.~~

~~(b) Form DC4-643A, Individualized Service Plan, effective date \_\_\_\_\_.~~

~~(c)(d) Form DC6-221, Cell Inspection, effective date \_\_\_\_\_ 2-12-01.~~

~~(d)(e) No change.~~

~~(e)(f) Form DC6-229, Daily Record of Segregation, effective date \_\_\_\_\_ 2-12-01.~~

~~(f)(g) Form DC6-233C, Report of Close Management, effective date \_\_\_\_\_ 2-1-01.~~

~~(g)(h) Form DC6-251, CMI and II Canteen Order, effective date \_\_\_\_\_ 2-1-01.~~

~~(h)(i) Form DC6-252, CMIII Canteen Order, effective date \_\_\_\_\_ 2-1-01.~~

~~(i)(j) No change.~~

~~(j) Form DC4-729, Behavioral Risk Assessment, effective date \_\_\_\_\_.~~

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History--New 2-1-01, Amended \_\_\_\_\_.

**DEPARTMENT OF ELDER AFFAIRS**

**Federal Aging Programs**

RULE CHAPTER TITLE: Hospic  
 RULE CHAPTER NO.: 58A-2

RULE TITLE: Administration of the Hospice  
 RULE NO.: 58A-2.005

PURPOSE AND EFFECT: The rule amendment to 58A-2.005 will provide emergency management plans and physical plant standards for hospices as specified in paragraphs (i) and (j) of Section 400.605, Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: Emergency Management Plan and Physical Plant Standards.

SPECIFIC AUTHORITY: 400.605 FS.

LAW IMPLEMENTED: 400.605 FS.

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

TIME AND DATE: 9:00 a.m. – 11:00 a.m., Monday, October 22, 2001

PLACE: Department of Elder Affairs, 4040 Esplanade Way, Conf. Rm. 225F, Tallahassee, FL

THE PERSONS TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT ARE: Linda Macdonald, Assisted Living Program, Division of Community Based Services, or Pat Dunn, Office of General Counsel, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000, (850)414-2113

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

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Certificate of Need**

RULE TITLE: Certificate of Need Application Procedures  
 RULE NO.: 59C-1.008

PURPOSE AND EFFECT: The agency is revising the batching cycles established in Section 59C-1.008(1)(g), F.A.C., as a result of the moratorium created by section 52 of Chapter 2001-45, Laws of Florida. That legislation established a moratorium until July 2006 for certificate of need (CON) approval of any additional community nursing home beds that would be licensed under Chapter 400, F.S. Addition of sheltered nursing home beds and beds in hospital-based skilled nursing units (SNUs) remains subject to CON approval.

As a consequence of the moratorium, the agency has stopped accepting letters of intent and applications for Chapter 400 community nursing home beds, and no fixed need pool (FNP) for such beds will be published October 12, 2001 or thereafter. Review cycles for SNUs will continue according to the cycles currently established for nursing facilities.

Effective beginning in 2002, to establish a more evenly distributed workload for agency review staff, several types of projects currently reviewed according to the batching cycles for “hospitals and other projects” will be moved to the batching cycles currently established for “nursing facilities.” For these projects, the batching cycles currently scheduled to begin with publication of FNPs on January 25, 2002 will instead begin with FNPs published on April 12, 2002, and the dates in the current calendar established for nursing facilities will be used thereafter. The proposals affected by this change are: open heart surgery, pediatric cardiac catheterization, specialty burn units, organ transplantation, hospice programs, hospice inpatient beds, and intermediate care facilities for the developmentally disabled. Batching cycles for all other projects subject to comparative review remain unchanged: the first cycle in 2002 will begin with publication of FNPs on January 25, 2002, as currently established, with no proposed changes in subsequent deadlines.

The proposed amendments also add a batching cycle calendar for 2003, consistent with the proposed changes.

SUBJECT AREA TO BE ADDRESSED: Modification of the batching cycle calendar in response to the moratorium on approval of additional Chapter 400 community nursing home beds.

SPECIFIC AUTHORITY: 408.15(8), 408.034(5) FS.

LAW IMPLEMENTED: 408.039(1) FS.; s. 52, Ch. 2001-45, Laws of Florida.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., October 16, 2001

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room C, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: John Davis, Certificate of Need, 2727 Mahan Drive, Building 1, Tallahassee, Florida

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59C-1.008 Certificate of Need Application Procedures.

(1) Letters of Intent and applications subject to comparative review shall be accepted in two batching cycles annually each for hospital beds and facilities ~~hospital projects~~, and for other beds and programs ~~nursing facility projects~~, as specified in paragraph (g) of this subsection. The category “hospital beds and facilities” includes proposals for new hospital facilities, replacement facilities, acute care beds, neonatal level II and level III beds, hospital inpatient psychiatric beds, hospital inpatient substance abuse beds, comprehensive medical rehabilitation beds, and beds for long term care hospitals. The category “other beds and programs” includes proposals for open heart surgery, pediatric cardiac catheterization, specialty burn units, organ transplantation,

distinct-part skilled nursing unit (SNU) beds, hospice programs, hospice inpatient beds, and intermediate care facilities for the developmentally disabled. All other projects subject to comparative review shall be reviewed in the hospital batching cycle. "All other projects" include projects by or for hospices and intermediate care facilities for the developmentally disabled.

(a) through (f) No change.

(g) Applications Subject to Comparative Review-Batching Cycles. In order that applications pertaining to similar types of services or facilities affecting the same service district or subdistrict may be considered in relation to each other for purposes of comparative review, letters of intent and applications shall be received by the agency no later than dates prescribed in the following schedule:

<u>Hospitals and Other Projects</u>	
<u>1st Batching Cycle—2000</u>	
Summary Need Projections Published in F.A.W.	1-28-00
Letter of Intent Deadline	2-14-00
Application Deadline	3-15-00
Completeness Review Deadline	3-22-00
Application Omissions Deadline	4-19-00
Agency Initial Decision Deadline	6-16-00
<u>Hospitals and Other Projects</u>	
<u>2nd Batching Cycle—2000</u>	
Summary Need Projections Published in F.A.W.	7-28-00
Letter of Intent Deadline	8-14-00
Application Deadline	9-13-00
Completeness Review Deadline	9-20-00
Application Omissions Deadline	10-18-00
Agency Initial Decision Deadline	12-15-00
<u>Hospitals and Other Projects</u>	
<u>1st Batching Cycle—2001</u>	
Summary Need Projections Published in F.A.W.	1-26-01
Letter of Intent Deadline	2-12-01
Application Deadline	3-14-01
Completeness Review Deadline	3-21-01
Application Omissions Deadline	4-18-01
Agency Initial Decision Deadline	6-15-01
<u>Hospitals and Other Projects</u>	
<u>2nd Batching Cycle – 2001</u>	
Summary Need Projections Published in F.A.W.	7-27-01
Letter of Intent Deadline	8-13-01
Application Deadline	9-12-01
Completeness Review Deadline	9-19-01
Application Omissions Deadline	10-17-01
Agency Initial Decision Deadline	12-14-01
<u>Hospital Beds and Facilities Hospitals and Other Projects</u>	
<u>1st Batching Cycle – 2002</u>	
Summary Need Projections Published in F.A.W.	1-25-02
Letter of Intent Deadline	2-11-02

Application Deadline	3-13-02
Completeness Review Deadline	3-20-02
Application Omissions Deadline	4-17-02
Agency Initial Decision Deadline	6-14-02
<u>Hospital Beds and Facilities Hospitals and Other Projects</u>	
<u>2nd Batching Cycle – 2002</u>	
Summary Need Projections Published in F.A.W.	7-26-02
Letter of Intent Deadline	8-12-02
Application Deadline	9-11-02
Completeness Review Deadline	9-18-02
Application Omissions Deadline	10-16-02
Agency Initial Decision Deadline	12-13-02
<u>Hospital Beds and Facilities</u>	
<u>1st Batching Cycle – 2003</u>	
Summary Need Projections Published in F.A.W.	1-24-03
Letter of Intent Deadline	2-10-03
Application Deadline	3-12-03
Completeness Review Deadline	3-19-03
Application Omissions Deadline	4-16-03
Agency Initial Decision Deadline	6-13-03
<u>Hospital Beds and Facilities</u>	
<u>2nd Batching Cycle – 2003</u>	
Summary Need Projections Published in F.A.W.	7-25-03
Letter of Intent Deadline	8-11-03
Application Deadline	9-10-03
Completeness Review Deadline	9-17-03
Application Omissions Deadline	10-15-03
Agency Initial Decision Deadline	12-12-03
<u>Nursing Facilities</u>	
<u>1st Batching Cycle—2000</u>	
Summary Need Projections Published in F.A.W.	4-14-00
Letter of Intent Deadline	5-01-00
Application Deadline	5-31-00
Completeness Review Deadline	6-07-00
Applicant Omissions Deadline	7-05-00
Agency Initial Decision Deadline	9-01-00
<u>Nursing Facilities</u>	
<u>2nd Batching Cycle—2000</u>	
Summary Need Projections Published in F.A.W.	10-13-00
Letter of Intent Deadline	10-30-00
Application Deadline	11-29-00
Completeness Review Deadline	12-06-00
Applicant Omissions Deadline	1-03-01
Agency Initial Decision Deadline	3-02-01
<u>Nursing Facilities</u>	
<u>1st Batching Cycle—2001</u>	
Summary Need Projections Published in F.A.W.	4-13-01
Letter of Intent Deadline	4-30-01
Application Deadline	5-30-01
Completeness Review Deadline	6-06-01



Applicant Omissions Deadline	7-05-01
Agency Initial Decision Deadline	8-31-01
<u>Nursing Facilities – Chapter 395 Only</u>	
2nd Batching Cycle – 2001	
Summary Need Projections Published in F.A.W.	10-12-01
Letter of Intent Deadline	10-29-01
Application Deadline	11-28-01
Completeness Review Deadline	12-05-01
Applicant Omissions Deadline	1-02-02
Agency Initial Decision Deadline	3-01-02
<u>Other Beds and Programs Nursing Facilities</u>	
1st Batching Cycle – 2002	
Summary Need Projections Published in F.A.W.	4-12-02
Letter of Intent Deadline	4-29-02
Application Deadline	5-29-02
Completeness Review Deadline	6-05-02
Applicant Omissions Deadline	7-03-02
Agency Initial Decision Deadline	8-30-02
<u>Other Beds and Programs Nursing Facilities</u>	
2nd Batching Cycle – 2002	
Summary Need Projections Published in F.A.W.	10-11-02
Letter of Intent Deadline	10-28-02
Application Deadline	11-27-02
Completeness Review Deadline	12-04-02
Applicant Omissions Deadline	1-02-03
Agency Initial Decision Deadline	2-28-03
<u>Other Beds and Programs</u>	
<u>1st Batching Cycle – 2003</u>	
<u>Summary Need Projections Published in F.A.W.</u>	<u>4-11-03</u>
<u>Letter of Intent Deadline</u>	<u>4-28-03</u>
<u>Application Deadline</u>	<u>5-28-03</u>
<u>Completeness Review Deadline</u>	<u>6-04-03</u>
<u>Applicant Omissions Deadline</u>	<u>7-02-03</u>
<u>Agency Initial Decision Deadline</u>	<u>8-29-03</u>
<u>Other Beds and Programs</u>	
<u>2nd Batching Cycle – 2003</u>	
<u>Summary Need Projections Published in F.A.W.</u>	<u>10-10-03</u>
<u>Letter of Intent Deadline</u>	<u>10-27-03</u>
<u>Application Deadline</u>	<u>11-26-03</u>
<u>Completeness Review Deadline</u>	<u>12-03-03</u>
<u>Applicant Omissions Deadline</u>	<u>1-01-04</u>
<u>Agency Initial Decision Deadline</u>	<u>2-27-04</u>
(h) through (6) No change.	

Specific Authority 408.034(5), 408.15(8) FS. Law Implemented 408.033, 408.037, 408.038, 408.039 FS. History—New 1-1-77, Amended 11-1-77, 9-1-78, 6-5-79, 2-1-81, 4-1-82, 7-29-82, 9-6-84, Formerly 10-5.08, Amended 11-24-86, 3-2-87, 6-11-87, 11-17-87, 3-23-88, 5-30-90, 12-20-90, 1-31-91, 9-9-91, 5-12-92, 7-1-92, 8-10-92, Formerly 10-5.008, Amended 4-19-93, 6-23-94, 10-12-94, 10-18-95, 2-12-96, 7-18-96, 9-16-96, 11-4-97, 7-21-98, 12-12-00, 4-2-01, \_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE TITLE: Licensure Examinations  
 RULE NO.: 64B3-7.001

PURPOSE AND EFFECT: The Board proposes to add another exam provider for licensure as a technologist and another exam for technicians.

SUBJECT AREA TO BE ADDRESSED: Licensure Examinations.

SPECIFIC AUTHORITY: 456.017, 483.809(2) FS.

LAW IMPLEMENTED: 456.017, 483.809(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND FOR A COPY OF THE PRELIMINARY DRAFT IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-7.001 Licensure Examinations.

(1) through (5) No change.

(6) For licensure as a technologist:

(a) A state examination in one or more of the following specialties: microbiology, serology/immunology, clinical chemistry, hematology, immunohematology, blood banking/immunohematology, histology, or examinations prepared by the American Society of Clinical Pathologists, the American Medical Technologists (AMT), ~~or~~ the National Certification Agency for Clinical Laboratory Personnel (NCA), or the American Association of Bioanalysts (AAB); or

(b) In the specialty of cytology, the Cytotechnologist Examination prepared by the Board of Registry of the American Society of Clinical Pathologists; or

(c) In the specialty of cytogenetics, the Clinical Laboratory Specialist in Cytogenetics Examination prepared by the National Certification Agency for Medical Laboratory Personnel; or

(d) In the specialty of histocompatibility, the Certification Examination for Histocompatibility Technologists, prepared by the American Board of Histocompatibility and Immunogenetics; or

(e) In the specialty of radioassay, the Certification Examination in Radioassay, prepared by the Clinical Ligand Assay Society Certification Board; or

(f) In the specialty of blood gas analysis, either the Cardiovascular Science Examination, prepared by Cardiovascular Credentialing International, or the Advanced Pulmonary Function Technologist Examination, prepared by the National Board of Respiratory Care.

(g) In the specialty of blood banking/immunohematology, the Technologist Certification Examination in Blood Banking, or the Specialist in Blood Banking Certification Examination, prepared by the Board of Registry of the American Society of Clinical Pathologists are also acceptable in addition to the options stated in (6)(a) above.

(7) No change.

(8) For licensure as a Technician:

(a) There shall be two types of examinations. A candidate may choose either a generalist examination covering microbiology, serology/immunology, clinical chemistry, hematology and immunohematology or an examination in histology. A candidate may alternately choose to take either one of the generalist medical laboratory technician or medical technologist examinations administered by the American Society of Clinical Pathologists (ASCP), the National Certification Agency for Medical Laboratory Personnel (NCA), or American Medical Technologists (AMT) or the technician histology or technologist histology examination administered by the American Society of Clinical Pathologists (ASCP).

(b) The applicant shall be licensed as a generalist technician in the specialties of microbiology, serology/immunology, clinical chemistry, hematology, and immunohematology upon passage of the state generalist examination of the American Society of Clinical Pathologists (ASCP), the National Certification Agency for Medical Laboratory Personnel (NCA), or the American Medical Technologists (AMT), or the American Association of Bioanalysts (AAB) medical laboratory technician or medical technologist generalist examination; or

(c) The applicant shall be licensed as a technician in the specialty of histology upon passage of the state histotechnician examination or the histotechnician or histotechnologist examination administered by the American Society of Clinical Pathologists (ASCP).

(d) There is no technician level radioassay, blood banking, blood gas analysis, cytology, histocompatibility or cytogenetics examination.

Specific Authority 456.017, 483.809(2) FS. Law Implemented 456.017, 483.809(2) FS. History—New 5-12-93, Formerly 21KK-7.001, 61F3-7.001, Amended 12-5-95, Formerly 590-7.001, Amended 3-19-98, 6-23-98, 7-1-99, 4-10-01, \_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE TITLES: RULE NOS.:  
 Application Fees 64B3-9.001  
 Initial Licensure Fees 64B3-9.002

PURPOSE AND EFFECT: The Board has determined that it is necessary to raise the trainee application fee to cover the cost of processing the application; and proposes to add an initial licensure fee.

SUBJECT AREA TO BE ADDRESSED: Application Fees; Initial Licensure Fees.

SPECIFIC AUTHORITY: 456.025, 483.805(4), 483.807(1) FS.

LAW IMPLEMENTED: 456.025, 483.807, 483.815 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND FOR A COPY OF THE PRELIMINARY DRAFT IS: Joe Baker, Jr., Board Executive Director, Board of Clinical Laboratory, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-9.001 Application Fees.

(1) through (5) No change.

(6) Trainee – ~~\$20~~ \$15

(7) through (11) No change.

Specific Authority 456.025, 483.807(1) FS. Law Implemented 456.025, 483.807, 483.815 FS. History—New 12-7-93, Formerly 61F3-9.001, 590-9.001, Amended 5-26-98, 5-13-99, 6-10-99, 3-9-00, \_\_\_\_\_.

64B3-9.002 Initial Licensure Fees.

(1) through (3) No change.

(4) For clinical laboratory personnel trainees – \$20.

Specific Authority 456.025, 483.805(4), 483.807(1) FS. Law Implemented 456.025, 483.807 FS. History—New 12-7-93, Formerly 61F3-9.002, 590-9.002, Amended 6-10-99, \_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE TITLE: RULE NO.:  
 Scope of Practice Relative to Specialty   
 of Licensure 64B3-10.005

PURPOSE AND EFFECT: The Board proposes to update the existing rule.

SUBJECT AREA TO BE ADDRESSED: Scope of Practice Relative to Specialty of Licensure.

SPECIFIC AUTHORITY: 483.805(4) FS.

LAW IMPLEMENTED: 483.813, 483.823, 483.825 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND FOR A COPY OF THE PRELIMINARY DRAFT IS: Joe Baker, Jr., Board Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-10.005 Scope of Practice Relative to Specialty of Licensure.

(1) through (6) No change.

(7) The purpose of the specialty of clinical chemistry is to perform qualitative and quantitative analyses on body fluids such as blood, urine, spinal fluid, feces, tissue, calculi and other materials to measure the chemical constituents including but not limited to carbohydrates, proteins, lipids, enzymes, non-protein nitrogenous substances, electrolytes, blood gases, trace elements, inorganic compounds, therapeutic and drugs of abuse, hormones, vitamins, tumor markers, other automated immunoassays and other analyses. The specialty also encompasses urine microscopics and the chemical evaluation of liver, renal, lung, cardiac, neuromuscular, reproductive, bone, endocrine and other organ function and pathology and all testing included in the specialties of radioassay as defined in subsection (9) and blood gas analysis as defined in Subsection (10). Individuals employed in plasmapheresis centers who perform only total protein by refractometer are not required to hold a license in clinical chemistry if they meet the requirements of 42 CFR 493.1423, and can document appropriate training.

(8) through (18) No change.

Specific Authority 483.805(4) FS. Law Implemented 483.813, 483.823, 483.825 FS. History—New 2-7-95, Amended 3-28-95, 7-12-95, 12-4-95, Formerly 59O-10.005, Amended 3-19-99,\_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Hearing Aid Specialist**

RULE TITLES:	RULE NOS.:
Definitions	64B6-2.002
Licensure by Examination	64B6-2.003
Reexamination	64B6-2.005

PURPOSE AND EFFECT: Due to monetary constraints, changing technology, and a change in the law effective July 1, 2001, the Department’s examination services has determined that parts of these rules are out-of-date and need to be updated or repealed.

SUBJECT AREA TO BE ADDRESSED: Definitions; Licensure by Examination; Reexamination.

SPECIFIC AUTHORITY: 456.017(1)(b), 456.017(2), 484.044, 484.0445(1), 484.0445, 484.045 FS.

LAW IMPLEMENTED: 456.017(1)(b), 484.0445, 484.0445(1), 484.045 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND FOR A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sue Foster, Board Executive Director, Board of Hearing Aid Specialists, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

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

**DEPARTMENT OF HEALTH**

**Board of Hearing Aid Specialist**

RULE TITLES:	RULE NOS.:
Continuing Education Programs	64B6-5.002
Reporting Continuing Education Attendance	64B6-5.003

PURPOSE AND EFFECT: The Board proposes to update the existing rules.

SUBJECT AREA TO BE ADDRESSED: Continuing Education Programs; Reporting Continuing Education Attendance.

SPECIFIC AUTHORITY: 456.013(6),(8), 484.044, 484.047(4), 484.0501(7) FS.

LAW IMPLEMENTED: 484.047(4), 484.050(7) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND FOR A COPY OF THE PRELIMINARY DRAFT IS: Sue Foster, Executive Director, Board of Hearing Aid Specialist, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B6-5.002 Continuing Education Programs.

(1) through (6) No change.

(7) Effective for the biennium beginning in 2001, each Hearing Aid Specialist shall attend and certify attending two hours and may take up to four (4) hours per biennium of continuing education which includes the topics of Human Immunodeficiency Virus, Acquired Immune Deficiency Syndrome, and other communicable illness to protect both the recipient and dispenser; modes of transmission, infection control procedures, clinical management, and prevention of

any communicable illness. Such continuing education shall be accepted by the Board toward the continuing education requirement prescribed in Rule 64B6-5.001, F.A.C. Up to four hours of continuing education relating to these topics shall be accepted for the 1999-2001 biennium. Each Hearing Aid Specialist shall attend and certify attending a Board approved two hour continuing education course relating to the prevention of medical errors. The 2-hour course shall count toward the total number of continuing education hours required for license renewal.

Specific Authority 456.013(6),(8), 484.044, 484.047(4) FS. Law Implemented 484.047(4) FS. History—New 4-1-85, Formerly 21JJ-15.002, Amended 8-5-87, 2-16-89, 6-21-89, 1-10-90, 8-19-91, 10-21-91, Formerly 21JJ-5.006, Amended 11-20-95, Formerly 61G9-5.006, Amended 9-23-99, 11-9-00,\_\_\_\_\_.

**64B6-5.003 Reporting Continuing Education Attendance.**

(1) The licensee shall submit a statement on a form, provided by the Department, in which the licensee affirms that he has completed the continuing education required for license renewal. Failure to submit the completed form by February 28 January 31, of every odd biennial renewal year shall be grounds for denying license renewal. The licensee shall retain for 4 years such receipts or certificates which establish completion of required continuing education during each biennium. The Department shall randomly audit a sufficient number of licensees’ continuing education records to assure compliance with continuing education requirements.

(2) No change.

Specific Authority 484.044, 484.047(4), 484.0501(7) FS. Law Implemented 484.050(7) FS. History—New 4-1-85, Formerly 21JJ-15.003, Amended 8-5-87, 1-10-90, 8-19-91, 10-21-91, Formerly 21JJ-5.007, 61G9-5.007, Amended \_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLE: Continuing Education Credits

RULE NO.: 64B16-26.103

PURPOSE AND EFFECT: The Board proposes to amend this rule to update the rule text with regard to continuing education.  
 SUBJECT AREA TO BE ADDRESSED: Continuing education credits.

SPECIFIC AUTHORITY: 456.033, 465.009 FS.

LAW IMPLEMENTED: 456.033, 465.009 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254  
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLE: Manner of Application

RULE NO.: 64B16-26.203

PURPOSE AND EFFECT: The Board proposes to amend this rule to update the requirements for applicants applying for licensure by examination.

SUBJECT AREA TO BE ADDRESSED: Manner of Application – Examination.

SPECIFIC AUTHORITY: 456.033, 465.005 FS.

LAW IMPLEMENTED: 456.013(1), 456.033, 465.007, 465.022 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254  
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLES: Change of Ownership

RULE NOS.: 64B16-28.1135

Institutional Permit – Consultant

Pharmacist of Record 64B16-28.501

PURPOSE AND EFFECT: The Board proposes to amend Rule 64B15-28.1135, F.A.C., to update the rule text with regard to change of ownership. The Board proposes to amend rule 64B16-28.501, F.A.C., to update the rule text with regard to the different classes a facility may hold.

SUBJECT AREA TO BE ADDRESSED: Change of ownership, Class I institutional permit – consultant pharmacist of record.

SPECIFIC AUTHORITY: 465.005, 465.0125, 465.022 FS.

LAW IMPLEMENTED: 465.003(11)(a), 465.0125, 465.018, 465.019, 465.0193, 465.0196, 465.022 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B16-28.1135 Change of Ownership.

(1) A pharmacy permit is not transferable. Upon the sale of an existing pharmacy, a new application must be filed. In those cases where the permit is held by a corporation, the transfer of all the stock of said corporation to another person or entity does not constitute a change of ownership, provided that the initial corporation holding the permit continues to exist.

(2) A change in ownership (and issuance of a new permit number) requires that new records be started and old records closed. The process for closing a pharmacy, including the transfer of prescription files and medicinal drugs, as outlined in Rules 64B16-28.201; 64B16-28.202; and 64B16-28.203 must be followed for the old permit. If the old permit has controlled substances, the new permit must record an "opening inventory" for DEA purposes. Both the new permit and the old permit must keep appropriate records for two (2) years for the transfer of legend drugs and controlled substances.

(3) A change in the company or person who leases the building where the permit is housed does not constitute a change in ownership. A change in the management company which contracts with the owner of the permit for the operation of the permit does not constitute a change in ownership.

Specific Authority 465.005, 465.022 FS. Law Implemented 465.003(11)(a), 465.018, 465.019, 465.0193, 465.0196, 465.022(7) FS. History--New 4-19-00, Amended \_\_\_\_\_.

64B16-28.501 ~~Class I~~ Institutional Permit – Consultant Pharmacist of Record.

Each facility holding a Class I, a Class II, or a Modified Class II Institutional permit shall designate a consultant pharmacist of record to ensure compliance with the laws and rules governing the permit. The Board office shall be notified in writing within 10 days of any change in the consultant pharmacist of record. The consultant pharmacist of record for a Class I or a Modified Class II permit shall inspect the facility and prepare a written report to be filed at the permitted facility at least monthly.

Specific Authority 465.005, 465.0125, 465.022 FS. Law Implemented 465.0125, 465.019, 465.022 FS. History--New 7-18-94, Formerly 61F10-28.501, 59X-28.501, Amended \_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLE: \_\_\_\_\_ RULE NO.:

Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances 64B16-30.001

PURPOSE AND EFFECT: The Board proposes to amend this rule to update the rule text.

SUBJECT AREA TO BE ADDRESSED: Disciplinary guidelines; range of penalties, aggravating and mitigating circumstances.

SPECIFIC AUTHORITY: 456.072, 456.079, 465.005 FS.

LAW IMPLEMENTED: 456.072, 456.079 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B16-30.001 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) The board sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon practitioners guilty of violating Chapter 465, F.S. The purpose of the disciplinary guidelines is to give notice to licensees of the range of penalties which will normally be imposed upon violations of particular provisions of Chapter 465. The minimum penalty range is based upon a first time single count violation of each provision listed. The maximum penalty range is based upon repeated violations of the same provision of Chapter 465 or the rules promulgated thereto. All penalties at the upper range of the sanctions set forth in the guidelines, i.e., suspension, revocation, etc., include lesser penalties, i.e., fine, probation or reprimand which may be included in the final penalty at the board's discretion. Probation may be subject to conditions, including restriction from practice in certain settings, restricting the licensee to working only under designated conditions or in certain settings, requiring continuing or remedial education, or any other restriction found to be necessary for the protection of the public health, safety and welfare. In addition to any other discipline imposed under these guidelines, the board shall assess costs relating to the investigation and prosecution of the case.

(2) The following disciplinary guidelines shall be followed by the board in imposing disciplinary penalties upon licensees and permittees for violation of the below mentioned statutes and rules:

VIOLATION	PENALTY RANGE	
	MINIMUM	MAXIMUM
(a) through (n) No change.		
(o) Violating 456.072, F.S.		
1. Making misleading, deceptive, or fraudulent representations in or	\$2,500 fine and one (1) year probation	\$5,000 fine and suspension

related to the practice of the licensee's profession.  
 2. No change.  
 3. Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

Misdemeanor:	\$5,000 fine and one (1) year suspension
Felony:	Revocation
	\$3,000 fine and one (1) year probation

4. through 11. No change.  
 12. Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession.

<del>\$10,000</del> <del>\$3,000</del> fine and two (2) years probation	<del>\$10,000</del> <del>\$5,000</del> fine and one (1) year suspension
---	---

13. through 17. No change.

18. Failing to report to the board in writing within 30 days after the licensee has been convicted or found guilty or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.

<u>\$1,000 fine</u>	<u>\$2,500 fine and one (1) year probation</u>
---------------------	--

19. Testing positive for any drug, as defined in s. 112.0455 on any confirmed preemployment or employer ordered drug screening when the practitioner does not have a lawful prescription and legitimate medical reason for using such drug.

<u>\$2,500 fine and two (2) year probation</u>	<u>\$5,000 fine and one (1) year suspension</u>
--	---

(3) through (4) No change.

Specific Authority 456.072, 456.079, 465.005 FS. Law Implemented 456.072, 456.079 FS. History--New 3-1-87, Amended 5-11-88, Formerly 21S-17.001, 21S-30.001, 61F10-30.001, Amended 6-26-95, 1-30-96, Formerly 59X-30.001, Amended 12-3-97, 11-15-98, 5-3-00,\_\_\_\_\_.

## Section II Proposed Rules

### DEPARTMENT OF BANKING AND FINANCE

#### Division of Securities and Finance

RULE TITLES:	RULE NOS.:
Records to be Maintained by Deferred Presentment Providers	3C-560.707
Verification Fee	3C-560.801
Minimum Disclosure	3C-560.802
Payment Method	3C-560.804
Scope	3C-560.901
Definitions	3C-560.902
Deferred Presentment Transactions	3C-560.903
Transaction Agreement Disclosures and Requirements	3C-560.904
Transaction Fees	3C-560.905
Consumer Credit Counseling Services	3C-560.906

PURPOSE AND EFFECT: The purpose of the proposed amendments and new rules is to implement the provisions of Chapter 2001-119, Laws of Florida, regarding the deferred presentment industry, which takes effect on October 1, 2001.

SUMMARY: Rule 3C-560.707, F.A.C., sets forth the records to be kept by a deferred presentment provider. Rules 3C-560.801, .802, and .804, F.A.C., are amended to include deferred presentment providers. Rule 3C-560.901, F.A.C., sets forth the scope of Part IX of Chapter 3C-560, F.A.C. Rule 3C-560.902, F.A.C., sets forth definitions. Rule 3C-560.903, F.A.C., defines when a transaction is considered to be terminated and states when the twenty-four (24) hour waiting period begins. Rule 3C-560.904, F.A.C., identifies the provisions that shall be included in a deferred presentment transaction agreement as well as those provisions that are prohibited. Rule 3C-560.905, F.A.C., sets forth the fees that are allowed by Part IV of Chapter 560, F.S. Rule 3C-560.906, F.A.C., sets forth the requirements for consumer credit counseling services and the criteria for inclusion on the Department's list of approved consumer credit counseling agencies.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

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

SPECIFIC AUTHORITY: 560.105(3), 560.404(23) FS.

LAW IMPLEMENTED: 560.404, 560.407 FS.

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

TIME AND DATE: 10:30 a.m., October 23, 2001  
 PLACE: Room G16C, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Rick White, Financial Administrator, or Mike Ramsden, Financial Examiner/Analyst II, Room 550, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULES IS:

3C-560.707 Records to be Maintained by Deferred Presentment Providers.

(1) Every deferred presentment provider shall maintain the following records at a location in this state which has been designated to the Department:

(a) A copy of each personal check accepted for each deferred presentment transaction.

(b) A copy of each transaction agreement between the deferred presentment provider and the drawer that meets the requirements of Rule 3C-560.904, F.A.C.

(c) If applicable, a copy of each document relating to any consumer credit counseling services provided for each drawer including:

1. A signed and dated notice from the drawer that he or she is unable cover the check or to repay the provider on or before the last day of the deferment period, and that he or she agrees to complete consumer credit counseling and comply with a repayment agreement approved by a consumer credit counseling agency;

2. All correspondence received from or sent to the drawer or the consumer credit counseling agency chosen by the drawer; and

3. A copy of the drawer's repayment plan approved by the consumer credit counseling agency including records that substantiate the drawer's compliance with such agreement.

(d) Records relating to all returned personal checks that shall include, if applicable, the following:

1. The date the personal check was returned to the provider;

2. The name and address of the drawer;

3. The check number of the personal check;

4. The dollar amount of the personal check;

5. The date of deposit by the provider;

6. The NSF fees imposed, if applicable, on each drawer;

7. The date on which collection is made from the drawer; and

8. A description of the method by which collection was ultimately achieved.

(e) A daily summary of the business activities including the following documents:

1. Bank deposit receipts;

2. Copies of checks and withdrawal receipts evidencing withdrawal of funds from accounts maintained by the provider; and

3. A daily cash reconciliation summarizing each day's activities and reconciling cash on hand at the close of business.

(f) Bank statements of the provider received and maintained, no less often than monthly, for all accounts from which the provider operates. A complete legible copy of the provider's bank statement will be accepted if the original bank statement is not available.

(g) A copy of the drawer's written authorization to electronically debit the drawer's account if the provider intends to make use of such practice.

(h) The copy of the drawer's personal check shall constitute compliance with the requirements of subparagraphs (d)1. through 4. of this rule. The provider may include the reasonable cost of such copy as part of the verification fee allowed pursuant to Rule 3C-560.801, F.A.C., if such fee is charged to that drawer.

(i) A copy of the drawer's verifiable means of identification and any other documentation the provider collects in order to verify the drawer's identity.

(2) The records referenced in subsection (1) above may be maintained by the provider in accordance with the provisions of Section 560.407(4), F.S.

Specific Authority 560.105(3), 560.404(23) FS. Law Implemented 560.404, 560.407 FS. History—New \_\_\_\_\_.

3C-560.801 Verification Fee.

(1) In addition to the fees established in Section 560.309(4), F.S., a check casher or deferred presentment provider may collect the direct costs associated with verifying a payment instrument holder's identity, residence, employment, credit history, account status, or other necessary information, including the verification of a drawer's status on the Department's administered database for deferred presentment transactions prior to cashing the payment instrument or accepting a personal check in connection with a deferred presentment transaction. Such verification fee shall be collected only when verification is conducted ~~required~~ and shall not exceed \$5.00 per transaction. For example, a check casher shall not charge a drawer more than one (1) verification fee per diem, regardless of whether the check casher is cashing or has cashed more than one (1) of the drawer's payment instruments that day.

(2) It is the responsibility of the registrant to document that verification fees are based upon the actual costs associated with such verification.

Specific Authority 560.105(3), 560.404(23) FS. Law Implemented 560.309(4), 560.404(6) FS. History—New 9-24-97, Amended \_\_\_\_\_.

3C-560.802 Minimum Disclosure.

(1) Every check casher and deferred presentment provider must continuously post in a conspicuous place a clearly legible schedule of fees charged in every location and mobile unit.

(2) The term "conspicuous place" is defined herein as a place which is reasonably calculated to impart the information to the public.

Specific Authority 560.105(3), 560.404(23) FS. Law Implemented 560.302(1), 560.309 FS. History--New 9-24-97, Amended 12-30-98, \_\_\_\_\_.

3C-560.804 Payment Method.

(1) Payment shall be made immediately in currency for every payment instrument received by a person engaging in the activities of a check casher.

(2) For purposes of this chapter, "currency" shall have the meaning defined in Section 560.103(6), F.S.

(3) Each deferred presentment provider shall immediately provide the drawer with currency for the full amount of his or her personal check to be held by the provider, less only the fees authorized by Section 560.404, F.S. Only deferred presentment providers that are Part II registrants may provide a payment instrument in lieu of currency; however, such a provider shall not require a drawer to accept a payment instrument in lieu of currency.

Specific Authority 560.105(3), 560.404(23) FS. Law Implemented 560.302(1), 560.309, 560.404 FS. History--New 9-24-97, Amended \_\_\_\_\_.

PART IX

DEFERRED PRESENTMENT TRANSACTIONS

3C-560.901 Scope.

This section contains the specific requirements for deferred presentment providers with respect to the procedures employed to accomplish a deferred presentment transaction.

Specific Authority 560.105(3), 560.404(23) FS. Law Implemented 560.404 FS. History--New \_\_\_\_\_.

3C-560.902 Definitions.

(1) The term "provider" means a deferred presentment provider as defined by Section 560.402(5), F.S.

(2) The term "close of business" means the time of day that a provider ceases operations for that calendar day.

Specific Authority 560.105(3), 560.404(23) FS. Law Implemented 560.402, 560.404 FS. History--New \_\_\_\_\_.

3C-560.903 Deferred Presentment Transactions.

(1) For purposes of determining when a deferred presentment transaction is considered to be terminated, a provider shall be deemed to have evidence that a check has cleared at such time as the check has been deposited into the provider's account at the provider's financial institution.

(2) For purposes of determining the beginning time of the twenty-four (24) hour waiting period referenced in Section 560.404(19), F.S., one of the following conditions shall be met:

(a) When the personal check that is the subject of the deferred presentment transaction is redeemed by the drawer with payment in cash for the full face amount of the check, the twenty-four (24) hour waiting period shall commence when the cash has been received by the provider;

(b) When the deferred presentment provider deposits the drawer's personal check that is the subject of the deferred presentment transaction, the twenty-four (24) hour waiting period shall begin at such time as the provider reasonably determines, but no earlier than the provider's close of business on the last day of the deferment period.

(c) When the drawer has informed the provider that he or she will be unable to make payment as agreed, the date and time will begin when the drawer makes final payment to the provider and the obligation of the drawer has been settled either pursuant to a repayment plan approved by a consumer credit counseling agency or any other method of collection available to the provider under Chapter 560, F.S.

Specific Authority 560.105(3), 560.404(23) FS. Law Implemented 560.404 FS. History--New \_\_\_\_\_.

3C-560.904 Transaction Agreement Disclosures and Requirements.

(1)(a) Each deferred presentment transaction agreement must contain the following:

1. The drawer's identification information including name, address, social security or alien registration number, and if provided, the drawer's driver's license number;

2. The name or trade name, registration number, address, and telephone number of the deferred presentment provider and the name and title of the person who signs the agreement on behalf of the deferred presentment provider;

3. The date the deferred presentment transaction was executed;

4. The face amount of the drawer's personal check;

5. The length of the deferment period (in days);

6. The last day of the deferment period.

7. The time of day on the last day of the deferment period for the drawer to either redeem his or her check or request the grace period. Such time shall be the close of business for that calendar day;

8. The address and toll-free telephone number of the Department;

9. A clear description of the drawer's payment obligations under the deferred presentment transaction;

10. The disclosure notice required by Section 560.404(20), F.S.;

11. The transaction number assigned by the Department's database. This provision shall become effective on March 1, 2002;

12. The amount of currency or the amount of any payment instrument provided to the drawer;



13. A listing of all fees charged to the drawer categorized by fee type (i.e., 10% transaction fee and verification fee);

14. The disclosures required by Section 560.404(13), F.S.;

15. The drawer's written signature and date of execution which shall be done in the presence of the provider or an authorized employee of the provider; and

16. The provider or its authorized employee's written signature and date of execution.

(b) If the deferred presentment provider (Part II registrants only) intends to provide the drawer with a payment instrument in lieu of currency, the agreement shall also contain the drawer's acknowledgment that he or she has consented to accept the provider's payment instrument in lieu of currency. Such acknowledgment shall clearly state that it is the drawer's choice to obtain such payment instrument, and that the provider may not require a drawer to accept a payment instrument in lieu of currency. This acknowledgment shall be separately initialed by the drawer;

(c) If the provider intends to electronically debit the drawer's account to collect the funds, the agreement shall also contain the drawer's authorization to the provider permitting the electronic debit of the drawer's account. This authorization shall be provided in a separate section of the transaction agreement, in not less than 8 point type, and must be initialed by the drawer. Providers must still adhere to all provisions of Part IV of Chapter 560, F.S., regarding the drawer's payment options under such part;

(2) The transaction agreement may not include any of the following:

(a) A hold harmless clause;

(b) A confession of judgment clause;

(c) Any assignment of or order for payment of wages or other compensation for services;

(d) A provision in which the drawer agrees not to assert any claim or defense arising out of the agreement;

(e) A waiver of any provision of Part IV of Chapter 560, F.S.;

(f) Any representation from the drawer as to the sufficiency of funds regarding any past deferred presentment transactions;

(g) Any statement regarding criminal prosecution with respect to the agreement; and

(h) Any language regarding additional fees or penalties imposed on the drawer as a result of the agreement.

(3)(a) Upon being given notice by a drawer in person that he or she will not be able to cover the check or pay the full amount owed to the deferred presentment provider in accordance with the agreement, every provider shall verbally advise the drawer of the availability of the sixty (60) day grace period. A provider shall provide the drawer with the written

notice required by Section 560.404(22)(b)3., F.S. Such notice shall be executed and dated by both the drawer and an authorized employee of the registrant.

(b) The provider shall attach a free copy of the Department's list of approved consumer credit counseling agencies including the toll-free telephone number of the Department.

Specific Authority 560.105(3), 560.404(23) FS. Law Implemented 560.404 FS. History--New \_\_\_\_\_.

### 3C-560.905 Transaction Fees.

(1) The transaction fee for a deferred presentment transaction shall be limited to ten percent (10%) of the amount of currency or payment instrument provided to the drawer. A deferred presentment provider may also charge a verification fee in accordance with Rule 3C-560.801, F.A.C. An example of the computation of the maximum fees allowed by the code in a transaction where the drawer is seeking an advance of \$500 would be as follows:

(a) \$500 advanced to the drawer;

(b) a \$50 fee (\$500 X 10%); and

(c) up to \$5 for the direct costs associated with verification of the drawer's identity and/or employment.

In this example, the provider would provide currency or a payment instrument (Part II registrants) in the amount of \$500 to the drawer, and the drawer would provide a personal check in the amount of between \$550-\$555 depending upon the exact amount of the direct costs of verification, if any, assessed by the provider with respect to this drawer. Unless a drawer has met the requirements for an automatic grace period, the drawer would be required to either redeem his or her personal check in cash (face amount of the check) or the provider would on the due date or a reasonable time thereafter present such personal check to the a financial institution for payment.

(2) Under no circumstances may the deferred presentment provider collect transaction fees from a drawer at the inception of a transaction. A provider shall not collect verification fees from the drawer at the inception of a deferred presentment transaction. All fees with respect to a deferred presentment transaction shall be collected at such time as the drawer redeems his or her personal check or the provider presents the drawer's personal check for payment.

(3) A deferred presentment provider shall not charge, impose, or add any other fees upon a drawer. Examples of such unauthorized fees include, but are not limited to, such items as initial application fees, drawer setup fees, etc.

(4) Under no circumstances shall a provider require that a drawer purchase any other products or services as a condition of the deferred presentment transaction.

Specific Authority 560.105(3), 560.404(23) FS. Law Implemented 560.404 FS. History--New \_\_\_\_\_.

3C-560.906 Consumer Credit Counseling Services.

(1) The Department shall publish a list of all consumer credit counseling agencies by October 1 of each calendar year. The Department will accept requests from consumer credit counseling agencies to be included on the list on an ongoing basis and may periodically republish the list at its discretion. If the Department makes a decision to publish the list more often, the updated list shall be sent to the primary business address of each deferred presentment provider. The provider will then be responsible for making and distributing such additional copies to all branch locations offering deferred presentment transactions.

(2) The method of publication shall be via the Department's website (www.dbf.state.fl.us).

(3) Every deferred presentment provider shall maintain a copy of the Department's list of approved consumer credit counseling agencies and shall provide access to such list, free of charge, to any drawer making a request.

(4) The Department will consider the following criteria in determining whether a consumer credit counseling agency shall be included on the Department's list:

(a) Whether the organization is a nonprofit consumer credit counseling agency;

(b) Whether the agency provides services to Florida residents either in person, by telephone, or through the Internet;

(c) Whether the agency has provided the Department all of the required information including name, addresses and telephone numbers of all locations, Internet address if counseling is provided over the Internet, and counties served;

(d) Whether the agency has agreed to provide such services to drawers for the fees set forth in Part IV of Chapter 560, F.S.; and

(e) Whether the agency has agreed to provide deferred presentment providers with copies of all correspondence and agreements required to assist the drawers.

(5) Upon being retained by a drawer to provide consumer credit counseling services, the agency shall immediately prepare and send to the deferred presentment provider a copy of an engagement letter. A facsimile or electronic copy of the engagement letter shall be sufficient for purposes of establishing that the drawer has met the requirement to provide notice of making an appointment with a consumer credit counseling agency within seven (7) days after the end of the deferment period to a deferred presentment provider. Such letter shall state at a minimum that the agency has been retained by the drawer and that it shall complete counseling and provide a copy of the repayment agreement to the deferred presentment provider within sixty (60) days after the end of the deferred presentment agreement.

(6) It shall not be necessary for a drawer to complete the repayment plan established by the consumer credit counseling agency within the sixty (60) day grace period. If the drawer

completes counseling, enters into a contractual repayment plan, and remains in compliance with the terms of the repayment plan, he or she shall have until the end of the repayment plan to pay the deferred presentment provider. Drawers on a repayment plan who miss a scheduled payment are not in compliance, but evidence of a missed payment shall be obtained from the consumer credit counseling agency in writing, or by facsimile or electronic copy, prior to a deferred presentment provider instituting collection procedures.

(7) The consumer credit counseling agency shall send a copy of the repayment plan, postmarked not later than the 60th day after the end of the deferment period, to the deferred presentment provider. A facsimile or electronic copy shall be sent to the provider if the repayment plan is agreed to within the last week (7 days) of the grace period to ensure that the provider is aware of the drawer's compliance with the terms of the grace period. A repayment plan should be based upon each drawer's individual financial needs as assessed by the consumer credit counseling agency. A consumer credit counseling agency shall not reduce the amount owing on a deferred presentment agreement without the express written consent of the deferred presentment provider.

(8) The consumer credit counseling agency shall complete counseling with the drawer within sixty (60) days of the end of the deferment period and shall complete a proposed repayment plan for the drawer no later than such date. The counseling agency shall exercise its discretion in arriving at the terms of the repayment plan and is not required to negotiate or get the approval of the deferred presentment provider with respect to the terms of such repayment plan. Payments on such repayment plans may be made directly to the deferred presentment provider or to the consumer credit counseling agency depending upon the normal business practices of the counseling agency. Any payment made in full, in accordance with the terms of the repayment agreement, by a drawer to a consumer credit counseling agency shall be considered paid to the deferred presentment provider as of that date. The consumer credit counseling agency shall forward all such payments to the deferred presentment provider within ten (10) business days. Under no circumstances shall a consumer credit counseling agency hold or aggregate any such payments unless they have obtained the express written consent of the deferred presentment provider.

(9) With respect to the fees allowable by a consumer credit counseling agency for the performance of such counseling services, the agency may:

(a) Collect a fee, not to exceed one-half of the drawer's fee for the deferred presentment agreement from the deferred presentment provider; and

(b) Structure repayment plans such that the last payment made by the drawer on such plan is retained as its fee for providing such counseling services.

Specific Authority 560.105(3), 560.404(23) FS. Law Implemented 560.404 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Mike Ramsden  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Don Saxon, Director, Division of Securities and Finance  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 10, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2001

**DEPARTMENT OF INSURANCE**

RULE TITLE: Annual and Quarterly Reporting Requirements  
RULE NO.: 4-137.001  
PURPOSE, EFFECT AND SUMMARY: The amendment would allow companies to submit financial filings to the NAIC via the Internet. The NAIC has established the capability to receive such filings via the Internet, and would like to provide that option for insurers.  
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 624.308(1) FS.  
LAW IMPLEMENTED: 624.307(1), 624.424(1) FS.  
IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):  
TIME AND DATE: 9:30 a.m., October 23, 2001  
PLACE: Room 143, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bob Norris, Financial Administrator, Bureau of Life and Health Insurer Solvency, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0329, phone (850)413-5054  
Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed above.

THE FULL TEXT OF THE PROPOSED RULE IS:

- 4-137.001 Annual and Quarterly Reporting Requirements.
- (1) through (2) No change.
- (3) Manual and Automated Reporting.

(a) Annual and quarterly statements in manual form shall be identical to those filed in accordance with paragraph (b) below, and shall be filed with the Department in accordance with subsection (2), above.

(b) 1. Each insurer shall submit its annual and quarterly statement information in computer readable ~~form~~ format using the diskette medium or other computer readable format compatible with the electronic data processing system specified in (c) below.

2. Diskettes or information in a computer-readable format shall not be submitted to the Department.

3. Annual and quarterly statements in diskette form or other computer readable format shall be sent or transmitted electronically to the National Association of Insurance Commissioners, 120 West 12th Street, Suite 1100, Kansas City, Missouri 64105. The envelope shall be marked to indicate that diskettes are enclosed if that medium is used.

(c) 1. The National Association of Insurance Commissioners Annual Statement Diskette Filing Specifications or electronic transmission filing specifications are hereby adopted and incorporated by reference.

2. A copy of these specifications may be obtained from the National Association of Insurance Commissioners, at the address in paragraph (b), above.

3. These specifications may be inspected during regular business hours at the ~~Bureau of Data Control~~, Division of Insurer Services, Department of Insurance, ~~6th Floor~~, Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0300.

(4) No change.

Specific Authority 624.307, 624.308(1) FS. Law Implemented 624.307(1), 624.424(1) FS. History—New 3-31-92, Amended 8-24-93, 4-9-95, 4-9-97, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bob Norris, Bureau of Life and Health Insurer Solvency, Division of Insurer Services, Department of Insurance  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Streukens, Bureau Chief, Bureau of Life and Health Insurer Solvency, Department of Insurance  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 9, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2001

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Aquaculture**

RULE CHAPTER TITLE: Comprehensive Shellfish  
 RULE CHAPTER NO.: 5L-1

Control Code	5L-1
<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
General Requirements and Intent	5L-1.001
Definitions	5L-1.002
Production and Market Standards	5L-1.004
Shellfish Processing Plant Certification	
License and Fees	5L-1.005
Compliance and Penalties	5L-1.006
Container Identification, Terminal Sale	
Date; Prohibitions	5L-1.007
Shellfish Handling	5L-1.008
Shellfish Relaying	5L-1.009
Buildings and Facilities	5L-1.010
Equipment for Shellfish Processing	5L-1.011
Sanitary Operations	5L-1.012
Plant Operation	5L-1.013

**PURPOSE AND EFFECT:** These amendments propose to implement shellfish processing plant facility certification license and fees, and administrative fines; change the statutory authority for the code from Ch. 370, F.S. to Ch. 597, F.S.; adopt the National Shellfish Sanitation Program Guide For The Control of Molluscan Shellfish Model Ordinance 1999; add, clarify, and renumber some of the definitions; add a section to allow the department to issue a stop-use order for unsanitary equipment; describe shellfish relaying for marine biotoxins and for public relay activities; further describe acceptable standards for lighting; require each certified dealer to have someone with adequate HACCP training, knowledge or experience to develop a HACCP plan; and replace the word should with shall in several sentences throughout the rule.

**SUMMARY:** The proposed amendments are to implement authority granted to the Department by the 2000 session of the Florida legislature, and approved by the Governor, to license or certify, for a fee determined by rule, facilities used for processing oysters, clams, mussels, scallops, and crabs, and to levy an administrative fine up to \$1,000 per violation per day or to suspend or revoke such licenses or certificates upon satisfactory evidence of any violation of rules adopted pursuant to the newly created Section 597.020, F.S. Additional amendments propose other miscellaneous changes to the rule. Amendments to Section 5L-1.005, F.S., are proposed to become effective on July 1, 2002. Amendments to Section 5L-1.006, F.S., are proposed to become effective on January 1, 2002.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** There is no anticipated regulatory cost.

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:** 597.020 FS.

**LAW IMPLEMENTED:** 597.020, 597.010(15), 597.010(19) FS.

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

**TIME AND DATE:** 10:00 a.m. – 1:00 p.m., Monday, October 22, 2001

**PLACE:** 1203 Governors Square Boulevard, 5th Floor, Tallahassee, Florida

If accommodation for a disability is needed to participate in this activity, please notify John McDowell, Division of Aquaculture, (850)488-5471, at least seven days before the meeting.

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Bobby Bickley, Division of Aquaculture, 1203 Governors Square Boulevard, 5th Floor, Tallahassee, Florida 32301, Phone (850)488-5471

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

5L-1.001 General Requirements Purpose and Intent.

(1) A shellfish processing plant certification is required to operate any shellfish processing facility.

~~(2)~~ It is the intent of the Department to establish regulations and specifications to be known as the "Comprehensive Shellfish Control Code", relating to sanitary practices for the catching, handling, relaying, depuration, packaging, preserving and storing of shellfish products.

~~(3)~~ The Department, as a participant in the Interstate Shellfish Sanitation Conference, recognizes and endorses the following principles:

(a) Shellfish are a renewable, manageable natural resource of significant economic value to many coastal communities, and should be managed as carefully as are other natural resources such as forests, water, and agricultural lands.

(b) Shellfish culture and harvesting represents a beneficial use of water in the estuaries. This use should be recognized by state and federal agencies in planning and carrying out pollution prevention and abatement programs and in comprehensive planning for the use of these areas.

(c) The goals of the Interstate Shellfish Sanitation Conference are: 1. the continued safe use of this natural resource, and 2. active encouragement of water quality programs which will preserve all possible coastal areas for this beneficial use.

~~(4)~~ The Department recognizes that the shellfish industry is subject to change as technological data becomes available; accordingly, it is the intent of the Department that

the Comprehensive Shellfish Control Code be revised as necessary so that the technological data and industrial practices contained therein shall be consistent consonant with good health and safety practices.

~~(5)(4)~~ The enforcement of the provisions of this code by the Department shall be coordinated with and be in conjunction with any and all other state, local and federal agencies exercising jurisdiction over the sanitary practices of the shellfish industry.

~~(6)(5)~~ Adoption of Federal Regulations and Standards – To the extent not inconsistent with the rules herein, ~~(The following are hereby adopted as rules under the shellfish processors regulation, sSection 597.020 370.071, F.S.:~~

~~(a) The following parts of Title 21, Code of Federal Regulations: Those regulations, definitions, standards of sanitation, identity, quantity and fill of container, tolerances and exemptions from tolerances, and general regulations in the following:~~

~~1. Code of Federal Regulations, Title 21, Part 7 – Enforcement Policy;~~

~~2. Code of Federal Regulations, Title 21, Part 101 – Food Labeling;~~

~~3. Code of Federal Regulations, Title 21, Part 109 – Unavoidable Contaminants in Food for Human Consumption and Food Packaging Material;~~

~~4. Code of Federal Regulations, Title 21, Part 110 – Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food;~~

~~5. Code of Federal Regulations, Title 21, Part 123 – Fish and Fishery Products;~~

~~6. Code of Federal Regulations, Title 21, Part 161 – Fish and Shellfish;~~

~~7. Code of Federal Regulations, Title 21, Part 509 – Unavoidable Contaminants in Animal Food and Food Packaging Material.~~

~~(b) National Shellfish Sanitation Program, Guide for the Control of Molluscan Shellfish, provisions adopted:~~

~~(b)1- The Purpose, the Definitions, and Chapters 1 through 13, and 15 of the “Model Ordinance 19997” of the National Shellfish Sanitation Program, Guide for the Control of Molluscan Shellfish published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration 19997, are hereby adopted by reference as a rule under Section 370.071, F.S., except for the following provisions:~~

~~1.a. Definition number (14)(d) Reshipper; and~~

~~2.b. Definition number (84)(84) Reshipper; and~~

~~e. Chapter XIV Reshipping.~~

~~2. All provisions in the “Model Ordinance 1997” that are adopted herein by reference shall apply to all certified shellfish establishments regulated by the Florida Department of Agriculture and Consumer Services. Interested parties may~~

~~obtain copies of this publication by contacting the U.S. Government Printing Office. Copies are available for examination at the Florida Department of Agriculture and Consumer Services, Division of Aquaculture, 1203 Governors Square Boulevard, 5th Floor, Tallahassee, Florida 32301.~~

Interested persons may obtain copies of the pertinent sections of the Codes of Federal Regulations referenced in paragraph (a) ~~above below~~ and by contacting the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Copies of the pertinent sections of the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Guide For The Control of Molluscan Shellfish referenced in paragraph (b) ~~above below~~ may be obtained by contacting the U.S. Government Printing Office from the department at ~~1203 Governors Square Boulevard, 5th Floor, Tallahassee, Florida 32301.~~ Copies of all referenced documents are available for examination at the Florida Department of Agriculture and Consumer Services, Division of Aquaculture, 1203 Governors Square Boulevard, 5th Floor, Tallahassee, Florida 32301.

Specific Authority 597.020 FS. Law Implemented 597.020 370.071 FS. History–New 1-4-87, Amended 8-10-88, 7-9-89, 11-5-92, Formerly 16R-7.001, Amended 7-3-95, 2-6-97, 6-23-99, Formerly 62R-7.001, Amended 8-9-00,\_\_\_\_\_.

#### 5L-1.002 Definitions.

(1) Adulterated – any shellfish harvested from closed waters; any shellfish shucked, packed, or otherwise processed in a plant which has not been certified and licensed by the Department in accordance with the requirements of these rules; any shellfish contaminated as determined by microbiological bacteriological or other analysis; any shellfish consisting in whole or in part of any filthy, putrid or decomposed substance, or otherwise unfit for food; any shellfish prepared, packed, or held under unsanitary conditions where it may have become contaminated with filth, or whereby it may have been rendered injurious to health.

(2) Alternative Processing – any processing done to shellfish which does not follow the time-temperature matrix as stated in subsection Rule 5L-1.008(5), F.A.C.

(3) Approved area – an area in which it is indicated by a sanitary survey or other monitoring program data that fecal material, pathogenic microorganisms, radio nuclides, harmful chemicals, and marine biotoxins are not present in dangerous concentrations.

(4) Certification period – the period of time between July 1 and June 30 of a year.

~~(5)(4)~~ Certified shellfish dealer – a shell stock shipper, shucker-packer, repacker, or depuration processor who possesses a shellfish processing plant certification license from the Department. Responsibilities include, but are not limited to, overseeing the proper handling of shellfish or maintenance of the treatment plant, assuring compliance with sampling schedules and resultant microbiological and water quality

standards, and the maintenance of accurate records. The certified shellfish dealer shall be held accountable for compliance with all laws, rules, and permits applicable to business operation.

~~(6)(5)~~ Closed area (closed waters) – a growing area where the harvesting of shellfish is not permitted. Closed areas include prohibited and unclassified areas as well as temporarily closed approved, conditionally approved, restricted, and conditionally restricted areas.

~~(7)(6)~~ Code – the Comprehensive Shellfish Control Code, Chapter 5L-1, F.A.C.

~~(8)(7)~~ Commercial harvester – a person that harvests with the intent to sell.

~~(9)(8)~~ Conditionally approved area – an area in which it is indicated by a sanitary survey or other monitoring program data that the area is subjected to intermittent microbiological pollution and, under such conditions, is temporarily unsuitable as a source of shellfish for direct marketing. Such an area shall be managed by an operating procedure that will assure that shellfish from the area are not harvested from waters not meeting approved area criteria.

~~(10)(9)~~ Conditionally restricted area – an area in which it is indicated by a sanitary survey or other monitoring program data that the area is subjected to intermittent microbiological pollution and, under such conditions, is temporarily unsuitable as a source of shellfish for relaying or depuration. Such an area shall be managed by an operating procedure that will assure that shellfish from the area are not harvested from waters not meeting restricted area criteria.

~~(11)~~ Corrective action plan – is a brief outline of the deficiency(ies) found during an inspection of a licensed facility with the corresponding rule deficiencies cited and the time frame in which the deficiency(ies) must be corrected.

~~(12)(10)~~ Critical control point – a point, step, or procedure in a food process at which control can be applied, and a food safety hazard can as a result be prevented, eliminated, or reduced to acceptable levels.

~~(11)~~ Critical limit – the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to prevent, eliminate, or reduce to an acceptable level the occurrence of the identified food safety hazard.

~~(13)(12)~~ Critical deficiency – a condition or practice which results in the production of a product which is adulterated. A critical deficiency is not a minor violation.

~~(14)~~ Critical limit – the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to prevent, eliminate, or reduce to an acceptable level the occurrence of the identified food safety hazard.

~~(15)~~ Deficiency – a violation.

~~(16)(13)~~ Department – the Department of Agriculture and Consumer Services.

~~(17)(14)~~ Depuration processor (depuration plant; controlled purification plant) (DP) – certified shellfish dealer a person who obtains shell stock from approved, conditionally approved, restricted or conditionally restricted growing area(s) and submits such shell stock to an Department approved controlled purification process. The treatment process is designed to purge shellfish of bacterial and viral contamination to the extent that such shellfish are rendered safe for human consumption.

~~(18)~~ Designated representative – In the absence of the plant supervisor or certified shellfish dealer the individual who supervises all activities associated with the operation of the certified shellfish dealer's plant. Responsibilities include, but are not limited to, overseeing the proper handling of shellfish, maintenance of the treatment plant, assuring compliance with sampling schedules and resultant microbiological and water quality standards, and the maintenance of accurate records. The designated representative shall be held accountable for compliance with all laws, rules, and permits applicable to business operation.

~~(19)(15)~~ Emergency – any unusual incident resulting from natural or unnatural causes which endangers the health, safety, or resources of the state, including, but not limited to, a hurricane, storm, or red tide; petroleum spill; toxic substance discharge; inability of a sewage treatment plant to comply with permit conditions due to a breakdown of equipment, power outage, destruction by fire, wind, or by other cause.

~~(20)~~ Firm – a certified shellfish dealer who is a shell stock shipper, shucker-packer, repacker, or depuration processor who possesses a shellfish processing plant certification license from the Department.

~~(21)(16)~~ Food – any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

~~(22)(17)~~ Food contact surface – a surface of equipment or utensil which food normally comes into contact; or a surface of equipment or utensil from which food may drain, drip, or splash into food or onto a surface normally in contact with food.

~~(23)(18)~~ Food packaging materials – any material or container which food normally comes into contact.

~~(24)(19)~~ Food safety hazard – any biological, chemical, or physical property that may cause a food to be unsafe for human consumption.

~~(25)(20)~~ Free liquor – that liquid portion of a container that passes through a porous straining device when the contents (oyster meats) of the container are drained.

~~(26)(21)~~ Growing area – an area in which market or seed shellfish are growing either naturally or artificially.

~~(27)(22)~~ HACCP – Hazard Analysis and Critical Control Points – A system of inspection, control, and monitoring measures initiated by a certified shellfish dealer to identify and

control microbiological, chemical, or physical food safety hazards which are likely to occur in shellfish products produced by the firm.

~~(28)(23)~~ Harvester – a person engaged in the harvesting of shellfish.

~~(29)(24)~~ Health authority – the Department or its authorized representative.

~~(30)(25)~~ Heat shock – the process of subjecting molluscan shell stock to any form of heat treatment prior to shucking, including steam, hot water or dry heat, to facilitate removal of the meat from the shell without substantially altering the physical or organoleptic characteristics of the molluscan shellfish.

~~(31)(26)~~ High density aquaculture lease areas – legally-defined parcels that are surveyed and properly marked, describing and indicating corners and boundaries, that have been subdivided into individual aquaculture leases issued pursuant to Section 253.68, F.S., and paragraph Rule 18-21.004(2)(1), F.A.C.

~~(32)(27)~~ ICWW – Intracoastal Waterway.

~~(33)(28)~~ Key deficiency – a condition or practice which may result in adulterated, or misbranded product. A Key deficiency is not a minor violation.

~~(34)(29)~~ Lot of shell stock – a single type of bulk shell stock or container of shell stock of no more than one day's harvest from a single harvest area gathered by one or more harvesters.

~~(35)(30)~~ Lot of shucked shellfish – a collection of containers of no more than one day's shucked product from a single harvest area produced under conditions as nearly uniform as possible, and designated by a common container code or marking.

~~(36)(31)~~ Lot wet storage/depuration – all shellfish from a single depuration or wet storage tank or series of tanks serviced by a common treatment system.

~~(37)(33)~~ Mechanical refrigeration – refrigeration provided by an electric compressor in a system where temperature can be adjusted with a thermostat and the unit will maintain a temperature of 45 degrees F or less.

~~(38)(32)~~ Misbranded – any shellfish product whose labeling is false or misleading; any shellfish product in package form unless it bears labeling including (1) the name and place of business of the manufacturer, packer, or distributor; (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; and (3) meets labeling requirements of the Department within this Chapter.

~~(39)(34)~~ NSSP Model Ordinance – the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish, published by the U.S. Department of Health and Human Services, ~~which is hereby incorporated herein by reference except for Section 5L-1.001(5)(b)1., F.A.C.~~

~~(40)(35)~~ Other deficiency – a condition or practice that is not in accordance with rule requirements and is considered a minor deficiency but is not a key or critical deficiency.

~~(41)(36)~~ Pest – refers to any objectionable animals or insects, including, but not limited to, birds, rodents, flies, and larvae.

~~(42)(37)~~ Plant supervisor – an individual, so designated in writing to the Department, who supervises all activities associated with the operation of the shellfish depuration plant. Responsibilities include, but are not limited to, overseeing the proper handling of shellfish, maintenance of the treatment plant, assuring compliance with sampling schedules and resultant microbiological ~~bacteriological~~ and water quality standards, and the maintenance of accurate records. The plant supervisor shall be held accountable for compliance with all laws, rules, and permits applicable to business operation.

~~(43)(38)~~ Processing – is the handling, unloading, storing, transporting, shucking, freezing, preparing, changing into different market form, manufacturing, preserving, packing, or labeling of shellfish or shellfish products.

~~(44)(39)~~ Prohibited area – an area from which the taking of shellfish is not permitted.

~~(40)~~ Retail sale – ~~sale to the ultimate consumer or to a person who will not resell the product.~~

~~(45)~~ Public Water System – a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least 60 days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any “special irrigation district.” A public water system is either a “community water system” or a “non-community water system.” See the Code of Federal Regulations (C.F.R.), title 40, part 141, section 2.

~~(46)(41)~~ Repacker/Repacking plant (RP) – a certified shellfish dealer, ~~a person~~ other than the original certified shucker-packer, who repacks shucked shellfish into other containers for distribution or sale. A repacker may also repack and ship shell stock. A repacker shall not shuck shellfish.

~~(47)~~ Repeat Critical deficiency – is the same “critical” deficiency that has been listed on the corrective action plans for the same facility during the most recent consecutive inspection.

~~(48)~~ Repeat Key deficiency – is the same “key” deficiency that has been listed on the corrective action plans for the same facility during the most recent consecutive inspection.

(49) Repeat Other deficiency – is the same “other” deficiency that has been listed on the corrective action plans for the same facility during the most recent consecutive inspection.

(50)(42) Restricted area – an area in which it is indicated by a sanitary survey or other monitoring program data that fecal material, pathogenic microorganisms, radio nuclides, harmful chemicals, and marine biotoxins are not present in dangerous concentrations such that shellfish harvested from such an area and subjected to a suitable and effective purification process are safe for human consumption.

(51) Retail sale – sale to the ultimate consumer or to a person who will not resell the product.

(52)(43) Sanitize – the effective bactericidal treatment of clean food contact surfaces of equipment and utensils by a process using only those safe sanitizing agents that have an available field test for strength and effectiveness, and is effective to yield a reduction of 5 logs, which is equal to a 99.999% reduction of representative disease microorganisms of public health importance. Such treatment shall not adversely affect the product and shall be safe for the consumer.

(53)(44) Scheduled Depuration Process (SDP) – a process which places shellfish harvested from restricted or approved waters into a controlled aquatic environment selected by the processor as adequate to effectively reduce the level of bacteria and viruses in live shellfish.

(54)(45) Scheduled Heat Shock Process (SHSP) – the process selected by the processor to heat shock a shellfish species in order to facilitate shucking without adversely affecting the microbial quality or altering the organoleptic characteristics of the species.

(55)(46) Scheduled Wet Storage Process (SWSP) – a process which places shellfish harvested from approved waters in containers or floats in natural bodies of water or in tanks containing natural or synthetic seawater for product enhancement.

(56)(47) Shellfish – all edible species of oysters, clams, and mussels, and whole or roe-on scallops either shucked or in the shell, fresh, or frozen.

(57)(48) Shellfish Relaying – the transfer of shellfish from one water bottom to another water bottom which activity would otherwise be prohibited; or the transfer of shellfish from a restricted or conditionally restricted area or an area otherwise closed for the harvesting of shellfish to a certified depuration plant.

(58)(49) Shellstock – shellfish which remain in their shells.

(59)(50) Shellstock plant – any establishment or place where shell stock are washed and packed or otherwise prepared for sale or shipment.

(60)(51) Shellstock shipper/Shellstock shipping plant (SS) – a certified shellfish dealer, a person who grows, harvests, buys, or repacks and sells shell stock. A shell stock shipper is

not authorized to act as a shucker-packer or repacker. A shellstock shipper may also ship sealed containers of shucked shellfish.

(61)(52) Shuck date – the date shucked shellfish are initially removed from their shells.

(62)(53) Shucked shellfish – shellfish or parts thereof which have been removed from their shells.

(63)(54) Shucker-packer/Shucker-packer plant (SP) – a certified shellfish dealer, a person who shucks and packs shellfish and who may act as a shell stock shipper and/or repacker.

(64)(55) Swing deficiency – a deficiency that could either be a “critical” or a “key” deficiency, or it could be either a “key” or an “other” deficiency, depending on the location, severity and circumstances.

(65)(56) Terminal sale date – the last day freshly packed shellfish shall be offered for sale; that being no more than 14 calendar days subsequent to the date the product was shucked, or for oyster shell stock harvested from the Gulf of Mexico, no more than 14 days subsequent to the date shell stock was harvested.

(66)(57) Time of Harvest – is defined as that time when shellfish are first removed from growing waters and placed on or in a manmade conveyance or other means of transport.

(67)(58) Time of Refrigeration – is defined as the time when shellfish are first placed within an ambient environment of 45 degrees F or less.

(68)(59) Unclassified area – an area for which no recent sanitary survey exists.

(69)(60) UV – Ultraviolet.

(70) Violation and deficiency – are used interchangeably with in these rules. The meaning of both is that a facility is not in compliance with the rules governing their operation as outlined in Chapter 5L-1, F.A.C., “The Comprehensive Shellfish Control Code”.

(71) Warning letter – a warning letter includes a notice of non-compliance.

(72)(61) Wet storage – the temporary storage of shellfish received from permitted or approved sources and intended for marketing, on privately-owned or leased bottom, in tanks containing seawater, or on floating facilities in natural bodies of water.

(73)(62) Wholesale – any sale to any person other than the final ultimate consumer.

Specific Authority 597.020 570.07(23) FS. Law Implemented 597.020 370.074 FS. History–New 1-4-87, Amended 5-21-87, 8-10-88, 7-9-89, 11-5-92, 5-20-93, Formerly 16R-7.003, Amended 7-3-95, 5-8-96, 2-6-97, 6-23-99, Formerly 62R-7.003, Amended 8-9-00,\_\_\_\_\_.

5L-1.004 Production and Market Standards.

(1) Shellfish offered for sale at the wholesale market level shall not exceed the following bacteriological criteria. Fecal coliform density of not more than 230 MPN per 100 grams;



and a 35° C plate count of not more than 500,000 per gram. Any meat with counts exceeding these standards will be subject to rejection or seizure by the Department.

(2) Shucked and packed shellfish shall not contain more than 15% by volume of free liquor until the product reaches the consumer.

(3) No shucked shellfish shall be sold, offered for sale, processed, packed, or repacked after the terminal sale date.

(4) No frozen shellfish products shall be thawed to be processed or sold as fresh shellfish products. Thawed frozen shellfish shall be labeled as "previously frozen" in accordance with Rule Section 5L-1.007, F.A.C.

(5) Shellfish having undergone a depuration process shall not be released for sale prior to laboratory analysis and approval by the plant supervisor or representative. Shellfish shall not be released if the geometric mean of three samples exceeds a fecal coliform MPN of 45 per 100 grams of sample, or if any sample's fecal coliform MPN exceeds 100 per 100 grams of sample.

(6) The use of the elevated temperature coliform plate count is authorized for the bacteriological evaluation of hard clams, *Mercenaria* spp. only from a depuration facility.

(7) Should the Department suspect contamination of shellfish by metallic ions and compounds, pesticides, detergents, radionuclides, marine toxins, or any toxic substance or adulterate, the Department shall require that shellfish meat be analyzed for such contaminants before suspect shellfish are released for sale.

(8) Shellfish or shellfish products determined to be adulterated, or misbranded shall be subject to recall by the certified shellfish dealer responsible for distribution of the products. For a first offense in a certification license year, the Department will apply mitigation measures if applicable. Mitigation measures include on-the-spot correction and reconditioning. For repeat violations, and where mitigation measures are not approved by the Department available, the Department shall issue an order to stop the sale or to condemn, and destroy, shellfish or shellfish containers found to be adulterated, misbranded, or found to be held in non-compliance with any of the provisions of this Chapter. Reconditioning shall be a mitigation option only if the products will meet the safety standards of Rule 5L-1.004, F.A.C., and the labeling standards of Rule 5L-1.007, F.A.C. Stop sale, condemnation, or reconditioning of products or containers shall be based on individual conditions found during inspections and shall be conducted using a Seizure and Destruction Order Stop Sale Notice, DACS Form 15001, Revision 05/01 7/2000. This form is herein incorporated by reference, and available for inspection at the Department's offices located at 1203 Governors Square Boulevard, 5th Floor, Tallahassee, Florida 32301.

Specific Authority 597.020 FS. Law Implemented 597.020 370.07+ FS. History—New 1-4-87, Amended 8-10-88, 7-9-89, Formerly 16R-7.006, Amended 7-3-95, 5-8-96, 2-6-97, Formerly 62R-7.006, Amended 8-9-00,

5L-1.005 Shellfish Processing Plant Certification License and Fees.

(1) Upon request, the Department shall provide an application form entitled Shellfish Processing Plant Certification License Application, Form Number DACS 15007, Revision 05/01 7/2000, herein incorporated by reference, and obtainable by writing the Department of Agriculture and Consumer Services, Division of Aquaculture, 1203 Governors Square Boulevard, 5th Floor, Tallahassee, Florida 32301. This completed application form is required necessary for certification licensing of shellfish establishments. The following information shall be requested on the application form:

(a) The name and address of the firm, corporation, or establishment;

(b) The name and address of the legal entity that owns the establishment in (a) above owner and operator;

(c) Name of the registered agent;

(d) The name of the designated representative, person in charge, or plant supervisor that will officially represent the firm on site.

(e) ~~(e)~~ The plant classification; and

(f) ~~(f)~~ The type of product to be processed.

(2) Possession of a wholesale license to sell saltwater products issued under provisions of Section 370.07, F.S., shall be required for certification licensing under this chapter. A copy of the current wholesale or retail license to sell saltwater products shall be submitted with the Shellfish Processing Plant Certification License Application. A shellfish processing plant certification license number will be assigned by the Department upon receipt of a completed Shellfish Processing Plant Certification License Application. Upon receipt of a completed application, inspection of the physical facility will be conducted within 30 calendar days. Certification Licenses and numbers are not transferable; the establishment, not the operator is certified.

(3) If the water supply is not from a public water system, possession of satisfactory bacteriological water analysis results, which shall not equal or exceed two cfu (colony forming units) per 100 mls for total coliform bacteria on any consecutive samples, and shall not equal or exceed two cfu per 100 mls for fecal coliform or E. coli bacteria on any samples, shall be required for certification under this chapter. Analysis shall be from the source water, and an outlet location within the plant, and ice if any is used. The water shall be sampled and approved prior to use of the water supply, every six months while the water supply is in use, and after the water supply has been repaired and disinfected. If the source is a public water system, only a sample from an outlet in the plant and ice if

used, is required prior to certification. The water sample shall be taken and acceptable results provided to the Department within 90 days prior to certification. A copy of the current acceptable water analysis shall be submitted with the Shellfish Processing Plant Certification License Application. Certification is granted only to firms who meet the following inspection requirements: no "Critical" item deficiencies; not more than two (2) "Key" item deficiencies; and not more than three (3) "Other" item deficiencies. Failure of a certification inspection requires reapplication by the applicant. After successful inspection of the facility and the applicant's meeting the requirements of Rule 5L-1.005, F.A.C., a shellfish certification license, DACS Form 15002, revision 7/2000, will be issued. This form is herein incorporated by reference, and obtainable by writing the Department of Agriculture and Consumer Services, Division of Aquaculture, 1203 Governors Square Boulevard, 5th Floor, Tallahassee, Florida 32301. After a firm is certified, unannounced inspections using the DACS plant inspection forms 15009, revision 7/2000, and 15012, revision 7/2000 shall be conducted during periods of operation and at such frequency as necessary to assure that adequate operational and sanitary conditions are maintained. These forms are herein incorporated by reference, and obtainable by writing the Department of Agriculture and Consumer Services, Division of Aquaculture, 1203 Governors Square Boulevard, 5th Floor, Tallahassee, Florida 32301. At the completion of each inspection, a copy of the completed inspection forms shall be issued to the plant supervisor or the plants designated representative.

(4) A shellfish processing plant certification license number will be assigned by the Department after receipt of a completed Shellfish Processing Plant Certification License Application with the nonrefundable license fee. Fees charged to new shellfish processing plant certification license applicants shall be the entire applicable fee when the completed application is submitted for the intended initial operation of the plant is between July 1 through December 31 of the certification period and shall be half of the applicable fee when the application is submitted for the intended initial operation of the plant is between January 1 through June 30 for that certification period. Upon receipt of a completed application with the nonrefundable license fee, an inspection of the physical facility will be conducted within 30 calendar days. ~~Renewal certification—A dealer shall make application for certification renewal annually. The certification shall not be renewed for any dealer until the dealer has: eliminated any critical deficiencies and agreed to a compliance schedule which carries forward into the next certification period no more than 1 key and 2 other deficiencies identified in previous inspections; and addresses any new key or other deficiencies in a new or revised compliance schedule.~~

(5) Certification is granted only to firms who meet the following inspection requirements: the firm has no "Critical" item deficiencies, the firm does not have more than two (2)

"Key" item deficiencies and the firm does not have more than three (3) "Other" item deficiencies. Failure of a certification inspection requires reapplication by the applicant but does not require an additional nonrefundable license fee within the certification period for that specific location. After successful inspection of the facility and the applicant's meeting the requirements of Rule 5L-1.005, F.A.C., a Shellfish Processing Certification License, DACS Form 15002, Revision 02/01, will be issued. After a firm is certified, unannounced inspections using the DACS plant inspection forms 15009, Revision 06/01, and 15012, Revision 06/01, shall be conducted during periods of operation and at such frequency as necessary to assure that adequate operational and sanitary conditions are maintained. These forms are herein incorporated by reference, and obtainable by writing the Department of Agriculture and Consumer Services, Division of Aquaculture, 1203 Governors Square Boulevard, 5th Floor, Tallahassee, Florida 32301. Upon completion of the initial inspection where the applicant has met the requirements for licensure, he/she will be given a corrective action plan by the Department, if there are any "key" or "other" deficiencies cited. The licensee must comply with the corrective action plan outlined on form DACS-15012 Revision 06/01, that is given to the certified dealer, plant supervisor or the designated representative of the plant at the end of the inspection. At the completion of each inspection, a copy of the completed inspection forms shall be issued to the plant supervisor or the plants designated representative. In the event that a licensed certified shellfish processing plant changes its name, changes owners, changes location, changes address, or changes classifications, a new application, DACS form 15007, revision 7/2000 must be completed and submitted to the department. The firm will be required to go through the complete certification process.

(6) Renewal certification – A dealer shall make application for certification renewal annually. The license year starts on July 1 and ends on June 30. The certification shall not be renewed for any dealer until the dealer has: eliminated any "Critical" deficiencies, does not have more than two (2) "Key" item deficiencies, and does not have more than three (3) "Other" item deficiencies. The application for renewal plus the nonrefundable license fee must be received by the agency by April 1 to have an inspection for recertification for the next certification period of a shellfish processor prior to June 30. The license fee will be effective starting certification for July 1, 2002. The application for renewal certification will be denied to any dealer not meeting the above. Possession of a wholesale license to sell saltwater products issued under provisions of Section 370.07, F.S., shall be required for certification licensing under this chapter.

(7) The Shellfish Processing Plant Certification License will be issued to a licensee at a specific location. The legal entity will be the licensee at that specific location as listed on the Shellfish Processing Plant Certification License. Possession of satisfactory bacteriological water analysis

results, which shall not equal or exceed two cfu (colony forming units) per 100 mls for total coliform bacteria on any consecutive samples, and shall not equal or exceed two cfu per 100 mls for fecal coliform or E. coli bacteria on any samples, shall be required for certification under this chapter. Analysis shall be from the source water, and an outlet location within the plant, and ice if any is used. If the source is a public water supply, only a sample from an outlet in the plant and ice if used, is required. Samples shall be taken within 60 days prior to certification.

(8) One shellfish processing plant certification license shall be issued and a fee shall be charged to a shellfish processing plant owner operating at a single location, regardless of whether the location may qualify for two or more licenses or permits. However, the shellfish processing plant certification license does exempt that single location from the requirement of having a food permit issued by the Department's Division of Food Safety.

(9) The following schedule of charges is established for each type of shellfish processing plant certification license.

(a) Depuration processing plant – this type of establishment is designated as DP. This type facility will be inspected at least monthly as required by the National Shellfish Sanitation Program Model Ordinance. The license fee for this type facility is \$600.00 annually.

(b) Repacking plant – this type of establishment is designated as RP. This type facility will be inspected at least quarterly as required by the National Shellfish Sanitation Program Model Ordinance. The license fee for this type facility is \$300.00 annually.

(c) Shucker-packer plant – this type of establishment is designated as SP. This type facility will be inspected at least quarterly as required by the National Shellfish Sanitation Program Model Ordinance. The license fee for this type facility is \$300.00 annually.

(d) Shellstock shipping plant – this type of establishment is designated as SS. This type facility will be inspected at least every six months as required by the National Shellfish Sanitation Program Model Ordinance. The license fee for this type facility is \$150.00 annually.

(10) In the event that a licensed certified shellfish processing plant changes its name, changes owners, changes location, changes address, or changes classifications, a new application, DACS form 15007, Revision 05/01 must be completed and submitted with the nonrefundable license fee to the Department. The firm will be required to go through the complete certification process.

(11) The nonrefundable license fee must be submitted by check or money order made payable to the Florida Department of Agriculture and Consumer Services, P. O. Box 6700, Tallahassee, Florida 32314-6700. The fees will be deposited in the General Inspection Trust Fund.

(12)(8) Possession of a mechanically refrigeration unit that is cooled non-portable and is storage unit able to maintain an ambient temperature of 45° F or below and be of sufficient size to handle one day's production shall be required for certification under this chapter.

(13)(9) Each applicant for a shellfish certification certificate license shall have conducted a Hazard Analysis to determine whether there are food safety hazards that are reasonably likely to occur for shellfish products produced at the location listed on DACS form 15007, Revision 05/01 7/2000 Shellfish Processing Plant Certification License Application. Each certified shellfish dealer shall have someone with adequate HACCP training, knowledge or experience to develop a HACCP plan, reassess and modify the HACCP plan and perform the records review. Each certified shellfish dealer shall prepare a written HACCP plan. The HACCP plan shall incorporate critical control points that will eliminate, prevent, or reduce to an acceptable level ~~control~~ the hazards identified in the hazard analysis. Critical control points shall have established critical limits for parameters to ensure when exceeded the dealer takes corrective actions. The HACCP plan shall include the procedures, and frequency thereof that will be used to monitor each of the critical control points to ensure compliance with the critical limits. The HACCP plan shall provide for a recordkeeping system that documents the monitoring of the critical control points. The records shall contain the actual values and observations obtained during monitoring. The plan shall be signed and dated by the owner or corporate officers of the firm at the time of its implementation, and after any modification. Each establishment shall develop or adopt acceptable sanitation monitoring records to meet the requirements in subsection 5L-1.013(12), F.A.C.

(14)(10) Each owner or corporate officer who is a certified shellfish dealer shall verify that the HACCP plan is adequate to control food safety hazards that are reasonably likely to occur, and that the plan is being effectively implemented. Verification shall include at a minimum:

(a) Reassessment of the HACCP plan on an annual basis, or when changes occur that could affect the hazard analysis: and

(b) Ongoing verification including a review of any consumer complaints received by the processor to determine whether they relate to the performance of critical control points or reveal the existence of unidentified critical control points, or the calibration of process-monitoring instruments.

(15)(11) All persons who commercially engage in purchasing shellfish from harvesters, shucking, packing, or repacking or transporting shellfish are subject to inspection and shall allow inspection by the Department or its duly authorized representatives during normal operating hours and any time there is shellfish processing, in order to determine compliance with sections of this rule. The Department shall inspect all licensed certified shellfish processing plants. Denial

of access for such inspection will automatically institute agency administrative action for immediate suspension or revocation of the shellfish processing plant certification license.

~~(16)(12)~~ It is unlawful for persons to commercially engage in purchasing from harvesters, shucking, packing, or repacking shellfish without having complied with these rules and applied for and obtained a shellfish processing plant certification license from the Department. ~~All certification licenses expire automatically on June 30 following date of issue.~~

~~(17)(13)~~ Upon issuance of a processing plant certification license, the Department shall notify the U.S. Food and Drug Administration of those certified shellfish dealers business name and certification license number be published in the Interstate Certified Shellfish Shippers List.

~~(18)(14)~~ The shellfish processing plant certification license shall be posted in a conspicuous location on the premises.

~~(19) No person shall attempt, by means of any threat or violence, to deter or prevent an agent of the Department from performing any duties imposed by law.~~

~~(20) All licensed certified shellfish processing plants shall maintain on the premises a current copy of this Rule Chapter, 5L-1, F.A.C., entitled "The Comprehensive Shellfish Control Code" and a current copy of the "Model Ordinance" of the National Shellfish Sanitation Program, Guide for the Control of Molluscan Shellfish published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration.~~

~~"PROPOSED EFFECTIVE DATE: JULY 1, 2002."~~

Specific Authority 597.020 570.07(2) FS. Law Implemented 597.020 370.071 FS. History—New 1-4-87, Amended 8-10-88, Formerly 16R-7.007, Amended 7-3-95, 5-8-96, 2-6-97, 6-23-99, Formerly 62R-7.007, Amended 8-9-00, 7-1-02.

~~5L-1.006 Compliance and Penalties Suspension or Revocation of Shellfish Processing Plant Certification License, Routine or Emergency Action.~~

(1) The Department shall initiate enforcement action as follows:

(a) ~~The Department shall inspect and re-inspect all licensed certified shellfish processing plants as necessary. The deficiency(ies) cited in an inspection report is not determined by the type of inspection being conducted. When a "Critical" deficiency is detected, operations affected by the critical deficiency will be suspended and the deficiency will be corrected during the inspection or the firm's certification license to operate shall be suspended as an immediate public health threat.~~

(b) ~~At the completion of an inspection where the Department finds a deficiency(ies) at a facility, the Department will do a corrective action plan. The Department will solicit input from the certified shellfish dealer, plant supervisor or the designated representative. The consent and cooperation of the~~

certified shellfish dealer, plant supervisor or the designated representative is not necessary for the creation of a corrective action plan by the Department nor will the lack of cooperation from the certified shellfish dealer, plant supervisor or the designated representative effect the plans' validity or requirement that the plan be implemented. A copy of the inspection report (DACS 15009, Revision 06/01) and the corrective action plan (DACS 15012, Revision 06/01) will be given to one of the following individuals who is present in the facility at the time the inspection is concluded: the plant supervisor, the certified shellfish dealer, or the designated representative. The certified shellfish dealer, plant supervisor, and the designated representative shall comply with the corrective action plan as outlined on form DACS-15012 Revision 06/01 that is given to the certified shellfish dealer, plant supervisor or the designated representative of the plant at the end of the inspection. The certified shellfish dealer, plant supervisor, or the designated representative's failure to comply with the corrective action plan outlined on form DACS-15012 Revision 06/01 will lead to a fine, suspension, or revocation of the certified dealer's certificate. When "Key" item deficiencies, are cited in violation of Chapter 5L-1, F.A.C., the firm will be noticed that the firm's operation is in violation of sections of this Chapter. The firm's representative will be requested to provide the Department a commitment that the corrections will be made. When "Key" item deficiencies are cited, the Department may initiate a warning letter which will ask the firm to write a corrective action plan and list the corrective actions that will be taken or have been taken to ensure correction of the violations. Failure to make satisfactory corrective actions of "Key" item deficiencies within an agreed upon time period as specified in a corrective action plan, shall result in the issuance of a letter of intent to suspend the firm's certification license for a minimum period of seven (7) calendar days, and until corrections have been completed.

(c) If upon inspection of a facility by an employee of the Department it is determined that there are "Critical", "Key", or "Other" deficiency(ies) of the facility, the following schedule will be used by the Department with respect to the administrative actions to be taken:

Critical deficiency(ies)

When a "Critical" deficiency(ies) is detected, operations affected by the "Critical" deficiency will be suspended and the deficiency will be corrected during the inspection or the firm's certification license to operate shall be immediately suspended as a public health threat. If the certification license to operate is suspended, it will remain suspended until corrections are made and verified by Department inspection. Product affected by the "Critical" deficiency will be controlled to prevent contaminated or adulterated product from reaching consumers. The Department will mandate a recall of the product from the market by the certified shellfish dealer and notify necessary officials of the recall.

In addition to these actions the following administrative penalty schedule will apply:

<u>Repeat "Critical" deficiency(ies)</u>	<u>The certified shellfish dealer will be fined \$500.00 per violation</u>
<u>2nd repeat "Critical" deficiency(ies)</u>	<u>The certified shellfish dealer will be fined \$1,000.00 per violation</u>
<u>3rd repeat "Critical" deficiency(ies)</u>	<u>The certified shellfish dealer will be suspended for 7 days</u>
<u>4th repeat "Critical" deficiency(ies)</u>	<u>The certified shellfish dealer license will be revoked for the remainder of the certification period.</u>

Key deficiency(ies)

The sanction to be imposed on a certificate holder upon the finding of repeat "Key" deficiency(ies), after the initial inspection that leads to the certificate being issued, will be as follows:

<u>Repeat "Key" deficiency(ies)</u>	<u>The certified shellfish dealer will be fined \$100.00 per violation</u>
<u>2nd repeat "Key" deficiency(ies)</u>	<u>The certified shellfish dealer will be fined \$200.00 per violation</u>
<u>3rd repeat "Key" deficiency(ies)</u>	<u>The certified shellfish dealer will be suspended for 7 days</u>
<u>4th repeat "Key" deficiency(ies)</u>	<u>The certified shellfish dealer will be suspended for 14 days</u>
<u>5th repeat "Key" deficiency(ies)</u>	<u>The certified shellfish dealer license will be revoked for the remainder of the certification period.</u>

Other deficiency(ies)

A warning letter will be sent to a certificate holder upon the finding of 5 or more "Other" deficiencies. The sanction to be imposed on a certificate holder upon the finding of repeat "Other" deficiency(ies) after the inspection that finds 5 or more "Other" item deficiencies, will be as follows:

<u>Repeat "Other" deficiency(ies)</u>	<u>The certified shellfish dealer will be fined \$25.00 per violation</u>
<u>2nd repeat "Other" deficiency(ies)</u>	<u>The certified shellfish dealer will be fined \$50.00 per violation</u>
<u>3rd repeat "Other" deficiency(ies)</u>	<u>The certified shellfish dealer will be fined</u>

\$75.00 per violation

4th or subsequent repeat "Other" deficiency(ies)

The certified shellfish dealer will be fined \$100.00 per violation

~~(e) Firm's which are found with four or more "Key" item deficiencies after initial suspension in any twelve month period, will be issued a letter of intent to suspend for a minimum period of fourteen (14) calendar days and until corrective actions have been completed.~~

(d) In those cases involving no fine, suspension or revocation, a warning letter will be sent to the certified dealer along with a statement of rights when the establishment has 3 or more "Key" item deficiencies cited in violation of Chapter 5L-1, F.A.C., or when an establishment has 2 "Key" item deficiencies and 3 "Other" item deficiencies cited in violation of Chapter 5L-1, F.A.C., or 1 "Key" item deficiency and 4 "Other" item deficiencies cited in violation of Chapter 5L-1, F.A.C. In cases involving the imposition of a fine the Department will forward an administrative complaint to the certified shellfish dealer, a proposed settlement offer and a statement of rights. In cases involving the imposition of a suspension or revocation of a certified shellfish dealer's license the Department will forward an administrative complaint, a statement of rights and a proposed settlement agreement to the certified shellfish dealer except when the Department has to immediately suspend a certification license because of an immediate public health threat. Payment of fines owed to the Department must be made within 22 days of the receipt by the certificate holder of the notice imposing the fine absent a request for a hearing on the matter pursuant to Chapter 120, Florida Statutes. Continued violation with four or more "Key" item deficiencies after a second suspension in any twelve month period, will result in revocation of the firm's certification license for the remainder of the certification year.

(e) A renewal of a firm's certificate will not be made if there are any unpaid fines with respect to prior certification periods. When "Other" item deficiencies are detected, the firm shall correct the deficiencies within an agreed upon time period as specified in a corrective action plan.

(f) Prior to suspending or revoking any certification license, the Department shall provide at least 21 days notice by certified mail or to the certification license holder, plant operator if different from the certification license holder, of the Department's intended action. The notice shall contain:

1. The specific facts or conduct which are relied upon to establish the violation;
2. The statutory provision or rule alleged to have been violated; and
3. A statement that the certification license holder has 21 days from receipt of the notice in which to file a petition requesting an administrative hearing pursuant to Section 120.57, F.S.

(2) The Department or its agents shall summarily suspend a certification license if it is determined that there is an immediate serious danger to the public health, safety, or welfare requiring such emergency action. The Department shall, at the time the emergency action is taken, initiate proceedings as provided in Section 120.60, F.S.

(3) Upon suspension or revocation of a certification license, the Department shall notify the U.S. Food and Drug Administration so that the dealer's business name and certification license number may be removed from the Interstate Certified Shellfish Shippers List. Upon reinstatement of the license, the Department shall notify the U.S. Food and Drug Administration so that the dealer's business name and certification license number may be reinstated on the Interstate Certified Shellfish Shippers List.

(4) When an employee of the Department finds, or has reason to believe, that any equipment which is located at a licensed facility is in violation of this chapter so as to be dangerous or unsanitary within the meaning of this chapter, an employee of the Department may issue and enforce a stop-sale, stop-use, removal, or hold order, which order gives notice that such equipment is, or is suspected of being, in violation and has been detained or embargoed and which order warns all persons not to remove, use, or dispose of such equipment by sale or otherwise until permission for removal, use, or disposal is given by the Department or the court. It is unlawful for any person to remove, use, or dispose of such detained or embargoed equipment by sale or otherwise without such permission.

(5) Settlement and Additional Enforcement Remedies. In determining the appropriate disciplinary penalty the Department will consider the compliance record of the violator. The provisions of this rule shall not be construed to limit the authority of the Department to enter into settlement with any party per section 120.57(4), Florida Statutes, or to prohibit additional administrative remedies or civil actions. Settlement agreements can provide for installment payments and costs for up to six months. The Department will enforce a failure to comply with a settlement agreement with the penalties and remedies provided in the settlement agreement or as authorized by law.

(6) All fines collected under this rule will be used by the Department for education of people who work in the shellfish industry.

(7) The fines outlined in this section will become effective on January 1, 2002.

"PROPOSED EFFECTIVE DATE: JANUARY 1, 2002."

Specific Authority 597.020 FS. Law Implemented 597.020 370.074 FS. History—New 1-4-87, Amended 8-10-88, 7-9-89, Formerly 16R-7.009, Amended 7-3-95, 2-6-97, Formerly 62R-7.009, Amended 8-9-00, 7-1-02.

5L-1.007 Container Identification, Terminal Sale Date; Prohibitions.

(1) Shucked shellfish container – The packer's or repacker's shellfish processing plant certification license number preceded by the state abbreviation must be embossed, imprinted, lithographed, or otherwise permanently and legibly recorded on the external body of containers or on the lid if the lid becomes an integral part of the container during the sealing process (Example: FL-872-SP). Containers shall permanently indicate type of product, quantity, and name and address of packer, repacker, or distributor. Containers of fresh shellfish, with a capacity of less than 64 ounces, shall further clearly and permanently bear the terminal sale date, by the numerical month, day, and last digit of the year. Containers of fresh shellfish with a capacity of 64 ounces or more, bears the actual shucking date by numerical month, day, and last digit of the year, in that order (Example: 01015). Reusable bulk storage containers shall be identified with state of origin, harvest date, and shuck date. Containers of frozen or previously frozen shellfish shall further clearly and permanently bear the date of shucking by numerical month, day, and last digit of the year, in that order (Example: 02097). Previously frozen shucked shellfish shall also have the freeze date and the thaw date following the same format. The terminal sale date for previously frozen shucked shellfish will be calculated by adding the day of shucking plus amount of time under refrigeration if not frozen, and adding the days that the product has been held thawed. Repacked shellfish containers shall also bear an appropriate code identifying the original packer.

(2) Each commercial harvester or each certified shellfish dealer shall affix a durable, waterproof tag of minimal size – 2 5/8 by 5 1/4 inches – to each container of shellstock; for commercial harvesters this shall be done at each harvest location; for certified shellfish dealers this shall be done after final packing. In the case where a certified shellfish dealer is also the harvester, that dealer's tag may also be used as the harvester's tag.

(3) The commercial harvester's tag's shall contain legible waterproof information arranged in the specific order as follows:

- (a) The harvester's saltwater product license number or aquaculture certificate number;
- (b) The date of harvesting;
- (c) The time of harvest;
- (d) The time of refrigeration, if applicable;
- (e) The identification of the harvest area using the four digit area number or name of the harvest area listed in Table 2, which is incorporated herein and appears at the end of this chapter, as well as the most precise identification within that area as practicable;
- (f) Common name of shellfish and quantity of shellfish;

(g) The following statement will appear in bold capitalized type “THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY AND THEREAFTER KEPT ON FILE FOR 90 DAYS.”

(4) Bulk tagging is allowed for those aquaculturists operating with an aquaculture certificate. A bulk tag, containing the information required in (3)(a)-(g), along with the name of the certified shellfish dealer which the product is consigned to, shall be completed at each harvest location.

(5) Bulk tagging, by a certified shellfish dealer, while washing, packing, depuration, wet storage, staging and intrastate transport of shellfish is permissible up to final packaging only when the lot container (i.e., pallet), contains shellfish which are harvested on the same day, from the same harvest area, and have the same intended use (i.e., for halfshell consumption, for shucking, or for further processing), and is tagged as follows:

(a) The statement “All Shellfish containers in this lot have the same date and area of harvest, as well as the same intended use”,

(b) Harvest date,

(c) Harvest area,

(d) Original Dealer/Shipper identification,

(e) Number of units in this lot container.

(6) The dealer’s tag shall contain legible and indelible information arranged in the specific order as follows:

(a) The shellfish shipper, shucker-packer, repacker, depurator, or distributors name, address, processing plant certification number;

(b) The original shipper’s certification number including the state abbreviation;

(c) The date of harvesting;

(d) The identification of the harvest area, and for Florida harvest areas the four digit code or name of the harvest area found in (3)(e) above;

(e) Common name of shellfish and quantity of shellfish; and

(f) The following statement will appear in bold capitalized type “THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY AND THEREAFTER KEPT ON FILE FOR 90 DAYS.”

(g) For oyster shellstock harvested from the Gulf of Mexico, the terminal sale date as a numeric date depicting month, day, and last digit of the year, not to exceed 14 days after the harvest date, or the statement “Sell Within 14 days of the Harvest Date”.

(h) If shellstock exceeds the time limit for refrigeration found in subsection Chapter 5L-1.008(5),(6), F.A.C., the shellstock dealer tag shall be identified with the language “FOR SHUCKING ONLY BY A CERTIFIED DEALER”.

(i) For depuration processors, paragraphs subsections (a), (d), (e), and (f) are required as well as the date of processing, and the depuration cycle number.

(j) For shellstock wet stored the following statement: “This product was wet stored on or at (Lease # or Facility certification number) from (date) to (date)”.

(7) Containers of treated shellfish from depuration facilities shall be tagged in accordance with item (6) in addition to the lot number and date shellfish were released from the treatment plant.

(8) Shellfish identification, out-of-state – No shellfish from sources outside of Florida shall be brought into the state for purpose of resale or public distribution unless the product bears evidence of certification from the state or nation of origin and certification is based on requirements similar to those outlined in this Chapter.

(9) In addition to the identification and labeling requirements of subsections (1) and (2), containers of fresh, frozen, previously frozen or repacked shellfish or containers of shellstock must indicate the state of origin of the shellfish, e.g., LA, MS, TX. For shellstock this requirement can be by (6)(a) and (b) above.

(10) Oyster shellstock and shucked oyster containers shall be labeled with the following statement: “CONSUMER INFORMATION There is a risk associated with consuming raw oysters. If you have chronic illness of the liver, stomach or blood or have immune disorders, you are at greater risk of serious illness from raw oysters and should eat oysters fully cooked. If unsure of your risk, consult a physician.”

(11) It shall be unlawful for any person, firm, corporation, wholesale or retail dealer to sell or offer for sale any fresh, ~~or previously frozen~~ shellfish after the terminal sale date has expired, or sell or offer for sale any fresh, frozen, or previously frozen shellfish not in compliance with any and all requirements of Chapter Rule 5L-1, F.A.C.

(12) Whoever knowingly or willfully alters or damages in any manner, or loans or transfers to another person any certification license number or shellfish tags, or any person who uses the certification license or shellfish tags, other than the person to whom they were issued, shall be in violation of this section and shall be subject to certification license suspension or revocation in addition to any other penalty for violation of Chapter Rule 5L-1, F.A.C.

Specific Authority 597.020 570.071(23) FS. Law Implemented 597.020 370.071 FS. History–New 1-4-87, Amended 5-21-87, 8-10-88, 7-9-89, 8-30-89, 5-6-93, 9-14-93, 8-21-94, Formerly 16R-7.010, Amended 9-1-95, 5-8-96, 2-6-97, 10-12-97, 2-12-98, 2-25-98, 7-1-98, 11-13-98, 12-28-98, 3-18-99, 7-1-99, Formerly 62R-7.010, Amended 6-19-00, 8-9-00,\_\_\_\_\_.

## 5L-1.008 Shellfish Handling.

(1) Wet storage shall be conducted upon execution of an agreement between a person, firm, or corporation possessing a shellfish processing plant certification license and the Department. Each agreement shall include the following provisions:

(a) The coordinates in Latitude and Longitude where the facility is to be located.

(b) A description of all facilities and equipment to be used to wet-store shellfish.

(c) A listing of the species to be wet-stored.

(d) If the wet storage facility is to be located upon or in waters of the state, the facility shall be marked and lighted so as not to be a hazard to navigation.

(e) If the wet storage facility is to be located on or in waters of the state, and is to be a manned structure, it shall be equipped with a U.S. Coast Guard approved Type III marine sanitation device; this device shall be maintained in working order and be used by all personnel for disposal of bodily wastes.

(f) All solid wastes shall be removed from the wet storage facility daily and disposed of in a shore-based receptacle.

(g) No anti-fouling paints or finishes shall be used on any portion of the wet storage facility.

(h) No shellfish shall be removed from a wet storage facility when the shellfish harvesting area in which such shellfish are stored is closed pursuant to ~~Rule Chapter~~ 5L-1.003, F.A.C., or because of emergency conditions as defined by ~~Rule Chapter~~ 5L-1.002, F.A.C.

(i) Should maintenance of the wet storage facility require that the facility be relocated, written notification shall be provided to the Department, by certified mail, a minimum of 10 working days prior to such relocation. All shellfish shall be removed from the facility prior to relocation.

(j) If wet storage is to be practiced using a shore-based facility, the applicable provisions of ~~Rules Sections~~ 5L-1.002, 5L-1.010, 5L-1.011, 5L-1.012, 5L-1.013, subsections 5L-1.015(2), (3), (4), (5), (6) and (7), and Rules 5L-1.017, and 5L-1.018, F.A.C., shall apply. All shore-based facilities shall employ ultraviolet light treatment of all incoming and recirculated seawater. All water quality measurements required by ~~Rule Section~~ 5L-1.017, F.A.C., shall be documented and such data retained for inspection by the Department for a minimum of one year. Paragraphs ~~Rule~~ 5L-1.008(1)(a), (b), (d), (e), (f), (h), and (i), F.A.C., shall not apply to a shore-based facility.

(k) The agreement shall be valid for no more than 1 year from the date it is signed by the Department.

(2) Boats and vehicles – Boats and vehicles used in harvesting or transporting shellfish shall be constructed, operated, and maintained, so as to protect the shellfish from contamination. Fuel tanks or other sources of contamination shall not be permitted to come into contact with shellfish. All

boats used for commercial harvesting and handling shellfish shall be designed in such a way to prevent shellfish from coming in contact with any bilge water. No dogs or other animals shall be allowed at any time on vessels or vehicles used to harvest or transport shellfish. No bodily wastes shall be discharged overboard from a harvest vessel. Shellstock harvested with commercial intent shall be protected by effective shading on harvest boats and vehicles to protect shellstock from exposure to sun, birds, and other adverse conditions. Shellfish shall be held under conditions which allows air circulation and promotes evaporative cooling.

(3) Boats engaged in harvesting or transporting shellfish shall have on board an approved Type III marine sanitation device, portable toilet or other sewage disposal receptacle. Portable toilets shall:

(a) Be constructed of high quality plastic that is durable, easy to clean and will not spill;

~~(b)(a)~~ Be used only for the purpose intended;

~~(c)(b)~~ Be secured while on board the vessel and located to prevent contamination of shellstock by spillage or leakage;

~~(d)(c)~~ Be emptied only into an appropriate sewage disposal system;

~~(e)(d)~~ Be cleaned before being returned to the boat; and

~~(f)(e)~~ Not be cleaned with equipment used for washing or processing food.

(4) Use of other receptacles for sewage disposal are approved if the receptacles are constructed of impervious, cleanable materials, have tight fitting lids, and meet the requirements of ~~paragraphs~~ Section 5L-1.008(3)(a)-(e), F.A.C.

(5) Throughout the year, shellfish shall be harvested between sunrise and sunset as established by the U.S. Weather Service. During the months of November, December, January, February, and March, shellfish shall be refrigerated within the same day as harvest. During the months of April, May, and October, oysters or clams shall be refrigerated within twelve (12) hours of the time of harvest, or within the same day as harvest. During the months of June, July, August, and September, oysters shall be refrigerated within six (6) hours of the time of harvest, or within the same day as harvest, whichever is earlier. During the months of June, July, August, and September, clams shall be refrigerated within ten (10) hours of the time of harvest, or within the same day as harvest, whichever is earlier. All shellfish shall be delivered directly to a certified shellfish dealer possessing a shellfish processing plant certification license.

(6) Once received by a certified shellfish dealer, the shellstock lot shall be immediately processed and placed under temperature control and until sale to final consumer, the shellstock shall be maintained at an environmental temperature of 45° F or less and not be permitted to remain outside of temperature control for more than 2 hours at points of transfer such as loading docks or in the plant during processing except for the process described in paragraph 5L-1.013(3)(b), F.A.C.



Specific Authority 597.020 FS. Law Implemented 597.020 370.074 FS. History—New 1-4-87, Amended 5-21-87, 8-10-88, 7-9-89, Formerly 16R-7.011, Amended 7-3-95, 2-6-97, 3-18-99, 6-23-99, Formerly 62R-7.011, Amended 8-9-00, \_\_\_\_\_.

#### 5L-1.009 Shellfish Relaying.

(1) No person, firm, corporation, municipality, association, or other governmental body shall engage in shellfish relay operations without first obtaining a “Special Activity License to Relay Shellfish” from the Department.

(2) A Special Activity License to Relay Shellfish may be issued to any person, firm, corporation, municipality, or other governmental body or agency holding a shellfish lease, aquaculture lease, or owning or operating a depuration plant, and whose past record indicates that they can be bonded and are responsible to oversee and assure compliance with all rules and licenses. A Special Activity License to Relay Shellfish may be issued to an association when the Department has public funds appropriated for relaying shellfish to public areas.

(3) Anyone wishing to conduct shellfish relaying operations shall provide the Department, upon application form entitled “Application for A Special Activity License to Relay Shellfish”, Form Number DACS 15109, Revision effective 05/01 7/2000, available from the Department of Agriculture and Consumer Services, 1203 Governors Square Boulevard, 5th Floor, Tallahassee, Florida 32301, and herein incorporated by reference, with the following information:

(a) Name, address, telephone number, and instructions for contacting person or persons responsible for relaying operations;

(b) Species of shellfish to be moved;

(c) Anticipated amount of shellfish to be moved;

(d) Method of harvesting, that is raking, tonging, treading, or diving;

(e) Areas from which shellfish will be moved;

(f) Areas to which shellfish will be moved;

(g) Method of transportation;

(h) Number of crews to be involved in the relay operation;

(i) The colors and design of flags to be used pursuant to paragraph Section 5L-1.009(4)(r), F.A.C.; and

(j) Laboratory secured for collection and laboratory analysis according to paragraph Rule 5L-1.009(4)(p), F.A.C., for shellfish leases and aquaculture leases and according to Rules 5L-1.016 and 5L-1.017, F.A.C., for depuration facilities.

(4) The Department, after reviewing the application and finding the plan in compliance with all applicable rules and regulations, and determining that the activity will not degrade, destroy or affect marine resources, shall issue a Special Activity License to Relay Shellfish within the general conditions set forth below:

(a) The Department is authorized to establish the effective date and expiration date of the “Special Activity License to Relay Shellfish”. In no case shall the expiration date be greater than one year from the effective date.

(b) Shellfish relaying shall be conducted only during daylight hours, commencing at official sunrise and ending at official sunset, as established by the U.S. Weather Service, except as defined by subparagraph subsection 5L-1.009(4)(n)5., F.A.C., under approved law enforcement, licensed security guard monitoring, or under the supervision of the Department. All persons involved in harvest, transport, and relaying shall comply with these rules and license conditions. Harvesters shall remain within the immediate control and observation of a monitor at all times. No more than 15 watercraft shall be under the supervision of a monitor at any time. The requirement for a monitor is not necessary when an association is conducting shellfish relaying to public areas in conjunction with Department supervision using public funds.

(c) All persons operating under a “Special Activity License to Relay Shellfish”, shall comply with all applicable shellfish rules, regulations, and specific license conditions listed on the “Special Activity License to Relay Shellfish”, under which he/she is operating.

(d) The licensee and person named as being responsible, shall be lawfully responsible for all activities conducted under the conditions of the “Special Activity License to Relay Shellfish” and applicable rules and regulations.

(e) The licensee must notify the local Marine Enforcement District Office and the Department within twelve (12) hours by telephone and in writing by certified mail or hand delivery, within three days of any changes in ownership or person named as being responsible for the activities conducted under the conditions of the “Special Activity License to Relay Shellfish”.

(f) The Licensee shall use only Department approved monitors, as specified by subsection 5L-1.009(5), F.A.C., to supervise relay harvesting, relay transport operations, placement on permitted site, and completion of required relay reports.

(g) Approved monitors must have completed the Department monitor training course and have a current “Department Approved Monitor Identification Card” showing successful completion of the course.

(h) Approved monitors shall have in their possession and available for immediate inspection, a current “Department Approved Monitor Identification Card” and a valid picture identification card during relay operations, available for immediate inspection.

(i) Approved monitors shall have in their possession a complete copy of the valid “Special Activity License to Relay Shellfish”, including complete copies of all licenses of each licensee who participates in a relay crew when the relay crew is comprised of more than one licensee, available for immediate inspection during any phase of relay operation. The copy(ies) shall be supplied by the licensee(s) or person(s) named as being responsible.

(j) Harvesters shall harvest shellfish within one hundred yards of the approved monitor, and remain under the immediate supervision and unobstructed view of the approved monitor, except as described in subparagraph subsection 5L-1.009(4)(n)13., F.A.C.

(k) No more than fifteen (15) harvesters shall comprise one crew and not more than one crew shall be under the immediate supervision of an approved monitor, except as described in subparagraph subsection 5L-1.009(4)(n)3., F.A.C.

(l) Relay teams that are treading or using rakes and/or tongs shall remain at a distance greater than 100 yards from any diving relay team that is in operation.

(m) Seagrasses shall not be disturbed.

(n) If relay harvesting is to be conducted by divers, the following additional conditions shall apply:

1. Any harvester who wishes to engage in a diving operation shall be required to obtain an "Underwater Shellfish Harvester Certificate" from the Florida Marine Enforcement District Office in which geographic area the harvester works. No certificate shall be issued to any applicant with a conviction of harvesting in a restricted, conditionally restricted, prohibited, or unclassified area within one year prior to application. No certificate shall be issued to any applicant who is not a certified diver.

2. It shall be unlawful for a diver to harvest shellfish on a relay crew without an "Underwater Shellfish Harvester Certificate" issued by the Florida Marine Enforcement District Office in which geographic area harvesting occurs.

3. A diver relay crew shall not be comprised of more than five divers, and not more than one crew shall be under the immediate supervision of an approved monitor.

4. Diving shall be the only method used by a team. Other harvesting methods, such as raking or tonging from a vessel or treading, shall not be permitted by a team employing diving.

5. The use of self contained underwater breathing apparatus (SCUBA) is not permitted.

6. The air supply shall come from the surface and consist of an apparatus which is supported by flotation, and used by no more than two harvesters at a time.

7. The air line from the apparatus to each diver shall not exceed 150 feet in length.

8. A designated diver's apparatus must be tethered to the approved monitor's vessel to provide a means of communication. The designated diver will provide communication for the approved monitor to the other divers.

9. Diver down flags shall be utilized as prescribed by Section 861.065, F.S. In addition, each diver shall have a diver's down flag on any flotation device designating the diver's approximate location.

10. Flags, as required by paragraph subsection 5L-1.009(4)(r)., F.A.C., shall be flown on the vessels and not on the flotation device used to support a compressor.

11. Each diver shall have in his possession, while in the water, a maximum of one container at any time. No other container of any type shall be allowed with the diver while in the water.

12. Harvesters shall remain within 100 yards of the approved monitor's vessel.

13. Relay teams shall remain more than 100 yards from any other relay team.

(o) Relayed shellfish shall be delivered directly to the designated license location on the same day of harvest. Diverting shellfish to any other source or location is prohibited.

(p) If shellfish are relayed to a lease in Approved or Conditionally Approved areas, they shall not be harvested without written permission from the Department. Permission will be granted only after a minimum of 15 days have elapsed to allow the shellfish to cleanse themselves, and this cleansing is verified by laboratory analysis. The fifteen days will commence when the Department receives the licensee's "Special Activity License to Relay Shellfish" for cancellation. The fifteen day period does not include days that shellfish harvesting areas have been temporarily closed to harvest. Laboratory analysis shall consist of a minimum of five samples (each sample to consist of a minimum of 12 individual shellfish), collected by an employee of a laboratory with a current Department certification letter or staff of the Department. Four samples are to be collected from four corners of the lease and one sample collected from approximately the center of the lease. High-density aquaculture lease areas will be treated as a single entity pursuant to subparagraphs subsection 5L-1.009(4)(s)3. and 8., F.A.C., for sampling. The Department will collect and analyze samples for shellfish relaying to public areas in conjunction with Department supervision using public funds. The laboratory must be certified by the Department State Laboratory Certification Officer pursuant to Guidance document A.11 of the National Shellfish Sanitation Program Model Ordinance and the Shellfish Laboratory Evaluation Checklist (1995), published by the U.S. Food and Drug Administration, which is hereby incorporated by reference and available for inspection at the Department's offices located at 1203 Governors Square Boulevard, 5th Floor, Tallahassee, Florida 32301. Laboratory analysis shall include approved methods for fecal coliform bacteria and standard plate count. The bacteriological quality of the relayed shellfish shall be equal to or better than shellfish of the same species harvested from nearby Approved or Conditionally Approved areas. If shellfish are being relayed due to marine biotoxins, laboratory analyses shall include mouse bioassays for toxin. The toxin level must be less than 20 mouse units. Aquacultured shellfish are the only shellfish allowed to be relayed due to marine biotoxins. Relaying for marine biotoxins is only allowed within the following four specific geographic regions of the state: (1) Escambia County through Jefferson County; (2)

Taylor County through Levy County; (3) Citrus County through Monroe County; (4) Dade County through Nassau County. Relaying due to marine biotoxins between these specific geographic regions is prohibited. The holder of the “Special Activity License to Relay Shellfish” must coordinate with the certified laboratory and other persons or agencies that these criteria are met and communicate this information to the Department. Upon verification that the criteria have been met the Department will issue the written permission in the form of a letter.

(q) Shellfish relaying from Florida waters to another state or country, or from the waters of another state or country to Florida waters or a licensed depuration plant, is prohibited.

(r) Persons engaged in relaying operations shall fly a flag on their vessel, the color of which was applied for and approved by the Department in the “Special Activity License to Relay Shellfish”. The flag will be a rigid flag, minimum size of 12 inches high by 18 inches wide. Only one color design will be approved for each license, except as provided in sub-subparagraphs subsection 5L-1.009(4)(s)4.a.-d., F.A.C. The flags will be free standing and identifiable from the air and the water. The vessel which contains the Department approved monitor will fly a flag of the same description as before described but differentiated by two, three (3) inch wide strips, of contrasting color to the flag, extending diagonally from corner to corner, forming an X. Individual flags shall be mounted such that the entire flag extends a minimum of 2 feet higher than the highest point on the craft.

(s) Special conditions shall apply to high-density aquaculture lease areas, to relaying and transport operations, laboratory sampling, and harvesting when more than one person or licensee participates on a relay crew composed of other persons or licensees from the same high-density aquaculture lease area.

1. The “Application for a Special Activity License to Relay Shellfish” pursuant to subsection 5L-1.009(3), F.A.C., shall incorporate the following additional information:

a. The description of the high-density aquaculture lease area, and

b. The description of the aquaculture lease in the high-density aquaculture lease area.

2. The Department shall establish an expiration date pursuant to paragraph subsection 5L-1.009(4)(a), F.A.C., which shall be the same for all applicants for Special Activity Licenses to Relay Shellfish who participate in relays to high-density aquaculture lease areas.

3. For a high-density aquaculture lease area to be considered as a single entity for laboratory sampling and harvesting, all relaying activity must be terminated by the designated expiration date. The number of participating licensees shall be determined by the number of applicants using the same expiration date and the number of participants is limited by the number of individual aquaculture leases

located in the high-density aquaculture lease area. When an expiration date has been established for relaying to a high-density aquaculture lease area, all applicants shall terminate relay activities on or before the established expiration date regardless of the effective date of the Special Activity License to Relay Shellfish; except when a single licensee surrenders the Special Activity License to Relay Shellfish for cancellation and harvests shellfish pursuant to paragraph subsection 5L-1.009(4)(p), F.A.C.

4. Persons or licensees participating on relay crews composed of other persons or licensees from the same high-density aquaculture lease area shall fly a flag on their vessel pursuant to paragraph subsection 5L-1.009(4)(r), F.A.C., except:

a. Only one color design will be approved for each high-density aquaculture lease area when relay crews are composed of more than one licensee.

b. Each vessel shall also fly a flag or banner, the color and design of which is designated and provided by the approved monitor.

c. The licensee shall maintain possession of the flag designated in the Special Activity License to Relay Shellfish.

d. The approved monitor shall maintain possession and have available the designated monitor flag and provide such flags or banners to all persons or licensees participating on relay crews under his/her immediate supervision during the days activity.

5. No more than 15 boats or licensees shall comprise a relay crew from the same high-density aquaculture lease area and not more than one crew shall be under the immediate supervision of an approved monitor, except as described in subparagraph subsection 5L-1.009(4)(n)3., F.A.C.

6. All participating licensees shall surrender their Special Activity License to Relay Shellfish to the Department for cancellation on the same date.

7. Shellfish relayed to high-density aquaculture lease areas in Approved or Conditionally Approved areas shall not be harvested without written permission from the Department pursuant to paragraph subsection 5L-1.009(4)(p), F.A.C., except the 15 days will commence when the Department receives all participating licensees’ “Special Activity License to Relay Shellfish” for cancellation.

8. High-density aquaculture lease areas will be treated as a single entity pursuant to subparagraph subsection 5L-1.009(4)(s)3., F.A.C., for laboratory sampling when all participating licensees have surrendered their Special Activity License to Relay Shellfish pursuant to subparagraph subsection 5L-1.009(4)(s)6., F.A.C. Laboratory analysis shall consist of a minimum of five samples (each sample to consist of a minimum of 12 individual shellfish), collected by an employee of a laboratory with a current Department certification letter or staff of the Department. Four samples are to be collected from individual aquaculture leases located most proximate to the

four corners of the high-density aquaculture lease area and one sample collected from an individual lease located near the center of the high-density aquaculture lease area.

9. Shellfish relayed under the provisions of paragraph subsection 5L-1.009(4)(s), F.A.C., shall not be harvested without written permission from the Department as defined in paragraph subsection 5L-1.009(4)(p), F.A.C., and permission to harvest by individual licensees shall be denied until all participating licensees receive written permission to harvest.

(5) Requirements for Department approved monitors include the following:

(a) Department approved monitors must be current "Certified Law Enforcement Officers" or licensed "Class D Security Guards" working for a licensed "Class B Security Agency", hired by a "Special Activity License to Relay Shellfish" licensee, or staff of the Department. Staff of the Department, who are not "Certified Law Enforcement Officers", shall monitor only relay operations directed and supervised by the Department during cooperative shellfish resource development programs. Staff of the Department shall monitor shellfish relays to licensed leases pursuant to paragraphs subsections 5L-1.009(4)(g)-(i), subsection 5L-1.009(5), and paragraph 5L-1.009(6)(b), F.A.C.

(b) Applicants shall not possess a current Shellfish License or upon application for training they must surrender their Shellfish License.

(c) It shall be unlawful for any approved monitor to be involved in any other activities within the commercial shellfish industry.

(d) Department approved monitor training will consist of a course developed and approved by the Florida Marine Enforcement and the Division of Aquaculture. The course shall cover the responsibilities of the approved monitor, shellfish laws, shellfish relay license rules, water classifications, health issues and other information deemed necessary by the Department. Training shall be conducted by Department personnel, as follows:

1. Initial training will consist of weekly courses for a period of two months if sufficient applicants apply to fill classes of twenty students. Applicants need to attend only one of the weekly courses.

2. A training course will be scheduled every six months.

3. Contracted licensed security agencies and licensees to relay shellfish will receive written notification of training dates and where the courses will be conducted.

4. An applicant who completes the course satisfactorily will be issued a "Department Approved Monitor Identification Card" in his or her name. The Identification Card will bear an expiration date that coincides with eligibility requirements established for a Department approved monitor. This identification card will expire on the expiration date printed on

the identification card, or in no case longer than one year from the date of issue. The identification card will be renewed only after satisfactory completion of the training course.

(e) A Department approved monitor whose identification card has expired may reapply and will be issued a new identification card with a new expiration date if he or she meets the eligibility requirements established for a Department approved monitor.

(6) Penalty for violation of Rule 5L-1.009, F.A.C.

(a) Any person who violates any of the provisions of this chapter, shall be subject to fine and imprisonment as provided in Section 370.021, F.S.

(b) An approved monitor's failure to supervise shellfish relay operations, complete required reports, and comply with the requirements of Rule 5L-1.009, F.A.C., and the "Special Activity License to Relay Shellfish", will result in the suspension of his authorization to act as a Department approved monitor.

(c) A diver, who is permitted by the Florida Marine Enforcement to harvest shellfish on a relay crew, will have his "Underwater Shellfish Harvester Certificate" suspended for any conviction of violating subparagraphs subsection 5L-1.009(4)(n)1.-15., F.A.C. The suspension will be for one year from the date of conviction.

(d) A "Special Activity License to Relay Shellfish" will be revoked for:

1. Any conviction for violation of diverting shellfish to any location other than specified on the license.

2. Any conviction for violation of depuration periods specified by law for relayed shellfish or sale of relayed shellfish prior to written authorization by the Division of Aquaculture.

3. Second conviction for violation of harvesting shellfish from any waters not approved by the license.

4. Four separate instances involving convictions for violations, other than subparagraphs subsection 5L-1.009(6)(d)1., 2., and 3., F.A.C., within any six month period.

(e) Pursuant to Section 120.60(7), F.S., prior to the entry of a final order revoking a "Special Activity License to Relay Shellfish", the Department will serve an administrative complaint which affords reasonable notice to the licensee of facts or conduct which warrant the intended action and the licensee is given an adequate opportunity to request a proceeding pursuant to Section 120.57, F.S.

(f) A "Special Activity License to Relay Shellfish" will be revoked for the following periods:

1. First revocation of license will be for a minimum of thirty days.

2. Second revocation of license will be for a minimum of sixty days and continue until such time the licensee can show to the satisfaction of the Department that corrective measures have been taken to control violations.

3. Third revocation of license will be permanent. No other "Special Activity License to Relay Shellfish" will be issued to a person, firm, corporation, municipality, or other governmental body holding a shellfish lease, aquaculture lease, or owning or operating a depuration plant whose "Special Activity License to Relay Shellfish" was revoked three times. After a six month period a new lease holder or owner or operator of a depuration plant must show to the satisfaction of the Department that corrective measures to control violations will be implemented prior to having an application considered.

(g) During periods of revocation no further "Special Activity License to Relay Shellfish" will be issued to a person, firm, corporation, municipality, or other governmental body holding a shellfish lease, aquaculture lease, or owning or operating a depuration plant who had their "Special Activity License to Relay Shellfish" revoked.

Specific Authority 597.020 FS. Law Implemented 597.010(15), 597.010(19), 597.020 370.071, 370.16(17) FS. History—New 1-4-87, Amended 5-21-87, 8-10-88, 7-9-89, 12-23-91, 4-21-93, 5-20-93, 6-9-94, Formerly 16R-7.012, Amended 1-1-98, Formerly 62R-7.012, Amended 8-9-00, \_\_\_\_\_.

#### 5L-1.010 Buildings and Facilities.

(1) Plant construction and design. Plant buildings and structures shall be suitable in size, construction, and design to facilitate maintenance and sanitary operations for food manufacturing purposes. The plant and facilities shall:

(a) Provide sufficient space for such placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations and the production of safe food.

(b) Permit the taking of proper precautions to reduce the potential for contamination of food, food-contact surfaces, or food-packaging materials with microorganisms, chemicals, filth, or other extraneous material. The potential for contamination may be reduced by adequate food safety controls and operating practices or effective design, including the separation of operations in which contamination is likely to occur, by one or more of the following means: location, time, partition, air flow, enclosed systems, or other effective means.

(c) Be constructed in such a manner that floors, walls, and ceilings may be cleaned and kept clean and kept in good repair; that drip or condensate from fixtures, ducts and pipes does not contaminate food, food-contact surfaces, or food-packaging materials; and that aisles or working spaces are provided between equipment and walls and are of such width to permit employees to perform their duties and to protect against contaminating food or food-contact surfaces with clothing or personal contact.

(d) Provide at least 110 lux (10 foot candles) in walk in refrigeration units, dry food storage areas and single service storage areas; at least 220 lux (20 foot candles) at any handwashing lavatory, warewashing and equipment and utensil storage, and in toilet rooms; at least 540 lux (50 foot candles) at the surface where a food employee is working with food or

equipment or utensils such as knives or grinders where employee safety is a factor. This is considered adequate lighting for ~~in~~ hand-washing areas, dressing and locker rooms, and toilet rooms and in all areas where food is examined, processed, or stored and where equipment or utensils are cleaned. Light bulbs shall be shielded, coated or otherwise shatter resistant in areas where there is exposed food, clean equipment and utensils or unwrapped single service and single-use articles. Shielded, coated or otherwise shatter resistant bulbs need not be used in areas used only for storing food in unopened packages if the integrity of the packages can not be affected by broken glass falling onto the packages and the packages are capable of being cleaned of debris from broken bulbs before the packages are opened and provide safety-type light bulbs, fixtures, skylights, or other glass suspended over exposed food in any step of preparation or otherwise protect against food contamination in case of glass breakage.

(e) Provide adequate ventilation or control equipment to minimize air borne dust and particulates, odors and vapors in areas where they may contaminate food; and locate and operate fans and other air-blowing equipment in a manner that minimizes the potential for contaminating food, food-packaging materials, and food contact surfaces.

(f) Provide screening or other protection to prevent the entrance of pests.

(2) Grounds about a food plant under the control of the operator shall be kept in a condition that will protect against the contamination of food. The methods for maintenance of grounds include, but are not limited to:

(a) Storing equipment, removing litter and waste, and cutting weeds or grass within the immediate vicinity of the plant building or structures that may constitute an attractant, breeding place, or harborage for pests.

(b) Maintaining roads, yards, and parking lots so that they do not constitute a source of contamination in areas where food is exposed.

(c) Draining areas that may contribute contamination to food by seepage, foot-borne filth, or providing a breeding place for pests.

(d) Operating systems for waste treatment and disposal in such a manner that they do not constitute a source of contamination in areas where food is exposed. If the plant grounds are bordered by grounds not under the operator's control and not maintained in the manner described in paragraphs (2)(a) through (c) of this section, care shall be exercised in the plant by inspection, extermination, or other means to exclude pests, dirt, and filth that may be a source of food contamination.

(3) The water supply shall be sufficient for the operations intended. Any water that contacts food or food contact surfaces shall be safe and of sanitary quality. Running water at a suitable temperature of 110° F or above, and under pressure as

needed, shall be provided in all areas where required for the processing of food, for the cleaning of equipment, utensils, and food-packaging materials, or for employee sanitary facilities. Sanitary quality shall be maintained by the following steps:

(a) In plants that are not on a public water system, routine microbiological monitoring shall be conducted on water, and ice used in the plant, at least once every six months by the operator of the certified processing plant. The sample collected shall be from a tap that provides water for use in processing shellfish. When treatment includes disinfection, a source water standard bacterial sample must also be collected on the same day.

(b) Microbiological results from testing shall not equal or exceed two cfu (colony forming units) per 100 mls for total coliform bacteria on any consecutive samples, and shall not equal or exceed two cfu per 100 mls for fecal coliform or E. coli bacteria on any samples.

(4) Plumbing shall be of size and design and installed and maintained to:

(a) Carry sufficient quantities of water to required locations throughout the plant.

(b) Convey sewage and liquid disposable waste from the plant.

(c) Avoid constituting a source of contamination to food, water supplies, equipment, or utensils or creating an unsanitary condition.

(d) Provide floor drainage in all areas where floors are subject to flooding-type cleaning.

(e) Provide that there is no backflow from, or cross-connection between, piping systems that discharge waste water or sewage and piping systems that carry water for food or food manufacturing.

(5) Sewage and all in-plant wastewater shall be discharged into a public sewage treatment system or other approved sewage treatment system in accordance with provisions of Chapter 64E-6, F.A.C. Florida Administrative Code.

(6) Each plant shall provide its employees with readily accessible toilet facilities. Compliance with this requirement shall be accomplished by:

(a) Maintaining the facilities in a sanitary condition.

(b) Keeping the facilities in good repair at all times.

(c) Providing self-closing doors.

(d) Providing doors that do not open into areas where food is exposed to airborne contamination, except where alternate means have been taken to protect against such contamination, such as double doors or positive air flow systems.

(e) Providing toilet tissue.

(7) Handwashing facilities shall be furnished and easily accessible, where persons handle food, food packaging materials, or food contact surfaces, and include the following:

(a) Running water at a minimum temperature of 110 degrees F.

(b) Where persons handle food, food packaging materials, or food contact surfaces, hand-sanitizing facilities shall be furnished.

(c) Effective hand-cleaning and sanitizing preparations.

(d) Sanitary towels or drying devices.

(e) Readily understandable signs directing employees handling exposed food, unprotected food-packaging materials, or food-contact surfaces, to wash and sanitize their hands prior to handling these items. These signs shall be posted in the processing room at all hand wash stations and in all other areas where employees may handle such food, materials, or surfaces.

(8) Refuse receptacles shall be constructed and maintained in a manner that protects against contamination of food. Rubbish and any offal shall be so conveyed, stored, and disposed of as to minimize the development of odor, minimize the potential for the waste becoming an attractant and harborage or breeding place for pest, and protect against contamination of food, food-contact surfaces, water supplies, and ground surfaces.

Specific Authority 597.020 FS. Law Implemented 597.020 370.074 FS. History—New 1-4-87, Amended 5-21-87, 8-10-88, Formerly 16R-7.013, Amended 7-3-95, 2-6-97, Formerly 62R-7.013, Amended 8-9-00,\_\_\_\_\_.

5L-1.011 Equipment for Shellfish Processing.

(1) All plant equipment and utensils shall be so designed and of such material and workmanship as to be cleanable, and shall be properly maintained. The design, construction, and use of equipment and utensils shall preclude the adulteration of food with contaminants. All equipment shall be so installed and maintained as to facilitate the cleaning of the equipment and of all adjacent spaces. Food-contact surfaces shall be corrosion-resistant, made of nontoxic materials, and designed to withstand the environment of their intended use and the action of food, and, if applicable, cleaning compounds and sanitizing agents. Food-contact surfaces shall be maintained to protect food from being contaminated by any source.

(2) Seams on food-contact surfaces shall be smoothly bonded or maintained so as to minimize accumulation of food particles, dirt, and organic matter and thus minimize the opportunity for growth of microorganisms.

(3) Equipment that is used in the manufacturing or food-handling area and that does not come into contact with food shall be so constructed that it can be kept in a clean condition.

(4) Three compartment sinks shall be properly installed, maintained and provided with hot and cold running water to all three compartments in establishments required to wash, rinse and sanitize food contact surfaces. Signs shall be posted indicating proper use of the three compartment sink. A three compartment sink shall be used for washing, rinsing and sanitizing food contact surfaces and shall not be used for hand washing.

(5) Each freezer and cold storage compartment used to store and hold shellfish shall be mechanically refrigerated, nonportable and shall be fitted with an indicating thermometer, temperature-measuring device, or temperature-recording device so installed as to show the temperature accurately within the compartment, and should be fitted with an automatic control for regulating temperature or with an automatic alarm system to indicate a significant temperature change.

(6) Compressed air or other gases mechanically introduced into food or used to clean food-contact surfaces or equipment shall be treated in such a way that food is not contaminated.

(7) Blowers – devices which use compressed air to circulate wash water around and through shucked shellfish shall be properly designed and constructed as to be easily dismantled for cleaning, examination, and repair.

(8) Blowing time – blowing time shall not exceed 15 minutes.

(9) Depuration tanks shall be designed to allow for good water circulation and prevent short-circuiting of the seawater. Tanks shall be designed so that scum and sludge, including shellfish feces and pseudo-feces, sand, and grit can be easily removed or flushed out. The bottom shall be sloped longitudinally at least 1/4 to 1/2 inch per foot toward the outlet end.

(10) To facilitate proper cleaning and sanitation, as well as proper treatment of shellfish, tanks shall be constructed from impervious, non-toxic, and inert materials. Coatings, when used, may include epoxy resins, powdered polyesters, vinyl bituminous water-tank paint, and paraffin. These coatings are not only for waterproofing but should provide a smooth, hard, non-porous surface to facilitate cleaning.

Specific Authority 597.020 FS. Law Implemented 597.020 370.074 FS. History–New 1-4-87, Amended 8-10-88, Formerly 16R-7.014, Amended 7-3-95, 5-8-96, 2-6-97, Formerly 62R-7.014, Amended 8-9-00,\_\_\_\_\_.

#### 5L-1.012 Sanitary Operations.

(1) General maintenance. Buildings, fixtures, and other physical facilities of the plant shall be maintained and kept in a sanitary condition and shall be kept in repair sufficient to prevent food from becoming adulterated within the meaning of this rule. Cleaning and sanitizing of utensils and equipment shall be conducted in a manner that protects against contamination of food, food-contact surfaces, or food-packaging materials.

(2) Cleaning compounds used in cleaning procedures shall be free from undesirable microorganisms and shall be safe and adequate under the conditions of use. Compliance with this requirement may be verified by any effective means including purchase of these substances under a supplier's guarantee or certification, or examination of these substances for contamination.

(3) Only sanitizing agents found in Title 21, Code of Federal Regulations, Section 178.1010, hereby incorporated by reference and available for inspection at the Department's

offices located at 1203 Governors Square Boulevard, 5th Floor, Tallahassee, Florida 32301, will be used at recommended levels in shellfish processing plants.

(4) Toxic cleaning compounds, sanitizing agents, and pesticide chemicals shall be identified, held, used and stored in a manner that protects against contamination of food, food-contact surfaces, or food-packaging materials. Test kits that measure the concentration of sanitizing solutions shall be provided and used for verifying the proper sanitizing solution concentration.

(5) No pests shall be allowed in any area of a food plant. Effective measures shall be taken to exclude pests from the processing areas and to protect against the contamination of food on the premises by pests. The use of insecticides or rodenticides is permitted only under precautions and restrictions of product labeling.

(6) All food-contact surfaces, including utensils and food-contact surfaces of equipment, shall be cleaned as frequently as necessary to protect against contamination of food.

(7) Non-food contact surfaces of equipment used in the operation of food plants ~~shall~~ should be cleaned as frequently as necessary to protect against contamination of food.

(8) Single-service articles ~~shall~~ should be stored in appropriate containers and/or in a clean dry location where they are not exposed to splash, dust or other contamination. Single-service articles shall be handled, dispensed, used, and disposed of in a manner that protects against contamination of food or food-contact surfaces.

(9) Sanitizing agents shall be adequate and safe under conditions of use. Any facility, procedure, or machine is acceptable for cleaning and sanitizing equipment and utensils if it is established that the facility, procedure, or machine will routinely render equipment and utensils clean and sanitized.

(10) Cleaned and sanitized portable equipment with food-contact surfaces and utensils ~~shall~~ should be stored in a location and manner that protects food-contact surfaces from contamination.

(11) Any employee with a disease in the communicable stage which might be transmissible through food shall be excluded from working in any capacity in which the employee may come in contact with the shellfish or with food contact surfaces.

(a) The dealer shall require all employees to wash their hands thoroughly with soap and water and sanitize their hands in an adequate handwashing facility before starting work, after each absence from the work station, after each work interruption and any time when their hands may have been soiled or contaminated.

(b) Where the same employee works in both the shucking and packing activities, the employee shall wash his hands thoroughly after entering the area.

(c) Any employee handling shucked shellfish shall be required to wear an effective hair restraint, remove any hand jewelry that cannot be sanitized and secured, wear finger cots or gloves if jewelry cannot be removed, wear clean outer garments which are rinsed or changed as necessary to be kept clean.

(d) In any area where shellfish are shucked or packed and in any area which is used for the cleaning or storage of utensils, the dealer shall not allow employees to store clothing or other personal belongings, eat or drink, spit and use tobacco in any form.

(12)(44) Each certified dealer shall monitor the conditions and practices during processing with sufficient frequency to ensure, at a minimum, conformance with those conditions and practices specified in subsection ~~Rules~~ 5L-1.005(7), paragraphs 5L-1.010(1)(a) and (b), subsections 5L-1.010(6) and (7), 5L-1.011(1), 5L-1.012(1)-(11)(40), 5L-1.013(6), (7), and (8), and (9), and 5L-1.014(5), F.A.C.

Specific Authority 597.020 FS. Law Implemented 597.020 370.074 FS. History—New 1-4-87, Amended 8-10-88, Formerly 16R-7.015, Amended 7-3-95, Amended 2-6-97, 6-23-99, Formerly 62R-7.015, Amended 8-9-00,

#### 5L-1.013 Plant Operation.

(1) The plant shall operate in accordance with the HACCP plan designed and approved by the owner or corporate officers.

(2) Prior to acceptance of shellstock from a licensed harvester, certified shellfish dealer and/or certified aquaculturist, the certified shellfish dealer will ensure that shellstock are properly identified as specified in subsection Section 5L-1.007(3)(5), F.A.C., are clean, wholesome, and alive.

(3) Upon acceptance of shellstock from a licensed harvester, certified aquaculturist or certified shellfish dealer, the receiving certified shellfish dealer shall determine the appropriate use of the shellfish through examination of shellfish labeling as follows:

(a) Shellfish which fails to meet the requirements of subsection Section 5L-1.008(5), F.A.C., or is labeled in compliance with paragraph Section 5L-1.007(6)(h), F.A.C., shall only be used for shucking by a certified shellfish dealer, or shall undergo an alternative processing method to assure a safety level equivalent to product meeting subsection Section 5L-1.008(5), F.A.C.

(b) Tempering, as an alternative process shall consist of those methods which have demonstrated through verification studies that the process renders hard clams which are as safe as hard clams meeting subsection Section 5L-1.008(5), F.A.C. Prior to initiating tempering a certified shellfish dealer shall have written approval from the Department. The certified shellfish dealer must provide the following:

1. A description of all facilities, equipment and methods to be used in the alternative process. This process must be included in the firm's HACCP plan.

2. The source of hard clams and the maximum capacity of hard clams to undergo the process at any one time.

3. The process to be followed shall not exceed 16 hours total time between hard clam harvest and refrigeration at 45 degrees F or less. Product harvest, processing, tempering and food storage at 45 degrees F or less must be scheduled to occur as a continuous procedure.

4. Upon initiation, the tempering process must have temperature control of 68 degrees F or less and be maintained until hard clams are placed into refrigeration of 45 degrees F or less.

5. If facilities, equipment or methods change, the Department must be notified.

(4) Shellfish shall be segregated by the certified shellfish dealer in accordance with its intended use as determined in paragraphs subsection (3)(a) and (b) above and identified per subsections Section 5L-1.007(5) or (6), F.A.C.

(5) Unidentified, adulterated, unwholesome, dead, or contaminated shellstock shall be discarded.

(6) Shucking of shellfish – Shellfish shall be shucked in a manner such that they are not subjected to possible contamination. Only live shellfish shall be shucked.

(a) Shucked meats shall be delivered to the packing room within one hour.

(b) Shucked meats shall be thoroughly drained, cleaned as necessary, and packed promptly after delivery to the packing room. Packing operations shall be scheduled and conducted so as to chill all meats to an internal temperature of 45° F or less within two hours of delivery to the packing room. Shucked meats which are packed into containers having a capacity of more than one gallon shall be pre-chilled to 45° F or less prior to packing.

(7) Shucked shellfish shall be held and transported at temperatures of 45° F or less.

(8) Ice shall be manufactured from potable water in a commercial machine which has been properly installed and maintained without connections to nonpotable water sources.

(9) Ice shall be stored so as not to come into contact with non-clean surfaces and is handled in such a manner that it will not be contaminated.

(10) Records – Complete, legible, and accurate dated records of purchase and sale of all shellfish shall be kept by all shellfish establishments operating in the state. Records shall indicate:

- (a) From whom shellfish were purchased;
- (b) Areas from which shellstock were harvested;
- (c) State from which shucked shellfish were harvested;
- (d) Harvesting date;
- (e) The date of receipt by the processor;
- (f) Names and addresses of persons to whom shellfish were sold; and
- (g) Date sold.



(h) Records shall remain on file for not less than one year and shall be made available for inspection and copying by Department personnel during plant inspections.

(i) Production records shall be maintained for shucked meats which provide the amount of shellstock used, the harvest area, harvest date of the shellstock, and the amount of shucked meats produced.

(j) Production records shall be maintained for shellstock which provides for the amount of shellstock used, the harvest area, harvest date, harvest state, and the units of shellstock produces.

(k) Records covering purchases and sales of frozen or previously frozen shellfish ~~shall should~~ be retained for at least two years or for a period of time that exceeds the shelf-life of the product.

(l) Records for shellfish lots having completed a depuration or wet storage treatment process shall include:

1. Counties from which shellfish were harvested;
2. Name or location of harvesting areas;
3. Relaying permit numbers, if applicable;
4. Date received in plant;
5. Date released from the plant;
6. Date and time of initiation of treatment;
7. Date and time of termination of treatment;
8. Ending UV unit meter readings;
9. Number of hours treated; and
10. All laboratory results as specified.

(11) Monitoring records of HACCP plan critical control points shall be maintained and reviewed at least weekly as specified in the firm's HACCP plan. Records shall be reviewed to ensure that the records are complete and to verify that they document values that are within the critical limits. The review shall occur within one week of the day that the records are made. The reviewed records shall be signed and dated by an individual who is in a supervisory position in the firm and is knowledgeable of HACCP.

(12) Sanitation monitoring records shall be maintained ~~and reviewed~~ for those conditions identified in subsection Rule 5L-1.012(11), F.A.C., per the schedule of the activity, e.g. daily, weekly, monthly.

(13) Whenever a deviation from a critical limit occurs, a certified shellfish dealer shall take corrective action either by following a corrective action that is appropriate for the particular deviation, or by segregating and holding the affected product until a review can determine the acceptability of the affected product for distribution. Corrective actions include, when necessary, reconditioning, seizure, or destruction of affected product to ensure that no product enters commerce that is either injurious to health or is other wise adulterated as a result of the deviation. Corrective action also include, when necessary, correcting the cause of the deviation. All corrective actions shall be documented in writing.

(14) Responsibility – It shall be the duty and responsibility of each owner, manager, and operator of a shellfish plant to insure that all regulations pertaining thereto are strictly adhered to and that only safe, wholesome, unadulterated shellfish shall be produced. It shall be his or her duty and responsibility to see that the plant is properly supervised at all times and all shellfish can be identified, whether shellstock or shucked shellfish, to insure that they were harvested from approved growing waters and that they have been handled and processed in a sanitary manner.

Specific Authority 597.020 FS. Law Implemented 597.020 370.074 FS. History—New 1-4-87, Amended 5-21-87, 8-10-88, Formerly 16R-7.016, Amended 7-3-95, 5-8-96, 2-6-97, 6-23-99, Formerly 62R-7.016, Amended 8-9-00,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Bobby Bickley

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Sherman Wilhelm, Director, Division of Aquaculture

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2000

**EXECUTIVE OFFICE OF THE GOVERNOR**

**Office of Tourism, Trade and Economic Development**

RULE TITLES:	RULE NOS.:
Purpose and Scope	27M-1.001
General Policy	27M-1.002
Definitions	27M-1.003
Planning and Approving Travel	27M-1.004
Special Conditions of Travel	27M-1.005
Rates of Payment	27M-1.006
Transportation	27M-1.007
Incidental Expenses	27M-1.008
Advance Travel	27M-1.009
Special Provisions for Educational Conferences and Conventions	27M-1.010
Entertainment Expenses	27M-1.011
Operational and Promotional Advances	27M-1.012
Complimentary Goods and Services	27M-1.013
Receipts	27M-1.014
Exemption from State Contract Rates	27M-1.015

PURPOSE, EFFECT AND SUMMARY: To promulgate travel and entertainment expense rules for the Office of Film and Entertainment, Florida Film Advisory Council, and clients. The proposed rules set the guidelines for travel expenses when traveling on official business for the Office of Film and Entertainment and if an exemption to the rules applies. The proposed rules address expenses for domestic and foreign travel.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None has been prepared by the Office of Tourism, Trade, and Economic Development.

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: 288.1253(2) FS.

LAW IMPLEMENTED: 288.1253, 112.061(2)(e) FS.

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

TIME AND DATE: 10:00 a.m., October 22, 2001

PLACE: Office of Tourism, Trade, and Economic Development, Suite 2001, The Capitol, Tallahassee, FL 32399-0001

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Marla Gillman, Office of Tourism, Trade and Economic Development, Suite 2001, Tallahassee, FL 32399-2901

THE FULL TEXT OF THE PROPOSED RULES IS:

27M-1.001 Purpose and Scope.

These rules establish the policies and procedures governing actual travel and entertainment expenses for the Office of Film and Entertainment.

Specific Authority 288.1253(2) FS. Law Implemented 288.1253 FS. History—New \_\_\_\_\_.

27M-1.002 General Policy.

(1) Employees and non-employees traveling on official business are expected to exercise the same care in incurring official expenses that any prudent person exercises when traveling on personal business.

(2) It is the responsibility of the traveler to be familiar with these rules and be knowledgeable of the reimbursement expenses.

(3) It is the general policy of the Office of Tourism, Trade, and Economic Development to reimburse employee’s travel and entertainment expenses on a reasonable and actual basis, subject to any limitations provided for in this rule.

Specific Authority 288.1253(2) FS. Law Implemented 288.1253 FS. History—New \_\_\_\_\_.

27M-1.003 Definitions.

(1) Agency Head. Agency head means the Director of the Office of Tourism, Trade, and Economic Development for the purpose of Chapter 27M-1, F.A.C.

(2) Authorized Person. Authorized person is defined as:

(a) A person other than a public officer or employee as defined herein, whether elected or commissioned or not, who is authorized by the agency head to incur travel expenses in the performance of official duties.

(b) A person who is called upon by an agency to contribute time and services as consultant or adviser.

(c) A person who is a candidate for an executive or professional position.

(3) Business Client. Any person, other than a state official or state employee, who receives the services of, or is the subject of solicitation by, representatives of the Office of Film and Entertainment in connection with the performance of its statutory duties, including purchasers or prospective purchasers of Florida products; persons or representatives of firms considering or being solicited for investment in the state; persons or representatives of firms considering or being solicited for location, relocation, and expansion of a business within the state; and industry representatives, national or international government officials or location scouts, production agents, investors, and other persons connected with the film and entertainment industry.

(4) Common Carrier. Common carrier includes train, bus, commercial airline operating scheduled flights, or rental vehicle firm.

(5) Designee. Designee means the Commissioner of Film and Entertainment or an Office of Film and Entertainment employee who has been given written authorization by the Director of the Office of Tourism, Trade, and Economic Development to sign Form RG-OFC2 (Office of Film and Entertainment, Authorization to Incur Travel Expense) approving travel, Form RG-OFC3 (Office of Film and Entertainment, Voucher for Reimbursement of Travel Expenses), Form RG-OFC4 (Office of Film and Entertainment, Reimbursement for Expenses Other Than Travel) and Form RG-OFC1 (Office of Film and Entertainment, Application for Advance on Travel Expense). The foregoing forms are effective as of January 2001 and are incorporated by reference herein. Copies may be obtained by writing to Deputy Director, Office of Film and Entertainment, The Capitol, Suite 2001, Tallahassee, Florida 32399-0001.

(6) Entertainment Expenses. The actual, necessary, and reasonable costs of providing hospitality for business clients or guests, which costs are defined and prescribed as hereinafter set forth.

(7) Fiscal Office. For the purposes of Chapter 27M-1, F.A.C., fiscal office refers to the Fiscal Office of the Executive Office of the Governor.

(8) Foreign Travel. Travel outside the 50 United States and its possessions.

(9) Guest. A person, other than a state official or state employee, authorized by the agency head or his/her designee to receive the hospitality of the Office of Film and Entertainment in connection with the performance of its statutory duties. This

term shall include a spouse of a state officer or employee when it is necessary in order to perform statutory duties of the Office of Film and Entertainment while with or traveling to or from meeting with other guests or business clients pursuant to appropriate approval granted in accordance with these rules.

(10) Office. Office means the Office of Film and Entertainment for the purpose of Chapter 27M-1, F.A.C.

(11) Official Headquarters. The official headquarters of a person located in the field shall be the city or town nearest to the area where the majority of his/her work is performed, or such other city, town or area as is designated by the agency head and Commissioner of Film and Entertainment, provided that in all cases such designation must be in the best interests of the Office of Film and Entertainment and not for the convenience of the person.

(12) Public Officer or Employee. The Governor, the Lieutenant Governor, security staff of the Governor or Lieutenant Governor, the Commissioner of Film and Entertainment, or staff of the Office of Film and Entertainment, i.e. an individual who is filling a regular full-time authorized position or an OPS position in the Office of Film and Entertainment.

(13) Transportation Expense. The cost incurred by the traveler in getting from point of origin to destination and return, via common carrier, charter vehicle, privately owned vehicle, or state-owned aircraft.

(14) Travel Day. The travel day shall be a calendar day (midnight to midnight) consisting of four quarters of six hours each.

(15) Travel Expenses. The actual, necessary, and reasonable costs of transportation, meals, lodging, and incidental expenses normally incurred by a traveler, which costs are defined and prescribed as hereinafter set forth.

(16) Travel Period. The travel period is the period of time between the time of departure on official business and time of return from official business.

Specific Authority 288.1253(2) FS. Law Implemented 288.1253 FS. History—New \_\_\_\_\_.

#### 27M-1.004 Planning and Approving Travel.

(1) Travel Authorization. The agency head may delegate the authority to approve travel to a designee with such restrictions as deemed necessary. The delegation of authority cannot be re-delegated by a designee.

(2) Request for Travel Authorization. Each Office officer and employee shall complete Form RG-OFC2, incorporated by reference herein, and have it approved and signed by the agency head or his/her appropriate designee for all proposed travel.

Specific Authority 288.1253(2) FS. Law Implemented 288.1253 FS. History—New \_\_\_\_\_.

#### 27M-1.005 Special Conditions of Travel.

(1) Travel by Officer and Public Officer, and Employee or Public Employee other than the Office. The agency head or his/her appropriate designee may authorize travel by public officers or employees, as defined in Section 112.061(2)(c),(d), F.S., serving temporarily on behalf of the Office when such travel expenses will be paid by the Office in excess of rates set forth in Section 112.061, F.S. This will not preclude such public officers or employees from providing reimbursement to the Office to the extent allowable under rates set forth in Section 112.061, F.S.

(2) Travel of Authorized Persons. The agency head or his/her designee may approve travel by authorized persons who are called upon to contribute time and services as consultants or advisers when such travel is on behalf of the Office. In such instances, complete explanation and justification must be shown on or attached to Form RG-OFC3, incorporated by reference herein. Travel expenses for authorized persons shall adhere to the same rates and guidelines as those for state officers and employees except that the letters NSE (non-state employee) will be used along with the Social Security number on Form RG-OFC3. In instances when such information is specifically exempted from disclosure by law, each invoice and/or voucher shall contain the letters NSE (non-state employee) on Form RG-OFC3 along with a statement of confidentiality and be properly referenced to the file (by number or otherwise) where the authorized persons information is available, as required by Section 288.075, F.S.

(3) Travel of Business Clients or Guests. Travel expenses incurred by the Office on behalf of a business client or authorized guest shall be paid directly to third party vendors when possible. When this is not possible, reimbursement will be to the person incurring the expense (either business client, guest, or accompanying the Office employee, if applicable) provided substantiating receipts are submitted with the appropriate reimbursement vouchers. However, when state officers, employees, or authorized persons are only accompanying a spouse of such officer, employee, or authorized person, then the rates prescribed in Rule 27M-1.006(2), F.A.C., shall apply to such officer, employee, authorized person, spouse, or any combination thereof. The identity of business clients or guests shall be disclosed on all vouchers authorizing disbursement of public funds pursuant to these rules, except when such information is specifically exempted from disclosure by law. If this exemption applies, each invoice and/or voucher shall contain a statement of confidentiality and be properly referenced to the file (by number or otherwise) where the client and/or guest information is available.

(4) Travel for Employment Interviews. Upon prior written approval of the agency head or his/her designee, candidates for executive or professional positions with the Office will be allowed travel and transportation expenses.

Specific Authority 288.1253(2) FS. Law Implemented 288.1253 FS. History—New \_\_\_\_\_.

27M-1.006 Rates of Payment.

(1)(a) Lodging. The traveler will be reimbursed for the cost of a single occupancy hotel room, receipt required for travel, which requires overnight absence from official headquarters. The traveler is to be reimbursed in accordance with the guidelines established in Section 112.061, F.S., and Executive Office of the Governor guidelines, incorporated by reference herein. Copies of these guidelines may be obtained by writing to Deputy Director, Office of Film and Entertainment, The Capitol, Suite 2001, Tallahassee, Florida 32399-0001.

(b) In the event that no hotel rooms are available under the rate guidelines in the Executive Office of the Governor travel guidelines for a particular city, the traveler will be reimbursed for the actual cost of a single occupancy hotel room at a rate not to exceed \$100 per night unless justified by the traveler in writing. A receipt is required for travel requiring an overnight absence from official headquarters.

(2) Actual Meal Expense.

(a) The traveler will be reimbursed for meal expense at the rate set forth below:

	<u>Domestic</u>	<u>Departure</u>	<u>/</u>	<u>Return</u>
<u>Meals</u>	<u>Travel</u>	<u>Before</u>	<u>/</u>	<u>After</u>
<u>Breakfast</u>	<u>\$3.00</u>	<u>6:00 am.</u>	<u>=</u>	<u>8:00 am.</u>
<u>Lunch</u>	<u>\$6.00</u>	<u>12:00 p.m.</u>	<u>=</u>	<u>2:00 pm.</u>
<u>Dinner</u>	<u>\$12.00</u>	<u>6:00 pm.</u>	<u>=</u>	<u>8:00 pm.</u>

(b) The authorized meal amounts may be reduced in writing by the Film Commissioner due to budgetary restraints, inflationary pressures, or personnel abuse.

(c) The amounts set forth above in (a) will be aggregated for each day's travel. The times for departure and return are merely determinative of the meals allowed for portions of travel of less than one calendar day. All reimbursement for meals shall be substantiated by paid receipts, which identify the restaurant. If no receipt can be produced, reasons shall be specified in writing to accompany Form RG-OFC3, incorporated by reference herein. Waiter tips in excess of twenty percent (20%) will not be reimbursed, unless a larger amount is automatically included as part of the bill.

(d) Expenditure Amounts. Limitations on expenditure amounts set forth above are applicable only to state officers and state employees when not accompanied by a business client or authorized guest. In addition, any meal expenditure to be reimbursed while with a business client or guest, received

complimentary or paid for by state funds in some other manner (through registration or banquet) may not be included in arriving at the day's aggregate limitations.

(3) Subsistence Allowance. The traveler may elect to receive a Subsistence Allowance, in accordance with the following:

(a) In lieu of the above actual meal expense, the traveler may elect to receive a subsistence allowance as provided in Section 112.061(6), F.S. However, the request for reimbursement shall be made in accordance with applicable provisions of Chapter 3A-42, F.A.C. No one shall be reimbursed for any meal included in a registration fee paid for by the State or when paid for by the State in some other manner. Example: An employee claiming reimbursement for a meal for which they are already requesting reimbursement on Form RG-OFC4, incorporated by reference herein.

(b) Expenditure Amounts. Limitations on expenditure amounts set forth in subsection (2)(a) of this rule and Section 112.061(6), Florida Statutes, are applicable only to state officers and state employees when not accompanied by a business client or authorized guest. A traveler may exceed the rates provided in subsection (2)(a) of this rule and Section 112.061(6), Florida Statutes, when the state employee pays for his/her meal and that of the business client or guest. In addition, any meal expenditure to be reimbursed while with a business client or guest or paid for by state funds in some other manner (i.e., through registration or banquet), may not be included in arriving at the day's aggregate limitations.

(c) The traveler must make the election on the travel authorization, subject to approval of the agency head, or his/her designee, as to which method of meal reimbursement they elect. Once the election is made, the traveler cannot elect the alternate method, nor can they alternate the methods of reimbursement for the duration of the trip.

(4) Reimbursement for Foreign Travel.

(a) Authorized travelers traveling in a foreign country shall claim the rates as specified in the U.S. Department of State Office of Allowances's monthly federal publication "Per Diem Allowances for Travel in Foreign Areas", found on the Internet at [www.state.gov/m/a/als/prdm/2001/](http://www.state.gov/m/a/als/prdm/2001/), incorporated by reference herein. A foreign traveler must also comply with "Standardized Regulations (Government Civilians, Foreign Areas)" (DSSR 000-960), found on the Internet at [www.state.gov/m/a/als/index.cfm?id=1843](http://www.state.gov/m/a/als/index.cfm?id=1843) and incorporated by reference herein.

(b) Lodging. The maximum amount of lodging a traveler shall be reimbursed for is found in the monthly publication "Per Diem Allowances for Travel in Foreign Areas." A traveler must submit all receipts for lodging for reimbursement. The rates are determined by what foreign city or country the traveler is in.

(c) Per Diem Breakdown. Per diem breakdowns for meals and incidental expenses (MI&E Rate) for foreign travel are to be in accordance with Appendix B, Chapter 301 – Federal Travel Regulations, found on the Internet at [policyworks.gov/org/main/mt/homepage/mtt/FTR/ch301tc.html](http://policyworks.gov/org/main/mt/homepage/mtt/FTR/ch301tc.html) and incorporated by reference herein. The standard used in this appendix is to allocate 15%, 25% and 40% of the total MI&E Rate from the publication “Per Diem Allowances for Travel in Foreign Areas” to breakfast, lunch, and dinner, respectively. The remainder of the MI&E Rate is the incidental expense allowance. The MI&E Rate is determined by what foreign city or country the traveler is in. In the event that the traveler spends over the incidental expense allowance for a particular city or country, the traveler may claim reimbursement for incidental expenses in accordance with Rules 27M-1.008(1)(a)-(i), F.A.C., and deduct the incidental expense allowances.

(d) Rates for foreign travel shall not begin until the date and time of arrival in the foreign country from the United States and shall terminate on the date and time of departure from the foreign country to the United States. In the event the traveler travels within the United States prior to arriving in a foreign country, the traveler shall use the reimbursement guidelines as defined in Rule 27M-1.006, F.A.C.

(e) If a hotel room is included in a registration fee paid to attend a function, or otherwise paid for by the State, the traveler shall not claim reimbursement for the expense of the room.

(f) If a meal is included in a registration fee paid to attend a function in a foreign country, or otherwise paid for by the State, the allowance for that meal shall be deducted from the MI&E Rate for that particular calendar day.

(5) Authorized travelers, including consultants and persons who have been authorized to travel for the Office, in foreign countries are subject to the same provisions of this regulation.

Specific Authority 288.1253(2) FS. Law Implemented 288.1253 FS. History—New \_\_\_\_\_.

#### 27M-1.007 Transportation.

(1) Route of Travel. All travel must be by a usually traveled route. When a person travels by an indirect route for his/her own convenience, any extra costs shall be borne by the traveler and reimbursement for expenses shall be based only on such charges as would have been incurred had a usually traveled route been used.

#### (2) Method of Travel.

(a) General Requirements. The agency head or his/her designee shall designate the most efficient and economical method of travel (state-owned aircraft, privately-owned vehicle, or common carrier). The following conditions shall be considered:

##### 1. The nature of business;

2. The most efficient and economical means of travel (Considering time of the traveler, cost of transportation, and other travel expenses required); and

3. The number of persons making the trip and the amount of equipment or material to be transported.

#### (b) Commercial Air Travel.

1. Commercial air travel will be by the most economical class (tourist or coach class). Travel by first class is at the discretion of the agency head, or his/her designee, when no other economical class is available, in accordance with Comptroller’s Memorandum Number 02 for Fiscal Year 1999-2000, incorporated by reference herein and a copy of which may be obtained at [www.dbf.state.fl.us/aadir/cm990002.html](http://www.dbf.state.fl.us/aadir/cm990002.html). If travel is by first class, the traveler must submit with Form RG-OFC3, incorporated by reference herein, a letter from the agency head verifying approval of first class travel and describing the circumstances of said travel. First class air travel is authorized for employees, guests, or authorized persons when actually traveling with business clients. The name of the business client or the project number must be provided in a statement on the travel voucher.

2. All unused portions of airline tickets will be attached to the appropriate Form RG-OFC3, which will be forwarded to the fiscal office.

3. Group charges may be made, provided each traveler has his/her own ticket.

4. All ticket receipts will be forwarded to the fiscal office and attached to the appropriate Form RG-OFC3.

5. In all travel involving air travel charged to the Office, Form RG-OFC3 shall be submitted no later than one week (7 days) after travel is performed, regardless of whether or not reimbursement is due to traveler.

6. An employee using state credit cards to purchase airline tickets, rental vehicles, or any other form of transportation for solely personal business, paid directly by the Office, will be subject to disciplinary action. The Office has the authority to issue state credit cards to full-time employees.

7. An employee traveling on official state business, and wishing to alter travel plans for personal business or pleasure, must pay any additional cost of transportation directly to the commercial carrier at the time of purchase, and will not charge such additional transportation to the Office.

(c) State-owned Aircraft. When state-owned aircraft are used, the agency will be billed in accordance with the prevailing rates established by the Department of Management Services.

#### (d) Car Rental.

1. State contractor for rental vehicles. State contractor vehicles will be rented when available. Use of rental vehicles provided by other companies may be used if one of the following circumstances exists:

##### a. No state contract rental vehicles are available; or

b. The net rate, including primary insurance coverage, payment of the collision damage waiver, and the cost of fuel, of other rental vehicles is less than the state contractor contract rate.

2. An explanation for the use of other rental vehicles other than state contractor rental vehicles must appear in writing on Form RG-OFC3 that relates to the corresponding trip.

3. Compact class B vehicles shall be rented except when the number of passengers and materials transported make use of a compact class vehicle impractical or the conditions under which the vehicle is rented dictate the use of a more practical vehicle, i.e. transporting business clients or state officials. If other than a compact class B vehicle is used, an explanation must be placed on Form RG-OFC3 justifying usage of the larger vehicle.

4. In instances where vehicles are rented and charged to the Office, regardless of whether reimbursement is due the traveler, a Form RG-OFC3 will be completed and processed through regular channels to the fiscal office no later than one week (7 days) after travel is performed.

5. Rental vehicles should be used only when the anticipated cost of using a taxi will exceed the cost of the rental vehicle.

6. State employees are not authorized to secure personal accident insurance offered by the vendor at state expense, but may secure the coverage by personally making payment at the time of rental.

(e) Private Vehicle. The use of privately-owned vehicles for official travel in lieu of common carriers will be authorized if more economical. When travel is performed by privately owned vehicle, the traveler shall be entitled to a mileage allowance equal to that provided for in Section 112.061(7), F.S.

1. All mileage shall be shown from point of origin to point of destination and when possible shall be computed on the basis of the official state road map published by the Department of Transportation. In addition, time of departure and time of return must be shown on Form RG-OFC3.

2. When an individual is in travel status, vicinity mileage necessary for conduct of official business is allowable, but must be shown as a separate item on the expense voucher. Mileage is allowed from office or home (whichever is less) to the airport when performing authorized travel. Within the Capitol center in Tallahassee, sixteen (16) miles round trip is allowable. Field Office managers in areas outside Tallahassee are responsible for establishing the office/home to airport distances, if applicable, and advising the Fiscal Office of these distances.

3. Vicinity mileage to conduct official business in the local area of the employee's official headquarters will be reimbursed in an amount equal to the rate provided for in Section 112.061(7), F.S., when authorized by the agency head or

his/her designee. Request for reimbursement for such vicinity mileage must be submitted with a separately executed Form RG-OFC2 and expense voucher Form RG-OFC3.

(g) Chartered Vehicle. The agency head or his/her designee when necessary, or where it is of fiscal advantage to the Office, will authorize transportation by chartered vehicle when traveling on official business. Limousines will only be authorized when transporting the Governor, Lieutenant Governor, or a business client.

(h) Complimentary Travel.

1. No traveler shall be allowed either mileage or transportation expense when gratuitously transported by another person or when transported by another traveler who is entitled to mileage or transportation expense. However, the traveler should still show how and with whom he/she traveled.

2. A traveler on a private aircraft shall be reimbursed the actual amount charged and paid for the traveler's fare for such transportation up to the cost of a commercial airline ticket for the same flight, even though the owner or pilot of such aircraft is also entitled to transportation expense for the same flight.

Specific Authority 288.1253(2) FS. Law Implemented 288.1253 FS. History--New \_\_\_\_\_.

#### 27M-1.008 Incidental Expenses.

The following supporting information shall be required and maintained at the agency with Form RG-OFC3, incorporated by reference herein, when the traveler is claiming reimbursement for incidental travel expenses to include those authorized by Section 112.061(8)(a), F.S.:

(1) Taxis and Airport Limousines. Receipts are required for all fares in excess of \$25 on a per fare basis. Tips paid to taxi drivers should not exceed 15% of the fare. In countries where a language barrier may exist, reimbursement may be made without receipts provided that an additional certification is provided the traveler attaches that the expense was actually incurred to the travel voucher.

(2) Receipts for storage, parking fees, or tolls in excess of \$25. Such fees shall not be allowed on a weekly or monthly basis for privately owned automobiles unless it can be established that such method results in savings to the State.

(3) State Business Communication Expenses. Telephone / Telegraph / Fax / Telex / Cellular / Satellite and Internet charges. When traveling, such charges shall be charged to a corporate, personal, or telephone credit card, when possible. A statement claiming the communications were for official state business shall be provided on voucher. Non-business expenses are not reimbursable.

(4) General Business Expenses. These include the use of computers, printers, copy machines, and scanners.

(5) Registration Fees. Registration fees for a convention or conference to which the traveler is authorized to attend are allowed.

(6) Passport and Visa Fees. Actual cost to obtain passports and visas required for official travel will be reimbursed upon presentation of receipts.

(7) Laundry and Pressing. When travel extends past seven (7) days, the traveler will be reimbursed for the actual laundry, dry cleaning, and pressing if such expenses are necessarily incurred to complete the remaining official business portion of the trip. The traveler shall submit, with Form RG-OFC3 a receipt and a statement of justification that the expenses are necessarily incurred.

(8) Tips and Portage. Upon certification by the traveler that the expenses claimed were actually, necessarily, and reasonably incurred, reimbursement will be made when transporting state materials or when accompanying a business client or guest. This does not apply to tips paid pursuant to Rule 27M-1.006(2), F.A.C. Mandatory valet parking charges are reimbursable when not with a business client, up to \$1.00 per occasion, incurred in the performance of public business.

(9) Other incidental travel expenses. Other incidental travel expenses will be reimbursed upon certification by the traveler that the expenses claimed were actually, necessarily, and reasonably incurred as set forth in Rules 3A-42.010(3), (4), and (5), F.A.C.

Specific Authority 288.1253(2) FS. Law Implemented 288.1253 FS. History—New \_\_\_\_\_.

#### 27M-1.009 Advance Travel.

(1) The following guidelines must be followed when travel advancements are required:

(a) The travel advance may not exceed more than eighty percent (80%) of the estimated cost of meals, lodging, mileage, and incidental expenses that will ultimately be reimbursed to the traveler. However, estimated costs for common carrier and rental car charges that will be billed directly to the State (i.e., credit card charges, flite-cheks, one-time travel orders, or tickets charged through travel agencies) shall not be included in the travel advance calculation.

(b) The traveler requesting a travel advance shall complete Form RG-OFC1, incorporated by reference herein. This form shall be properly executed, scheduled for payment, and received by the fiscal office in ample time to process the form and receive a state warrant from the State Comptroller prior to departure. Travel advances shall not be requested earlier than ten (10) business days before the travel period begins without written justification of circumstances that necessitate an exception to this restriction. Travel advances will not be issued for less than \$100.00. A travel advance cannot be issued if a previous advance is still outstanding.

(c) When the travel period has ended, the traveler shall submit within one week (7 days) Form RG-OFC3, incorporated by reference herein, showing the actual travel performed. The agency shall then process the completed Form RG-OFC3 in the following manner:

1. Funds Due Traveler. If a traveler is entitled to additional funds for a travel period, the agency shall be required to deduct on the face of Form RG-OFC3 any travel advance made for the travel period and include the Comptroller's voucher number, date, and warrant number relating to the payment. In addition, a copy of Form RG-OFC1 which requested the travel advance shall be attached to Form RG-OFC3 as documentation.

2. Funds Due to the State. If a traveler was advanced funds in excess of the travel expenses allowed for a particular travel period, the traveler shall include a check for the amount of the difference, including as documentation the executed Form RG-OFC3 with Form RG-OFC1 attached.

(2) Travel advances made pursuant to this section will be limited to full-time employees and OPS employees.

Specific Authority 288.1253(2) FS. Law Implemented 288.1253 FS. History—New \_\_\_\_\_.

#### 27M-1.010 Special Provisions for Educational Conferences and Conventions.

In addition to the requirements for regular travel, the following information and provisions apply to conference and convention travel:

(1) Benefits Accrued. A statement of the benefits accruing to the State of Florida by virtue of such travel will be included on Form RG-OFC2 and Form RG-OFC3, incorporated by reference herein.

(2) Justification. Justification for the particular employee to attend the conference or convention will be included on the Form RG-OFC2 in the statement of benefits accruing to the state.

(3) Agenda. A copy of the program or agenda for the conference or convention will be attached to Form RG-OFC2. If the program or agenda is not available prior to the travel, it will be attached to the Form RG-OFC3 at the time the voucher is submitted for reimbursement. If an agenda was not printed for the event, a certification must appear on the travel voucher, stating, "an agenda was not printed for this event."

(4) Purpose of Conference. Before conference or convention travel will be approved, it must meet each of the following criteria:

(a) The main purpose of the convention or conference is in connection with the official business of the Office and is directly related to the statutory duties and responsibilities of the Office.

(b) The conference or convention will provide a direct educational benefit supporting the official duties of the employee.

(c) The duties of the employee seeking to attend such meeting are compatible with the objectives of the particular conference or convention.

Specific Authority 288.1253(2) FS. Law Implemented 288.1253 FS. History—New \_\_\_\_\_.

27M-1.011 Entertainment Expenses.

(1) Entertainment expenses are allowable for promotional items and services required to provide hospitality for business clients and authorized guests as set forth below:

(a) Hospitality in the form of tangible items, i.e., tie tacks, medallions, non-consumable objects, will be purchased by the Office in accordance with applicable purchasing requirements of the Executive Office of the Governor and made available for distribution in accordance with administrative directives.

(b) Hospitality in the form of recreational activities should be acquired through normal purchasing procedures when possible. When this is not possible, reimbursement will be made to the Office employee requesting reimbursement provided that the claim for reimbursement accompanied by receipt is submitted on Form RG-OFC4, incorporated by reference herein.

(c) Hospitality in the form of consumable items should also be acquired through normal purchasing procedures when possible. When this is not possible, reimbursement will be made to the Office employee requesting reimbursement in the manner set forth in (b) above.

(2) Entertainment expenses of state officers, state employees, and authorized persons are allowable only when in the presence of or physically accompanying a business client or authorized guest. Additionally, no state officer or state employee may receive hospitality in the form of tangible items as enumerated in (a) above, unless that officer or employee pays for the item. Any state officer or state employee receiving gifts from an authorized guest, business client, or other private non-family source is expected to comply with applicable requirements of Part III, Section 112.061, F.S., relating to public disclosure.

Specific Authority 288.1253(2) FS. Law Implemented 288.1253 FS. History—New \_\_\_\_\_.

27M-1.012 Operational and Promotional Advances.

Advances of this nature will only be made upon a showing by the employee that items to be paid for cannot be charged to the Office by normal purchasing procedures. Any settlement of promotional or operational advancements must be made within fifteen (15) days after the expenditure is incurred, or if the advancement is made in connection with travel, within one week (7 days) after completion of the travel.

Specific Authority 288.1253(2) FS. Law Implemented 288.1253 FS. History—New \_\_\_\_\_.

27M-1.013 Complimentary Goods and Services.

The Office, its employees, and representatives may accept and use complimentary travel, accommodations, meeting space, meals, equipment, transportation, and any other goods or services necessary for or beneficial to the performance of the Office's duties and purposes, so long as such acceptance or use is not in conflict with Part III, Section 112.061, F.S. All goods or services accepted by the Office or its employees shall be

accompanied by receipts, vouchers, or proof of the actual value of the complimentary assistance that shall include an attached statement that the complimentary assistance was actually incurred as necessary in the performance of official duties of the Office. The Office shall maintain record of same along with all other office records.

Specific Authority 288.1253(2) FS. Law Implemented 288.1253 FS. History—New \_\_\_\_\_.

27M-1.014 Receipts.

While receipts are required for most reimbursement pursuant to these rules, it is recognized that circumstances may arise, i.e. language barriers, loss of receipts, or unavailability of same, which require some alternate procedure for documentation of reimbursable expenses. In those isolated situations, documentation stating reason for non-existence or loss, along with the date the debt was incurred, amount of receipt, issuer, and reason for incurring receipt must be completed by the traveler and included on Form RG-OFC3, incorporated by reference herein. Should additional details or information be required by The Executive Office of the Governor administrative personnel or officials of the State Comptroller's Office, the additional information is to likewise be presented on Form RG-OFC3, and labeled "amended" by the traveler. The provisions of this section will not normally apply to reimbursement for hotel accommodations.

Specific Authority 288.1253(2) FS. Law Implemented 288.1253 FS. History—New \_\_\_\_\_.

27M-1.015 Exemption from State Contract Rates.

In the event that an employee or officer of the Office receives a quote for travel expenses less than what the traveler would pay using the State of Florida contract rates, the Office is exempted from using the contract rates. This exemption applies to hotel accommodations, airfare, or rental vehicles. Explanation of the lower rates shall be provided by the traveler on Form RG-OFC2 and Form RG-OFC3, incorporated by reference herein.

Specific Authority 288.1253(2) FS. Law Implemented 288.1253 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert Grimm, Deputy Director, Office of Film and Entertainment, Suite 14, Bloxham Building Tallahassee, Florida 32399-0001

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rebecca Mattingly, Commissioner of Film and Entertainment, Suite 14, Bloxham Building, Tallahassee, Florida 32399-0001

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 8, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 3, 2001 (originally published as 27A-1)



**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Administrative Confinement  
 RULE NO.: 33-602.220

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify procedures relating to placement of inmates in administrative confinement and conditions of confinement for inmates assigned to this status.

SUMMARY: The proposed rule provides procedures for weighing inmates assigned to administrative confinement status, specifies items which cannot be possessed by administrative confinement inmates for security reasons, clarifies the time period for review when items of property are removed for safety and security reasons, clarifies formal assessment and record-keeping procedures, deletes unnecessary language, and clarifies staff rotation requirements in confinement areas.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09, 945.04 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: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.220 Administrative Confinement.

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

(b) When a decision is made to place an inmate in administrative confinement, the reason for such placement shall be explained to the inmate and the inmate shall be given an opportunity to present verbal comments on the matter. The inmate shall also be allowed to submit a written statement. Prior to placing the inmate in administrative confinement, the inmate shall be given a pre-confinement health assessment to include a physical and mental health evaluation that shall be documented in the health care record. When an official places an inmate in administrative confinement, this action shall be documented on a Report of Administrative Confinement, Form DC6-233a, including the reasons for the action and a summary of the inmate's comments. Form DC6-233a is incorporated by reference in ~~(11)(40)~~ of this rule. The heading and Section I shall be completed by the official who placed the inmate in administrative confinement. Inmates shall be weighed upon admission to administrative the confinement, at least once a

week while in administrative confinement, and upon leaving administrative confinement unit. Inmates confined for 30 days or more shall be weighed after 30 days and weekly thereafter. The weight of the inmate shall be recorded on Form DC6-229, Daily Record of Segregation. Form DC6-229 is incorporated by reference in ~~(11)(40)~~ of this rule. This section shall fully state the circumstances surrounding and reasons for placing the inmate in administrative confinement. The reason shall correspond with one of the reasons for placement stated in subsection (3) of this rule. Once Section I has been completed, the official who placed the inmate in administrative confinement shall sign Section I and forward the report to classification prior to the end of his or her shift or workday. Any written statements provided by the inmate shall be attached to the form.

(c) The Institutional Classification Team shall review inmates in administrative confinement within 72 hours. The only exception to being reviewed ~~seen~~ within 72 hours is when the ICT cannot complete its review within the allotted timeframe due to a holiday. If the review cannot be completed within 72 hours, the action of the senior correctional officer shall be reviewed within 72 hours by the duty warden, documented on the DC6-229, Daily Record of Segregation, and evaluated within 5 days by the ICT. Inmates placed into administrative confinement shall not be released from this status until approved by the ICT. The classification supervisor shall be responsible for ensuring that the ICT docket is prepared. The ICT Chairperson is responsible for scheduling the ICT hearing date and time. All Reports of Administrative Confinement, DC6-233, shall be completed the same day an inmate is placed into confinement and forwarded to the institutional classification unit to be placed on the docket. The ICT shall review inmates for release. During this review the ICT shall consider pending disciplinary hearings and other pending issues or actions. If an inmate has been held in administrative confinement pending a disciplinary hearing and the decision is not to impose disciplinary confinement as a part of the disciplinary action, the disciplinary team or hearing officer shall notify the confinement supervisor who shall coordinate the release of the inmate from administrative confinement. If the confinement supervisor discovers other pending issues or actions, the ICT shall be required to immediately review the case. In the event it is necessary to release an inmate from administrative confinement during weekends or holidays the duty warden is authorized to approve the release immediately.

(3) Reasons for Placement in Administrative Confinement with time limits. Placement of an inmate in administrative confinement is authorized for the following reasons:

(a) No change.

(b) Outside charges are pending against the inmate and the presence of the inmate in the general population would present a danger to the security or order of the institution. A senior

correctional officer or above shall have the authority to place an inmate in administrative confinement for this reason. The length of time spent in administrative confinement for this reason shall not exceed 20 working days. If it appears that an inmate should continue to be segregated from the general population beyond 20 working days, close management procedures shall be initiated pursuant to Rule 33-601.800, F.A.C., rules 33-601.801 through 601.813 and shall be completed within seven working days.

(c) Inmates shall be placed in administrative confinement pending review of the inmate's request for protection from other inmates, (Rule 33-602.221, F.A.C.). The inmate shall be placed in administrative confinement by a senior correctional officer when the inmate presents a signed written statement alleging that the inmate fears for his safety from other inmates, and that the inmate feels there is no other reasonable alternative open to him. A senior correctional officer shall place an inmate in administrative confinement, pending review for protective management, based on evidence that such a review is necessary and the senior correctional officer determines that no other reasonable alternative is available. The inmate shall be encouraged to provide information and otherwise cooperate with the investigation of the matter. The protective management process, including the ICT's action, shall be completed within 15 working days from the initial confinement of the inmate.

1. The Institutional Classification Team (ICT) shall initiate an investigation to gather information. A member of the ICT shall complete the heading and section IA of the DC6-234, Report of Protective Management. Form DC6-234 is incorporated by reference in (11)(10) of this rule. The committee member shall utilize the documentation in the DC6-233a, Report of Administrative Confinement, for the information necessary to complete this portion of the report. The report shall then be forwarded to the investigative official assigned to investigate the reasons for protection. The investigator shall complete Section IB of the report and return it to the ICT.

2. If the inmate submits a request for release in writing at any time during the ICT review process, the area housing supervisor shall provide the inmate with a Form DC6-203, Protection Waiver/Appeal Decision Form. Form DC6-203 is incorporated by reference in (11)(10) of this rule. The inmate shall complete Form DC6-203 and return it to the area housing supervisor for submission to the ICT along with the inmate's written request. ~~The ICT shall review the inmate's request and place the inmate on the docket. The ICT shall interview the inmate and submit their recommendation along with the DC6-203 and any other documentation to the SCO for final consideration. The SCO review and decision shall be conducted during the next routine on-site visit.~~

3. Once the investigation is complete, the ICT shall interview the inmate to determine whether the inmate has a legitimate, verifiable need for protection. The ICT shall review all documentation available concerning the need for protection to include any written statements submitted by the inmate. If applicable, the inmate's written request for release and the DC6-203 will also be reviewed. The ICT shall document its findings and recommendations on the Report of Protective Management, Form DC6-234. The following elements shall be considered in determining whether protective management is necessary:

a. through g. No change.

4. The ICT shall make recommendations concerning protective management based on the facts within 15 working days from the date of initial confinement. Whether ~~If~~ the ICT recommends protective management or not determines that protection is necessary, the inmate shall remain in administrative confinement at that facility pending review by the SCO. ~~The review action shall be documented on the Report of Protective Management, DC6-234. In the event the ICT determines that protection is not appropriate, the inmate shall remain in administrative confinement and~~ The DC6-234 shall be forwarded to the State Classification Office along with team findings, and recommendations and all other related documentation. The State Classification Office shall approve, disapprove or return for additional information the recommendation of the Institutional Classification Team.

5. The State Classification Office (SCO) shall determine within five working days whether protection is necessary based upon the investigation and any follow-up he deems appropriate. The SCO shall approve or disapprove placement of the inmate in protective management. The SCO's decision shall also be documented on the Report of Protective Management, Form DC6-234, and this report shall be returned to the institution. If the SCO determines that a need for protection exists, he shall indicate in the Report of Protective Management that the inmate shall be placed in a protective management unit or transferred, whichever is appropriate. If a decision is made to transfer the inmate, the inmate shall be kept in administrative confinement until the transfer is completed. Transfers for protection needs shall be effected within five working days. SCO members are authorized to approve ~~make~~ transfers. If the SCO determines that protective management is not necessary, the inmate may appeal this decision directly to the Office of the Secretary pursuant to Rules 33-103.007 and 33-103.011, F.A.C. The inmate shall be notified of the SCO's decision by the ICT and this notification shall be documented on the Report of Protective Management, DC6-234. At the time of notification, the inmate shall be asked if he wants to appeal the decision. The inmate's decision on whether or not to appeal shall be documented on DC6-203, Protection

Waiver/Appeal Decision Form. The inmate shall remain in administrative confinement until the appeal process is complete.

6. No change.

(d) No change.

(e) An investigation, evaluation for change of status or transfer is pending and the presence of the inmate in the general population might interfere with that investigation or present a danger to the inmate, other inmates, or to the security and order of the institution. An investigating officer shall have the authority to request that the senior correctional officer place the inmate in administrative confinement for this reason and the length of time spent in this status shall not exceed 15 working days unless one 10 day extension is granted by the ICT. This extension shall be documented on the Daily Record of Segregation, DC6-229. If it is necessary to continue the inmate's confinement beyond this first extension, written authorization must be obtained from the SCO for a 30 day extension. This authorization shall be attached to the DC6-229. The SCO shall have the authority to authorize one ~~an~~ additional 30 day extension as necessary. Examples of circumstances for placing an inmate in administrative confinement for this reason include:

1. No change.

2. Special review against other inmates, disciplinary, program change or management transfer. Transfers for this reason shall be given priority.

3. through 4. No change.

(f) through (4)(b) No change.

(c) Prior to placement of an individual in an administrative confinement cell, it shall be thoroughly inspected to ensure that it is in proper order and the inmate housed in that cell shall then be held responsible for the condition of the cell. Form DC6-221, Cell Inspection, shall be used for this purpose. Form DC6-221 is incorporated by reference in (11)(10) of this rule.

(d) No change.

(5) Conditions and Privileges.

(a) through (b) No change.

(c) Personal Property – Inmates shall be allowed to retain the same personal property as is permitted general population inmates unless there is a indication of a security problem, in which case removal or denial of any item shall be documented on Form DC6-229. An Inmate Impounded Personal Property List, Form DC6-220, designating what personal items were removed, shall be completed by security staff and signed by the inmate. The original will be placed in the inmate's property file and a copy of the form will be given to the inmate. Form DC6-220 is incorporated by reference in Rule 33-602.201, F.A.C (10) of this rule. All property retained by the inmate must fit into the storage area provided.

(d) No change.

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

1. No change.

2. Male inmates shall be required to shave at least three times per week. The possession and use of shaving powder in administrative confinement is prohibited. An inmate housed in administrative confinement who is medically exempt from using shaving razors will be clipper-shaved at least three times per week.

3. Hair care shall be the same as that provided to and required of the general population inmates.

(f) through (h) No change.

(i) Visiting – All visits for inmates in administrative confinement must be approved in advance by the ICT or warden. Requests for inmates in administrative confinement to visit shall be in writing to the ICT. Those inmates who are a threat to the security of the institution shall be denied visiting privileges. Attorney-client visits shall be in accordance with Rule 33-601.711, F.A.C., and shall not be restricted except on evidence that the visit would be a threat to security and order. The warden or his or her designee must approve all visits in advance.

(j) through (m) No change.

(n) Reading materials – Reading materials, including scriptural and devotional materials and books that are in compliance with admissibility requirements in Rule 33-501.401, F.A.C., shall be permitted for those inmates in administrative confinement units unless there is an indication of a threat to the safety, security or sanitation of the institution. If it is determined that there is a safety, security or sanitation risk, the items will be removed. Such removal of reading materials shall be documented on Form DC6-229 in accordance with (9)(8)(c) of this rule. An inmate who receives services from the Bureau of Braille and Talking Book Library shall be allowed to have his or her tape player and devotional and scriptural materials and any other books on tape that are in compliance with admissibility requirements in Rule 33-501.401, F.A.C.

(o) through (p) No change.

(q) If items of clothing, bedding or property are removed in order to prevent the inmate from inflicting injury to himself or herself or others or to prevent destruction of property or equipment, staff shall re-assess the need for continued restriction every 72 hours thereafter. The warden, based on this assessment, will make the final determination on the continued denial or return of the items. The items will be returned to the inmate when no further behavior or threat of behavior of the type leading to the restriction has occurred.

(6) Restraint and Escort Requirements.

(a) Prior to opening any cell for any purpose, including exercise, medical or disciplinary call-outs, telephone calls, recreation, and visits, all inmates in the cell shall be handcuffed

behind their backs, unless documented medical conditions require that an inmate be handcuffed in front. In such cases, waist chains will be used in addition to the handcuffs and escort officers shall be particularly vigilant.

(b) through (e) No change.

~~(f) The following staff members shall be required to officially inspect and tour the administrative confinement unit. All visits by staff shall be documented on the Inspection of Special Housing Record, Form DC6-228. The staff member shall also document his or her visit on the Daily Record of Segregation, Form DC6-229, if any discussion of significance, action or behavior of the inmate occurs or any important information is obtained which may have an influence or effect on the status of confinement. These visits shall be conducted at a minimum of:~~

~~1. At least every 30 minutes by a correctional officer, but on an irregular schedule.~~

~~2. Daily by the area housing supervisor.~~

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

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

~~5. Daily by a clinical health care person.~~

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

~~7. Weekly by the warden and assistant wardens.~~

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

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

~~(f)(g) Any inmate who has demonstrated behavior that is or could be harmful to himself or herself shall be designated as a special risk inmate. If the inmate demonstrates bizarre, mentally disordered, or self-destructive behavior, the medical department shall be immediately contacted to determine if special watch or suicide watch procedures shall be initiated. Suicidal inmates shall be removed to a designated area where a correctional officer or health care staff provides observation. Visual checks shall be made in accordance with medical protocols or at least every 30 minutes and shall be documented on Form DC4-650, Observation Checklist, until the inmate is no longer considered a special risk inmate. All actions taken by staff with regard to special risk inmates shall be documented on Form DC6-229 and followed with an Incident Report, Form DC6-210. Form DC6-210 is incorporated by reference in Rule 33-602.210, F.A.C. Form DC4-650 is incorporated by reference in ~~(11)(10)~~ of this rule.~~

(7) Visits to Administrative Confinement. The following staff members shall be required to officially inspect and tour the administrative confinement unit. All visits by staff shall be documented on the Inspection of Special Housing Record,

Form DC6-228. The staff member shall also document his or her visit on the Daily Record of Segregation, Form DC6-229, if any discussion of significance, action or behavior of the inmate occurs or any important information is obtained which may have an influence or effect on the status of confinement. These visits shall be conducted at a minimum of:

(a) At least every 30 minutes by a correctional officer, but on an irregular schedule.

(b) Daily by the area housing supervisor.

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

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

(e) Daily by a clinical health care person.

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

(g) Weekly by the warden and assistant wardens.

(h) At least once a week by a classification officer.

~~(8)(7) Review of Administrative Confinement.~~

(a) No change.

(b) Any inmate assigned to administrative confinement for more than 30 days shall be given a psychological screening assessment by a mental health professional to determine his or her mental condition. The assessment shall include a personal interview if determined necessary by mental health staff. All such assessments shall be documented in the mental health record. The psychologist or psychological specialist shall prepare a report to the ICT regarding the results of the assessment with recommendations. The ICT shall then make a decision regarding continuation of confinement. All Any recommendations by the psychologist or psychologist specialist ~~that the inmate be released from administrative confinement~~ shall be forwarded by the ICT to the SCO. If the decision is to continue confinement, a psychological screening assessment shall be completed at least every 90-day period.

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

(d) No change.

~~(9)(8) Administrative Confinement Records.~~

(a) No change.

(b) A Daily Record of Segregation, Form DC6-229, shall be maintained in the housing area for one week, then forwarded to the ICT for review, and then forwarded to classification for filing in the institutional inmate record for each inmate as long as he is in administrative confinement. The

DC6-229 shall be utilized to document any activity such as cell searches, items removed, showers, recreation, haircuts and shaves and also unusual occurrences such as refusal to come out of a cell or refusal to eat. If items that inmates in administrative confinement are not prohibited from possessing are denied or removed from the inmate, the shift officer-in-charge or the confinement lieutenant must approve the action initially. The central office ADA coordinator shall be contacted within 24 hours if any item is removed that would be considered an auxiliary aid or device that ensures a disabled inmate an equal opportunity as a non-disabled inmate. The items denied or removed shall be documented on Form DC6-229 and the Chief of Security shall make the final decision in regard to the appropriateness of that action no later than the next working day following the action. The supervising officer shall make a notation of any unusual occurrences or changes in the inmate's behavior and any action taken. Changes in housing location or any other special action shall also be noted. The DC6-229 shall be maintained in the housing area for one week, at which time the form shall be forwarded to the ICT for review. Once reviewed, these forms shall be forwarded to classification to be filed in the institutional inmate record.

(c) An Inspection of Special Housing Record, Form DC6-228, shall be maintained in each administrative confinement area. Each staff person shall sign such record when entering and leaving the confinement area. Prior to leaving the confinement area, each staff member shall indicate any specific problems including any inmate who requires special attention. Upon completion, the DC6-228 shall be maintained in the housing area and forwarded to the Chief of Security on a weekly basis where it shall be maintained on file pursuant to the current retention schedule. Form DC6-228 is incorporated by reference in ~~(11)(4)~~ of this rule.

~~(10)(9)~~ Staffing Issues.

(a) Officers assigned to a confinement unit shall be reviewed at least rotated to another assignment every 18 months by the chief of security to determine whether a rotation is necessary for a period of at least one year. The chief of security shall review personnel records, to include performance appraisals, incident reports, use of force reports, and any other documentation relevant to the officer's assignment and job performance; interview the officer and officers' supervisors for the period of review; and shall make a recommendation to the warden as to the necessity of a rotation. The warden shall review the recommendation, request additional information if necessary, and make the final determination as to whether the officer continues in the current assignment or is rotated to another assignment. Any officer assigned to a confinement post shall be authorized a minimum period of five days annual leave or a five day assignment to a less stressful post every six months.

(b) No change.

~~(11)(4)~~ Forms. The following forms referenced in this rule are hereby incorporated by reference. A copy of any of these forms may be obtained from the Forms Control Administrator, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) through (g) No change.

~~(h) Form DC6-220, Inmate Impounded Personal Property List, effective date 2-12-01.~~

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 945.04 FS. History—New 4-7-81, Amended 6-23-83, 3-12-84, Formerly 33-3.081, Amended 4-22-87, 8-27-87, 7-10-90, 12-4-90, 3-24-97, 4-26-98, 10-5-98, Formerly 33-3.0081, Amended 2-12-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jerry Vaughan

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 13, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 24, 2001

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Disciplinary Confinement

RULE NO.: 33-602.222

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify procedures relating to placement of inmates in disciplinary confinement and conditions of confinement for inmates assigned to this status.

SUMMARY: The proposed rule specifies items which cannot be possessed by disciplinary confinement inmates for security reasons, clarifies the time period for review when items of property are removed for safety and security reasons, specifies restraint requirements when opening cell doors in disciplinary confinement, clarifies formal assessment and record-keeping procedures, deletes unnecessary language, and clarifies staff rotation requirements in confinement areas.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09 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: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

## THE FULL TEXT OF THE PROPOSED RULE IS:

## 33-602.222 Disciplinary Confinement.

(1) through (4)(b) No change.

(c) Personal Property. Inmates in confinement shall be allowed to retain stamps, eyeglasses, hearing aids, personal watches, and rings unless there is an indication of a security problem. If removal of any item in the inmate's possession is determined necessary, the correctional staff shall document their actions on the DC6-229, Daily Record of Segregation, which shall be approved by the chief of security. The correctional staff shall issue the inmate a receipt for her or his confiscated items by completing the Inmate Impounded Personal Property List, Form DC6-220. Form DC6-220 is incorporated by reference in Rule 33-602.220(10). Inmates in disciplinary confinement shall not possess any products that contain baby oil, mineral oil, cocoa butter, or alcohol.

(d) No change.

(e) Personal Hygiene. Inmates in disciplinary confinement shall meet the following standards in regards to personal hygiene as required of the general inmate population:

1. No change.

2. Male inmates shall be required to shave at least three times per week. The possession and use of shaving powder in disciplinary confinement is prohibited. An inmate housed in disciplinary confinement who is medically exempt from using shaving razors will be clipper-shaved at least three times per week.

3. No change.

(f) through (q) No change.

(r) If items of clothing, bedding or property are removed in order to prevent the inmate from inflicting injury to himself or herself or others or to prevent destruction of property or equipment, staff shall re-assess the need for continued restriction every 72 hours thereafter. The warden, based on this assessment, will make the final determination on the continued denial or return of the items. The items will be returned to the inmate when no further behavior or threat of behavior of the type leading to the restriction has occurred.

(5) No change.

(6) Restraint and Escort Requirements.

(a) Prior to opening a cell door for any reason, including exercise, medical or disciplinary call-outs, telephone calls, recreation, and visits, all inmates in the cell shall be handcuffed behind their backs, unless documented medical conditions require that an inmate be handcuffed in front. In such cases, waist chains will be used in addition to the handcuffs and escort officers shall be particularly vigilant.

(b) through (e) No change.

(7) Visits to Disciplinary Confinement.

(a) The following staff members shall be required to officially inspect and tour the disciplinary confinement unit. All visits by staff shall be documented on the Inspection of

Special Housing Record DC6-228. Form DC6-228 is incorporated in Rule 33-602.220(10). The staff member shall also document his or her visit on the Daily Record of Segregation DC6-229, if any discussion of significance, action or behavior of the inmate, or any other important information is obtained which may have an influence or effect on the status of confinement. These visits shall be conducted a minimum of:

1. through 9. No change.

10. The SCO will ~~visit~~ review every inmate housed in disciplinary confinement longer than ninety consecutive days as frequently as necessary to ensure that the inmate's welfare is provided for and to determine if the inmate should be released. A list of inmates meeting the above criteria shall be provided to the SCO by the ICT at the facility.

(b) through (8)(a) No change.

(b) Any inmate assigned to disciplinary confinement for more than 30 days shall be given a psychological screening assessment by a mental health professional to determine the inmate's mental condition. The assessment shall include a personal interview if deemed necessary by the mental health professional. The psychologist or psychological specialist shall prepare a report to the ICT regarding the results of the assessment with recommendations. The ICT shall then make a decision regarding continuation of confinement. All ~~Any~~ recommendations by the psychologist or psychologist specialist ~~that the inmate be released from disciplinary confinement~~ shall be forwarded by the ICT to the SCO. If the decision is to continue confinement, a psychological screening assessment shall be completed at least every 90-day period.

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

(d) The SCO shall review all reports prepared by the ICT and the psychologist or psychological specialist concerning the inmate's disciplinary confinement at the next on-site visit, and may interview the inmate before determining the final disposition of the inmate's disciplinary confinement.

(e) The confinement housing supervisor is authorized to have an inmate released from disciplinary confinement upon completion of his disciplinary confinement time, unless the ICT has determined that a need exists to modify the inmate's status to administrative disciplinary confinement.

(9) Daily Record of Segregation.

(a) A Daily Record of Segregation, Form DC6-229, shall be maintained in the housing area for one week, then forwarded to the ICT for review, and then forwarded to classification for filing in the institutional inmate record ~~for each inmate as long as he is in confinement.~~

(b) No change.

~~(c) The DC6 229, Daily Record of Segregation, shall be maintained in the housing area for one week, at which time the form shall be forwarded to the ICT for review. Once reviewed, the form shall be forwarded to classification to be filed in the institutional inmate record.~~

(10) No change.

(11) Staffing issues.

(a) Officers assigned to a disciplinary confinement unit shall be ~~reviewed rotated~~ at least every 18 months by the chief of security to determine whether a rotation is necessary. The chief of security shall review personnel records, to include performance appraisals, incident reports, use of force reports, and any other documentation relevant to the officer's assignment and job performance; interview the officer and the officer's supervisors for the period of review; and shall make a recommendation to the warden as to the necessity of a rotation. The warden shall review the recommendation, request additional information if necessary, and make the final determination as to whether the officer continues in the current assignment or is rotated to another assignment for a period of at least one year before reassignment to this type of housing unit. Any officer assigned to a confinement post shall be authorized a minimum period of five days annual leave or a five day assignment to a less stressful post every six months.

(b) No change.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History—New 3-12-84, Formerly 33-3.084, Amended 7-10-90, 4-28-96, 12-7-97, 2-12-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Jerry Vaughan  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 13, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 24, 2001

**WATER MANAGEMENT DISTRICTS**  
**South Florida Water Management District**

RULE TITLE: Publications Incorporated by Reference  
PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to update citations to and modify the “Basis of Review for Water Use Permit Applications within the South Florida Water Management District – September 2001” to incorporate changes regarding basin expiration dates.  
SUMMARY: Citations to the “Basis of Review for Water Use Permit Applications within the South Florida Water Management District – September 2001” are updated to reflect the current revision date of the Basis of Review. The Basis is also changed to incorporate extended basin expiration dates.

RULE NO.: 40E-2.091

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 within 21 days of this notice.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.042, 373.0421, 373.219, 373.223, 373.224, 373.229, 373.232, 373.233, 373.236, 373.239 FS.

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

TIME AND DATE: 8:30 a.m., November 15, 2001

PLACE: South Florida Water Management District, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: For technical issues contact Scott Burns (internet: sburns@sfwmd.gov), or Cecile Ross (internet: cross@sfwmd.gov), telephone number 1(800)432-2045. For procedural issues contact: Julie Jennison (internet: jjeniso@sfwmd.gov), 1(800)432-2045, Ext. 6294 or (561)682-6294, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680. Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, at (561)682-6206 at least two business days in advance to make appropriate arrangements.

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-2.091 Publications Incorporated by Reference.

(+) The “Basis of Review for Water Use Permit Applications within the South Florida Water Management District – December 2001 ~~September 2001~~” is hereby published by reference and incorporated into this chapter. A current version of this document is available upon request.

~~(2) The document listed in subsection (1) is published by the District and is available from the District upon request.~~

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042, 373.0421, 373.219, 373.223, 373.224, 373.229, 373.232, 373.233, 373.236, 373.239 FS. History—New 9-3-81, Formerly 16K-2.035(1), Amended 2-24-85, 11-21-89, 1-4-93, 4-20-94, 11-26-95, 7-11-96, 4-9-97, 12-10-97, 9-10-01, \_\_\_\_\_.

(The following represents proposed changes to the document entitled “Basis of Review for Water Use Permit Applications within the South Florida Water Management District – October 1997” incorporated by reference in Rule 40E-2.091, F.A.C.)

The following changes are made to Chapter 1.0

1.7.2 Basin Expiration Dates

The expiration dates for Individual Irrigation Use Class Water Use Permits for projects located within the identified basins are extended as follows:

<u>Upper East Coast</u>	<u>June 15, 2003</u>
<u>Lower West Coast</u>	<u>June 15, 2004</u>
<u>Lower East Coast</u>	<u>December 15, 2005</u>
<u>Kissimmee</u>	<u>June 15, 2007</u>

In addition, ~~these following~~ basin expiration dates will be applied to ~~used for the processing of~~ individual irrigation use class water use permits issued or modified under this rule. For projects crossing multiple basin boundaries, the expiration date for the permit shall be the date associated with the basin containing the majority of the irrigated acreage. The basins are shown in Figure 1-1 and contain the Surface Water Use Basins, as described in Rule 40E-21.631, F.A.C., listed below.

Upper East Coast: Northwest Loxahatchee River, Northwest Martin County, St. Lucie Agricultural Area, West Coastal Martin County, North Coastal Martin County, Stuart Peninsula, South Coastal Martin County, Interior Martin County, Port St. Lucie, and Coastal St. Lucie County.

Lower West Coast: Caloosahatchee River Basin Watershed – North, Caloosahatchee River Basin Watershed – South, Coastal Collier County, Fakahatchee North, Fakahatchee South, and Big Cypress Preserve.

Lower East Coast: South Dade, Water Conservation Areas/Everglades National Park, Water Conservation Area No. 3, Water Conservation Area No. 2, Water Conservation Area No. 1/West Palm Beach Canal, Everglades Agricultural Area, Interior Palm Beach County, M Canal, North Palm Beach County, C-18, Loxahatchee River, St. Lucie River, Lakeshore Perimeter, South Hendry County/L-28 Gap, and Caloosahatchee River.

Kissimmee: Taylor Creek/Nubbin Slough, Kissimmee River Valley, Upper Chain of Lakes, West Chain of Lakes, Indian Prairie, and Fisheating Creek.

Lower West Coast Basin

The expiration date for Individual Irrigation Use Class Water Use Permits for projects located within the Lower West Coast Basin is extended to either December 15, 2001 or a date the District shall specify in rules adopted to implement the

~~District’s Lower West Coast Water Supply Plan, whichever date establishes the shorter permit duration. The District shall provide notice to Individual Irrigation Use Class Water Use Permit holders of the expiration date of their permits within 30 days after the effective date of the rules adopted to implement the Lower West Coast Water Supply Plan. However, no Individual Irrigation Use Class Water Use Permit will expire prior to December 15, 1998. Notice shall be made by mail and by publication in a newspaper of general circulation in the affected area.~~

Lake Okeechobee, Palm Beach County, Broward County, and Dade/Monroe Basins

~~The expiration date for Individual Irrigation Use Class Water Use Permits for projects located within the Lake Okeechobee, Palm Beach County, Broward County, and Dade/Monroe basins is extended to either December 15, 2001 or a date the District shall specify in rules adopted to implement the District’s Lower East Coast Water Supply Plan. The District shall provide notice to Individual Irrigation Use Class Water Use Permit holders of the expiration date of their permits within 30 days after the effective date of the rules adopted to implement the Lower East Coast Water Supply Plan. However, no Individual Irrigation Use Class Water Use Permit will expire prior to December 15, 1999. Notice shall be made by mail and by publication in a newspaper of general circulation in the affected area.~~

Upper East Coast and Kissimmee Basins

~~The expiration date for Individual Irrigation Use Class Water Use Permits for projects located within the Upper East Coast and Kissimmee basins is extended to either December 15, 2001 or a date the District shall specify in rules adopted to implement the District’s Upper East Coast and Kissimmee Basin Water Supply Plans. The District shall provide notice to Individual Irrigation Use Class Water Use Permit holders of the expiration date of their permits within 30 days after the effective date of the rules adopted to implement these Water Supply Plans. However, no Individual Irrigation Use Class Water Use Permit will expire prior to December 15, 1998. Notice shall be made by mail and by publication in a newspaper of general circulation in the affected area.~~



INSERT MAP  
PAGE 1 OF 1

NAME OF PERSON ORIGINATING PROPOSED RULE: Wm. Scott Burns, Director, Water Use Regulation Department
NAME OF PERSON OR SUPERVISOR WHO APPROVED THE PROPOSED RULE: Governing Board of the South Florida Water Management District
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 13, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 3, 2001

DEPARTMENT OF THE LOTTERY

RULE TITLE: General Provisions
RULE NO.: 53-20.001
PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to update the specific positions that compose the Executive Management Service.
SUMMARY: The proposed rule amendment updates the specific positions that compose the Executive Management Service.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 24.105(10)(j) FS.
LAW IMPLEMENTED: 24.105(20)(d) FS.

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

TIME AND DATE: 9:00 a.m., October 24, 2001
PLACE: Department of the Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diane D. Schmidt, Office of the General Counsel, Capitol Complex, Tallahassee, Florida 32399-4011, (850)487-7724

THE FULL TEXT OF THE PROPOSED RULE IS:

- 53-20.001 General Provisions.
(1) No change.
(2) The Executive Management Service is composed of the Secretary, Deputy Secretary, Chief of Staff, Assistant Secretaries, Directors, District Managers, General Counsel, and the Inspector General/Chief Internal Auditor.
(3) through (6) No change.

Specific Authority 24.105(10)(j) FS. Law Implemented 24.105(20)(d) FS. History--New 2-22-93, Amended 3-12-00,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Diane D. Schmidt, Office of the General Counsel
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth H. Hart, Jr., General Counsel
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 9, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 24, 2001

DEPARTMENT OF HEALTH

Board of Medicine
RULE TITLE: Notices
RULE NO.: 64B8-1.006
PURPOSE AND EFFECT: The proposed rule amendment is intended to implement a new change pursuant to section 456.035, Florida Statutes, with regard to electronic notification of change of address.
SUMMARY: The proposed rule amendment clarifies notification requirements.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 458.309 FS.
LAW IMPLEMENTED: 456.035(1), 458.319(5) FS.

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

TIME AND DATE: 10:00 a.m., October 24, 2001
PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin # C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

- 64B8-1.006 Notices.
In addition to the requirements of Section 458.319(3), Florida Statutes, each person holding a license issued pursuant to Chapter 458, Florida Statutes, must maintain on file with the Board of Medicine the current address at which any notice required by law may be served by the Board or its agent. Within 60 days of changing this address, whether or not within this state, the licensee shall notify the Board in writing of the

new address at which the licensee may be served with notices or other documents. The written notification to the Board may be made electronically.

Specific Authority 458.309 FS. Law Implemented 456.035(1), 458.319(5) FS. History–New 2-21-93, Formerly 21M-18.018, 61F6-18.018, Amended 12-22-96, Formerly 59R-1.018, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Medicine  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 4, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2001

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE: List of Approved Forms; Incorporation  
PURPOSE AND EFFECT: The proposed rule amendment is intended to incorporate a revised incident reporting form into the rule relating to forms.

RULE NO.: 64B8-1.007

SUMMARY: The proposed rule amendment incorporates a revised form into the rule.

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

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

SPECIFIC AUTHORITY: 120.55(1)(a),(4), 456.013, 456.036(5), 456.048(1), 458.309, 458.311, 458.3124(6), 458.313(4), 458.3145, 458.315(2), 458.320(8), 458.321(2), 458.347(13), 458.351(6) FS.

LAW IMPLEMENTED: 456.013, 456.035, 456.036, 456.048, 456.073, 458.309, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.317, 458.319, 458.320, 458.321, 458.345, 458.347, 458.351 FS.

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

TIME AND DATE: 10:00 a.m., October 24, 2001  
PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-1.007 List of Approved Forms; Incorporation.

The following forms used by the Board in its dealings with the public are listed as follows and are hereby adopted and incorporated by reference, and can be obtained from the Board office by writing to the Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-1753, or by telephoning (850)245-4131:

- (1) through (15) No change.
- (16) DH-MQA 1030, entitled “Physician Office Adverse Incident Report,” (9/01) ~~(2/00)~~.
- (17) through (23) No change.

Specific Authority 120.55(1)(a),(4), 456.013, 456.036(5), 456.048(1), 458.309, 458.311, 458.3124(6), 458.313(4), 458.3145, 458.315(2), 458.320(8), 458.321(2), 458.347(13), 458.351(6) FS. Law Implemented 456.013, 456.035, 456.036, 456.048, 456.073, 458.309, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.317, 458.319, 458.320, 458.321, 458.345, 458.347, 458.351 FS. History–New 4-17-01, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Medicine  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 4, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2001

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLES: Application, Certification, Registration, and Licensure Fees  
Inactive and Delinquent Status Fees  
PURPOSE AND EFFECT: The proposed the rule amendments are intended to increase the fee for licensure by examination, to implement a fee for converting from inactive to limited license, and to incorporate an increase in the initial licensure fees and inactive and delinquent fees.

RULE NOS.: 64B8-3.002  
64B8-3.004

SUMMARY: The proposed rule amendments raise fees for licensure by examination, initial licensure fees and fees for inactive and delinquent status. In addition, the rule also implements a fee for converting from inactive to limited license.

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

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

SPECIFIC AUTHORITY: 456.013, 456.025, 456.036, 458.309, 458.311, 458.313, 458.3135, 458.3145, 458.315, 458.316, 458.3165, 458.317, 458.345, 458.347 FS.

LAW IMPLEMENTED: 456.013, 456.025, 456.036, 458.311, 458.3115, 458.3124, 458.313, 458.3135, 458.3145, 458.315, 458.316, 458.3165, 458.317, 458.345, 458.347 FS.

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

TIME AND DATE: 10:00 a.m., October 24, 2001  
PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULES IS:

64B8-3.002 Application, Certification, Registration, and Licensure Fees.

The following fees are prescribed by the Board:

- (1) through (4) No change.
- (5) The application fee for a person desiring to be licensed as a physician by examination, as provided in Sections 458.311, 458.3115 and 458.3124, F.S., shall be \$460.00 ~~\$410.00~~.

(6) The initial certification fee for any person who is issued a temporary certificate to practice in areas of critical need, public health certificate, public psychiatry certificate, or medical faculty certificate and the initial license fee for a person who is issued a license to practice as a physician as provided in Section 458.311, 458.3115 or 458.3124, F.S., or Section 458.313, F.S.; or a limited license as provided in Section 458.317, F.S., shall be \$385.00 ~~\$350.00~~ with the following exceptions:

- (a) through (d) No change.
- (7) through (8) No change.

Specific Authority 456.013, 456.025, 458.309, 458.311, 458.313, 458.3135, 458.3145, 458.315, 458.316, 458.3165, 458.317, 458.345, 458.347 FS. Law Implemented 456.013, 456.025, 458.311, 458.3115, 458.3124, 458.313, 458.3135, 458.3145, 458.315, 458.316, 458.317, 458.345, 458.347, 456.036, 458.3145, 458.316, 458.3165, 458.345 FS. History—New 12-5-79, Amended 11-10-82, 8-11-85, 10-24-85, Formerly 21M-19.02, Amended 12-4-86, 11-3-87, 7-4-88, 10-23-89, 11-12-89, 11-11-90, 1-16-91, 1-9-92, 2-10-92, 9-7-92, Formerly 21M-19.002, Amended 9-21-93, Formerly 61F6-19.002, Amended 2-13-95, 2-20-96, 6-24-96, Formerly 59R-3.002, Amended 6-7-98, 8-11-98, 11-22-98, 12-14-99, 1-31-01, \_\_\_\_\_.

64B8-3.004 Inactive and Delinquent Status Fees.

(1) The fees for individuals holding a medical license, a temporary certificate to practice in areas of critical need, or a limited license shall be:

(a) The fee for an inactive status license shall be \$385.00 ~~\$350.00~~. The fee for inactive status for a resident shall be \$200.00.

(b) No change.

(c) The fee for delinquent status as set forth in Subsection 456.036(7), F.S., shall be \$385.00 ~~\$350.00~~. The fee for delinquent status for a resident shall be \$200.00.

(d) No change.

(e) The fee for reactivation of an inactive license for the purpose of converting the license to a limited license pursuant to Section 458.317(4), F.S., shall be \$25.00.

(2) No change.

Specific Authority 458.309, 456.036 FS. Law Implemented 456.036, 458.3145, 458.316, 458.3165, 458.345 FS. History—New 2-13-95, Amended 10-10-95, 12-18-95, Formerly 59R-3.004, Amended 8-11-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 8, 2001 and August 4, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 27, 2001 and August 31, 2001

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE: Applications  
RULE NO.: 64B8-4.009

PURPOSE AND EFFECT: The Board proposed rule amendment is intended to incorporate the requirements for initial licensure with regard to educational requirements in the rule which covers applications for licensure.

SUMMARY: The proposed rule amendment addresses the requirements for education in the rule which covers applications for licensure.

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

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

SPECIFIC AUTHORITY: 120.53, 456.031, 456.033, 458.309, 458.311 FS.

LAW IMPLEMENTED: 120.53, 456.031, 456.033, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.3165, 458.317 FS.

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

TIME AND DATE: 10:00 a.m., October 24, 2001  
 PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-4.009 Applications.

(1) through (7) No change.

(8) The applicant must submit notarized statements attesting to the following:

(a) Completion of three hours of all Category I, American Medical Association Continuing Medical Education which includes the topics of Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome: the disease and its spectrum of clinical manifestations; epidemiology of the disease; related infections including TB; treatment, counseling, and prevention; transmission from healthcare worker to patient and patient to healthcare worker; universal precautions and isolation techniques; and legal issues related to the disease. If the applicant has not already completed the required continuing medical education, upon submission of an affidavit of good cause, the applicant will be allowed six months to complete this requirement.

(b) Completion of one hour of continuing medical education on domestic violence which includes information on the number of patients in that professional's practice who are likely to be victims of domestic violence and the number who are likely to be perpetrators of domestic violence, screening procedures for determining whether a patient has any history of being either a victim or a perpetrator of domestic violence, and instruction on how to provide such patients with information on, or how to refer such patients to, resources in the local community, such as domestic violence centers and other advocacy groups, that provide legal aid, shelter, victim counseling, batterer counseling, or child protection services, and which is approved by any state or federal government agency, or nationally affiliated professional association, or any provider of Category I or II American Medical Association Continuing Medical Education. Home study courses approved by the above agencies will be acceptable. If the applicant has not already completed the required continuing medical education, upon submission of an affidavit of good cause, the applicant will be allowed six months to complete this requirement.

(c) Completion of two hours of continuing medical education relating to prevention of medical errors which includes a study of root cause analysis, error reduction and prevention, and patient safety, and which is approved by any state or federal government agency, or nationally affiliated professional association, or any provider of Category I or II

American Medical Association Continuing Medical Education. One hour of a two hour course which is provided by a facility licensed pursuant to Chapter 395, F.S. for its employees may be used to partially meet this requirement.

(8) through (9) renumbered (9) through (10) No change.

Specific Authority 120.53, 456.031, 456.033, 458.309, 458.311 FS. Law Implemented 120.53, 456.031, 456.033, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.3165, 458.317 FS. History--New 3-31-80, Amended 12-4-85, Formerly 21M-22.09, Amended 9-7-88, 3-13-89, 1-1-92, 2-21-93, Formerly 21M-22.009, Amended 11-4-93, Formerly 61F6-22.009, Amended 11-15-94, 2-15-96, Formerly 59R-4.009, Amended 7-10-01,

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 4, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2001

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLES:	RULE NOS.:
Notice of Noncompliance	64B8-8.011
Citation Authority	64B8-8.017

PURPOSE AND EFFECT: The proposed rule amendments are intended to address notices of noncompliance with regard to delinquent licensure status and to set forth additional violations for which a citation is deemed appropriate.

SUMMARY: The proposed rule amendments provide clarification with regard to delinquent licensure status and set forth additional violations the Board deems appropriate for issuance of citations.

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

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

SPECIFIC AUTHORITY: 456.073(3), 456.077, 458.309 FS.

LAW IMPLEMENTED: 456.073(3), 456.077 FS.

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

TIME AND DATE: 10:00 a.m., October 24, 2001  
 PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULES IS:

64B8-8.011 Notice of Noncompliance.

(1) through (2) No change.

(3) The following violations are those for which the board authorizes the Agency to issue a notice of noncompliance.

(a) through (b) No change.

(c) Violating any of the following provisions of chapter 458, as prohibited by Section 458.331(1)(x), Florida Statutes:

1. Section 458.327, Florida Statutes, which provides for criminal penalties for the practice of medicine without an active license. A notice of noncompliance would be issued for this violation only if the subject of the investigation met the following criteria: the subject must be the holder of a license to practice medicine at all time material to the matter; that license is otherwise in good standing; and that license must be renewed and placed in an active status within 90 days of ~~becoming delinquent reverting to inactive status based on failure to renew the license.~~ If the license was ~~delinquent in an inactive status~~ for more than 90 days and the individual continued to practice, then the matter would proceed under the other provisions of Section 456.073, Florida Statutes.

2. No change.

Specific Authority 456.073(3), 458.309 FS. Law Implemented 456.073(3) FS. History—New 11-15-90, Formerly 21M-20.011, 61F6-20.011, 59R-8.011, Amended 1-27-00,\_\_\_\_\_.

64B8-8.017 Citation Authority.

(1) through (2) No change.

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

VIOLATIONS	PENALTY
(a) CME violations (Sections 458.321, 458.331(1)(g), (x), 456.072(1)(e), (s), F.S.)	Within twelve months of the date 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
1. Failure to document required HIV/AIDS and related infections of TB CME.	\$500 fine
2. Failure to document required domestic violence CME.	\$500 fine

3. Failure to document required medical errors CME. \$500 fine

~~4.3-~~ Failure to document required HIV/AIDS and related infections of TB and failure to document domestic violence and medical errors CME. \$1000 fine

~~5.4-~~ Documentation of some, but not all, 40 hours of required CME for license renewal. \$50 fine for each hour not documented.

(b) through (d) No change.

(e) Failure to provide medical records of only one patient or excessively charging copying fees for patient records (64B8-10.003, F.A.C.) \$500 fine and reimbursement of excessive fees charged.

(Sections 458.331(1)(g), 456.057).

(f) No change.

(g) False, deceptive or misleading advertising. (Section 458.331(1)(d), F.S.)

1. Advertising violations other than those included in Rule 64B8-8.011(3)(a)1., F.A.C. \$500 fine

2. Advertising or holding oneself out as a board-certified specialist, if not qualified under Section 458.3312, F.S. (Section 458.331 (1)(II), F.S.) \$500 fine

(h) Failure to update physician profile as required in Sections 456.039(3) and 457.319(1), F.S. (Sections 456.039(3)(b), F.S.) \$1000 fine and 3 hours CME in ethics

(i) Failure to notify the Board in writing within 30 days if action as defined in Section 458.331(1)(b), F.S., has been taken against one's license to practice medicine in another state, territory, or county if that action was based on action taken by the Florida Board of Medicine \$1000 fine

(j) Failure to comply with Sections 381.0261, F.S., by failing to inform patients of the address and telephone number of the agency responsible for responding to patient complaints or failure to make available a summary of rights to patients. (Sections 458.331(1)(g) and 456.072(1)(k), F.S.)

1. For non-willful violations \$100 fine

2. For willful violataions \$500 fine

(k) First time failure to pay fine or costs imposed by Board Order (failure to pay citation will result in an administrative complaint). 10% of the fine and/or costs imposed, fine and costs.

(4) through (7) No change.

Specific Authority 458.309, 456.077 FS. Law Implemented 456.077 FS. History--New 12-30-91, Formerly 21M-20.017, Amended 11-4-93, Formerly 61F6-20.017, Amended 8-23-95, Formerly 59R-8.017, Amended 4-7-99, 1-27-00,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 4, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2001

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Standards for Telemedicine
RULE NO.: 64B8-9.014

PURPOSE AND EFFECT: The proposed rule to is intended to address appropriate electronic prescribing practice for physicians.

SUMMARY: The proposed rule amendment sets forth criteria for appropriate electronic prescribing practice for physicians.

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

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

SPECIFIC AUTHORITY: 458.309, 458.331(1)(v) FS.

LAW IMPLEMENTED: 458.331(1)(q),(v) FS.

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

TIME AND DATE: 10:00 a.m., October 24, 2001

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-9.014 Standards for Telemedicine Prescribing Practice.

(1) Prescribing medications based solely on an electronic medical questionnaire constitutes the failure to practice medicine with that level of care, skill, and treatment which is recognized by reasonably prudent physicians as being acceptable under similar conditions and circumstances, as well as prescribing legend drugs other than in the course of an physician's professional practice. Such practice shall constitute grounds for disciplinary action pursuant to Section 458.331(1)(q) and (t), F.S.

(2) Physicians shall not provide treatment recommendations, including issuing a prescription, via electronic or other means, unless the following elements have been met:

(a) A documented patient evaluation, including history and physical examination, adequate to establish the diagnosis for which any drug is prescribed.

(b) Sufficient dialogue between the physician and the patient regarding treatment options and the risks and benefits of treatment.

(c) Maintenance of contemporaneous medical records meeting the requirements of Section 458.331(1)(m), F.S.

(3) The provisions of this rule are not applicable in an emergency situation. For purposes of this rule an emergency situation means those situations in which the prescribing physician determines that the immediate administration of the medication is necessary for the proper treatment of the patient, and that it is not reasonably possible for the prescribing physician to comply with the provision of this rule prior to providing such prescription.

(4) The provisions of this rule shall not be construed to prohibit patient care in consultation with another physician who has an ongoing relationship with the patient, and who has agreed to supervise the patient's treatment, including the use of any prescribed medications, nor on-call or cross-coverage situations in which the physician has access to patient records.

Specific Authority 458.309, 458.331(1)(v) FS. Law Implemented 458.331(1)(q),(v) FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Rules Committee, Board of Medicine  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 4, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2001

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLES:	RULE NOS.:
Requirements for Reactivation of an Inactive License	64B8-13.004
Continuing Education for Biennial Renewal	64B8-13.005
HIV/AIDS Education or End-of-Life Care and Palliative Health Care Education	64B8-13.006

PURPOSE AND EFFECT: The proposed amendment to Rule 64B8-13.004, F.A.C., is intended to clarify the requirements for licensure reactivation pursuant to Section 458.317, F.A.C. The proposed amendments to Rule 64B8-13.005, F.A.C., are intended to clarify required continuing educational courses for biennial licensure renewal. Rule 64B8-13.006, F.A.C., is being repealed since its content has been incorporated in the proposed amendments to Rules 64B8-4.009 and 64B8-13.005, F.A.C.

SUMMARY: The proposed amendment to Rule 64B8-13.004, F.A.C., clarifies the requirements for licensure reactivation pursuant to Section 458.317, F.S. The proposed amendments to Rule 64B8-13.005, F.A.C., set forth required continuing educational courses for biennial licensure renewal. Rule

64B8-13.006, F.A.C., is being repealed since its content has been incorporated in the proposed amendments to Rules 64B8-4.009 and 64B8-13.005, F.A.C.

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

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

SPECIFIC AUTHORITY: 456.013(6), 456.031(4), 458.309, 458.321(1), 458.317, 458.319 FS.

LAW IMPLEMENTED: 456.013(5),(6), 456.031(1)(a),(3), 458.321(1), 458.317, 458.319(4) FS.

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

TIME AND DATE: 10:00 a.m., October 24, 2001  
PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL  
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULES IS:

64B8-13.004 Requirements for Reactivation of an Inactive License.

An inactive license shall be reactivated upon demonstration that the licensee has paid the reactivation fee set forth in Rule 64B8-3.004, F.A.C., and has complied with the following requirements:

- (1) No change.
- (2) ~~Any~~ However, any physician whose license has been inactive for more than two consecutive biennial licensure cycles and who has not practiced for 2 out of the previous 4 years in another jurisdiction ~~may shall~~ be required to appear before the Credentials Committee of the Board and establish the ability to practice with the care and skill sufficient to protect the health, safety, and welfare of the public. At the time of such appearance, the physician must:

- (a) through (e) No change.
- (3) Any physician reactivating his or her license for the purpose of converting the license to a limited license pursuant to Section 458.317, F.S., whose license has been inactive for more than two consecutive biennial licensure cycles and who has not practiced for 2 of the previous 4 years in another jurisdiction, shall be required to:

- (a) Demonstrate compliance with paragraph (1) above;



(b) Demonstrate compliance with the financial responsibility requirements of subsection 458.320, F.S., and Rule 64B8-12, F.A.C.;

(c) Demonstrate compliance with subsection 456.033, F.S., and Rule 64B8-13.006, F.A.C.;

(d) Practice under supervision for a period of six (6) months.

(4)(3) No change.

Specific Authority 458.309, 458.321(1), 458.317 FS. Law Implemented 458.321(1), 458.317 FS. History—New 2-3-82, Formerly 21M-28.01, Amended 1-1-92, Formerly 21M-28.001, 61F6-28.001, Amended 3-1-95, Formerly 59R-13.004, Amended \_\_\_\_\_.

64B8-13.005 Continuing Education for Biennial Renewal.

(1) Every physician licensed pursuant to Chapter 458, Florida Statutes, shall be required to complete 40 hours of continuing medical education courses approved by the Board in the 24 months preceding each biennial renewal period as established by the Department Agency.

(a) For licensees who are renewing a medical license for the first time at least 1 of such continuing medical education hours required for renewal shall concern risk management.

(b) For all licensees no more and no less than one hour shall consist of training in domestic violence which includes information on the number of patients in that professional's practice who are likely to be victims of domestic violence and the number who are likely to be perpetrators of domestic violence, screening procedures for determining whether a patient has any history of being either a victim or a perpetrator of domestic violence, and instruction on how to provide such patients with information on, or how to refer such patients to, resources in the local community, such as domestic violence centers and other advocacy groups, that provide legal aid, shelter, victim counseling, batterer counseling, or child protection services, and which is approved by any state or federal government agency, or nationally affiliated professional association, or any provider of Category I or II American Medical Association Continuing Medical Education. Home study courses approved by the above agencies will be acceptable as required by s. 456.031(1)(a), F.S., and described in subsection (10) of this rule. Notwithstanding the foregoing, a physician may complete continuing education on end-of-life care and palliative health care in lieu of continuing education in domestic violence, if that physician has completed the domestic violence continuing education in the immediately preceding biennium. This allows for end-of-life care and palliative health care continuing education to substitute for domestic violence continuing education in alternate bienniums.

(c) For all licensees one hour of Category I American Medical Association Continuing Medical Education which includes the topics of Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome; the modes of transmission, including transmission from healthcare worker to patient and patient to healthcare worker; infection control

procedures, including universal precautions; epidemiology of the disease; related infections including TB; clinical management; prevention; and current Florida law on AIDS and its impact on testing, confidentiality of test results, and treatment of patients. Any hours of said CME may also be counted toward the CME license renewal requirement. In order for a course to count as meeting this requirement, licensees practicing in Florida must clearly demonstrate that the course includes Florida law on HIV/AIDS and its impact on testing, confidentiality of test results, and treatment of patients. Only Category I hours shall be accepted.

(d) Notwithstanding the provisions of subsections (a) and (b), above, a physician may complete continuing education on end-of-life care and palliative health care in lieu of continuing education in HIV/AIDS or domestic violence, if that physician has completed the HIV/AIDS or domestic violence continuing education in the immediately preceding biennium. This allows for end-of-life care and palliative health care continuing education to substitute for HIV/AIDS or domestic violence continuing education in alternate biennia.

(e) Completion of two hours of continuing medical education relating to prevention of medical errors which includes a study of root cause analysis, error reduction and prevention, and patient safety, and which is approved by any state or federal government agency, or nationally affiliated professional association, or any provider of Category I or II American Medical Association Continuing Medical Education. One hour of a two hour course which is provided by a facility licensed pursuant to Chapter 395, F.S., for its employees may be used to partially meet this requirement.

(2) through (9) No change.

(10) Upon request by the Board or Department, the licensee must submit satisfactory documentation of compliance with the requirements set forth above. To receive credit for the required training on domestic violence, as set forth in subsection (1) of this rule, the licensee shall complete a course on domestic violence as set forth in s. 456.031(1)(a), F.S., and which is approved by any state or federal government agency, or nationally affiliated professional association, or any provider of Category I or II American Medical Association Continuing Medical Education. Home study courses approved by the above agencies will be acceptable for license renewal.

Specific Authority 458.309, 456.013(6), 456.031(4), 458.319 FS. Law Implemented 456.013(5),(6), 456.031(1)(a),(3), 458.319(4) FS. History—New 9-7-86, Amended 11-17-87, 11-15-88, 1-31-90, 9-15-92, Formerly 21M-28.002, Amended 12-5-93, Formerly 61F6-28.002, Amended 3-1-95, 1-3-96, 1-26-97, Formerly 59R-13.005, Amended 5-18-99, 2-7-01, \_\_\_\_\_.

64B8-13.006 HIV/AIDS Education or End-of-Life Care and Palliative Health Care Education.

Specific Authority 458.309, 458.319(4) FS. Law Implemented 456.033, 458.319(4) FS. History—New 11-15-88, Amended 1-1-92, 9-15-92, Formerly 21M-28.005, 61F6-28.005, Amended 5-7-96, 1-26-97, Formerly 59R-13.006, Amended 10-26-99, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 8, 2001 and August 4, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 27, 2001 and August 31, 2001

Specific Authority 468.221, 468.204 FS. Law Implemented 468.209(1), 468.221 FS. History--New 4-28-76, Amended 9-9-85, Formerly 21M-13.07, Amended 6-29-89, Formerly 21M-13.007, 61F6-13.007, 59R-61.007, Amended \_\_\_\_\_.

64B11-2.008 Fees; Initial License.

Each applicant for occupational therapist licensure shall submit an initial licensure fee in the amount of \$75 \$50 to the Department. The initial licensure fee shall be submitted with the application fee set forth in Rule 64B11-2.001, F.A.C. A check or money order shall be payable to the order of the Department of Health.

Specific Authority 456.013(2), 468.204, 468.221 FS. Law Implemented 456.013(2), 468.221 FS. History--New 4-28-76, Amended 8-9-76, 11-15-78, 9-9-85, Formerly 21M-13.08, Amended 6-9-89, Formerly 21M-13.008, 61F6-13.008, 59R-61.008, Amended 12-20-98, \_\_\_\_\_.

64B11-2.009 Fees; Renewal of License.

Each licensed occupational therapist shall submit a biennial fee of \$150.00 \$50.00 by check or money order made payable to the order of the Department of Health. no later than January 31 of each biennial period.

Specific Authority 468.204, 468.221 FS. Law Implemented 468.221 FS. History--New 4-28-76, Amended 8-9-76, 11-15-78, 9-9-85, Formerly 1M-13.09, Amended 6-29-89, 7-23-91, Formerly 21M-13.009, 61F6-13.009, 59R-61.009, Amended \_\_\_\_\_.

DEPARTMENT OF HEALTH

Board of Occupational Therapy Practice

RULE TITLES: RULE NOS.:
Fees; Application 64B11-2.003
Fees; Initial License 64B11-2.008
Fees; Renewal of License 64B11-2.009

PURPOSE AND EFFECT: The Board proposes to raise fees so that they are closer to the actual costs for initial licensing and renewal of licensure.

SUMMARY: The Board is raising the fees for Application, Initial License and Renewal of License to comply with the current cost for obtaining these licenses.

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

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

SPECIFIC AUTHORITY: 456.013(2), 468.204, 468.221 FS.
LAW IMPLEMENTED: 456.013(2), 468.209(1), 468.221 FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT A TIME, DATE AND PLACE TO BE PUBLISHED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kaye Howerton, Board Executive Director, Board of Occupational Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Occupational Therapy Practice
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Occupational Therapy Practice
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 23, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 3, 2001

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Miscellaneous
RULE TITLE: RULE NO.:
Divers: Fish Feeding Prohibited; Prohibition on Fish Feeding for Hire; Definitions 68B-5.005

PURPOSE AND EFFECT: The purpose of this proposed new rule is to prohibit the practice of the introduction of food or other substances by divers to feed or attract marine species, whether by persons offering their services for hire to patrons for interactive dive experiences or by private individuals. The Fish and Wildlife Conservation Commission has found that such practices may disrupt or have the potential to disrupt marine animal behavior to the extent that it may threaten public safety. The effect of this effort should be to reduce to the greatest extent possible any such disruption of the behavior of such species vis-a-vis humans, particularly with respect to larger predators, such as sharks.

THE FULL TEXT OF THE PROPOSED RULES IS:

64B11-2.003 Fees; Application.

Each applicant for licensure shall pay an application fee in the amount of \$200.00 \$100.00 in the form of a check or money order payable to the Department of Health. This fee is nonrefundable and may not be used for more than one year from the original submission of the application. After one year from the date of the original submission of an application, a new application and new fee shall be required from any applicant who desires to be considered for licensure. The fee for any reapplication shall be the sum of \$100.00 payable in the same manner as above.

SUMMARY: Subsection (1) of proposed new Rule 68B-5.005 prohibits the practice of fish feeding. Subsection (2) prohibits the operation of any vessel for hire for the purpose of carrying passengers to any site to observe fish feeding. Subsection (3) of the rule defines the terms "diver" and "fish feeding." The proposed effective date for this new rule is January 1, 2002.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The proposed rule would ban the feeding marine wildlife such as sharks, rays, and other marine fishes, by divers for the purposes of aggregating fishes. Marine life feeding directly associates people with food, potentially creating user conflicts and adversely affecting the behavior of marine wildlife. Two local coastal governments have regulated the activity based on public safety concerns and several have requested the FWC prohibit the activity.

The proposal would apply to all divers in Florida state waters. There are four commercial dive boat operators in the state that conduct feeding dives for a fee. While the activity has created user conflicts, other for-hire dive boat operators have stated they follow the feeding dive excursions to take advantage of the activity. By following feeding dive excursions, for-hire vessels do not need additional crew members, which are necessary during feeding dives. Testimony to the Commission also indicates that private boat dive trips and individuals on for-hire dive trips sometimes offer food to various fish species to attract and aggregate them.

There are an estimated 500 for-hire vessels in the Southeast Florida region (Palm Beach, Broward, Dade, and Monroe counties). These resulted in 3.7 million passenger days in 2000, of which 53% were for fishing, 23% were for scuba diving, and 24% were for snorkeling. Based on preliminary operator profiles, the four commercial dive operators who conduct feeding trips conduct one or two trips per week while also conducting 13-20 nonfeeding dive trips per vessel. Using a \$44/person/trip charge and an average of 15 passengers per trip, business losses range from \$660 to \$1,320 per week per business. These losses assume that the divers do not elect to take a nonfeeding dive trip and so may overstate potential losses. These losses do not include incidental retail purchases of dive equipment, clothing, or additional air refills. Fee losses may account for 7% to 14% of fee-based revenues. Therefore, the proposed rule would affect small businesses. The rule may affect employment levels of these small businesses. The rule should not affect the costs or revenues of small cities or small counties. The rule would not create additional paperwork or reporting requirements.

Agency implementation costs were considered in development of the rule. Those costs included costs to conduct hearings, workshops, for promulgation, and for enforcement. The largest cost item will be for enforcement. A ban on the activity would eliminate the ability to advertise for the commercial activity. Enforcement of the proposed rule, or any rule alternative,

would require both general law enforcement observation activities and use of a dive unit. Currently, such a unit does not exist.

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

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

THE FISH AND WILDLIFE CONSERVATION COMMISSION WILL CONDUCT A PUBLIC RULEMAKING HEARING ON THE PROPOSED RULES AT THE TIME, DATES AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m. – 5:00 p.m., each day, October 31, 2001 – November 2, 2001

PLACE: Westin Beach Resort, U.S. Highway 1, Mile Marker 97, Bayside, Key Largo, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting Cindy Hoffman, ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

All written material received by the Commission within 21 days of the date of publication of this notice shall be made a part of the official record.

SECTION 286.0105, FLORIDA STATUTES, PROVIDES THAT, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT THIS HEARING, HE WILL NEED A RECORD OF PROCEEDINGS, AND FOR SUCH PURPOSES, HE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-5.005 Divers: Fish Feeding Prohibited; Prohibition of Fish Feeding for Hire; Definitions.

(1) No diver shall engage in the practice of fish feeding.

(2) No person shall operate any vessel for hire for the purpose of carrying passengers to any site in the saltwaters of the state to engage in fish feeding or to allow such passengers to observe fish feeding.

(3) For purposes of this rule:

(a) “Diver” means any person who is wholly or partially submerged in the water, and is equipped with a face mask, face mask and snorkel, or underwater breathing apparatus.

(b) “Fish feeding” means the introduction of any food or other substance into the water by a diver for the purpose of feeding or attracting marine species, except for the purpose of harvesting such marine species as otherwise allowed by rules of the Fish and Wildlife Conservation Commission.

PROPOSED EFFECTIVE DATE: January 1, 2002.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 1-1-02.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Allan L. Egbert, Ph.D., Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 6, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2001

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE CHAPTER TITLE: Snook

RULE TITLES:	RULE NOS.:
Definitions	68B-21.0015
Seasons	68B-21.004
Bag and Possession Limits	68B-21.006

PURPOSE AND EFFECT: The purpose of these rule amendments is to implement special measures to immediately reduce fishing mortality on snook in the Gulf of Mexico and in the Florida Keys. Such mortality is a result of excessive and growing fishing pressure on the species, arguably the most popular gamefish in Florida, particularly in the Southwest Florida area. The Fish and Wildlife Conservation Commission has found that the appropriate special measures include a geographically-specific reduction of the daily bag and possession limit to a single fish and an expansion of the closed season on the species in this area to include the month of May. The effect of these measures should be to reduce the fishing mortality on snook in Southwest Florida and improve the spawning potential of the species to the level set by the Commission as the goal for a healthy stock.

SUMMARY: Rule 68B-21.0015, F.A.C., is amended to include a new definition of the term “land”, a term used in amendments proposed later in the chapter. Subsection (1) of the rule is also amended to correct a typographical error made in a prior rulemaking.

Rule 68B-21.004, F.A.C., is amended to add the month of May as an additional month of harvest closure for snook on the Florida Gulf coast and in the Florida Keys south of the Dade-Monroe County Line. Rule 68B-21.006, F.A.C., is amended to retain the current 2-fish bag and possession limit for the Atlantic coast north of Monroe County in a new subsection (1); create a new one-fish bag limit for snook in the remainder of the state in new subsection (2); and to prohibit the possession or landing of snook harvested in the Atlantic area in the region with the lower bag limit specified in subsection (2). All these rule amendments are proposed to be effective January 1, 2002.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The proposed rule would reduce the current bag limit from two to one fish per person per day and close the month of May to harvest on the west coast of Florida from the Dade-Monroe county line. The current rule would remain in effect on the east coast. Action was requested by anglers and guides concerned about harvest levels on the west coast. Stock assessment data supports the need for additional limits on harvest. Three workshops were held in Naples, Ft. Myers, and St. Petersburg; the majority of people attending the workshops favored the proposed management options.

During 2000, there were 1,381,603 fishing trips that targeted or caught at least one snook on the west coast of Florida. On 43,123, or 3 percent of those trips, snook were harvested. Thus, a large number of trips catch-and-release snook, both due to regulatory limits such as catching undersized fish, and due to the sport fishing ethic that is prevalent in the fishery.

The proposed rule will alter angler behavior on the 19, 205 fishing trips that either exceed a one-fish bag limit or harvest during May. Persons affected include anglers, guides, and recreational support services. Average private boat saltwater fishing trip costs total \$72. Loss of business revenues, or transactional costs, are reported to be small based on testimony from fishing guides. Target trips during closed seasons are prevalent in the snook fishery. Thirty-eight percent of trips in 2000 occurred during the existing closed seasons. The rule may affect small businesses, but will not affect small counties’ or small cities’ costs or revenues, and will not create reporting or paperwork requirements. Agency implementation costs include those for promulgation, workshops, hearings, and enforcement.

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

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

THE FISH AND WILDLIFE CONSERVATION COMMISSION WILL CONDUCT A PUBLIC RULEMAKING HEARING ON THE PROPOSED RULES DURING ITS REGULAR MEETING AT THE TIME, DATES AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m. – 5:00 p.m., each day, October 31, 2001 – November 2, 2001

PLACE: Westin Beach Resort, U.S. Highway 1, Mile Marker 97, Bayside, Key Largo, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting Cindy Hoffman, ADA Coordinator, (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

All written material received by the Commission within 21 days of the date of publication of this notice shall be made a part of the official record.

Section 286.0105, Florida Statutes, provides that, if a person decides to appeal any decision made by the commission with respect to any matter considered at this hearing, he will need a record of proceedings, and for such purposes, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULES IS:

68B-21.0015 Definitions.

(1) “Harvest” means the catching or taking of a fish by any means whatsoever, followed by a reduction of such fish to possession. Fish that are caught but immediately returned to the water free, alive, and unharmed are not harvested. In addition, temporary possession of a fish for the purpose of measuring it to determine compliance with the minimum size requirement of this chapter shall not constitute ~~constructive~~ harvesting such fish, provided that it is measured immediately after taking, and immediately returned to the water free, alive, and unharmed if undersize.

(2) “Land”, when used in connection with the harvest of a fish, means the physical act of bringing the harvested fish ashore.

(3)(2) “Snook” means unless the context requires otherwise, any fish of the genus *Centropomus*, or any part thereof.

(4)(3) “Spearing” means the catching or taking of a fish by bow hunting, gigging, spearfishing, or by any device used to capture a fish by piercing the body. Spearing does not include the catching or taking of a fish by a hook with hook and line gear or by snagging (snatch hooking).

PROPOSED EFFECTIVE DATE: January 1, 2002.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-9-87, Amended 1-1-98, Formerly 46-21.0015, Amended 1-1-02.

68B-21.004 Seasons.

(1) No person, firm or corporation shall kill, harvest or have in its possession, regardless of where taken, any snook during the following closed periods, in the indicated areas:

(a) Statewide, during the period beginning December 15 of each year and continuing through January 31 of the following year, and

(b) In all state waters of the Atlantic Ocean north and east of the Dade-Monroe County Line, during the months of June, July or August,

(c) In all state waters of the Atlantic Ocean south and west of the Dade-Monroe County Line and in all state waters of the Gulf of Mexico, during the months of May, June, July, or August.

(2) Exceptions to the closed seasons established by this rule shall only be granted, except by special permit issued by the Commission pursuant to Section 370.10(2), Florida Statutes, for experimental, scientific, or exhibitional purposes.

PROPOSED EFFECTIVE DATE: January 1, 2002.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-23-85, Amended 7-9-87, 3-1-94, Formerly 46-21.004, Amended 1-1-02.

68B-21.006 Bag and Possession Limits.

(1) In all state waters of the Atlantic Ocean north and east of the Dade-Monroe County Line, no person, firm or corporation shall kill or harvest more than two snook per day during the open season, nor possess more than two snook at any time during the open season.

(2) In all state waters of the Atlantic Ocean south and west of the Dade-Monroe County Line and in all state waters of the Gulf of Mexico, no person, firm, or corporation shall kill or harvest more than one snook per day during the open season, nor possess more than one snook at any time during the open season.

(3) On any vessel licensed to carry customers wherein a fee is paid, either directly or indirectly, for the purpose of taking or attempting to take marine fish, the applicable bag and possession limit specified in this rule shall not extend to the operator of such vessel or any person employed as a crewman of such vessel.

(4) No person harvesting snook pursuant to subsection (1) shall possess or land such snook in the area specified in subsection (2).

PROPOSED EFFECTIVE DATE: January 1, 2002.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 7-23-85, Amended 3-1-94, 12-31-98, Formerly 46-21.006, Amended 1-1-02.

NAME OF PERSON ORIGINATING PROPOSED RULE: Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Allan L. Egbert, Ph.D., Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 7, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2001

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER NO.: 4A-3 RULE CHAPTER TITLE: Fire Prevention - General Provisions

RULE NO.: 4A-3.012 RULE TITLE: Standards of the National Fire Protection Association Adopted

SECOND NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 27, No. 12, March 23, 2001 edition of the Florida Administrative Weekly.

THE FULL TEXT OF THE PROPOSED RULE IS:

4A-3.012 Standards of the National Fire Protection Association Adopted.

(1) No change except:

NFPA 8502 - 1999, Standard for the Prevention of Furnace Explosions/Implosions in Multiple Burner Boilers,

and:

The portions of 49 Code of Federal Regulations, Parts 100-177 which are referenced in Compressed Gas Association CGA C-1 - 1996, Methods for Hydrostatic Testing of Compressed Gas Cylinders, Compressed Gas Association CGA C-6 - 1993, Standards for Visual Inspection of Steel Compressed Gas Cylinders, Seventh Edition, Reaffirmed 1995, Compressed Gas Association CGA C-6.1 - 1995, Standards for Visual Inspection of High Pressure Aluminum Compressed Gas Cylinders, and Compressed Gas Association CGA C-6.3 - 1999 Guidelines for Visual Inspection and Requalification of Low Pressure Aluminum Compressed Gas Cylinders, Second Edition, and which pertain to low pressure and high pressure cylinders

49 Code of Federal Regulations, Parts 100-177
The portions of 29 Code of Federal Regulations, Parts 1900-1910 which are referenced in Compressed Gas Association CGA C-1 - 1996, Methods for Hydrostatic Testing of Compressed Gas Cylinders, Compressed Gas Association CGA C-6 - 1993, Standards for Visual Inspection of Steel Compressed Gas Cylinders, Seventh Edition, Reaffirmed 1995, Compressed Gas Association CGA C-6.1 - 1995, Standards for Visual Inspection of High Pressure Aluminum Compressed Gas Cylinders, and Compressed Gas Association CGA C-6.3 - 1999 Guidelines for Visual Inspection and Requalification of Low Pressure Aluminum Compressed Gas Cylinders, Second Edition

49 Code of Federal Regulations, Parts 100-177

29 Code of Federal Regulations, Parts 1900-1910
Compressed Gas Association CGA C-1 - 1996, Methods for Hydrostatic Testing of Compressed Gas Cylinders
Compressed Gas Association CGA C-6 - 1993, Standards for Visual Inspection of Steel Compressed Gas Cylinders, Seventh Edition, Reaffirmed 1995
Compressed Gas Association CGA C-6.1 - 1995, Standards for Visual Inspection of High Pressure Aluminum Compressed Gas Cylinders
Compressed Gas Association CGA C-6.3 - 1999, Guidelines for Visual Inspection and Requalification of Low Pressure Aluminum Compressed Gas Cylinders, Second Edition

29 Code of Federal Regulations, Parts 1900-1910

Compressed Gas Association CGA C-1 - 1996, Methods for Hydrostatic Testing of Compressed Gas Cylinders
Compressed Gas Association CGA C-6 - 1993, Standards for Visual Inspection of Steel Compressed Gas Cylinders, Seventh Edition, Reaffirmed 1995

Compressed Gas Association CGA C-6.1 - 1995, Standards for Visual Inspection of High Pressure Aluminum Compressed Gas Cylinders

Compressed Gas Association CGA C-6.3 - 1999, Guidelines for Visual Inspection and Requalification of Low Pressure Aluminum Compressed Gas Cylinders, Second Edition
CGA, C-1, C-6, C-6.1, C-6.3

(5) The Code of Federal Regulations and the Compressed Gas Association (CGA) documents ~~CGA~~ incorporated by reference in this rule are available for public inspection during regular business hours at the Division currently located on the third floor (Room 326) of the Atrium Building, 325 John Knox Road, Tallahassee, Florida.

Specific Authority 633.01(1), 633.022 FS. Law Implemented 633.01, 633.022 FS. History--New 5-14-86, Amended 2-12-87, 4-8-90, 10-30-91, 4-3-95,

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-302.111 RULE TITLE: Early Termination of Supervision

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 27, No. 29, July 20, 2001 issue of the Florida Administrative Weekly:

33-302.111 Early Termination of Supervision.

(1) ~~Before a c~~Correctional probation officers ~~shall~~ considers recommending an offender ~~recommendations~~ for early termination of supervision, ~~on offenders who meet~~ the following criteria shall be met:

(a) through (d) No change.

(e) ~~A~~ Florida Crime Information Center/National Crime Information Center (FCIC/NCIC) records check reveals no new arrest during the course of supervision of which the sentencing or releasing authority has not been previously notified;

(f) No change.

(g) The offender has made satisfactory adjustment under supervision ~~significant life improvements~~ and is no longer in need of supervision.

~~(2) The officer will also take into account other factors before recommending an early termination including:~~

~~(a) The seriousness of the offense;~~

~~(b) The offender's prior record;~~

~~(c) Any potential threat to the community resulting from early termination of supervision;~~

~~(d) The offender's previous supervision history; and,~~

~~(e) Known objection from the victim, victims, or the State Attorney's office in the county from which the sentence originated.~~

~~(f) Offenders placed on probation or community control for a violation of Chapter 794 or Chapter 827, F.S., shall be subject to the maximum level of supervision, and that supervision shall continue through the full term of the court imposed probation or community control, as provided in Section 948.04, F.S.~~

(3) through (6) renumbered (2) through (5) No change.

Specific Authority 944.09 FS. Law Implemented 944.09, 948.04 FS. History--New \_\_\_\_\_.

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
40E-7, PART VI	Supplier Diversity and Outreach MBE Contracting Rule
RULE NOS.:	RULE TITLES:
40E-7.611	Policy
40E-7.621	Definitions
40E-7.631	Proposal Evaluation and MBE Criteria
40E-7.637	District Implementation
40E-7.645	Compliance
40E-7.651	Reciprocal Application
40E-7.653	Certification Eligibility
40E-7.654	Grandfather Clause
40E-7.655	Certification Review Process

40E-7.659  
40E-7.661  
40E-7.664

Graduation from MBE Program  
Recertification Review Procedures  
Suspension, Debarment,  
Revocation or Decertification

**NOTICE OF CHANGES TO PROPOSED RULE**

The South Florida Water Management District announces changes to proposed amendments and new rule for Rule 40E-7, Part VI, F.A.C., as published in the June 8, 2001 issue of the FAW, Vol. 27, No. 23 and amended in the August 10, 2001 issue of the FAW, Vol. 27, No. 32. The changes are in response to public comment, staff recommendations and Commission discussion contained in the record of the public hearing held on September 13, 2001, West Palm Beach, Florida. Proposed amendments to Rules 40E-7.611, 40E-7.621, 40E-7.631, 40E-7.637, 40E-7.645, 40E-7.651, 40E-7.653, 40E-7.654, 40E-7.655, 40E-7.659, 40E-7.661 and 40E-7.664 were changed to read as follows:

40E-7.611 Policy.

(2) It is the objective of the District to provide incentives to increase the participation of MBEs which are experiencing the effects of marketplace discrimination and have sought to do business in the District's relevant market area.

~~(3)~~(2) The District shall evaluate the progress of its Program to determine specific program provisions that require modification, expansion, and/or curtailment.

Specific Authority 373.113 ~~373.607~~ FS. Law Implemented 373.607 FS. History--New 9-25-96, Amended \_\_\_\_\_.

40E-7.621 Definitions.

(2) "Certified Minority Business Enterprise" means a firm certified by the District pursuant to Rules 40E-7.651 and 40E-7.653, F.A.C. and Sections 287.0943(1) and ~~&~~ (2), Florida Statutes.

(4) "Domicile" means the state in which the business has its principal place of business. For corporations, domicile means and as it relates to corporations it also means the state under whose laws the corporation was formed.

~~(20) "Responsive" means a firm's bid or proposal conforms in all material respects to the invitation to bid or request for proposal and shall include compliance with MBE goals or good faith efforts.~~

~~(20)~~(21) "A Small Business" means an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million, or any firm based in this state which has a Small Business Administration 8(a) Certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

~~(21)~~(22) "Sole Proprietorship" means a business concern owned by one minority person.

~~(22)~~(23) "Supplier" means a firm that sells goods and commodities.

~~(23)~~(24) "Third-Party Development Assistance Provider" means local, regional, state or federal agencies, institutions and business development organizations that provide technical, management, financial and other related assistance to small, minority-owned businesses.

Specific Authority ~~373.113 337.607~~ FS. Law Implemented ~~288.703, 287.0943(1),(2), 373.607~~ FS. History--New 9-25-96, Amended \_\_\_\_\_.

40E-7.631 Proposal Evaluations and MBE Criteria.

(1) For contracts awarded based on evaluation criteria, there shall be a MBE participation criterion of 10% or 20% of the total points awarded. The District shall award points as reflected in Table 7.6-3 below. Maximum points will be awarded to the proposer if 30% or more of the total project work is performed by MBE firms. Percentages reflect the amount of total contract value proposed to be assigned to MBE firms. In the case of CCNA contracts, the percentages reflect the amount of total project work which shall be equated to the project dollars assigned to MBE firms.

Table 7.6-3

**10 POINTS FOR MBE PARTICIPATION**

≥30% =	10 points
≥27% =	9 points
≥24% =	8 points
≥21% =	7 points
≥18% =	6 points
≥15% =	5 points
≥12% =	4 points
≥ 9% =	3 points
≥ 6% =	2 points
≥ 3% =	1 point

**20 POINTS FOR MBE PARTICIPATION**

≥30% =	20 points
≥27% =	18 points
≥24% =	16 points
≥21% =	14 points
≥18% =	12 points
≥15% =	10 points
≥12% =	8 points
≥ 9% =	6 points
≥ 6% =	4 points
≥ 3% =	2 points

~~(3) The proposers must meet the certification criteria established by the District for utilizing MBE firms to ensure participation as described in Rule 40E-7.653, F.A.C.~~

~~(3)~~(4) The percentage of MBE participation will be calculated by dividing the proposer's expenditures to a MBE subcontractor for providing direct labor or a bona fide service by the total project dollars as identified in the proposal.

~~(4)~~(5) A proposer may count toward its MBE participation the fees or commissions charged for providing direct labor or a bona fide service, such as professional, technical, consultant or managerial services.

(5) A District certified MBE firm shall be prohibited from acting as a subcontractor to its own firm for the purposes of providing the proposer with MBE participation. A proposer shall not do business with its own entity in an effort to circumvent this Rule.

(6) For the purposes of this rule, the District will not count toward a proposer's MBE participation any portion or portions of the MBE subcontractor's work that is subcontracted back to:

(a) The proposer, either directly, ~~to~~ or through any other company or firm owned ~~and/or~~ controlled by the proposer, or

(b) Any non-MBE firm ~~with which the MBE firm has a present business relationship. A present business relationship is defined as both firms having some of the same owners or the sharing of space, equipment, financing or employees.~~

(7) For the purposes of this rule, a MBE subcontractor shall not be allowed to subcontract all or a majority of the subcontractual portion of the work to another non-MBE firm or firms. A MBE subcontractor shall be prohibited from engaging in a subcontractual agreement with the intent of collecting a broker's fee or commission. A MBE subcontractor shall also be prohibited from entering into a subcontractual agreement with a firm and whose employees perform none of the direct labor or service activities specified in the contract.

(8) Participation by a MBE firm shall not be considered and the MBE firm shall be disqualified if the owner ~~or owners~~ of the MBE firm enters into engages in an agreement with a non-MBE firm with the intent of securing employment with that non-MBE firm during the course of performing a District contract.

Specific Authority ~~373.113 373.607, 287.055~~ FS. Law Implemented ~~287.055, 373.607~~ FS. History--New 9-25-96, Amended \_\_\_\_\_.

40E-7.637 District Implementation.

(6) When requested by an unsuccessful proposer bidder, conduct debriefing sessions on awarded contracts to explain why ~~bids~~ proposals may have been unsuccessful.

(7) Coordinate outreach with Procurement and contracting departments to offer instructions and clarify ~~bid~~ proposal specifications, procurement policy, procedures, and general bidding requirements.

(9) Ensure that ~~bid~~ proposals, specifications, and plans are written so as not to unreasonably limit MBE participation.



(15) Schedule ~~pre-bid or~~ pre-proposal meetings, where appropriate, to inform potential contractors of Program requirements and other ~~bid/proposal~~ requirements.

(16) Maintain a file of successful ~~bid/proposal~~ documents from past procurement and encourage MBEs to review and evaluate such documents.

(22) Place notices of contract opportunities ~~and bids~~ at District service centers, in the Dodge report, MBE trade association newsletters, major local or regional newspapers, and minority – and woman – focused media.

(25) Provide notices of ~~bids/~~business proposals to facilitate the participation of MBEs.

Specific Authority ~~373.113 373.607~~ FS. Law Implemented 373.607 FS. History–New 9-25-96, Amended \_\_\_\_\_.

40E-7.645 Compliance.

(7) The District shall ensure program compliance by a contractor or its participating subcontractors through contract provisions. Contractor compliance provisions include:

(c) Refusal of all future ~~proposals bids or~~ offers submitted to the District by the Contractor for a period of three (3) years;

(e) Cancellation of the ~~contract. eligible project/contract~~ ~~for cause.~~

Specific Authority ~~373.113 373.607~~ FS. Law Implemented ~~287.134, 287.094,~~ 373.607 FS. History–New 9-25-96, Amended \_\_\_\_\_.

40E-7.651 Reciprocal ~~Application Certification.~~

(1) Reciprocal ~~application certification~~ shall be granted to applicant businesses which have been certified by other jurisdictions and meet the District certification standards. ~~An applicant business shall provide an affidavit attesting that the applicant business has sought to do business within the District’s relevant market area prior to the time a bid or proposal is submitted.~~

(2) An applicant business is not eligible for reciprocal ~~application certification~~ if the business exceeds a net worth of \$5 million. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

(3) Eligibility for reciprocal ~~application certification~~ shall be contingent upon ~~(1)~~ an agreement between the District and another certifying jurisdiction within the state of Florida ~~and~~ ~~(2) any additional requirements, pursuant to this Rule.~~ The applicant businesses seeking reciprocal ~~application certification~~ must submit to the District a copy of the current certification from the certifying jurisdiction and a copy of the completed application submitted to the certifying jurisdiction along with a ~~statement affidavits~~ of continued eligibility.

Specific Authority ~~373.113 373.607~~ FS. Law Implemented 373.607 FS. History–New 9-25-96, Amended \_\_\_\_\_.

40E-7.653 Certification Eligibility.

(1) The District shall have the authority to accept, review, approve, and ~~or~~ deny applications for MBE certification. The District shall also have the authority to decertify, suspend and/or debar firms pursuant to Rule 40E-7.664, F.A.C.

(2) Applicant businesses shall submit applications for MBE certification using Form No. 0964, “~~MBE Application for Certification Application.~~” effective date \_\_\_\_\_, which is hereby incorporated by reference and which can be obtained from the District upon request. Mailing addresses must include the number, name of the street, suite number, if any, and correct zip code. A post office box will not be acceptable absent a street address. An applicant business shall provide in the MBE Certification Application ~~an affidavit attesting~~ that the applicant business has sought to do business within the District’s relevant market area prior to the time a ~~bid or~~ proposal is submitted.

(4) If ~~present ownership applicant business~~ was obtained by transfer, the minority person on whom eligibility is based must own 51% of the applicant firm for a minimum of two (2) years when any previous majority ownership interest in the firm was by a non-minority who is or was a relative, former employer, or current employer of the minority person on whom eligibility is based. This requirement shall not apply to minority persons who are otherwise eligible who take a 51% or greater interest in a firm that requires professional licensure to operate and who will be the qualifying license holder licensure for the firm when certified. A transfer made within a related immediate family group from a non-minority person to a minority person in order to establish ownership by a minority person shall be deemed to have been made solely for purposes of satisfying certification criteria and shall render such ownership invalid for purposes of qualifying for such certification if the combined total net asset value of all members of such family group exceeds \$1 million. For purposes of this subparagraph, the term “related immediate family group” means one or more children under 16 years of age and a parent of such children or the spouse of such parent residing in the same house or living unit.

3. In any other form of organization, the minority owners must own at least 51% of the business interest of the organization, including, but not limited to, 51% of the ownership of assets, dividends, and intangible assets such as copyrights and patents.

(c) The minority owners must demonstrate that they share in all the risks assumed by the business firm. Such sharing of business risks shall be demonstrated through the minority owners’ primary role in decision-making, and negotiation and execution of related transaction documents either as individuals or as officers of the business. The minority owners’

sharing in business risks shall be commensurate with their percentage of ownership, including start-up costs and contributions, acquisition of additional ownership interests, third-party agreements, and bonding applications. Start-up contributions may be space, cash, equipment, real estate, inventory or services estimated at fair market value. All contributions of capital by the minority owners must be real and substantial. The following are ~~presumed not to be~~ real and substantial capital contributions:

4. Past services rendered by the minority person as an employee, rather than as a decision-maker.

(d) The business firm cannot at any time enter into any agreement, option, or scheme, or create any rights of conversion, which, when exercised, would result in less than 51% minority ownership or in the loss of the minority owners' control of the business firm.

(5) An applicant must establish that the minority owner seeking certification be the license holder, ~~qualifying agent,~~ and/or the professional license holder and possess the authority to control and exercise dominant control over the management and daily operations of the business.

(6) To establish that it is a small minority business concern, the applicant shall:

(a) Demonstrate that it is an independently owned and operated business concern. In assessing business independence, the District shall consider all relevant factors, including the date the firm was established, the adequacy of its resources, and the degree to which financial, managerial and/or operational relationships exist with other persons and/or business concerns. For purposes of this rule, the District's consideration of such financial relationships, managerial and/or operational relationships shall not be affected by arrangements made out of necessity or due to the business' inability to secure traditional capitalization through banks, lending institutions or others.

(b) Demonstrate that it is not an affiliate of a non-minority business nor share (on an individual or combined basis) common ownership, directors, management, employees, facilities, inventory, financial resources and expenses, equipment or business operations with a non-minority person and/or business concern which is in the same or an associated field of operation.

(c) To establish that it is a small business concern, the applicant shall demonstrate that the net worth of the business concern, together with its affiliates, does not exceed five (5) million dollars ~~and an average net worth after federal income taxes, excluding any carryover losses, for the proceeding two years of not more than two (2) million dollars.~~ In determining the net worth of the business and its affiliates, the District shall consider the most recent federal tax returns or annual financial statements for the business and business owner. As applicable to sole proprietorships, the 5 million dollar net worth requirement shall include both personal and business

investments. ~~If no annual financial statement is available, the applicant shall submit a financial statement for any quarter during the previous six (6) months. In determining the business' income, the District shall consider the two most recent financial statements for the business and/or the most recent federal income tax returns.~~

(d) To establish that it is a small business concern, the applicant shall provide documentation to demonstrate that it employs two-hundred (200) or fewer permanent, full-time employees. ~~The number of permanent, full time employees shall be determined by adding the number of employees the applicant acknowledges to be permanent, full time employees to the number of permanent positions the applicant needs in order to carry out its business is based upon the quantity of work performed and the annual gross receipts of the business concern.~~ In determining whether the applicant meets the criteria for a small business, the District shall consider such documentation as:

(8) The applicant business must provide evidence of the minority status of owners who are claiming to be minority persons, as follows:

(a) Demonstrate that the applicant business owners' ethnicity qualifies them as an eligible person pursuant to Rule 40E-7.621(12)(8), F.A.C. In determining the ethnicity of a person, the District shall consider any of the following:

(b) Demonstrate that the applicant business owners' gender qualifies them as an eligible person pursuant to Rule 40E-7.621(12)(19), F.A.C. In determining the gender of a person, the District shall consider any of the following:

(c) Demonstrate that the applicant business owners' origin qualifies them as an eligible person pursuant to Rule 40E-7.621(15)(8), F.A.C. When determining a person's origins, the District shall accept any of the following documentation in order to clearly establish a direct line of descent:

5. An affidavit, except that of an official of the federal government, a state government or a municipality.

Specific Authority 373.113 373.607 FS. Law Implemented 373.607 FS. History—New 9-25-96, Amended 6-16-98, \_\_\_\_\_.

#### 40E-7.654 Grandfather Clause.

MBE firms that are certified on the effective date of the rule amendment shall remain certified until the firms' certification expires.

Specific Authority 373.113 FS. Law Implemented 373.607 FS. History—New \_\_\_\_\_.

#### 40E-7.655 Certification Review Procedures.

(4) Applicants determined eligible shall receive a certification letter stating the length of time for which the business has been certified, the specialty areas of the business, the minority status categories in which the business is certified, and the business' responsibilities set out in Section 287.0943(1) and & (2), F.S. Once certified, an applicant shall

remain certified for a period of three (3) years ~~one (1) year~~ unless the applicant fails to follow this rule and is sanctioned pursuant to Rule 40E-7.645, F.A.C. ~~otherwise revoked for cause~~ The District retains the right to reevaluate the certification of any business at any time.

Specific Authority 373.113 373.607 FS. Law Implemented 373.607 FS. History—New 9-25-96, Amended \_\_\_\_\_.

40E-7.659 Graduation from MBE Program.

~~(1) Participation in the District's Program will be dependent upon the MBE's need for the affirmative procurement initiatives extended to MBE's under this Part. The MBE shall be graduated and shall not be eligible for continued participation in the affirmative procurement initiatives contained in the rules under this Part as a prime contractor if the business exceeds a net worth of \$3 million, and an average net income after federal income taxes, excluding any carryover losses, for the preceding 2 years of \$2 million. As applicable to sole proprietorships, the \$3 million net worth requirement shall include both personal and business investments.~~

~~(2) A MBE which is considered graduated under this section shall be counted towards prime contractor's goal attainment when utilized as a subcontractor or joint venture partner.~~

Specific Authority 373.113 373.607 FS. Law Implemented 373.607 FS. History—New 9-25-96, Repealed \_\_\_\_\_.

40E-7.661 Recertification Review Procedures.

(1) Applications for recertification shall be submitted using form No. 0958, "Application for Recertification", effective date \_\_\_\_\_, which is hereby incorporated by reference and available from the District upon request.

(2) The District will notify MBE's no later than sixty (60) days before the end of the certification period. If the minority owner is unable to use the recertification affidavit because changes in the applicant's business have occurred, the minority owner shall notify the District in writing. Recertification requests must be filed in the District no later than the last effective date of the current certification period. Recertification requests received by the District after the expiration of the certification period shall be given a ten (10) day grace period. ~~Recertification requests received by the District after the ten (10) day grace period will not be processed for a period of 90 days.~~

(6) Applicants deemed eligible shall receive a recertification letter stating the length of time for which the business has been certified, the specialty areas of the business, and the minority status categories in which the business is certified. Once recertified, an applicant shall remain certified for a period of three (3) years ~~one (1) year~~ unless the District determines that the applicant failed to comply with this rule. If an applicant fails to comply with this rule, the District may

apply any of the sanctions referenced in 40E-7.645, F.A.C. otherwise revoked for cause. The District retains the right to reevaluate the certification of any business at any time.

Specific Authority 373.113 373.607 FS. Law Implemented 373.607 FS. History—New 9-25-96, Amended \_\_\_\_\_.

40E-7.664 Suspension, Debarment, Revocation or Decertification.

(2) Facts or conduct that could warrant suspension, decertification, or debarment include ~~but are not limited to:~~

~~(a) Failure to meet qualifying criteria.~~

~~(a)(b) Fraud, deceit, or misrepresentation for the purpose of obtaining MBE status.~~

~~(b)(c) Refusal to permit on-site inspections.~~

~~(c)(d) Failure to report changes regarding the business entity or its in the status or activities of the business entity or its minority ownership which affects the MBE's eligibility for certification.~~

(3) The written notice issued by the District shall contain:

(c) A statement that the firm has the right to file a request for an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, and Chapter 28-106.111, F.A.C., within 21 ~~14~~ days of receipt of the notice.

(d) A statement that the suspension, debarment, revocation or decertification shall become conclusive and final agency action if no request for a hearing is filed within the time frames prescribed in Chapter 120, Florida Statutes, and Chapter 28-106, Florida Administrative Code ~~14 days of receipt of the notice.~~

(4) All requests for a hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, shall be made in the form of a Petition in accordance with Chapter 28-106, Florida Administrative Code.

~~(5) If the firm fails to file a request for a hearing within the time frames prescribed in Chapter 120, Florida Statutes, and Chapter 28-106, Florida Administrative Code, 15 days after receipt of the notice, the suspension, debarment, revocation or decertification shall become conclusive and final agency action.~~

Specific Authority 373.113, 120.569 120.53, 373.607 FS. Law Implemented 120.569, 120.57 120.53, 373.607 FS. History—New 9-25-96, Amended \_\_\_\_\_.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Hotels and Restaurants**

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
61C-4	Public Food Service Establishments
RULE NO.:	RULE TITLE:
61C-4.023	Food Protection Manager Certification and Public Food Service Employee Training

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule referenced above in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 27, No. 33, August 17, 2001, issue of the Florida Administrative Weekly. The changes are in response to comments made at a public rule hearing held on September 10, 2001, written comments received from the public, and written comments made by the Joint Administrative Procedures Committee.

61C-4.023 Food Protection Manager Certification and Public Food Service Employee Training.

(4) Public Food Service Employee Training.

(a) All public food service employees must receive training on professional hygiene and foodborne disease prevention through a food safety training program administered by the division's contracted training provider or another food safety training program approved by the division. Any food safety training program established and administered to food handler employees utilized at a public food service establishment prior to July 1, 2000 may provide food handler employee training and certification if the program is reviewed and approved by the division. For purposes of division approval, the program provider shall submit its training program to the division for review by providing a completed application using, which is DBPR Form HR 5026-011, entitled Food Safety Training Certification Program Application, incorporated herein by reference and effective 10-01-01 ~~11-08-00~~, a copy of which is available by writing the Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1012, identifying the training components covered by the program in the application, as well as an executed copy of the division's applicant affidavit attesting to the accuracy of the application. The division will approve programs that the division determines to be in substantial compliance with the division's adopted minimum food safety standards and related rules. A provider's approval is subject to the program provider's continued compliance with the division's minimum food safety standards and related rules. The division may conduct random audits of approved programs to determine compliance and may audit any program if it has reason to believe a program is not in compliance with the division's minimum food safety standards. The division may revoke its approval of any program which, upon examination, fails to substantially comply with the minimum food safety standards and related rules established by the division, as amended from time to time.

(b) Approved program providers must maintain training information for a period of at least three years from the date training is provided. This information must include the name of the trained food service employee, the name of establishments where training has been provided, the date of training, and the specific course which was used for the training. The division may revoke its approval of any program

~~where which~~, upon examination, the program provider is found to have failed to keep this required information or to have knowingly participated in falsifying any training record. THE REMAINDER OF THE RULE WILL READ AS PUBLISHED.

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: 64B16-27.500  
 RULE TITLE: Negative Drug Formulary  
 AMENDED NOTICE OF PUBLIC HEARING

The Board of Pharmacy hereby gives notice of a public hearing to be held on the above-referenced rule on October 9, 2001, 2:00 p.m., at The Radisson Hotel, 415 North Monroe Street, Tallahassee, Florida. This notice replaces the earlier notice which scheduled the hearing for September 14, 2001. The public hearing is being held in response to two requests received from DuPont Pharmaceutical Company and Florida Chapter of American College of Cardiology. The rule was originally published in Vol. 27, No. 30, of the July 27, 2001, Florida Administrative Weekly.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact the Board's Executive Director at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Board office using the Florida Dual Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

Section IV  
 Emergency Rules

DEPARTMENT OF THE LOTTERY

RULE TITLE: Instant Game Number 397, CRAZY 7s  
 RULE NO.: 53ER01-61  
 SUMMARY OF THE RULE: This emergency rule relates to the Instant Game Number 397, "CRAZY 7s" for which the Department of the Lottery will start selling tickets on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game, determination of prizewinners and the number and size of prizes in the game.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, Capitol Complex, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER01-61 Instant Game Number 397, CRAZY 7s.

(1) Name of Game. Instant Game Number 397, "CRAZY 7s."

(2) Price. CRAZY 7s tickets sell for \$2.00 per ticket.

(3) CRAZY 7s lottery tickets shall have a series of numbers in Machine Readable Code (or bar code) on the back of the ticket, along with a Void If Removed Number (VIRN) under the latex area on the ticket. To be a valid winning CRAZY 7s lottery ticket, a combination of essential elements sufficient to validate the ticket must be present as set forth in Rule 53ER92-63(1)(a), Florida Administrative Code. In the event a dispute arises as to the validity of any CRAZY 7s lottery ticket, or as to the prize amount, the VIRN number under the latex shall prevail over the bar code.

(4) Design of Ticket. There are 3 different games in Instant Game Number 397, CRAZY 7s.

(5) The "YOUR NUMBER" play symbols and play symbol captions in Game 1 are as follows:

INSERT SYMBOLS

(6) The "LUCKY NUMBER" play symbols and play symbol captions in Game 1 are as follows:

INSERT SYMBOLS

(7) The prize symbols and prize symbol captions in Game 1 are as follows:

INSERT SYMBOLS

(8) The legends in Game 1 are as follows:

INSERT SYMBOLS

(9) The play and prize symbols and play and prize symbol captions in Game 2 are as follows:

INSERT SYMBOLS

(10) The play symbols and play symbol captions in Game 3 are as follows:

INSERT SYMBOLS

(11) The "PRIZE" symbols and prize symbol captions in Game 3 are as follows:

INSERT SYMBOLS

(12) Determination of Prize Winners. Each of the three games in Instant Game Number 397, CRAZY 7s, uses a different play methodology. The determination of prizewinners for each game is as follows:

(a) Game 1.

1. In Game 1, a ticket having a number in the "YOUR NUMBER" play area that matches the number in the "LUCKY NUMBER" play area shall entitle the claimant to the corresponding prize shown for that number. The prizes are: TICKET, \$2.00, \$3.00, \$5.00, \$7.00, \$10.00, \$20.00, \$70.00, and \$7,000.

2. In Game 1, a claimant who is entitled to a prize of a "TICKET" shall be entitled to a prize of a \$2.00 instant ticket or any combination of instant and on-line tickets that totals \$2.00, except as provided in paragraph (12)(d), below.

(b) Game 2.

1. In Game 2, a ticket having three like amounts or two like amounts and a "7" symbol in the play area shall entitle the claimant to a prize of that amount. The prize amounts are: \$2.00, \$3.00, \$4.00, \$5.00, \$20.00, \$50.00, \$700, and \$7,000.

2. In Game 2, a ticket having three "TICKET" symbols or two "TICKET" symbols and a "7" in the play area shall entitle the claimant to a prize of a \$2.00 instant ticket or any combination of instant and on-line tickets that totals \$2.00, except as provided in paragraph (12)(d), below.

(c) Game 3.

1. In Game 3, a ticket having three "7" symbols in the play area in any one row, column or diagonal shall entitle the claimant to the prize shown in the "PRIZE" spot. The prizes are: TICKET, \$2.00, \$3.00, \$5.00, \$7.00, \$40.00, \$1,000, \$7,000 and \$21,000.

2. In Game 3, a claimant who is entitled to a prize of a "TICKET" shall be entitled to a prize of a \$2.00 instant ticket or any combination of instant and on-line tickets that totals \$2.00, except as provided in paragraph (12)(d), below.

(d) A person who submits by mail a CRAZY 7s lottery ticket which entitles the holder to a prize of a \$2.00 ticket and whose mailing address is outside the state of Florida will receive a check for \$2.00 in lieu of an actual ticket.

(13) Number and Size of Prizes: The value, number of prizes, and odds of winning in Instant Game Number 397 are as follows:

GAME PLAY TICKET (GAMES 1, 2, or 3)	WIN \$2 TICKET	NUMBER OF WINNERS IN 56 POOLS OF 180,000 TICKETS PER POOL	ODDS
G1-\$2	\$2	1,344,000	1 in 7.50
G2-\$2 + G3-\$2	\$4	537,600	1 in 18.75
G2-\$4	\$4	268,800	1 in 37.50
G1-\$2 + G3-\$3	\$5	268,800	1 in 37.50
G1-\$2 + G2-\$2 + G3-\$3	\$7	201,600	1 in 50.00
G1-\$3 + G2-\$4	\$7	134,400	1 in 75.00
G1-\$2 + \$2 + G2-\$3	\$7	67,200	1 in 150.00
G1-\$2 + G2-\$3 + G3-\$5	\$10	67,200	1 in 150.00
G2-\$5 + G3-\$5	\$10	67,200	1 in 150.00
G1-\$5 + G2-\$2 + G3-\$7	\$14	67,200	1 in 150.00
G1-\$7 + G3-\$7	\$14	67,200	1 in 150.00
G1-\$20 + G2-\$50	\$70	4,200	1 in 2,400.00
G1-\$10 + G2-\$20 + G3-\$40	\$70	4,144	1 in 2,432.43
G1-\$70	\$70	1,400	1 in 7,200.00
G2-\$700	\$700	25	1 in 403,200.00
G3-\$1,000	\$1,000	10	1 in 1,008,000.00
G1-\$7,000 + G2-\$7,000 + G3-\$7,000	\$21,000	2	1 in 5,040,000.00
G3-\$21,000	\$21,000	2	1 in 5,040,000.00

(14) The overall odds of winning any prize in Instant Game Number 397 are 1 in 3.18.

(15) For reorders of Instant Game Number 397, the value, number of prizes, and odds of winning shall be proportionate to the number of tickets reordered.

(16) By purchasing a CRAZY 7s lottery ticket the player agrees to comply with and abide by all rules and regulations of the Florida Lottery.

(17) Payment of prizes for CRAZY 7s lottery tickets shall be made in accordance with rules of the Florida Lottery governing procedures for awarding prizes. A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, Capitol Complex, Tallahassee, Florida 32399-4011.

Specific Authority 24.105(10)(a),(b),(c), 24.109(1), 24.115(1) FS. Law Implemented 24.105(10)(a),(b),(c), 24.115(1) FS. History—New 9-14-01.

THIS EMERGENCY RULE TAKES EFFECT IMMEDIATELY UPON BEING FILED WITH THE DEPARTMENT OF STATE.

EFFECTIVE DATE: September 14, 2001

**DEPARTMENT OF THE LOTTERY**

RULE TITLE: Instant Game Number 415, MONOPOLY®      RULE NO.: 53ER01-62

SUMMARY OF THE RULE: Instant Game Number 415, “MONOPOLY®,” will be sold by Florida Lottery retailers on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game, procedures to be followed on how to play the game, and the number and size of prizes in the game.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, Capitol Complex, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER01-62 Instant Game Number 415, MONOPOLY®.

(1) Name of Game. Instant Game Number 415, “MONOPOLY®.”

(2) Price. MONOPOLY® tickets sell for \$1.00 per ticket.

(3) MONOPOLY® lottery tickets shall have a series of numbers in Machine Readable Code (or bar code) on the back of the ticket, along with a Void If Removed Number (VIRN) under the latex area on the ticket. To be a valid winning MONOPOLY® lottery ticket, a combination of essential elements sufficient to validate the ticket must be present as set forth in Rule 53ER92-63(1)(a), Florida Administrative Code. In the event a dispute arises as to the validity of any MONOPOLY® lottery ticket, or as to the prize amount, the VIRN number under the latex shall prevail over the bar code.

(4) The “YOUR HOUSE NUMBERS” play symbols and play symbol captions are as follows:

INSERT SYMBOLS

(5) The “HOTEL NUMBERS” play symbols and play symbol captions are as follows:

INSERT SYMBOLS

(6) The prize symbols and prize symbol captions are as follows:

INSERT SYMBOLS

(7) The legends are as follows:

INSERT SYMBOLS

(8) Determination of Prize Winners.

(a) A ticket having a number in the “YOUR HOUSE NUMBERS” play area that matches either number in the “HOTEL NUMBERS” play area shall entitle the claimant to the corresponding prize shown for that number. The prizes are: TICKET, \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$25.00, \$50.00, \$100, \$1,000, and \$5,000. A claimant who is entitled to a prize of a “TICKET” shall be entitled to a prize of a \$1.00 instant ticket or any combination of instant and on-line tickets that totals \$1.00, except as follows. A person who submits by mail a MONOPOLY® lottery ticket which entitles the claimant to a prize of a \$1.00 ticket and whose mailing address is outside the state of Florida will receive a check for \$1.00 in lieu of an actual ticket.

(b) A ticket having a “car” symbol in the “YOUR HOUSE NUMBERS” play area shall entitle the claimant to a prize of \$50.

(9) Number and Size of Prizes. The value, number of prizes, and odds of winning in Instant Game Number 415 are as follows:

<u>GAME PLAY</u>	<u>WIN</u>	<u>NUMBER OF WINNERS IN 84 POOLS OF 180,000 TICKETS</u>	<u>PER POOL</u>	<u>ODDS</u>
<u>TICKET</u>	<u>\$1 TICKET</u>		<u>1,814,400</u>	<u>1 in 8.33</u>
<u>\$1</u>	<u>\$1</u>		<u>655,200</u>	<u>1 in 23.08</u>
<u>\$2</u>	<u>\$2</u>		<u>806,400</u>	<u>1 in 18.75</u>
<u>\$4</u>	<u>\$4</u>		<u>201,600</u>	<u>1 in 75.00</u>
<u>\$1 + (\$2 x 2)</u>	<u>\$5</u>		<u>252,200</u>	<u>1 in 60.00</u>
<u>\$5</u>	<u>\$5</u>		<u>252,000</u>	<u>1 in 60.00</u>
<u>\$1 + (\$2 x 2) + \$5</u>	<u>\$10</u>		<u>50,400</u>	<u>1 in 300.00</u>
<u>\$5 + \$5</u>	<u>\$10</u>		<u>50,400</u>	<u>1 in 300.00</u>
<u>\$10</u>	<u>\$10</u>		<u>50,400</u>	<u>1 in 300.00</u>
<u>\$25</u>	<u>\$25</u>		<u>252</u>	<u>1 in 60,000.00</u>
<u>\$5 + \$5 + \$5 + \$5 + \$5</u>	<u>\$25</u>		<u>252</u>	<u>1 in 60,000.00</u>
<u>\$10 + \$10 + \$10 +</u>				
<u>\$10 + \$10</u>	<u>\$50</u>		<u>84</u>	<u>1 in 180,000.00</u>
<u>\$25 + \$25</u>	<u>\$50</u>		<u>84</u>	<u>1 in 180,000.00</u>
<u>Car Symbol</u>	<u>\$50</u>		<u>50</u>	<u>1 in 30,000.00</u>
<u>\$25 + \$25 + \$25 + \$25</u>	<u>\$100</u>		<u>25</u>	<u>1 in 604,800.00</u>
<u>\$25 + \$25 + \$50</u>	<u>\$100</u>		<u>25</u>	<u>1 in 604,800.00</u>
<u>\$100</u>	<u>\$100</u>		<u>25</u>	<u>1 in 604,800.00</u>
<u>\$1,000</u>	<u>\$1,000</u>		<u>5</u>	<u>1 in 3,024,000.00</u>
<u>\$5,000</u>	<u>\$5,000</u>		<u>4</u>	<u>1 in 3,780,000.00</u>

(10) The overall odds of winning any prize in Instant Game Number 415 are 1 in 3.66.

(11) For reorders of Instant Game Number 415, the expected value, number of prizes, and odds of winning shall be proportionate to the number of tickets reordered.

(12) By purchasing a MONOPOLY® lottery ticket the player agrees to comply with and abide by all rules and regulations of the Florida Lottery.

(13) Payment of prizes for MONOPOLY® lottery tickets shall be made in accordance with rules of the Florida Lottery governing procedures for awarding prizes. A copy of the

current rule can be obtained from the Florida Lottery, Office of the General Counsel, Capitol Complex, Tallahassee, Florida 32399-4011.

Specific Authority 24.105(10)(a),(b),(c), 24.109(1), 24.115(1) FS. Law Implemented 24.105(10)(a),(b),(c), 24.115(1) FS. History—New 9-14-01.

THIS EMERGENCY RULE TAKES EFFECT IMMEDIATELY UPON BEING FILED WITH THE DEPARTMENT OF STATE.

EFFECTIVE DATE: September 14, 2001

## Section V Petitions and Dispositions Regarding Rule Variance or Waiver

### DEPARTMENT OF LAW ENFORCEMENT

NOTICE IS HEREBY GIVEN that the Officer Professionalism Program, Florida Department of Law Enforcement has received from Joseph Hajaistrion on August 22, 2001, a petition for Waiver of Rule 11B-27.002(3), F.A.C., pursuant to Section 120.542, F.S. Petitioner has requested that the Department waive the requirement that an officer be employed within four years of completing a Basic Recruit Training Program. In the alternative to the requirement of the rule, the Petitioner requests to be allowed to take the 120-hour re-certification course.

Comments on this Petition should be filed with: Office of General Counsel, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, Florida 32302, Attention: Assistant General Counsel, Grace A. Jaye.

A copy of the Petition may be obtained by contacting Assistant General Counsel, Grace A. Jaye, at the above address or by calling (850)410-7676.

### WATER MANAGEMENT DISTRICTS

The St. Johns River Water Management District announces its intent to issue a variance from the provisions of Rule 40C-4.302(1)(c), F.A.C., and the associated portion of the Applicant’s Handbook: Management and Storage of Surface Waters, including Section 12.2.5, (F.O.R. 2001-53) to Cape Canaveral Hospital, c/o Wayne E. Flowers, Esq., to construct certain facilities related to expansion of the Cape Canaveral Hospital in Brevard County, Florida. Some of the planned construction is proposed to occur directly in the Banana River, which is categorized as Class III waters that are classified by the Department of Agricultural Consumer Services as conditionally restricted for shellfish harvesting. This variance is sought in conjunction with St. Johns River Water Management District Permit application number 4-009-56337-1 to authorize construction of a surface water management system related to expansion of the Cape

Canaveral Hospital. Notice of the petition for variance was published in the Florida Administrative Weekly on August 17, 2001.

A person whose substantial interests are or may be determined by the District's proposed decision has the right to request an administrative hearing by filing a written petition with the St. Johns River Water Management District (District), or may choose to pursue mediation as an alternative remedy under Sections 120.569 and 120.573, Florida Statutes, before the deadline for filing a petition. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for pursuing mediation are set forth in Sections 120.569 and 120.57, Florida Statutes, and Rules 28-106.111 and 28-106.401-405, Florida Administrative Code. Pursuant to Chapter 28-106 and Rule 40C-1.1007, Florida Administrative Code, the petition must be filed at the office of the District Clerk at District Headquarters, P. O. Box 1429, Palatka, Florida 32178-1429 (4049 Reid St., Palatka, FL 32177) within twenty-six (26) days of the District depositing notice of District decision in the mail (for those persons to whom the District mails actual notice) or within twenty-one (21) days of newspaper publication of the notice of District decision (for those persons to whom the District does not mail actual notice). A petition for an administrative hearing is deemed filed upon delivery of the petition to the District Clerk at the District Headquarters in Palatka, Florida. A petition must comply with Chapter 28-106, Florida Administrative Code. The right to an administrative hearing and the relevant procedures to be followed are governed by Chapter 120, Florida Statutes, and Chapter 28-106, Florida Administrative Code, and Section 40C-1.1007, Florida Administrative Code.

If the Governing Board takes action which substantially differs from the notice of District decision, a person whose substantial interests are or may be determined has the right to request an administrative hearing or may choose to pursue mediation as an alternative remedy as described above. Pursuant to District Rule 40C-1.1007, Florida Administrative Code, the petition must be filed at the office of the District Clerk at the address described above, within twenty-six (26) days of the District depositing notice of final District decision in the mail (for those persons to whom the District mails actual notice) or within twenty-one (21) days of newspaper publication of the notice of its final agency action (for those persons to whom the District does not mail actual notice). Such a petition must comply with Chapter 28-106, Florida Administrative Code.

Pursuant to Section 120.68, Florida Statutes, a person who is adversely affected by final District action may seek review of the action in the District Court of Appeal by filing a notice of appeal pursuant to the Florida Rules of Appellate Procedure within 30 days of the rendering of the final District action. For

appeals to the District Courts of Appeal, a District action is considered rendered after it is signed on behalf of the District, and is filed by the District Clerk.

A party to the proceeding before the District who claims that a District order is inconsistent with the provisions and purposes of Chapter 373, Florida Statutes, may seek review of the order pursuant to Section 373.114, Florida Statutes, by the Florida Land and Water Adjudicatory Commission, by filing a request for review with the Commission and serving a copy on the Department of Environmental Protection and any person named in the order within 20 days of the rendering of the District order.

Failure to observe the relevant time frames for filing a petition, a request for Commission review, or a notice of appeal as described above, will result in waiver of the accompanying right to an administrative hearing, Commission review, or judicial review, respectively.

The Petition for Variance and permit application files are available for public inspection during normal business hours, 8:00 a.m. through 5:00 p.m., Monday through Friday, except legal holidays at St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177. Request for copies or inspection of these files should be made to Mary Ellen Jones, Assistant General Counsel, Office of General Counsel, St. Johns River Water Management District, P. O. Box 1429, Palatka, Florida 32178-1429, or telephone (386)312-2340.

---

NOTICE IS HEREBY GIVEN that on September 4, 2001, the South Florida Water Management District (SFWMD) received a petition for waiver from Ulysses Garcia and W. Nancy Robles, for utilization of works or land of the SFWMD known as the C-4, Miami-Dade County. The petition seeks relief from the Rules 40E-6.011(4),(5),(6) and 40E-6.221(2)(j), Fla. Admin. Code, and the Basis of Review for Use or Occupancy of the Works or Lands of the District Permit Applications within the South Florida Water Management District, incorporated by reference in Rule 40E-6.091(1), Fla. Admin. Code, which govern the placement of above-ground permanent or semi-permanent encroachments within 40' of the top of the canal bank within works or lands of the District.

A copy of the petition may be obtained from Jan Sluth, (561)682-6299 or e-mail at [jsluth@sfwmd.gov](mailto:jsluth@sfwmd.gov). The SFWMD will accept comments concerning the petition for 14 days from the date of publication of this notice. To be considered, comments must be received by the end of business on the 14th day at the South Florida Water Management District, 3301 Gun Club Road, MSC 1410, West Palm Beach, FL 33406, Attn: Jan Sluth, Office of Counsel.

---

NOTICE IS HEREBY GIVEN that on September 6, 2001, the South Florida Water Management District (SFWMD) received a petition for waiver from Frank and Karen Scala, for utilization of works or land of the SFWMD known as the C-51,



Palm Beach County. The petition seeks relief from Rule 40E-6.221(2)(j), Fla. Admin. Code, and the Basis of Review for Use or Occupancy of the Works or Lands of the District Permit Applications within the South Florida Water Management District, incorporated by reference in Rule 40E-6.091(1), Fla. Admin. Code, which establishes a minimum low member elevation requirement for docking facilities located within works or lands of the District.

A copy of the petition may be obtained from Jan Sluth, (561)682-6299 or e-mail at [jsluth@sfwmd.gov](mailto:jsluth@sfwmd.gov). The SFWMD will accept comments concerning the petition for 14 days from the date of publication of this notice. To be considered, comments must be received by the end of business on the 14th day at the South Florida Water Management District, 3301 Gun Club Road, MSC 1410, West Palm Beach, FL 33406, Attn: Jan Sluth, Office of Counsel.

NOTICE IS HEREBY GIVEN that on September 10, 2001, the South Florida Water Management District (SFWMD) received a petition for waiver from Jeff Viselli, for utilization of works or land of the SFWMD known as the C-51, Palm Beach County. The petition seeks relief from the Rules 40E-6.011(4),(5),(6), and 40E-6.221(2)(j), Fla. Admin. Code, and the Basis of Review for Use or Occupancy of the Works or Lands of the District Permit Applications within the South Florida Water Management District, incorporated by reference in Rule 40E-6.091(1), Fla. Admin. Code, which govern the placement of above-ground permanent or semi-permanent encroachments within 40' of the top of the canal bank within works or lands of the District.

A copy of the petition may be obtained from Jan Sluth, (561)682-6299 or e-mail at [jsluth@sfwmd.gov](mailto:jsluth@sfwmd.gov). The SFWMD will accept comments concerning the petition for 14 days from the date of publication of this notice. To be considered, comments must be received by the end of business on the 14th day at the South Florida Water Management District, 3301 Gun Club Road, MSC 1410, West Palm Beach, FL 33406, Attn: Jan Sluth, Office of Counsel.

#### **DEPARTMENT OF ENVIRONMENTAL PROTECTION**

On June 7, 2001, the Department received a request, pursuant to Section 120.542, F.S. (2000), from Martin Gas Sales, Inc., seeking a temporary waiver from the requirement for the installation of impervious secondary containment under Rules 62-761.510(3)(d) and 62-761.500(1)(e)2., F.A.C., for tank number 5 at the Tampa Marine Terminal in Tampa, FL. The petition was assigned OGC Case #01-0959.

A Notice of Receipt of Petition for Variance/Waiver was published in the June 22, 2001, F.A.W. On September 7, 2001, the request was approved. No comments from the public were received.

Copies may be obtained from: Department of Environmental Protection, Bureau of Petroleum Storage Systems, Mail Station 4525, 2600 Blair Stone Rd., Tallahassee, Florida 32399-2400, Attn: John Svec.

#### **DEPARTMENT OF HEALTH**

The Board of Psychology hereby gives notice that it has received a petition, filed on September 6, 2001, by Nadine Chapman, Ph.D., seeking a variance of Rule 64B19-11.005(3)(d), F.A.C., which requires two (2) hours of clinical supervision each week, one (1) hour of which was individual, face-to-face supervision. Written comments on this petition should be filed with Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, FL 32399-3255, within 14 days of publication of this notice.

For a copy of the petition, contact: Kay Howerton, Board of Psychology, Department of Health, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255.

#### **FLORIDA HOUSING FINANCE CORPORATION**

NOTICE IS HEREBY GIVEN that on September 14, 2001, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Variance from or Waiver of Rule 67-47.100(2), F.A.C. ("Petition") from Florida Low Income Housing Associates, Inc. (2000HH-011) Marion County Scattered Sites, II. The Petition seeks relief from the requirement which provides that no additions, deletions, or changes will be accepted for consideration with regard to the application being submitted.

A copy of the Petition can be obtained from: Sheila A. Freaney, Public Records Clerk, Florida Housing Finance Corporation, Suite 5000, 227 North Bronough Street, Tallahassee, Florida 32399-1329.

Florida Housing will accept comments concerning the Petition for 14 days from the date of publication of this notice. To be considered, comments must be received on or before 5:00 p.m., Eastern Standard Time, on the 14th day after publication of this notice at Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32399-1329.

## **Section VI Notices of Meetings, Workshops and Public Hearings**

The following state governmental agencies, boards and commissions announce a public meeting to which all persons are invited:

State Board of Administration

Department of Veterans' Affairs

Department of Highway Safety and Motor Vehicles

Department of Law Enforcement

Department of Revenue  
Department of Education  
Administration Commission  
Florida Land and Water Adjudicatory Commission  
Board of Trustees of the Internal Improvement Trust Fund  
Department of Environmental Protection

DATE AND TIME: October 16, 2001, 9:00 a.m.

PLACE: Room 212, Knott Building, Tallahassee, Florida

PURPOSE: Regular scheduled meeting of the Governor and Cabinet

The State Board of Administration will take action on matters duly presented on its agenda, which may include such matters as Executive Director's reports; approval of fiscal sufficiency of state bond issues; approval of sale of local bonds at an interest rate in excess of statutory interest rate limitation; report on investment performance; designation of banks as depositories for state funds; adoption of rules and regulations; investment of state funds pursuant to Chapter 215, F.S.; and consideration of other matters within its authority pursuant to Chapters 215 and 344, F.S., and Section 16 of Article IX of the Florida Constitution of 1885, as continued by subsection 9(c) of Article XII of the Florida Constitution of 1968. The Division of Bond Finance of the State Board of Administration will take action on matters duly presented on its agenda, which will deal with the issuance of State bonds, arbitrage compliance and related matters.

The Department of Veterans' Affairs will take action on matters duly presented on its agenda which may include the administration of the Department as well as actions taken to further the Department's mission of providing assistance to veterans and their dependents, pursuant to Section 292.05, F.S.

The Information Resource Commission will take action on matters duly presented on its agenda, which may include administrative procedures matters, adoption of rules, approval of agency plans for the use of information technology resources, adoption of policies for the use of such resources, and other matters under the commission's authority pursuant to law.

The Department of Highway Safety and Motor Vehicles will take action on matters duly presented on its agenda, which may include such matters as approval of agency policies, taking agency action with regard to administrative procedure matters, and considering other matters within its authority pursuant to Florida Statutes.

The Department of Law Enforcement will take action on matters duly presented on its agenda which may include but not be limited to such matters as transfer of agency funds or positions, formulation of Departmental Rules, administrative procedure matters, submittal of reports as required, enter into contracts as authorized and to consider other matters within its authority pursuant to Chapters 20, 23, 120 and 943, F.S.

The Department of Revenue will act on matters duly presented on its agenda which may include approval of rules, legislative concept proposals, contracts over \$100,000, Departmental budgets, taking final action on formal and informal hearings under Chapter 120, F.S., and consideration of other matters within its authority.

The Department of Education will finalize agency action on the business of the Florida Department of Education.

The Administration Commission will take action on matters duly presented on its agenda which may include such matters as to create or transfer agency funds or positions, approve Career Service rules, administrative procedure matters, environmental matters arising under Chapter 380, F.S., comprehensive planning issues pursuant to Section 163.3184, F.S., determine sheriffs' budget matters, and consider other matters within its authority pursuant to Chapters 110, 215 and 216, F.S.

The Florida Land and Water Adjudicatory Commission will take action on matters duly presented on its agenda including appeals of local government development orders in areas of critical state concern or of developments of regional impact under Section 380.07, F.S.; and review of water management matters under Chapter 373, F.S. The Commission will also review Department of Environmental Protection's rules and orders which, prior to July 1, 1993, the Governor and Cabinet, sitting as the head of the Department of Natural Resources, had authority to issue or promulgate.

The Board of Trustees of the Internal Improvement Trust Fund will take action on matters duly presented on its agenda which may include such matters as mineral leases or sales, state or sovereign land leases, sales, exchanges, dedications, and easements, Conservation And Recreation Lands (CARL) and other land purchases; land planning matters and other matters within its authority. Additionally, the Board will take action on matters presented by the Marine Fisheries Commission as set forth in Sections 370.025, 370.026 and 370.027, F.S., and matters pertaining to the Office of Greenways Management, the Office responsible for the management of lands which formerly fell within the Cross Florida Barge Canal project corridor.

The Department of Environmental Protection, while not a Cabinet agency, will present for consideration on its agenda those matters required by law to be reviewed by the Governor and Cabinet and those pertaining to the siting of power plants, electric and natural gas transmission lines and hazardous waste facilities; coastal zone management consistency and standards adopted by the Environmental Regulation Commission.

A copy of any of the above agendas (when applicable) may be obtained by contacting each agency.

Accommodations can be made for persons with disabilities provided several days' notification is received. Please notify the Governor's Cabinet Office, (850)488-5152.

The Governor and Cabinet will proceed through each agenda, item by item, in the order given above.

**CABINET AIDES BRIEFING:** On the Wednesday of the week prior to the above meeting, there will be a meeting of the aides to the Governor and Cabinet Members at 9:00 a.m., 1801 Hermitage Boulevard, Hermitage Conference Room, First Floor, Hermitage Building, Tallahassee, Florida. The purpose of this briefing is to review and gather information regarding each agenda to be considered by the Governor and Cabinet.

**DEPARTMENT OF INSURANCE**

The **Department of Insurance, Division of State Fire Marshal** announces a conference call and public meeting to which all persons are invited.

**DATE AND TIME:** October 8, 2001, 9:00 a.m.  
**PLACE:** Woodcrest Office Park, Conference Room 313, 325 John Knox Road, Tallahassee, FL 32303, (850)921-5320  
**GENERAL SUBJECT MATTER TO BE CONSIDERED:** For review and discussion of three (3) continuing education courses submitted.

A copy of the agenda may be obtained by writing: Division of State Fire Marshal, Bureau of Fire Prevention, 200 East Gaines Street, Regulatory Licensing Section, Tallahassee, FL 32399-0342.

The **Department of Insurance, Division of State Fire Marshal** announces a public meeting to which all persons are invited.

**DATE AND TIME:** October 12, 2001, 12:00 Noon  
**PLACE:** Florida State Fire College, 11655 N. W. Gainesville Rd., Ocala, FL 34482  
**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Regular meeting of the Fire Fighters Standards and Training Advisory Council.

A copy of the agenda may be obtained by writing: Department of Insurance, Division of State Fire Marshal, 11655 N. W. Gainesville Road, Ocala, FL 34482-1486.

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

The **Endangered Plant Advisory Council** announces a public meeting to which all persons are invited:

**DATES AND TIMES:** Wednesday, October 10, 2001, 2:00 p.m. through Friday, October 12, 2001, 12:00 Noon  
**PLACE:** Archbold Biological Station, Old State Road 8, Lake Placid, Florida 33852  
**GENERAL SUBJECT MATTER TO BE CONSIDERED:** To consider the following agenda items:

1. Discuss "Council Business Rule".
2. Evaluate and Rank Grant Proposals for Fiscal Year 2002-2003.

3. Ranking Number Details for the following:
  - *Conradina brevifolia*
  - *Crotalaria avonensis*
  - *Polygonella myriophylla*
4. Determine Name for *Poinsettia/Euphorbia pinetorum*.
5. Recognition that *Trichostigma octandrum* is Extant.
6. Review Old Plant Listings on Regulated Plant Index.
7. New Plant Listings for Regulated Plant Index.

If you need a special accommodation in order to attend this meeting because of a disability, please let us know by October 8, 2001.

A copy of the agenda may be obtained by writing: Mr. Danny Phelps, Secretary, Endangered Plant Advisory Council, Division of Plant Industry, Post Office Box 147100, Gainesville, Florida 32614-7100, (352)372-3505.

The **Department of Agriculture and Consumer Services** announces a two-part meeting of the Animal Industry Technical Council. Meeting attendees will convene first at the Kissimmee Diagnostic Laboratory for a laboratory tour, then proceed to the Florida Cattlemen's Association Headquarters for the meeting session.

**PART I: LABORATORY TOUR**  
**DATE AND TIME:** October 5, 2001, 10:00 a.m. – 12:00 Noon  
**PLACE:** Kissimmee Diagnostic Laboratory, 2700 North John Young Parkway, Kissimmee, Florida 34741, (407)846-5200

**PART II: MEETING SESSION**  
**DATE AND TIME:** October 5, 2001, 1:00 p.m. – 4:00 p.m.  
**PLACE:** Florida Cattlemen's Association Headquarters, 800 Shakerag Road, Kissimmee, Florida 34744, (407)846-6221

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** To discuss animal health issues of concern to the agricultural industry both intrastate and interstate and to provide a forum for the Department to keep agricultural industry groups abreast of state and national activities as they relate to animal health issues in Florida, and activities of other states and USDA, affecting Florida's agriculture animal industries.

A copy of the agenda can be obtained by contacting: Dr. Leroy Coffman, Florida Department of Agriculture and Consumer Services, Room 335, Mayo Building, Tallahassee, FL 32399-0800, (850)410-0900.

If special accommodations are needed to attend this meeting because of a disability, please contact the above mentioned as soon as possible.

**DEPARTMENT OF EDUCATION**

The Interagency Advisory Committee for the **School Emergency Plans Project** announces a public meeting to which all persons are invited.

**DATE AND TIME:** Wednesday, October 10, 2001, 8:30 a.m. – 2:00 p.m.

PLACE: Florida Department of Education, Room 1706, Turlington Building, 325 West Gaines Street, Tallahassee, Florida 32399-0400

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Meeting of the Interagency Advisory Committee for the School Emergency Plans Project.

The Interagency Advisory Committee welcomes participation from any interested members of the public. Any person who desires a copy of the proceedings should arrange to tape the meeting.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is requested to advise Felicia Elliott of the Office of Safe Schools, Emergency Management Program, (850)414-7777, at least five calendar days before the meeting.

The **Department of Education** announces the following Committee Meetings of the Occupational Access and Opportunity Commission to which all persons are invited and to which all interested individuals are encouraged to attend.

Field Services Committee

DATE AND TIME: October 10, 2001, 9:00 a.m. – 12:00 Noon

PLACE: Division of Vocational Rehabilitation Services, Room 214, Building A, 2002 Old Saint Augustine Road, Tallahassee, Florida 32301

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** To conduct the regular business of the Field Services Committee.

Compliance and Oversight Committee

DATE AND TIME: October 10, 2001, 9:00 a.m. – 5:00 p.m.

PLACE: Division of Vocational Rehabilitation Services, Room 360, Building A, 2002 Old Saint Augustine Road, Tallahassee, Florida 32301

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** To conduct the regular business of the Compliance and Oversight Committee.

Government and Customer Relations Committee

DATE AND TIME: October 10, 2001, 1:00 p.m. – 5:00 p.m.

PLACE: Division of Vocational Rehabilitation Services, Room 131, Building A, 2002 Old Saint Augustine Road, Tallahassee, Florida 32301

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** To conduct the regular business of the Government and Customer Relations Committee.

Budget, Policy and Planning Committee

DATE AND TIME: October 10, 2001, 1:00 p.m. – 5:00 p.m.

PLACE: Division of Vocational Rehabilitation Services, Room 214, Building A, 2002 Old Saint Augustine Road, Tallahassee, Florida 32301

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** To conduct the regular business of the Budget, Policy and Planning Committee.

Executive Committee

DATE AND TIME: October 11, 2001, 9:00 a.m. – 12:00 Noon

PLACE: Division of Vocational Rehabilitation Services, Room 214, Building A, 2002 Old Saint Augustine Road, Tallahassee, Florida 32301

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** To conduct the regular business of the Executive Committee.

Rfp Review/Evaluation Workgroup

DATE AND TIME: October 22, 2001, 10:00 a.m. – 5:00 p.m.

PLACE: Division of Vocational Rehabilitation Services, Room 360, Building A, 2002 Old Saint Augustine Road, Tallahassee, Florida 32301

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** To conduct the regular business of the RFP Review/Evaluation Workgroup.

In accordance with the Americans with Disabilities Act, persons needing special accommodations to participate in the meeting should contact: V. Virginia Rhoden, (850)488-0059, Ext. 207, seven days before the meeting.

The State of Florida, **Education Standards Commission** announces a public meeting to which all persons are invited.

DATES AND TIMES: Thursday, October 11, 2001, 8:30 a.m. – 5:00 p.m.; Friday, October 12, 2001, 8:30 a.m. – 12:00 Noon

PLACE: Shore Elementary School, 1908 E. 2nd Avenue, Tampa, Florida 33605, (813)276-5712

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Members of the Florida Education Standards Commission will meet and discuss issues related to the Commission's charge.

To obtain a copy of the agenda, please call or write: Florida Education Standards Commission, Room 224, Turlington Building, 325 West Gaines Street, Tallahassee, Florida 32399, (850)488-1523 or Suncom 278-1523.

**SPECIAL ACCOMMODATIONS:** Persons with disabilities who require assistance to participate in this meeting are requested to contact Dr. Adeniji Odotola at the above address or telephone numbers.

The **Department of Education** announces a series of public meetings to which all persons are invited and to which all interested individuals are encouraged to attend.

DATE AND TIMES: October 17, 2001, State Plan Public Meeting, 4:00 p.m. – 6:00 p.m.; Five-Year Plan Public Meeting 6:00 p.m. – 7:00 p.m.

PLACE: Holiday Inn of Port St. Lucie, 10120 South Federal Highway, Port St. Lucie, Florida

DATE AND TIMES: October 24, 2001, State Plan Public Meeting, 4:00 p.m. – 6:00 p.m.; Five-Year Plan Public Meeting, 6:00 p.m. – 7:00 p.m.

PLACE: Santa Fe Community College, Room R-01, 3000 Northwest 83rd Street, Gainesville, Florida 32606

DATE AND TIMES: October 25, 2001, State Plan Public Meeting, 4:00 p.m. – 6:00 p.m.; Five-Year Plan Public Meeting, 6:00 p.m. – 7:00 p.m.

PLACE: Jacksonville Public Library, Highlands Branch (North Side of Town), 1826 Dunn Avenue, Jacksonville, Florida 32218

GENERAL SUBJECT MATTER TO BE CONSIDERED: STATE PLAN PUBLIC MEETING – The Occupational Access and Opportunity Commission and the Florida Rehabilitation Council are requesting public comment to identify the vocational rehabilitation needs of individuals with disabilities in regard to employment.

GENERAL SUBJECT MATTER TO BE CONSIDERED: FIVE-YEAR PLAN PUBLIC MEETING – The OAOC’s Five-Year Plan Workgroup is requesting public comment regarding the promotion of occupational access and opportunities for Floridians with disabilities and the formulation of a strategy to guide the future direction of the vocational rehabilitation Program.

Please note that the following accommodations will be provided: American Sign Language Interpreters, Assistive Listening Devices, Real-Time Captioning, Large Print and Braille materials.

In accordance with the Americans with Disabilities Act, persons needing special accommodations to participate in the meeting should contact: V. Virginia Rhoden, (850)488-0059, Ext. 207, seven days before the meeting.

The **Gulf Coast Community College**, District Board of Trustees will hold its monthly meeting as follows.

DATE AND TIME: October 4, 2001, 10:00 a.m. (CDT)

PLACE: Gardner Seminar Room

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular monthly meeting.

Contact person for the meeting is: Dr. Robert L. McSpadden, President.

**DEPARTMENT OF TRANSPORTATION**

DISTRICT FOUR TENTATIVE WORK PROGRAM, FISCAL YEARS JULY 1, 2002, THROUGH JUNE 30, 2007  
 The Florida **Department of Transportation**, District Four announces public hearings to which all interested persons are invited. Specific notice is provided to the Broward County, Indian River County (Vero Beach), Martin County (Stuart), Palm Beach County and St. Lucie County Metropolitan Planning Organizations.

1. BROWARD COUNTY:

DATE AND TIME: Thursday, October 11, 2001, 1:30 p.m.  
 PLACE: Broward County Governmental Center, Room 301, 115 South Andrews Avenue, Fort Lauderdale, Florida 33301

2. PALM BEACH COUNTY:

DATE AND TIME: Wednesday, October 18, 2001, 1:30 p.m.

PLACE: Palm Beach County Planning, Building and Zoning, Conference Room, Third Floor, 100 Australian Avenue, West Palm Beach, Florida 33406

3. ST. LUCIE, MARTIN, INDIAN RIVER COUNTIES:

DATE AND TIME: Thursday, October 4, 2001, 5:00 p.m.

PLACE: St. Lucie Governmental Center, County Commission Chambers, 2300 Virginia Avenue, Ft. Pierce, Florida 34982

GENERAL SUBJECT MATTER TO BE CONSIDERED: These public hearings are being conducted pursuant to Section 339.135(4)(c), Florida Statutes, as amended. The purpose of these public hearings is to present the Department’s Tentative Five Year Work Program for Fiscal Years 2002/2003-2006/2007 which contains listing of Project Phases to be undertaken during that time frame. These Hearings also will include consideration of proposed projects for Florida’s Turnpike System as applicable.

All interested persons are invited to attend and be heard.

Assistance for disabled persons may be arranged by contacting Michael DeRosa or Ruth Morales, Florida Department of Transportation, District Four, 3400 West Commercial Boulevard, Fort Lauderdale, Florida 33309-3421, at least three days prior to the public hearings. Mr. DeRosa’s telephone number is (954)777-4627, Ms. Ruth Morales’s telephone number is (954)777-4554.

Written comments from the Metropolitan Planning Organizations and other interested parties will be received by the Department at the public hearing and within ten days after the public hearing. Comments should be addressed to: Mr. Rick Chesser, P. E., District Secretary, Florida Department of Transportation, District Four, 3400 West Commercial Boulevard, Fort Lauderdale, Florida 33309-3421.

The Florida **Department of Transportation** announces an additional public meeting of the Transportation Outreach Program Advisory Council to which all interested persons are invited.

DATE AND TIME: September 28, 2001, 9:00 a.m.

PLACE: FDOT, District Six, Auditorium, 1000 N. W. 111th Avenue, Miami, Florida 33172

DATE AND TIME: October 11, 2001, 1:00 p.m.

PLACE: One Landmark Center, Metroplan Orlando Board Room, Suite 355, 315 East Robinson Street, Orlando, Florida 32801

DATE AND TIME: October 12, 2001, 9:00 a.m.

PLACE: Orange County Board of County Commission Chambers, County Administration Center, 1st Floor, 201 S. Rosalind Ave., Orlando, FL 32801

DATE AND TIME: October 26, 2001, 10:00 a.m.

PLACE: Florida Department of Transportation Auditorium, 605 Suwannee Street, Tallahassee, Florida 32399

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** These meetings are being held to allow applicants and interested parties for the 2002 Transportation Outreach Program to brief the Council on their proposed project and/or answer questions from the Council on their application. Due to the expected high level of interest, applicants will be limited to no more than a five-minute presentation on their project and five minutes to answer questions. Also, applicants will only have an opportunity to present and answer questions at the meeting closest to them – applicants from areas within FDOT, Districts 4 & 6 at the meeting in Miami; applicants from areas within District 5 on October 11, 2001, at the meeting in Orlando; applicants from areas within FDOT, Districts 1 & 7 on October 12, 2001, at the meeting in Orlando, and applicants from areas within FDOT, Districts 2 & 3, as well as for statewide applications, at the meeting in Tallahassee. Those who want to be on the agenda to present their application and/or answer questions must contact: Meredith Dahlrose at: meredith.dahlrose@dot.state.fl.us, at least ten days prior to the scheduled meeting to request inclusion on the agenda.

A copy of the agenda for each meeting may be obtained one week in advance by writing: Lorenzo Alexander, Manager, Seaport Office, Florida Department of Transportation, M.S. #68, 605 Suwannee Street, Tallahassee, Florida 32399-0450.

In accordance with provisions of the Americans with Disabilities Act, persons requiring special accommodations to participate in the meetings should advise Lorenzo Alexander, (850)414-4500.

The **Department of Transportation**, District Five announces two access management public hearings to which all persons are invited.

DATE AND TIME: October 23, 2001, 7:00 p.m.

PLACE: West Orange 9th Grade Center, 12301 Warrior Road, Winter Garden, Florida

DATE AND TIME: October 24, 2001, 7:00 p.m.

PLACE: Lake-Sumter Community College, South Lake Campus, 1250 N. Hancock Road, Clermont, Florida

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** These hearings are being held to afford interested persons the opportunity to express their views concerning the access management reclassifications for Federal Aid Project ID Numbers 238429-1-22-01, 238429-2-22-01 and 239535-1-02-01 and Federal-Aid Numbers 3002-018-P and 3003-047-P, otherwise known as State Road 50, in Lake and Orange Counties. The project limits of the State Road 50 corridor are from State Road 25 (U.S. 27) in Lake County to County Road 431 (Pine Hills Road) in Orange County. The project consists of changing the existing access management classifications along State Road 50 to Access Class 5 from east of Millholland Avenue to Paloma Road, and to Access Class 5 from the Lake County Line to Pine Hills Road. The access

management classification from Paloma Road to the Lake County Line will remain as Access Class 3. The same information will be presented at both hearings.

Anyone needing project or public hearing information or special accommodations under the Americans with Disabilities Act of 1990 should write to the address given below or contact Mr. Tom Percival, (386)943-5404.

Special accommodation requests under the Americans with Disabilities Act should be made at least seven (7) days prior to the public hearing.

A copy of the agenda may be obtained by writing: Mr. Frederick R. Birnie, P. E., Florida Department of Transportation, Environmental Management Office, 719 South Woodland Boulevard, DeLand, Florida 32719.

The **Department of Transportation**, District 1 announces a public hearing to which all persons are invited.

DATE AND TIME: Thursday, October 23, 2001, 7:00 p.m.

PLACE: Auburndale Senior Center, 109 W. Park Street, Auburndale, FL

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** This hearing is being held to afford interested persons the opportunity to express their views concerning the location, conceptual design, social and environmental effects of Financial Project ID Number: 197701-1-22-01, otherwise known as the S.R. 559 Project Development and Environment Study. The limits of the project are from S.R. 655 north to U.S. 92 in Polk County. A distance of 0.4 miles.

Anyone needing project or public hearing information or special accommodations under the Americans With Disabilities Act of 1990 should write to the address given below or call, 1(800)292-3368. Special accommodation requests under the Americans With Disabilities Act should be made at least seven days prior to the public hearing.

A copy of the agenda may be obtained by writing: Mr. Dick Combs, Manager, Environmental Management Office, Florida Department of Transportation, District One, Post Office Box 1249, Bartow, Florida 33831-1249.

The **Department of Transportation**, District 4 announces a public hearing to which all persons are invited.

DATE AND TIME: October 25, 2001, 7:00 p.m.

PLACE: Country Hills Elementary School, 10550 Westview Drive, Coral Springs, Florida 33076

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** This hearing is being held to afford interested persons the opportunity to express their views concerning the location, conceptual design, social, economic, and environmental effects of W.P.I. Number (Old): 4120361, Financial Project I.D. 230731-1-22-01, Federal Project I.D. 4731 027 P, otherwise known as CR-817 (University Drive) in Broward County,

Florida. Project limits are approximately 400 feet south of the intersection of N. W. 40th Street (Cardinal Road) and the intersection of the Sawgrass Expressway in Broward County. Anyone needing project or public hearing information or special accommodations under the Americans With Disabilities Act of 1990 should write to the address given below or call, (954)777-4323 or toll free 1(800)930-3368, Extension 4323. Special accommodation requests under the Americans With Disabilities Act should be made at least seven (7) days prior to the public hearing.

A copy of the agenda may be obtained by writing: Mr. Richard A. Young, P. E., Project Manager, Florida Department of Transportation, District 4, Office of Planning and Environmental Management, 3400 West Commercial Boulevard, Fort Lauderdale, Florida 33309-3421.

---

### STATE BOARD OF ADMINISTRATION

NOTICE IS HEREBY GIVEN by the Florida **State Board of Administration** (SBA) of public meetings of the Florida State Board of Administration regarding the Request for Information and Invitation to Negotiate #2001-16 for Bundled Providers for the Public Employee Optional Retirement Program (PEORP) to which all persons are invited.

**DATES AND TIME:** Monday, October 8, 2001 through Wednesday, October 31, 2001, 8:00 a.m. – conclusion

**PLACE:** Hermitage Room, The Hermitage Centre, 1801 Hermitage Blvd., Tallahassee, Florida

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** These meetings will be oral interviews for the finalist candidates for bundled providers for PEORP and will also include discussions of other PEORP implementation issues.

**DATES AND TIME:** Monday, October 8, 2001 through Wednesday, October 31, 2001, 8:00 a.m. – conclusion

**PLACE:** To be determined

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** These meetings will be on-site visits for finalist candidates for bundled providers.

The SBA will not pay any travel expenses except for members of the evaluation teams.

**DATE AND TIME:** Thursday, November 1, 2001, 9:00 a.m. – conclusion

**PLACE:** Hermitage Room, The Hermitage Centre, 1801 Hermitage Blvd., Tallahassee, Florida

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** At this meeting, the ISIG evaluation team will make a final recommendation regarding the candidate or candidates for bundled provider vendors for PEORP. The meeting may also include a discussion of the general business of PEORP.

Anyone wishing further information should contact: Joan Lazar, Defined Contribution Program, P. O. Drawer 13300, Tallahassee, FL 32317-3300 or by e-mail [lazar\\_joan@fsba.state.fl.us](mailto:lazar_joan@fsba.state.fl.us).

In compliance with the Americans with Disabilities Act, anyone needing special accommodation to attend these meetings is requested to call Joan Lazar, (850)413-1492, five days prior to the meeting so that appropriate arrangements can be made.

---

NOTICE IS HEREBY GIVEN by the **State Board of Administration** of meetings of the Investment Advisory Council (IAC) and the Public Employee Optional Retirement Advisory Committee (PEORPAC) to which all persons are invited.

**DATE AND TIME:** Tuesday, October 9, 2001, 9:00 a.m. – conclusion

**PLACE:** Hermitage Room, The Hermitage Centre, 1801 Hermitage Blvd., Tallahassee, Florida

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** This is a joint business meeting of the IAC and PEORPAC. The two advisory groups will discuss the process of the bundled provider request for information and possible selections of additional interviewees; the evaluation of the respondents to the request for information for post-retirement annuities; and other business regarding the implementation of PEORP. Although this meeting will be primarily in person, anyone wishing to participate by telephone is free to use the following conference call numbers: (850)410-0966 or Suncom 210-0966.

**DATE AND TIME:** Thursday, November 8, 2001, 9:00 a.m. – conclusion

**PLACE:** Hermitage Room, The Hermitage Centre, 1801 Hermitage Blvd., Tallahassee, Florida

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** This is a joint business meeting of the IAC and PEORPAC. The two advisory groups will discuss the selection of unbundled and bundled providers for the PEORP and other business regarding the implementation of PEORP. Although this meeting will be primarily in person, anyone wishing to participate by telephone is free to use the following conference call numbers: (850)487-8587 or Suncom 277-8587.

Anyone wishing further information should contact: Joan Lazar, Defined Contribution Program, P. O. Drawer 13300, Tallahassee, FL 32317-3300.

In compliance with the Americans with Disabilities Act, anyone needing special accommodation to attend the meeting is requested to call Joan Lazar, (850)413-1492, five days prior to the meeting so that appropriate arrangements can be made.

---

### DEPARTMENT OF CITRUS

The **Department of Citrus** announces a public meeting of the Citrus Abscission Registration Committee to which all persons are invited.

**DATE AND TIME:** Tuesday, October 9, 2001, 8:30 a.m.

PLACE: Florida Department of Citrus, 1115 East Memorial Blvd., Lakeland, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: The committee will have its monthly meeting to discuss natural abscission compounds, economics of abscission and public relations and other business that might come before the council for consideration.

In accordance with the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the Department at least 48 hours before the meeting by contacting Mr. Art Johnson at the above address or by telephone, (863)499-2510.

The **Department of Citrus** announces a public meeting of the Citrus Harvesting Research Advisory Council to which all persons are invited.

DATE AND TIME: Tuesday, October 9, 2001, 10:00 a.m.

PLACE: Florida Department of Citrus, 1115 East Memorial Blvd., Lakeland, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Committee will have its monthly meeting to receive progress reports on 2001-02 projects, discuss proposals for new projects, review more of the harvester performance results and other business that might come before the council for consideration.

In accordance with the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the Department at least 48 hours before the meeting by contacting Mr. Art Johnson at the above address or by telephone, (863)499-2510.

**FLORIDA PAROLE COMMISSION**

The **Florida Parole Commission** announces a public meeting to which all persons are invited.

DATE AND TIME: Wednesday, October 24, 2001, 9:00 a.m.

PLACE: Florida Parole Commission, Bldg. C, Third Floor, 2601 Blairstone Road, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regularly Scheduled Meeting for all Parole, Conditional Release, Conditional Medical Release and Control Release Matters.

Any person who decides to appeal a decision of the Florida Parole Commission with respect to a matter considered at this meeting may need to ensure that a verbatim record of the proceedings is made. Chapter 80-150, Laws of Florida (1980). A copy of the agenda may be obtained by writing: Florida Parole Commission, Building C, 2601 Blairstone Road, Tallahassee, Florida 32399-2450.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the agency sending the notice not later than two working days prior to the proceeding at the address given on the notice, (850)488-3417.

**PUBLIC SERVICE COMMISSION**

The Florida **Public Service Commission** announces its regularly scheduled conference to which all interested persons are invited.

DATE AND TIME: October 16, 2001, 9:30 a.m.

PLACE: The Betty Easley Conference Center, Commission Hearing Room 148, 4075 Esplanade Way, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To consider those matters ready for decision.

LEGAL AUTHORITY AND JURISDICTION: Chapters 120, 350, 364, 366 and 367, F.S.

Persons who may be affected by Commission action on certain items on this agenda for which a hearing has not been held will be allowed to address the Commission concerning those items when taken up for discussion at this conference.

A copy of the agenda may be obtained by any person who requests a copy, and pays the reasonable cost of the copy (\$1.00 per copy, Rule 25-22.002, F.A.C.), by contacting: Division of the Commission Clerk and Administrative Services, Director, Division of the Commission Clerk and Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870, (850)413-6770. The agenda and recommendations are also accessible on the PSC Homepage, at <http://www.floridapsc.com>, at no charge.

If a person decides to appeal any decisions made by the Commission with respect to any matter considered at this conference, he will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

Any person requiring some accommodation at this conference because of a physical impairment should call the Division of the Commission Clerk and Administrative Services, (850)413-6770, at least 48 hours prior to the conference. Any person who is hearing or speech impaired should contact the Commission by using the Florida Relay Service, which can be reached at 1(800)955-8771 (TDD).

The Florida **Public Service Commission** announces its Internal Affairs Meeting to which all interested persons are invited.

DATE AND TIME: October 16, 2001, immediately following the Commission Conference which commences at 9:30 a.m. in Commission Hearing Room 148



PLACE: The Betty Easley Conference Center, Conference Room 140, 4075 Esplanade Way, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss and make decisions on matters which affect the operation of the Commission.

A copy of the agenda of the Internal Affairs Meeting may be obtained by contacting: Division of the Commission Clerk and Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870.

Any person requiring some accommodation at this meeting because of a physical impairment should call the Division of the Commission Clerk and Administrative Services, (850)413-6770, at least 48 hours prior to the meeting. Any person who is hearing or speech impaired should contact the Commission by using the Florida Relay Service, which can be reached at 1(800)955-8771 (TDD).

THIS MEETING IS SUBJECT TO CANCELLATION WITHOUT NOTIFICATION.

NOTICE OF CHANGE – The Florida **Public Service Commission** announces that the staff rule development workshop for Docket No. 010774-TP, originally scheduled for September 13, 2001, has been rescheduled for the following time and place.

DATE AND TIME: Wednesday, October 24, 2001, 9:30 a.m.

PLACE: Betty Easley Conference Center, Room 182, 4075 Esplanade Way, Tallahassee, FL 32399-0862

The Notice of Proposed Rule Development and the preliminary text of the rule were published in the July 6, 2001, F.A.W., Vol. 27, No. 27.

A copy of the agenda may be obtained after October 15, 2001, from: Samantha Cibula, Division of Appeals, Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6202.

Any person requiring some accommodation at this workshop because of a physical impairment should call the Division of the Commission Clerk and Administrative Services, (850)413-6770, at least 48 hours prior to the workshop. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at 1(800)955-8771.

### REGIONAL PLANNING COUNCILS

The **Northeast Florida Regional Planning Council**, Economic Development Committee announces the following public meeting to which all persons are invited:

DATE AND TIME: Thursday, September 27, 2001, 10:00 a.m.

PLACE: Northeast Florida Regional Planning Council, Suite 350, 9143 Philips Highway, Jacksonville, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Quarterly meeting.

A copy of the agenda may be obtained by contacting: Northeast Florida Regional Planning Council, Suite 350, 9143 Philips Highway, Jacksonville, FL 32256.

If a person decides to appeal any decision made by the Council with respect to any matter considered at this meeting, he/she will have to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence which the appeal is to be based.

Individuals needing materials in alternate format, sign language interpreter or other meeting information, call Ginny Montgomery, (904)363-6350, at least three working days prior to the meeting. Hearing-impaired callers use Florida Relay Service, 1(800)955-8771.

Notice is also given that two or more members of Boards of County Commissioners, City/Town Councils/Commissions and other entities covered under Chapter 286, Florida Statutes may attend and speak at the meeting.

The **Central Florida Regional Planning Council** will hold its meeting and the Council's Executive Committee meeting to which all persons are invited:

DATE AND TIME: Wednesday, October 10, 2001, 9:30 a.m.

PLACE: Highlands County Board of County Commissioners Chambers, 600 South Commerce Avenue, Sebring, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular Monthly Meeting of the Council and the Executive Committee.

A copy of the agenda may be obtained by writing: Central Florida Regional Planning Council, P. O. Box 2089, Bartow, Florida 33831.

If any person desires to appeal any decision with respect to any matter considered at the above cited meeting, such persons will need a record of the proceeding. For such purpose, he may need to ensure that a verbatim record of the proceeding is made to include the testimony and evidence upon which the appeal is to be based.

The **Treasure Coast Regional Planning Council** and Westchester Development Company announces a community workshop to which all persons are invited:

DATE AND TIME: October 10, 2001, 6:00 p.m. – 9:00 p.m.

PLACE: Faith Congregational Church, 2199 S. W. Savona Boulevard, Port St. Lucie, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: A community workshop will be held to learn about the proposed Westchester development of regional impact.

A copy of the agenda may be obtained by contacting: Treasure Coast Regional Planning Council, Suite 300, 301 E. Ocean Boulevard, Stuart, Florida 34994.

If a person decides to appeal any decision made by the Treasure Coast Regional Planning Council with respect to any matter considered at such meeting or hearing, he or she will

need a record of proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record indicates the testimony and evidence upon which the appeal is to be based.

Any persons needing special accommodations at this meeting because of a disability or physical impairment should contact Liz Gulick, (561)221-4060, at least 48 hours before the meeting.

**The Treasure Coast Regional Planning Council** announces a meeting of the Council's Comprehensive Economic Development Strategy Committee to which all persons are invited:

DATE AND TIME: October 11, 2001, 2:00 p.m. – 4:00 p.m.  
 PLACE: Treasure Coast Regional Planning Council, Suite 300, 301 E. Ocean Boulevard, Stuart, FL 34994

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct a meeting of the Treasure Coast Regional Planning Council Comprehensive Economic Development Strategy Committee.

A copy of the agenda may be obtained by contacting: Treasure Coast Regional Planning Council, Suite 300, 301 E. Ocean Boulevard, Stuart, Florida 34994.

If a person decides to appeal any decision made by the Treasure Coast Regional Planning Council with respect to any matter considered at such meeting or hearing, he or she will need a record of proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record indicates the testimony and evidence upon which the appeal is to be based.

Any persons needing special accommodations at this meeting because of a disability or physical impairment should contact Liz Gulick, (561)221-4060, at least 48 hours before the meeting.

**The Treasure Coast Regional Planning Council** announces a public meeting to which all persons are invited:

DATE AND TIME: October 19, 2001, 9:30 a.m.  
 PLACE: Howard Johnson's Motor Lodge, 950 U.S. Highway One, Stuart, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct the monthly meeting of the Council.

A copy of the agenda may be obtained by contacting: Treasure Coast Regional Planning Council, Suite 300, 301 E. Ocean Boulevard, Stuart, Florida 34994.

If a person decides to appeal any decision made by the Treasure Coast Regional Planning Council with respect to any matter considered at such meeting or hearing, he or she will need a record of proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record indicates the testimony and evidence upon which the appeal is to be based.

Any persons needing special accommodations at this meeting because of a disability or physical impairment should contact Liz Gulick, (561)221-4060, at least 48 hours before the meeting.

**The Treasure Coast Regional Planning Council** announces the following public meeting:

DATE AND TIME: October 26, 2001, 9:30 a.m.  
 PLACE: Treasure Coast Regional Planning Council, Suite 300, 301 E. Ocean Boulevard, Stuart, FL 34994

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct a meeting of the Treasure Coast Planning Council Energy Committee.

A copy of the agenda may be obtained by contacting: Treasure Coast Regional Planning Council, Suite 300, 301 E. Ocean Boulevard, Stuart, Florida 34994.

If a person decides to appeal any decision made by the Treasure Coast Regional Planning Council with respect to any matter considered at such meeting or hearing, he or she will need a record of proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record indicates the testimony and evidence upon which the appeal is to be based.

Any persons needing special accommodations at this meeting because of a disability or physical impairment should contact Liz Gulick, (561)221-4060, at least 48 hours before the meeting.

**COMMISSION ON ETHICS**

**The Commission on Ethics** announces a telephone conference call meeting to which all interested persons are invited.

DATE AND TIME: Friday, October 5, 2001, 10:00 a.m.  
 PLACE: Suite 101, 2822 Remington Green Circle, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Legislative Committee Meeting.

A copy of the agenda may be obtained by writing: Commission on Ethics, Post Office Drawer 15709, Tallahassee, Florida 32317-5709. Meeting materials also will be available from 8:00 a.m. – 5:00 p.m., Monday through Friday at Suite 101, 2822 Remington Green Circle, prior to the meeting.

If a person decides to appeal any decision made by the Commission with respect to a matter considered at this meeting, he will need a record of the proceeding, and for such purpose he may need to ensure that a verbatim record of this proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the Commission at least 48 hours before the meeting by contacting the Commission on Ethics, (850)488-7864. If you are hearing or

speech impaired, please contact the Commission by using the Florida Relay Service which can be reached at 1(800)955-8771 (TDD).

### WATER MANAGEMENT DISTRICTS

The **Suwannee River Water Management District** announces the following public meetings to which all interested persons are invited.

DATE AND TIME: October 9, 2001, 9:00 a.m.

PLACE: District Headquarters, 9225 CR 49, Live Oak, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Board Meeting – to consider District business and conduct public hearings on regulatory and land acquisition matters.

Public hearing in accordance with Section 373.59, F.S., concerning the proposed acquisition of the C. Linden Davidson Tract, 270 acres +/-, Madison and Jefferson Counties, Florida, with funds from the Florida Forever Trust Fund; also the proposed acquisition of the NATC/Manatee Springs Addition, 21,245 acres +/-, Levy County, Florida; also the proposed acquisition of the Hillard Tanner/Jasper Wellhead Tract, 40 acres +/-, Hamilton County, Florida; also the proposed acquisition of the Otter Sink Conservation Easement, 11,603 acres +/-, Dixie County.

DATE AND TIME: October 9, 2001, following the Board Meeting

PLACE: District Headquarters, 9225 CR 49, Live Oak, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Workshop.

A copy of the agenda(s) may be obtained by writing: SRWMD, 9225 CR 49, Live Oak, Florida 32060.

If any person decides to appeal any decision with respect to any matter considered at the above cited meeting, such person may need to ensure that a verbatim record of the proceedings is made to include the testimony and evidence upon which the appeal is to be based.

Persons with disabilities who need assistance in order to participate in this meeting may contact Lisa M. Cheshire, (904)362-1001 or 1(800)226-1066 (Florida only), at least two business days in advance to make appropriate arrangements.

The **St. Johns River Water Management District** announces the following public meetings and hearings, which may be conducted by means of or in conjunction with communications technology, to which all persons are invited:

#### PERSONNEL COMMITTEE

DATE AND TIME: Tuesday, October 9, 2001, 8:30 a.m.

PLACE: District Headquarters, Highway 100, West, Palatka, FL 32177

GENERAL SUBJECT MATTER TO BE CONSIDERED: Discussion of Personnel Committee agenda items followed by committee recommendations to be approved by the full Governing Board.

#### INFORMATION TECHNOLOGY COMMITTEE

DATE AND TIME: Tuesday, October 9, 2001, 9:00 a.m.

PLACE: District Headquarters, Highway 100, West, Palatka, FL 32177

GENERAL SUBJECT MATTER TO BE CONSIDERED: Discussion of Information Technology Committee agenda items followed by committee recommendations to be approved by the full Governing Board.

#### GOVERNING BOARD

DATE AND TIME: Tuesday, October 9, 2001, 10:00 a.m.

PLACE: District Headquarters, Highway 100, West, Palatka, FL 32177

GENERAL SUBJECT MATTER TO BE CONSIDERED: Staff will recommend approval of external budget amendments. Discussion and consideration of other District business including regulatory and non-regulatory matters. All or part of this meeting may be conducted as a teleconference in order to permit maximum participation of Governing Board members.

#### FINANCE COMMITTEE

DATE AND TIME: Wednesday, October 10, 2001, 8:00 a.m.

PLACE: District Headquarters, Highway 100, West, Palatka, FL 32177

GENERAL SUBJECT MATTER TO BE CONSIDERED: Discussion of Finance Committee agenda items followed by committee recommendations to be approved by the full Governing Board.

#### GOVERNING BOARD AND PUBLIC HEARING

DATE AND TIME: Wednesday, October 10, 2001, 9:00 a.m.

PLACE: District Headquarters, Highway 100, West, Palatka, Florida 32177

GENERAL SUBJECT MATTER TO BE CONSIDERED: Staff will recommend approval of external budget amendments. Discussion and consideration of District business including regulatory and non-regulatory matters. All or part of this meeting may be conducted as a teleconference in order to permit maximum participation of Governing Board members.

NOTE: In the event of emergency conditions due to an imminent tropical storm or hurricane, this meeting may be conducted by teleconference.

A copy of the agenda for these meetings may be obtained by writing: St. Johns River Water Management District, Attention: Ann Freeman, Executive Office, P. O. Box 1429, Palatka, Florida 32178-1429.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in these meetings and hearings is requested to advise the District at least 48 hours before the meeting or hearing by contacting Ann Freeman, (904)329-4101. If you are hearing or speech impaired, please contact the District by calling (904)329-4450 (TDD).

If any person decides to appeal any decision with respect to any matter considered at the above-listed meetings or hearings, such person may need to ensure that a verbatim record of the proceedings is made to include the testimony and evidence upon which the appeal is to be based.

The **Southwest Florida Water Management District** announces the following meetings to which all interested parties are invited.

**INDUSTRIAL ADVISORY COMMITTEE**

DATE AND TIME: Tuesday, October 9, 2001, 9:00 a.m.

PLACE: Tampa Service Office, 7601 Highway 301, North, Tampa, Florida

**PUBLIC SUPPLY ADVISORY COMMITTEE**

DATE AND TIME: Friday, October 19, 2001, 9:30 a.m.

PLACE: Tampa Service Office, 7601 Highway 301, North, Tampa, Florida

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Conduct Committee Business. Some members of the District's Governing and Basin Boards may attend the meetings.

Copies of the agendas may be obtained by writing: Community Affairs Department, Southwest Florida Water Management District, 7601 Highway 301, North, Tampa, Florida 33637.

The District does not discriminate based on disability. Anyone requiring reasonable accommodation under the American's with Disabilities Act (ADA) should call 1(800)836-0797 (Florida) or (813)985-7481, Extension 2036, Fax (813)987-6726, TTD ONLY 1(800)231-6103 (Florida).

P.O. #3062

The **Southwest Florida Water Management District** (SWFWMD) announces the following public meetings to which all interested persons are invited:

**MULTI-COUNTY JOINT DELEGATION BRIEFING** (To include delegates from Hillsborough, Pinellas, Pasco, Polk, Manatee, Sarasota, Hernando and Citrus Counties.)

DATE AND TIME: Tuesday, October 9, 2001, 5:30 p.m.

PLACE: 22nd Floor, The Capitol, Tallahassee, FL

**GENERAL SUBJECT MATTER TO BE DISCUSSED:** Water, education and transportation issues.

**JOINT WITHLACOOCHIE RIVER/COASTAL RIVERS BASIN BOARDS WORKSHOP MEETING**

DATE AND TIME: Tuesday, October 9, 2001, 9:00 a.m.

PLACE: SWFWMD, District Headquarters, 2379 Broad Street, Brooksville, FL

**GENERAL SUBJECT MATTER TO BE DISCUSSED:** Consideration of Basin Board business.

**JOINT HILLSBOROUGH RIVER, ALAFIA RIVER, NORTHWEST HILLSBOROUGH BASIN BOARD WORKSHOP MEETING**

DATE AND TIME: Thursday, October 11, 2001, 9:00 a.m.

PLACE: Energy Technology Resource Center, 3650 Spectrum Boulevard, Tampa, FL

**GENERAL SUBJECT MATTER TO BE DISCUSSED:** Consideration of Basin Board business.

**JOINT PEACE RIVER, MANASOTA BASIN BOARDS WORKSHOP MEETING**

(Note: A ribbon cutting ceremony for the Grand Opening of the Sarasota Service Office will be held prior to the workshop. The ceremony is scheduled for 9:00 a.m.)

DATE AND TIME: Friday, October 12, 2001, 9:30 a.m.

PLACE: Sarasota Service Office, 6759 Fruitville Road, Sarasota, FL

**GENERAL SUBJECT MATTER TO BE DISCUSSED:** Consideration of Basin Board business.

**BASIN BOARD EDUCATION COMMITTEE MEETING**

DATE AND TIME: Tuesday, October 16, 2001, 9:30 a.m.

PLACE: SWFWMD, Tampa Service Office, 7601 U.S. Highway 301, North, Tampa, FL

**GENERAL SUBJECT MATTER TO BE DISCUSSED:** Consideration of Committee Business.

**PINELLAS-ANCLOTE RIVER BASIN BOARD WORKSHOP MEETING**

DATE AND TIME: Wednesday, October 17, 2001, 9:00 a.m.

PLACE: Pinellas County Court House, 315 Court Street, Clearwater, FL

**GENERAL SUBJECT MATTER TO BE DISCUSSED:** Consideration of Basin Board Business.

A copy of the agenda may be obtained by writing: SWFWMD, 2379 Broad Street, Brooksville, FL 34604 or by calling the SWFWMD, (352)796-7211 or 1(800)231-6103, Suncom 628-4150.

Any person deciding to appeal any decision made by the Board with respect to any matter considered at this meeting will need a record of the proceeding, and for such purpose that person may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based.

The District does not discriminate based on disability. Anyone requiring reasonable accommodation under the ADA should contact 1(800)423-1476 (Florida only), Extension 4604, TTD only 1(800)231-6103 (Florida only), Fax (352)754-6874.

P. O. #5685

The **Southwest Florida Water Management District** announces the following public hearing to which all interested persons are invited:

DATES AND TIMES: October 30, 2001, 9:00 a.m. and may be continued; October 31, 2001, 9:00 a.m.

PLACE: Governing Board Room, Southwest Florida Water Management District, 2379 Broad Street, Brooksville, Florida 34604-6899

GENERAL SUBJECT MATTER TO BE CONSIDERED: The acquisition of certain lands eligible to be considered for funding from the Florida Preservation 2000 Trust Fund/Florida Forever Trust Fund which lands are further described as follows:

Part of the Green Swamp project comprised of one parcel referred to as SWF Parcel No. 10-200-1238 consisting of approximately 25.5± acres in Section 36, Township 24 South, Range 24 East, and Section 18, Township 24 South, Range 25 East, in Lake County, Florida; and

Part of the Lake Panasoffkee/Outlet project comprised of one parcel referred to as SWF Parcel No. 19-441-105 consisting of approximately 11.3± acres, lying in Section 26, Township 19 South, Range 21 East, in Sumter County, Florida; and

Part of the Myakka River project comprised of one parcel referred to as SWF Parcel No. 21-708-124 consisting of approximately 513± acres. The parcel is located on the north side of U.S. Highway 41 and east of River Road. Subject parcel is within Sections 23, 24, 25 and 26, Township 39 South, Range 20 East in Sarasota County, Florida; and

Part of the Upper Myakka River Watershed project comprised of three parcels referred to as SWF Parcel Nos. 21-598-104C, 105C and 106C consisting of approximately 1,135± acres, 478± acres and 917± acres, respectively. The parcels are located on the north side of State Road 70 and lie in parts of Sections 4 and 26, Township 36 South, Range 21 East and in parts of Sections 26, 27, 34, 35 and 36, Township 35 South, Range 21 East in Manatee County, Florida; and

Part of the Weekiwachee Preserve project comprised of one parcel referred to as SWF Parcel No. 15-773-180 consisting of approximately 49± acres. The parcel is located on the south side of Cortez Boulevard and on the east side of County Road 595. Subject parcel is in Section 28, Township 22 South, Range 17 East in Hernando County, Florida; and

Part of the Gum Slough project comprised of three parcels referred to as SWF Parcel Nos. 19-687-103C, 19-687-105C and 19-687-107C to be acquired by a conservation easement consisting of approximately 5,674.13± acres. The parcels are located on the east side of the Withlacoochee River and south of State Road 200. Subject parcels lie in Sections 19, 20, 28, 29, 30, 32, 33, 34, 35 & 36, Township 17 South, Range 20 East in Marion County, Florida and also lie in Sections 1, 2, 3, 4, 10, 11, 12, 13, 14 & 15, Township 18 South, Range 20 East in Sumter County, Florida; and

Part of the Prairie/Shell Creek project comprised of one parcel referred to as SWF Parcel No. 20-649-101 consisting of approximately 392.92± acres. The parcel is located on the west side of U.S. Highway 17 and east of the Peace River and lies in Sections 13, 14 and 24, Township 40 South, Range 23 East in Charlotte County, Florida.

Any person deciding to appeal any decision made by the District Governing Board concerning the above-referenced hearing will need a record of the proceedings and for such

purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal may be based.

A copy of the agenda or a more specific legal description of the lands proposed for acquisition may be obtained by contacting Fritz H. Musselmann, Land Resources Director, Southwest Florida Water Management District, at the above address. The District does not discriminate based on disability status. Anyone requiring reasonable accommodations under the ADA should call 1(800)423-1476 (Florida only), Extension 4452, Fax (352)754-6877, TTD only 1(800)231-6103.

P. O. #3238

---

**NOTICE OF CHANGE – The South Florida Water Management District** announces a public meeting to which all interested parties are invited:

**DATE AND TIME:** Rescheduled from October 4, 2001, 10:00 a.m. – 4:00 p.m. to October 8, 2001, 10:00 a.m. – 4:00 p.m.

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Update of Lake Okeechobee Supply Side Management methodologies, Water Supply Contingency Plan Review or other water supply related subjects of concern to the District.

**PLACE:** South Florida Water Management Headquarters, Auditorium, B-1 Building, 3301 Gun Club Road, West Palm Beach, Florida 33406

A copy of the agenda may be obtained: (1) District website <http://www.sfwmd.gov/agenda.html> or (2) by writing to the South Florida Water Management District, Mail Stop 2130, Post Office Box 24680, West Palm Beach, FL 33416-4680.

Appeals from any South Florida Water Management District Board decision require a record of the proceedings. Although Governing Board meetings and hearings are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which the appeal is to be based.

Persons with disabilities who need assistance may contact the District Clerk, (561)686-8800, at least two business days in advance of the meeting to make appropriate arrangements.

Those who want more information, please contact Dr. Jayantha Obeysekera, Water Supply Department, (561)682-6503, Mail Stop Code 4340 or Mr. Dean Powell, Everglades Department, (561)682-6787, Mail Stop Code 4440, District Headquarters, 3301 Gun Club Road, West Palm Beach, FL 33406.

---

**The South Florida Water Management District** announces a public meeting to which all interested parties are invited:

**DATE AND TIME:** October 9, 2001, 8:30 a.m.

**PLACE:** South Florida Water Management Headquarters, Auditorium, B-1 Building, 3301 Gun Club Road, West Palm Beach, Florida 33406

GENERAL SUBJECT MATTER TO BE CONSIDERED: Workshop on Programmatic Regulations; Water Resources Advisory Commission.

A copy of the agenda may be obtained: (1) District website <http://www.sfwmd.gov/agenda.html> or (2) by writing to the South Florida Water Management District, Mail Stop 2130, Post Office Box 24680, West Palm Beach, FL 33416-4680.

Appeals from any South Florida Water Management District Board decision require a record of the proceedings. Although Governing Board meetings and hearings are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which the appeal is to be based.

Persons with disabilities who need assistance may contact the District Clerk, (561)686-8800, at least two business days in advance of the meeting to make appropriate arrangements.

Those who want more information, please contact Julio Fanjul, Governing Board Operations/Executive Office Department, (561)682-2769, District Headquarters, 3301 Gun Club Road, Mail Stop Code 2130, West Palm Beach, FL 33406.

The **South Florida Water Management District** announces a public workshop/meeting which may be conducted by means of or in conjunction with communications technology, to which all interested parties are invited:

DATE AND TIME: October 10, 2001, 9:00 a.m.

PLACE: Anne Kolb Nature Center, 751 Sheridan St., Hollywood, FL 30019. (From I-95 go east on Sheridan St., past Federal Highway. West Lake Park's entrance is on the south (right) side; the Anne Kolb Nature Center is a half-mile east of West Lake's entrance on the north (left) side. Parks are accessible off Broward County Mass Transit bus route #12.)

GENERAL SUBJECT MATTER TO BE CONSIDERED:

A. Regular Governing Board Workshop/Meeting to discuss and consider District business including regulatory and non-regulatory matters.

B. Conduct meeting of the Human Resources Committee.

C. Conduct meeting of the Audit Committee.

All or part of this meeting may be conducted as a teleconference in order to permit maximum participation of Governing Board members. In the event of emergency conditions due to an imminent tropical storm or hurricane, this meeting may be conducted by teleconference in order to take action on items listed on the Thursday, October 11, 2001, meeting agenda, including regulatory and non-regulatory items.

Those who desire more information may contact: Lorraine Crawl, 201 S. Andrews Avenue, Ft. Lauderdale, Florida 33401, (954)713-4984.

DATE AND TIME: October 11, 2001, time to be determined

PLACE: To be determined

GENERAL SUBJECT MATTER TO BE CONSIDERED: Possible off-site dinner with Governing Board members after workshop/meeting. No discussion of Governing Board's business or activities shall occur between or among board members at this dinner site.

DATE AND TIME: October 11, 2001, 8:30 a.m.

PLACE: District Headquarters, Auditorium, B-1 Building, 3301 Gun Club Road, West Palm Beach, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular Governing Board meeting for consideration of regulatory and non-regulatory matters, including public meetings. All or part of this meeting may be conducted as a teleconference in order to permit maximum participation of Governing Board members.

NOTE: Due to extensive demolition and construction at the main complex for the next 14 months, parking will be severely impacted. Additional parking for the public will be available at the National Guard Armory just east of the main complex or at Lake Lytel Park, located west of the main complex.

A copy of the agenda may be obtained by writing: South Florida Water Management District, P. O. Box 24680, West Palm Beach, Florida 33416-4680 or may be acquired via the SFWMD, website at <http://www.sfwmd.gov/agenda.html>.

Appeals from any South Florida Water Management District Board decision require a record of the proceedings. Although Governing Board meetings and hearings are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including testimony and evidence upon which the appeal is to be based.

Persons with disabilities who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

Those who desire more information may contact Tony Burns, District Clerk, 3301 Gun Club Road, West Palm Beach, Florida 33416-4680.

#### REGIONAL UTILITY AUTHORITIES

The **Tampa Bay Water** announces the following Regular Board Meeting to which all persons are invited:

DATE AND TIME: Monday, October 15, 2001, 10:00 a.m.

PLACE: Tampa Bay Water, Suite 211-A, 2535 Landmark Drive, Clearwater, Florida 33761

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular Board Meeting.

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he will need a record of the proceedings, and for such purposes he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

A copy of the regular meeting agenda may be obtained by writing to Tampa Bay Water or can be accessed on the website at [www.tampabaywater.org](http://www.tampabaywater.org).

If an accommodation is needed for a disability, in order to participate in this activity, please notify: Holly Wells, (727)796-2355, at least 3 business days prior to the meeting.

The **Peace River/Manasota Regional Water Supply Authority** announces the following public meeting to which all interested parties are invited:

DATE AND TIME: Wednesday, October 3, 2001, 10:00 a.m.

PLACE: Manatee County Administrative Center, 1112 Manatee Avenue, West, Bradenton, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Conduct regular business of the Authority.

A copy of the agenda may be obtained by writing: Peace River Manasota Regional Water Supply Authority, Suite A, 1645 Barber Road, Sarasota, Florida 34240.

Although the Authority board meetings are normally recorded, affected persons are advised it may be necessary for them to ensure a verbatim record of the meeting is made, including testimony and evidence upon which an appeal is to be based.

Persons with disabilities who need assistance may call (941)316-1776, at least two business days in advance to make appropriate arrangements.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

The **Construction Industry Licensing Board** will hold the following meetings to which all interested parties are invited.

DATES AND TIMES: Wednesday, October 10, 2001, 1:00 p.m.; Thursday, October 11, 2001, 8:00 a.m.; Friday, October 12, 2001, 8:00 a.m.

PLACE: Embassy Suites Fort Lauderdale, 1100 S. E. 17th Street, Fort Lauderdale, Florida 33316

GENERAL SUBJECT MATTER TO BE CONSIDERED: Committee, Disciplinary Actions and General Session meetings of the Board.

Any person who decides to appeal any decision made by the board with respect to any matter considered at these meetings may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Additional information and a final agenda may be obtained by writing: Construction Industry Licensing Board, 1940 N. Monroe Avenue, Tallahassee, Florida 32399-0754.

Any person requiring special accommodations at this meeting because of a disability or physical impairment should contact Stacey Merchant, (850)921-6983, at least seven calendar days

prior to the meeting. Hearing or speech impaired please use Florida Relay 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

The Florida **Board of Pilot Commissioners** announces the following meeting via telephone conference to which all persons are invited to attend.

DATE AND TIME: October 8, 2001, 10:00 a.m.

PLACE: Access Phone Number (850)488-5776, Suncom 278-5776, Department of Business and Professional Regulation, 1940 N. Monroe Street, Tallahassee, Florida 32399, (850)488-0698

GENERAL SUBJECT MATTER TO BE CONSIDERED: Deputy Pilot advancements in Florida port training programs.

Agenda available upon request. To obtain a copy of the agenda, further information or submit written or other Physical evidence, contact in writing: Board of Pilot Commissioners, 1940 N. Monroe Street, Tallahassee, Florida 32399.

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings, and for such purpose he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Board office, (850)488-0698, at least five calendar days prior to the meeting. If you are hearing or speech impaired, please contact the Board office using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

NOTICE OF CHANGE – The Florida **Board of Pilot Commissioners** announces the following meetings to which all persons are invited to attend.

DATE AND TIME: October 11, 2001, 1:00 p.m. (CST)

GENERAL SUBJECT MATTER TO BE CONSIDERED: Rules Committee Meeting, Finance Committee Meeting, immediately followed by Probable Cause Panel meeting, which portions may be closed to the public. Agenda available on request.

DATE AND TIME: October 12, 2001, 8:00 a.m. (CST)

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Board and Business meeting.

PLACE: New World Landing, 600 South Palafox Street, Pensacola, FL 32501, (850)434-7736

To obtain a copy of the agenda, further information or submit written or other physical evidence, contact in writing: Board of Pilot Commissioners, 1940 N. Monroe St., Tallahassee, Florida 32399.

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings, and for such purpose he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Board office, (850)488-0698, at least five calendar days prior to the meeting. If you are hearing or speech impaired, please contact the Board office using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The **Florida Real Estate Commission** (FREC) announces a meeting to which all persons are invited.

DATE AND TIME: October 16, 2001, 8:30 a.m.

PLACE: Division of Real Estate, Commission Meeting Room 301, North Tower, 400 West Robinson Street, Orlando, Florida  
**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Official business of Commission – among topics included, but not limited to, are proposed legislation affecting Chapter 475, Part I, F.S., rule development workshops, Florida Administrative Code 61J2 rule amendments, budget discussions, escrow disbursement requests, Recovery Fund Claims, education issues, petitions for declaratory statement, and disciplinary actions.

If a person decides to appeal a decision made by the Commission, with respect to any matter considered at this meeting or hearing, a record of the proceedings for such purpose, upon which the appeal is based, may be required. Probable Cause Panel(s) may also meet during this session. Portions of the Probable Cause are not open to the public.

A copy of the agenda may be obtained by writing: Deputy Clerk, Florida Real Estate Commission, Administration Office, P. O. Box 1900, Orlando, Florida 32802-1900.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Department of Business and Professional Regulation, (407)245-0800, at least five (5) calendar days prior to the meeting. If you are hearing or speech impaired, please call the Division of Real Estate using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The Probable Cause Panel of the **Florida Real Estate Commission** announces a meeting to which all interested persons are invited.

DATE AND TIME: October 16, 2001, 1:30 p.m. or the soonest thereafter

PLACE: Suite 301, North Tower, 400 West Robinson Street, Orlando, Florida

Portions of the probable cause proceedings are not open to the public.

Any person who desires a special accommodation at this meeting because of a disability or physical impairment should contact the Division of Real Estate, (407)245-0800 (between the hours of 9:00 a.m. – 4:00 p.m.), at least five calendar days prior to the meeting. If you are hearing or speech impaired, please call the Real Estate Division using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

#### DEPARTMENT OF ENVIRONMENTAL PROTECTION

The **Department of Environmental Protection** announces a one-day public meeting of the Methodology Focus Group (MFG). The MFG is a focus group within the Contaminated Soils Forum (CSF). All persons are invited to participate.

DATE AND TIME: October 9, 2001, 9:30 a.m. – not later than 5:30 p.m.

PLACE: Jimmie B. Keel Regional Library, 2902 W. Bearss Avenue, Tampa, Florida 33618, (813)264-3831

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** The one-day meeting of the MFG will provide opportunities for interested parties to discuss:

- 1) Arsenic bioavailability information for updating cleanup target levels in Chapter 62-777, F.A.C.;
- 2) Uncertainty handling in risk assessment and risk-based cleanup target levels in Chapter 62-777, F.A.C.;
- 3) Detection limit practicalities from laboratory perspective; and
- 4) Other matters that may be raised before the MFG.

A copy of directions to the meeting room may be obtained by calling or writing: Roger B. Register, Department of Environmental Protection, Bureau of Waste Cleanup, M.S. #4505, Room 309A, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, (850)413-0062 or an electronic copy may be obtained at the Internet address: <http://www.dep.state.fl.us/dwm/programs/csf>.

If an accommodation is needed for a disability in order to participate in this activity, please notify the Personnel Services Specialist, Bureau of Personnel, (850)487-1855 or 1(800)955-8771 (TDD), at least seven days before the meeting.

The Florida **Department of Environmental Protection** announces a public meeting to which all persons are invited.

DATE AND TIME: October 11, 2001, 9:00 a.m.

PLACE: Florida State Turnbull Conference Center, Room 244, 555 West Pensacola Street, Tallahassee, FL

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** A meeting of state agencies in Florida to discuss the most effective way to develop a comprehensive plan that coordinates the responsibilities of the agencies to manage and prevent biological invasions.



A copy of the agenda may be obtained by writing: William Torres, Department of Environmental Protection, Division of State Lands, Bureau of Invasive Plant Management, 3900 Commonwealth Boulevard, M.S. #705, Tallahassee, FL 32399. Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the agency at least 48 hours before the meeting by contacting the Personnel Services Specialist, Bureau of Personnel, (850)488-2996. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771 (TDD).

The **Department of Environmental Protection**, Clean Boating Partnership announces a pre-meeting for the purpose of discussing items to be further discussed and acted upon at its fourth quarterly meeting for 2001 to which all persons are invited. The pre-meeting is scheduled:

DATE AND TIME: Thursday, October 18, 2001, 6:00 p.m. – 9:00 p.m.

PLACE: Renaissance Orlando Hotel, Airport, Orlando, Florida  
**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Review, discuss and further develop Clean Marina Program policy and implementation strategy recommendations for the fourth quarterly meeting of 2001 taking place the following day.

The fourth quarterly meeting for 2001 of the Clean Boating Partnership is scheduled for:

DATE AND TIME: Friday, October 19, 2001, 9:00 a.m. – 4:00 p.m.

PLACE: London Room, Renaissance Orlando Hotel, Airport, Orlando, Florida

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Review, discuss and further review and develop policy and implementation strategies for recommendations to the Department's Clean Marina Program.

A copy of the agenda may be obtained by contacting: Jan R. De Laney, Florida Department of Environmental Protection, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, (850)488-5757, Extension 178.

In accordance with the Americans With Disabilities Act, if you need a special accommodation to attend you should contact our office immediately at (850)488-5757, Extension 178 or call 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice), via Florida Relay Service.

**NOTICE OF CANCELLATION** – The Florida **Department of Environmental Protection** announces the cancellation of the public hearing described below:

DATE AND TIME: October 25, 2001, 9:00 a.m. or as soon thereafter as can be heard

PLACE: Holiday Inn, Winward Room, 3384 Ocean Drive, Vero Beach, Florida

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** To determine whether or not Calpine Construction Finance Company, L.P.'s Blue Heron Energy Center power plant is in conformance with local land use plans and zoning ordinances, pursuant to the Florida Electrical Power Plant Siting Act, Sections 403.501-.518, F.S. The hearing will be rescheduled in the future. Notice will be published once the date is established. The Division of Administrative Hearings case number is 00-4564EPP.

For additional information concerning the hearing, contact: Steven Palmer, Department of Environmental Protection, 2600 Blair Stone Road, M.S. #48, Tallahassee, Florida 32399-2400, (850)487-0472.

The **Acquisition and Restoration Council** (ARC), as defined in Section 259.035, Florida Statutes, announces the following calendar of 2001 for their public hearings/meetings to which all interested parties are invited for the purposes of conducting business of the Council, including the review of land acquisition proposals, management plans and proposed interim management uses of state-owned lands and to conduct other business of the Council.

#### PUBLIC HEARINGS

DATES AND TIME: September 12, 2001; October 24, 2001; December 5, 2001, 9:00 a.m. (unless otherwise stated)

PLACE: Department of Environmental Protection, Conference Room A, Marjory Stoneman Douglas Building, 3900 Commonwealth Boulevard, Tallahassee, Florida (unless otherwise stated)

DATE AND TIME: October 8, 2001, 6:00 p.m.

PLACE: St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** To receive public testimony on new projects.

DATE AND TIME: November 5, 2001, 6:00 p.m.

PLACE: Jan Platt Library, 3910 South Manhattan Avenue, Tampa, Florida 33601

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** To receive public testimony for ranking all projects.

#### COUNCIL MEETINGS

DATES AND TIME: September 13, 2001; October 25, 2001; December 6, 2001, 9:00 a.m. (unless otherwise stated)

PLACE: Department of Environmental Protection, Conference Room A, Marjory Stoneman Douglas Building, 3900 Commonwealth Boulevard, Tallahassee, Florida (unless otherwise stated)

For further information please contact: Office of Environmental Services, (850)487-1750.

If an accommodation is needed for a disability in order to participate in these meetings, please notify Linda Harvey, (850)488-2996, 1(800)955-8771 (TDD), at least seven days prior to the event.

---

## DEPARTMENT OF HEALTH

The **Correctional Medical Authority** announces a meeting of the Mental Health Committee to be held in Tallahassee, Florida. All persons are invited.

DATE AND TIME: October 12, 2001, 10:00 a.m. – 2:00 p.m.

PLACE: State Office Complex, Conference Room 310, Third Floor, Building 2585, 4052 Bald Cypress Way, BIN #B-04, Tallahassee, Florida 32399

GENERAL SUBJECT MATTER TO BE CONSIDERED: Continued discussion of issues relating to mental health care in the Florida Department of Corrections.

A copy of the agenda may be obtained by writing: Kathy Pilkenton, Correctional Medical Authority, 4052 Bald Cypress Way, BIN #B-04, Tallahassee, FL 32399-1732 or phone (850)245-4044.

Pursuant to Section 286.26, Florida Statutes, any handicapped person wishing to attend this meeting should contact staff at least 48 hours prior to the meeting in order to request any special assistance.

---

The Florida **Board of Medicine** announces a meeting to which all persons are invited.

DATES AND TIME: October 5-6, 2001, 8:00 a.m.

PLACE: The Embassy Suites Hotel, Miami International Airport, 3974 N. W. South River Drive, Miami, Florida 33142, (305)634-5000

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct general business of the Board.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Florida Board of Medicine, (850)245-4131, at least five (5) calendar days prior to the meeting. If you are hearing or speech impaired, please call the Florida Board of Medicine using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

A copy of the agenda may be obtained by writing: Tanya Williams, Board Director, Medical Quality Assurance, 4052 Bald Cypress Way, BIN #C03, Tallahassee, Florida 32399-3253.

Please note that if a person decides to appeal any decision made by the Board with respect to any matter considered at the above cited meeting or hearing, he will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is

to be based. A verbatim tape record of the proceeding may be obtained from a court reporter, if present, or an audio record from the Board Director.

---

The **Department of Health**, Electrolysis Council, under the **Board of Medicine** announces a conference call to which all persons are invited.

DATE AND TIME: October 5, 2001, 9:00 a.m. or soon thereafter

PLACE: Call: Nonsuncom (850)921-5320, Suncom 291-5320

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Business Meeting and Rules Review.

A copy of the agenda may be obtained by writing: Department of Health, Electrolysis Council, 4052 Bald Cypress Way, BIN #C05, Tallahassee, Florida 32399-3255 or by calling the council office, (850)245-4373.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/hearing/meeting is asked to advise the department at least 48 hours before the workshop/hearing/meeting by contacting the council office, (850)245-4373. If you are hearing or speech impaired, please contact the department by calling 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

Please note that if a person decides to appeal any decision made by the council with respect to any matter considered at the above-cited meeting or hearing, he/she will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

---

The **Department of Health, Board of Nursing Home Administrators** announces an Application Review Committee meeting to which all interested persons are invited.

DATE AND TIME: November 8, 2001, 3:00 p.m.

PLACE: Hawthorne Suites, 7450 Augusta National Drive, Orlando, Florida 32822, (407)438-2121

GENERAL SUBJECT MATTER TO BE CONSIDERED: Review exam applications for the 01/10/2002 NHA exam.

A copy of the agenda may be obtained by writing: Board of Nursing Home Administrators, 4052 Bald Cypress Way, BIN #C-04, Tallahassee, Florida 32399-3254.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact Daisy King, Board of Nursing Home Administrators, (850)245-4292, Ext 3602, at least five calendar days prior to the meeting. If you are hearing or speech impaired, please contact the Department using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he will need a record of the proceedings, and for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be made.

The **Department of Health, Board of Nursing Home Administrators** announces a General Board Meeting to which all interested persons are invited.

DATE AND TIME: November 9, 2001, 9:00 a.m.

PLACE: Hawthorne Suites, 7450 Augusta National Drive, Orlando, Florida 32822, (407)438-2121

GENERAL SUBJECT MATTER TO BE CONSIDERED: Approve applications, conduct disciplinary proceedings, and general business of the Board.

A copy of the agenda may be obtained by writing: Board of Nursing Home Administrators, 4052 Bald Cypress Way, BIN #C-04, Tallahassee, Florida 32399-3254.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact Daisy King, Board of Nursing Home Administrators, (850)245-4444, Ext 3602, at least five calendar days prior to the meeting. If you are hearing or speech impaired, please contact the Department using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he will need a record of the proceedings, and for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be made.

The Florida Probable Cause Panel of the **Board of Osteopathic Medicine** announces a meeting:

DATE AND TIME: Friday, October 12, 2001, 9:00 a.m. or soon thereafter

PLACE: Embassy Suites, 1100 Southeast 17th Street, Ft. Lauderdale, FL 33316, (954)527-2700

GENERAL SUBJECT MATTER TO BE CONSIDERED: To review those cases on which a determination of existence of probable cause has already been made.

A copy of the public portion of the agenda may be obtained by writing: Kathy Gatzloff, Senior Attorney, Agency for Health Care Administration, General Counsel, Palmer Building, P. O. Box 14229, Tallahassee, FL 32317-4229.

NOTE: In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Practitioner Regulation Section no later than seven (7) days prior to the proceeding or meeting at which such special accommodation is required. The

Practitioner Regulation Section may be contacted at P. O. Box 14229, Tallahassee, FL 32317-4229, (850)414-8126, 1(800)955-8771 (TDD) or 1(800)955-8770, via Florida Relay Service.

The **Department of Health, Board of Speech-Language Pathology and Audiology** announces a Probable Cause Panel Meeting via telephone conference call. Reconsiderations will be heard at this meeting. All interested parties are invited to participate, the conference call is open to the public.

DATE AND TIME: November 8, 2001, 8:30 a.m. – 12:30 p.m.

PLACE: Call (850)245-4161 to inquire about call-in number

GENERAL SUBJECT MATTER TO BE CONSIDERED: Probable Cause Panel and Re-considerations.

A copy of the agenda may be obtained by writing: Karen Eaton, Executive Director, Department of Health, Board of Speech-Language Pathology and Audiology, 4052 Bald Cypress Way, BIN #C06, Tallahassee, FL 32399-3256.

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be made.

Those who are hearing impaired, using TDD equipment can call the Florida Telephone Relay System at 1(800)955-8771. Persons requiring special accommodations due to disability or physical impairment should contact Karen Eaton, by Thursday, October 11, 2001.

The **Department of Health, Board of Respiratory Care** announces meetings to which all persons are invited.

DATE AND TIMES: October 12, 2001, Probable Cause Panel, 8:00 a.m. or soon thereafter; General Board Meeting, 9:15 a.m. or soon thereafter

PLACE: The Embassy Suites Hotel, 1100 S. E. 17th Street, Ft. Lauderdale, FL 33316, (954)527-2700

GENERAL SUBJECT MATTER TO BE CONSIDERED: Probable Cause Panel and General Business Meeting and Rules Review.

A copy of the agenda may be obtained by writing: Department of Health, Board of Respiratory Care, 4052 Bald Cypress Way, BIN #C05, Tallahassee, Florida 32399-3255 or by calling the board office, (850)245-4373.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/hearing/meeting is asked to advise the department at least 48 hours before the workshop/hearing/meeting by contacting the board office, (850)488-0595. If you are hearing or speech impaired, please contact the department by calling 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

Please note that if a person decides to appeal any decision made by the Board with respect to any matter considered at the above-cited meeting or hearing, he/she will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

This is to announce a variance meeting of the **Public Swimming and Bathing Facilities**, Advisory Review Board members. This meeting is open to the public.

DATE AND TIME: Wednesday, October 10, 2001, 9:30 a.m. – 3:00 p.m.

PLACE: Conference Room B, 1st Floor, South Tower, Hurston Building, 400 West Robinson Street, Orlando, FL 32801, (407)317-7172

GENERAL SUBJECT MATTER TO BE CONSIDERED: The purpose of this meeting will be for the board to make recommendations to the department for agency action on variance requests, rule and policy development and other technical review problems.

The person to be contacted regarding this meeting or agenda is: Mr. Robert S. Pryor, Environmental Engineering, Department of Health, Bureau of Water Programs, 4052 Bald Cypress Way, BIN #C22, Tallahassee, FL 32399-1742, (850)245-4444, Ext. 2369.

The Florida **Brain and Spinal Cord Injury Advisory Council** announces a Council Meeting.

DATES AND TIMES: Thursday, October 11, 2001, 8:30 a.m. through Friday October 12, 2001, 1:00 p.m. (EST)

PLACE: Hilton, 333 First Street South, St. Petersburg, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To provide a status update on the activities of the Florida Bureau of Brain and Spinal Cord Injury and to conduct general business of the Advisory Council and its committees (EMS/Acute Care, Inpatient/Outpatient Rehabilitation, Residential/Community-Based/Long-Term Care, Pediatric and Prevention/Education Research).

Any persons requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Florida Bureau of Brain and Spinal Cord Injury, (850)245-4045, at least 48 hours prior to the meeting. If you are hearing or speech impaired, please call the Florida Bureau of Brain and Spinal Cord Injury using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

For further information, write: Thom DeLilla, 4052 Bald Cypress Way, BIN #C25 (BSCI), Tallahassee, Florida 32399-1744 or call (850)245-4045, Ext. 3178.

The **Department of Health**, Division of Environmental Health, Bureau of Radiation Control announces the continuation of the public hearing to which all persons are invited on proposed amendments to Rule 64E-5, Florida Administrative Code, begun August 21, 2001:

DATE AND TIME: October 18, 2001, 10:00 a.m.

PLACE: Room 210J, 4042 Bald Cypress Way, Tallahassee, FL 32311

GENERAL SUBJECT MATTER TO BE CONSIDERED: Proposed amendments to Rule 64E-5, Florida Administrative Code.

Questions can be addressed to: William A. Passetti, Chief, Bureau of Radiation Control, 4052 Bald Cypress Way, BIN #C21, Tallahassee, FL 32399-1741, (850) 245-4266.

### DEPARTMENT OF CHILDREN AND FAMILY SERVICES

The Florida **Department of Children and Family Services** announces a meeting of the Marion County Children's Alliance Steering Committee to which all persons are invited.

DATE AND TIME: Wednesday, October 5, 2001, 12:00 Noon

PLACE: Marion County Sheriff's Office, 692 N. W. 30th Ave., Ocala, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: To provide participation and governance of community based services, Section 20.19(6), F.S.

A copy of the agenda may be obtained by writing: Mona Terry, Box 80-O, 1601 W. Gulf-Atlantic Hwy., Wildwood, FL 34785.

Persons needing special accommodations to participate in this proceeding should contact the agency no later than five working days prior to the meeting, (352)330-2177.

The Florida **Department of Children and Family Services** announces a meeting of the Hernando County Community Alliance Steering Committee to which all persons are invited.

DATE AND TIME: Wednesday, October 10, 2001, 9:00 a.m.

PLACE: Hernando County Schools Support Complex, 919 Broad Street, Brooksville, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: To provide participation and governance of community based services, Section 20.19(6), F.S.

A copy of the agenda may be obtained by writing: Mona Terry, Box 80-O, 1601 W. Gulf-Atlantic Hwy., Wildwood, FL 34785.

Persons needing special accommodations to participate in this proceeding should contact the agency no later than five working days prior to the meeting, (352)330-2177.

The Florida **Department of Children and Family Services** announces a meeting of the Citrus County Community Alliance to which all persons are invited.

DATE AND TIME: Thursday, October 25, 2001, 8:30 a.m.

PLACE: Citrus County School Board Office, 1007 W. Main Street, Inverness, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: To provide participation and governance of community based services, Section 20.19(6), F.S.

A copy of the agenda may be obtained by writing: Mona Terry, Box 80-O, 1601 W. Gulf-Atlantic Hwy., Wildwood, FL 34785.

Persons needing special accommodations to participate in this proceeding should contact the agency no later than five working days prior to the meeting, (352)330-2177.

The **Department of Children and Family Services**, SunCoast Region announces the following public meeting to which all persons are invited:

PASCO COMMUNITY ALLIANCE

DATE AND TIME: October 10, 2001, 2:00 p.m.

PLACE: Counsel Square II, Conference Room 200 D, 7601 Little Road, New Port Richey, FL. (Note Room change.)

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss implementation of community alliances in the SunCoast Region.

Agendas can be obtained seven days in advance of each meeting at: Mary Grizzle, State Office Building, Suite 414, 11351 Ulmerton Road, Largo, FL.

Persons needing accommodation to participate in these meetings should call at least 3 days in advance of the meeting, (727)588-7061 or TDD (727)588-6662, to arrange accommodations.

The Florida **Department of Children and Family Services** announces the District 8, Hendry/Glades Counties Community Alliance will meet on the following dates and locations:

DATE AND TIME: October 24, 2001, 1:30 p.m.

PLACE: Agriculture Building, 1085 Pratt Boulevard, LaBelle, FL

DATE AND TIME: November 27, 2001, 1:30 p.m.

PLACE: 485 Cowboy Way, LaBelle, FL

DATE AND TIME: December 19, 2001, 1:30 p.m.

PLACE: Agriculture Building, 1085 Pratt Boulevard, LaBelle, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Monthly Hendry/Glades Counties Community Alliance Board meetings.

A copy of the agenda may be obtained by contacting: Department of Children and Family Services, Community-Based Care Unit, 2nd Floor, 2295 Victoria Avenue, Fort Myers, Florida 33901, one week prior to the meeting. All persons are invited.

In accordance with the Americans With Disabilities Act, persons needing an accommodation to participate in the meetings or needing additional information should contact the Community-Based Care Unit, (941)338-1343.

### FISH AND WILDLIFE CONSERVATION COMMISSION

The Florida **Fish and Wildlife Conservation Commission** has scheduled a public meeting. This notice announces the date, time and place of that meeting to which all interested persons are invited:

DATES AND TIME: October 31, 2001, November 1-2, 2001, 8:30 a.m., each day

PLACE: Westin Beach Resort, 97000 South Overseas Highway, Mile Marker 97, Key Largo, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To review and discuss substantive and procedural issues associated with the Fish and Wildlife Conservation Commission and to take action on proposed rules and policy issues.

A copy of the proposed agenda may be obtained: Florida Fish and Wildlife Conservation Commission, 620 S. Meridian St., Tallahassee, FL 32399-1600.

If any person decides to challenge any decision with respect to any matter considered at the above meeting, a record of the proceeding will be needed. For this purpose, you may need to ensure that a verbatim record of the proceeding is made which includes testimony and evidence upon which the challenge is to be based.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in the workshop or meeting is asked to advise the Commission at least 5 calendar days prior by calling Cindy Hoffman, ADA Coordinator, (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

LEGAL AUTHORITY: Article IV, Section 9, Florida Constitution.

### FLORIDA LEGISLATURE

The **Joint International Program Review Team** announces its initial meeting.

DATE AND TIME: October 8, 2001, 9:00 a.m. – 12:00 Noon

PLACE: Room 309, The Capitol, Tallahassee, Florida 32399

GENERAL SUBJECT MATTER TO BE CONSIDERED: Presentations from the Department of State and Enterprise Florida, Inc. on the international duties and functions of those agencies, and discussion of the issues to be addressed by the review team.

A copy of the agenda can be obtained by contacting: Debbie Gilreath, Office of Program Policy Analysis and Government Accountability, Suite 312, 111 West Madison Street, Tallahassee, FL 32399-1475, (850)487-9278.

If special accommodations are needed to attend this meeting because of a disability, please contact the above-mentioned individual at least 5 days in advance of the meeting.

**H. LEE MOFFITT CANCER CENTER AND RESEARCH INSTITUTE**

The **H. Lee Moffitt Cancer Center and Research Institute**, Inc. announces a public meeting to which all persons are invited.

DATE AND TIME: Tuesday, October 9, 2001, 11:30 a.m.

PLACE: Moffitt Board Room, 12902 Magnolia Drive, Tampa, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct general business of the Joint Finance and Planning Committee of the Board of Directors.

A copy of the agenda may be obtained by writing: Ms. Barbara Sawyer, Administration, Moffitt Cancer Center, 12902 Magnolia Drive, Tampa, FL 33612.

Persons requiring special accommodations due to disability or physical impairment should contact Ms. Barbara Sawyer, by Friday, October 5, 2001.

**TRANSPORTATION AND EXPRESSWAY AUTHORITY MEMBERSHIP OF FLORIDA**

The **Transportation and Expressway Authority Membership of Florida**, Inc. (TEAMFL) announces a public meeting to which all persons are invited:

DATE AND TIME: October 10, 2001, 8:45 a.m. – 12:00 Noon

PLACE: Diamond Head Resort, Ft. Myers, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED:

1. Update on SunPass by FDOT Toll Operations Department
2. Report on IBTTA Exhibition in Boston
3. Report on TEAMFL trip to TORONTO – 407-ETR
4. Review of Open Road Tolling

A copy of the agenda may be obtained by contacting: Robert C. Hartnett, Executive Director, TEAMFL, Suite B, 2121 Camden Road, Orlando, FL 32803, (407)896-0035, Fax (407)897-7012.

**FLORIDA COMPREHENSIVE HEALTH ASSOCIATION**

The **Florida Comprehensive Health Association** created pursuant to Section 627.6488, Florida Statutes, as amended, announces a public meeting as follows:

DATE AND TIME: Wednesday, October 10, 2001, 2:00 p.m. – 5:00 p.m.

PLACE: Pennington Law Firm, 2nd Floor, 215 S. Monroe Street, Tallahassee, FL 32301

GENERAL SUBJECT MATTER TO BE CONSIDERED: Board of Directors' Meeting.

A copy of the proposed agenda may be obtained by writing: Brenda DeYounks, Florida Comprehensive Health Association, 1210 E. Park Avenue, Tallahassee, Florida 32301, (850)309-1200 or by facsimile (850)309-1222.

If any person desires to appeal any decision with respect to any matter considered at the above cited meeting, such person will need a record of the proceedings, and for such purpose, they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

**FLORIDA HEALTHY KIDS CORPORATION**

The **Florida Healthy Kids Corporation** announces its Board of Directors meeting to which all persons are invited to attend.

DATE AND TIME: October 12, 2001, 10:00 a.m.

PLACE: Sittig Hall, Kleman Plaza, 301 South Bronough Street, Tallahassee, FL 32301

GENERAL SUBJECT MATTER TO BE CONSIDERED: Meeting of the Board of Directors.

Further details and an agenda for the meeting may be obtained by contacting: Florida Healthy Kids Corporation, P. O. Box 980, Tallahassee, Florida 32302, (850)224-5437.

**FLORIDA LOCAL GOVERNMENT INVESTMENT TRUST**

The Board of Trustees for the **Florida Local Government Investment Trust** announces a public meeting to which all persons are invited.

DATE AND TIME: October 19, 2001, 10:30 am.

PLACE: Jacksonville City Hall, Suite 425, Conference Room A, 4th Floor, 117 W. Duval Street, Jacksonville, FL 32202

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Administrative Operations.

A copy of the agenda may be obtained by contacting: Trust's Administrator, FACC Service Corporation, (850)921-0808.

**Section VII  
Notices of Petitions and Dispositions  
Regarding Declaratory Statements**

**DEPARTMENT OF BANKING AND FINANCE**

NOTICE IS HEREBY GIVEN THAT the Florida Department of Banking and Finance has received a Petition for Declaratory Statement from Steven M. Prebish, Attorney for TruServ

Corporation. The petition seeks the agency's opinion as to whether the Company's Class A or Class B common stock are securities pursuant to Chapter 517, Florida Statutes.

A copy of the petition may be obtained by contacting: Thomas Cibula, Assistant General Counsel, Department of Banking and Finance, Suite 526, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

---

NOTICE IS HEREBY GIVEN THAT the Department of Banking and Finance has issued an order disposing of the petition for declaratory statement filed by Robert C. Moore, Esq., on behalf of American Pharmacy Services Corporation. The following is a summary of the agency's disposition of the petition:

The question presented in the Petition for Declaratory Statement was whether certain exemptions applied to an offering of common stock. The Department concluded that the common stock that American Pharmacy Services proposed to offer in Florida was not a security as it did not possess the characteristics associated with a security.

A copy of the order may be obtained from: Thomas Cibula, Assistant General Counsel, Department of Banking and Finance, Suite 526, 101 East Gaines Street, Tallahassee, Florida 32399, (850)410-9896.

---

NOTICE IS HEREBY GIVEN THAT the Department of Banking and Finance, Division of Securities and Finance, has received a petition filed on September 12, 2001, pursuant to Section 120.565, F.S., from The Money Tree of Florida, Inc., for a declaratory statement regarding the application of Chapter 516, F.S. Specifically, the petitioner has requested a declaratory statement concerning whether Chapter 516, FS., under which the petitioner is licensed, permits the petitioner to assess and collect a three dollar (\$3.00) per transaction check direct deposit service to its customers. The Petition for Declaratory Statement is being processed and is available for public inspection during normal business hours, 8:00 a.m. through 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Banking and Finance, Office of the General Counsel, Room 526, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350. Requests for copies or inspection should be made to James H. Harris, Chief Counsel, at the above address.

Those persons whose substantial interests may be determined by these proceedings, including settlements, grants and denials, are advised that they may intervene concerning this matter in accordance with the provisions of Rule 28-106.205, Florida Administrative Code. Petitions for leave to intervene should be in conformance with Rule 28-106.201 or 28-106.301, Florida Administrative Code, and shall also include allegations sufficient to demonstrate that the intervenor is entitled to participate in the proceeding as a matter of constitutional or statutory right or pursuant to agency rule, or that the substantial

interests of the intervenor are subject to determination or will be affected through the proceeding. Original petitions and two copies shall be filed with the Clerk, Office of the Comptroller, Department of Banking and Finance, Comptroller's Legal Office, Suite 526, The Fletcher Building, 101 E. Gaines St., Tallahassee, Florida 32399-0350. The following statutory chapters and rule chapters directly govern proceedings before the Department: Chapter 120, Florida Statutes, and Chapter 28-106, Florida Administrative Code. In deference to the rights of substantially affected persons, the Department will not settle or otherwise reach a final resolution of these matters for a period of twenty-one (21) days from the date of this publication.

P.O. #0300

---

#### DEPARTMENT OF INSURANCE

NOTICE IS HEREBY GIVEN THAT the Department of Insurance has issued an order dismissing the petition for declaratory statement filed by Carlos Lidsky, Esquire on behalf of Lazaro Padilla. The Department has determined that the subject matter of the petition is currently before the Third District Court of Appeal. Accordingly, the petitioner failed to demonstrate a present need for the declaratory statement sought.

---

#### DEPARTMENT OF CORRECTIONS

NOTICE IS HEREBY GIVEN THAT the Department of Corrections has issued a response to a Petition to Initiate Rulemaking from Douglas M. Jackson. The Department denied the Petition to amend Rule 33-210.102, Florida Administrative Code, to expand the definition of legal mail as the current definition is allegedly too restrictive.

A copy of the Order may be obtained from: Anthony W. Garcia, Assistant General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

---

#### AGENCY FOR HEALTH CARE ADMINISTRATION

NOTICE IS HEREBY GIVEN THAT the Agency For Health Care Administration has issued an order disposing of the petition for a declaratory statement filed by Miriam Harmatz, Esquire, Vivian Chavez, Esquire and Dawn Miller, Esquire, on behalf of Maria Albo on June 11, 2001. The following is a summary of the Agency's disposition of the petition: the Agency denied the petition because (1) the Petitioner is actively participating in an administrative hearing on the issues underlying the Petition for a Declaratory Statement; and (2) the Petitioner has not demonstrated a bona fide, actual, present or practical need for a Declaratory Statement from the Agency.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

NOTICE IS HEREBY GIVEN THAT the Division of Florida Land Sales, Condominiums and Mobile Homes, Department of Business and Professional Regulation, State of Florida, received a petition for declaratory statement In Re: Petition for Declaratory Statement, Wilderness Country Club, Inc., Petitioner.

The Petitioner requests an interpretation as to whether Wilderness Country Club which administers a golf course and golf club in Naples, Florida, is an association within the meaning of Section 718.103, F.S., and whether it is governed by Chapter 718, F.S.

A copy of the Petition for Declaratory Statement, Docket Number DS2001-029, may be obtained by writing: Agency Clerk, Department of Business and Professional Regulation, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-2217. Please refer all comments to Karl Scheuerman, Assistant General Counsel, Department of Business and Professional Regulation, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-2202.

NOTICE IS HEREBY GIVEN THAT the Division of Florida Land Sales, Condominiums and Mobile Homes, Department of Business and Professional Regulation, State of Florida, received a petition for declaratory statement In Re: Petition for Declaratory Statement, Robert I. Rea, Owner, Maple Leaf Estates, Petitioner.

The Petitioner requests an interpretation as to whether Chapter 723, F.S., applies to Maple Leaf Homeowners' Corporation.

A copy of the Petition for Declaratory Statement, Docket No.: MD2001-039, may be obtained by writing: Agency Clerk, Department of Business and Professional Regulation, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-2217. Please refer all comments to Janis Sue Richardson, Chief Assistant General Counsel, Department of Business and Professional Regulation, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-2202.

**Section VIII  
Notices of Petitions and Dispositions  
Regarding the Validity of Rules**

**Notice of Petition for Administrative Determination has been filed with the Division of Administrative Hearings on the following rules:**

**NONE**

**Notice of Disposition of Petition for Administrative Determination have been filed by the Division of Administrative Hearings on the following rules:**

Wendy Betts and Donna Reuter vs. Department of Banking and Finance and Advance America, Cash Advance Centers of Florida, Inc.; Case No.: 01-1445RX; Rule No.: 3C-560.803; Dismissed

Debra Ann McCall vs. Department of Corrections; Case No.: 01-3152RX; Rule No.: 33-601.708(12)(e); Dismissed

**Section IX  
Notices of Petitions and Dispositions  
Regarding Non-rule Policy Challenges**

**NONE**

**Section X  
Announcements and Objection Reports of  
the Joint Administrative Procedures  
Committee**

**NONE**

**Section XI  
Notices Regarding Bids, Proposals and  
Purchasing**

**DEPARTMENT OF EDUCATION**

**NOTICE TO CONSTRUCTION MANAGERS**

Florida Atlantic University, for and on behalf of the Florida Atlantic University Board of Trustees, State of Florida, announces that Construction Management Services will be required for the project listed below:

Project No. BR-613

Project and Location: The North Palm Beach Library Expansion and Classroom Building, also known as the Jupiter Library Expansion and Classroom Building, consists of site development and construction of approximately 38,000 square feet of new space on the Macarthur Campus in Jupiter. It is proposed that the spaces be housed in two new 2-story buildings. One building will house the library/study space and related office space and the second building will consist of classrooms, teaching laboratories and offices. The existing library is to be converted into open office space.

The Construction budget is approximately \$4,916,400.



The contract for Construction Management Services will consist of two phases. Phase one is pre-construction services, for which the Construction Manager will be paid a fixed fee. Phase one services include value engineering, constructability analysis, development of a cost model, estimating, and the development of a Guaranteed Maximum Price (GMP) at 100% Construction Document phase. If the GMP is accepted, Phase two, the construction phase, will be implemented. In phase two of the contract, the Construction Manager becomes the single point of responsibility for performance of the construction of the project and shall publicly bid trade contracts, ensuring the inclusion of Minority Business Enterprises (MBE's). Failure to negotiate an acceptable fixed fee for phase one of the contract, or to arrive at an acceptable GMP within the time provided in the agreement, may result in the termination of the Construction Manager's contract.

Selection of finalists for interviews will be made on the basis of Construction Manager qualifications, including experience and ability; past experience; bonding capacity; record-keeping, administrative ability, critical path scheduling expertise; cost estimating; cost control ability; quality control capability; qualification of the firm's personnel, staff and consultants; and ability to meet the minority business enterprise participation requirements. Finalists will be provided with a copy of the building program and the latest documentation prepared by the project architect/engineer, a description of the final interview requirements and a copy of the standard State University System's Construction Management Agreement. The Selection Committee may reject all proposals and stop the selection process at any time. The Construction Manager shall have no ownership, entrepreneurial or financial affiliation with the selected architect/engineer involved with this project.

Firms desiring to provide Construction Management Services for the project shall submit a letter of application and a completed Board of Trustees "Construction Manager Qualifications Supplement." Proposals must not exceed 80 pages, including the Construction Manager Qualifications Supplement and letter of application. Pages must be numbered consecutively. Submittals that do not comply with these requirements or do not include the requested data will not be considered. No submittal material will be returned.

All applicants must be licensed to practice as general contractors in the State of Florida at the time of application. Corporations must be registered to operate in the State of Florida by the Department of State, Division of Corporations, at the time of application. As required by Section 287.133, Florida Statutes, a Construction Management firm may not submit a proposal for this project if it is on the convicted vendor list for a public entity crime committed within the past 36 months. The selected Construction Management firm must warrant that it will neither utilize the services of, nor contract with, any supplier, subcontractor or consultant in excess of

\$15,000.00 in connection with this project for a period of 36 months from the date of their being placed on the convicted vendor list.

The Board of Trustees "Construction Manager Qualifications Supplement" forms and the Project Fact Sheet may be obtained by contacting: Carla Capeletti, Administrative Assistant, Office of the Associate Vice President to the University Architect, Florida Atlantic University, Room 16, Building T-10, 777 Glades Road, Boca Raton, Florida 33431, (561)297-2663, (561)297-0224 Fax, e-mail ccapelet@fau.edu. Five (5) bound copies of the required proposal data shall be submitted to: Mr. Tom Donaudy, Associate Vice President, University Architect, Florida Atlantic University, Room 16, Building T-10, 777 Glades Road, Boca Raton, Florida 33431.

Submittals must be received and addressed to Mr. Tom Donaudy, Associate Vice President at the above address, by 5:00 p.m. (Local Time), Monday, October 29, 2001. Facsimile (FAX) submittals are not acceptable and will not be considered.

#### NOTICE TO PROFESSIONAL CONSULTANTS

Florida International University, on behalf of the Florida Board of Education, announces that Professional Services in the discipline of Architecture and or Engineering will be required for the projects listed below:

Project Name and Number: Parking Garage Three (BR-863) and Parking Garage Four (BR-891).

Project Location and Description: Each project consists of site development and construction of a 1,400 car-parking garage. Each building will be located at Florida International University, University Park at separate locations within the campus site. The total construction budget for Parking Garage Three is \$10,600,000 and for Parking Garage Four is \$10,700,000. The selected firm will provide design development, construction documents and construction administration for both projects (one design team will be awarded two contracts for two separate projects). Blanket professional liability insurance will be required in the amount of \$1,000,000 for each project, and will be provided as a part of Basic Services.

#### INSTRUCTIONS

Firms desiring to apply for consideration shall submit a letter of application.

The letter of application should have attached:

1. A completed Board of Regents "Professional Qualifications Supplement (SUSPQS)," dated September 1999. Applications on any other form will not be considered.
2. A copy of the applicant's current Professional Registration Certificate from the appropriate governing board.

An applicant must be properly registered at the time of application to practice its profession in the State of Florida. If the applicant is a corporation, it must be properly chartered by the Florida Department of State to operate in Florida.

Submit seven (7) copies of the above requested data bound in the order listed above. Applications that do not comply with the above instructions will not be considered. State of Florida Minority Business Enterprise certification is no longer requested. Application material will not be returned.

The plans and specifications for A/E projects are subject to reuse in accordance with the provisions of Section 287.055, Florida Statutes. As required by Section 287.133, Florida Statutes, a consultant may not submit a proposal for this project if it is on the convicted vendor list for a public entity crime committed within the past 36 months. The selected consultant must warrant that it will neither utilize the services of, nor contract with, any supplier, subcontractor or consultant in excess of \$15,000.00 in connection with this project for a period of 36 months from the date of their being placed on the convicted vendor list.

Professional Qualifications Supplement forms may be obtained on-line at <http://www.fldcu.org/chn/cms.asp> (Architect/Engineer Selection CM-N-06.03-09/99) and the Project Fact Sheet may be obtained by written request to: Facilities Management, Florida International University, Campus Support Complex, Room 236, University Park, Miami, Florida 33199 or by Faxing a request to (305)348-4010. Requests for meetings by individual firms will not be granted.

Submit qualifications to: Mary Varela Witham, Facilities Planner/Contract Administrator, Florida International University, Facilities Management, Campus Support Complex, University Park, Miami, Florida 33199, by 2:00 p.m. (Local Time), Monday, October 29, 2001. Late submittals shall be disqualified. Facsimile (FAX) submittals are not acceptable and will not be considered.

**INVITATION TO BID (ITB)  
FOR A GENERAL CONTRACTOR**

(For exclusive competition by qualified Minority Business Enterprises (MBE's only))

Sealed bids will be received by Duval County Public Schools, Division of Facilities Services, Room 535, 1701 Prudential Drive, Jacksonville, FL 32207, until the time and date(s) recorded below and immediately thereafter publicly opened and recorded in Room 541, 1701 Prudential Drive, Duval County School Board Building.

**BIDS ARE DUE ON OR BEFORE OCTOBER 30, 2001  
AND WILL BE ACCEPTED UNTIL 2:00 P.M.**

DCSB Project No. C-90820 Additions, Remodeling and Renovations at S. A. Hull Elementary School No. 169

This project includes construction of a new media center; remodeling of existing administration, guidance, and teachers' lounge; and replacement of windows. The total construction budget is \$936,860.

All contractors that are interested in bidding are required to attend a mandatory pre-bid conference to be held on October 9, 2001, 9:00 p.m., 7528 Hull Street, Jacksonville, Florida 32219. Failure to attend the pre-bid conference shall result in disqualification of that firm's proposal. Attendees will be required to sign an attendance register.

All bidders and subcontractors shall be licensed contractors and registered corporations as required by the laws of the State of Florida.

Contract documents for bidding may be obtained for a fee of \$150. at the office of: Junck & Walker Architects/Planners, Inc., Suite 2A, 8111 Old Kings Road, South, Jacksonville, Florida 32217.

DCSB Point of Contact: James Scott, (904)390-2279

Contract documents for bidding may be examined at but not obtained at Duval County Public Schools, Facilities Services, 5th Floor, 1701 Prudential Drive, Jacksonville, Florida 32207.

MBE Participation Goal: 100% Minority Business Enterprise (MBE) Participants Only

The Bid Award Recommendation will be posted on the First Floor Bulletin Board at the Duval County Public Schools, 1701 Prudential Drive, Jacksonville, Florida 32207-8182.

**INVITATION TO BID (ITB)  
FOR A GENERAL CONTRACTOR**

Sealed bids will be received by Duval County Public Schools, Division of Facilities Services, Room 535, 1701 Prudential Drive, Jacksonville, FL 32207, until the time and date(s) recorded below and immediately thereafter publicly opened and recorded in Room 541, 1701 Prudential Drive, Duval County School Board Building.

**BIDS ARE DUE OCTOBER 30, 2001**

**BIDS ARE DUE AT 2:00 P.M.**

DCSB Project No. C-90750 – Additions, Remodeling and Renovations at Garden City Elementary School No. 59

This will provide for construction of a new media center, remodeling of the food service, stage, multipurpose and administration areas; conversion of the existing media to administration, teacher's lounge and restrooms; and renovation of classrooms. The total construction budget is \$2,885,905.

All contractors that are interested in bidding are required to attend a mandatory pre-bid conference to be held on October 9, 2001, 1:00 p.m. at Garden City Elementary School No. 59, 2814 Dunn Avenue, Jacksonville, Florida 32218. Failure to attend the pre-bid conference shall result in disqualification of that firm's proposal. Attendees will be required to sign an attendance register.

All bidders and subcontractors shall be licensed contractors and registered corporations as required by the laws of the State of Florida.

Contract documents for bidding may be obtained for a refundable fee \$150.00 at the office of: TTV Architects, Inc., 300-C Wharfside Way, Jacksonville, Florida 32207, (904)396-1006

DCSB Point of Contact: James Scott, (904)390-2279

Contract documents for bidding may be examined at but not obtained at Duval County Public Schools, Facilities Services, 5th Floor, 1701 Prudential Drive, Jacksonville, Florida 32207.

MBE Participation Goal: 10% AA; 3% HANA; 7% WBE

The Bid Award Recommendation will be posted on the First Floor Bulletin Board at the Duval County Public Schools, 1701 Prudential Drive, Jacksonville, Florida 32207-8182.

**INVITATION TO BID (ITB)  
FOR A GENERAL CONTRACTOR**

Sealed bids will be received by Duval County Public Schools, Division of Facilities Services, Room 535, 1701 Prudential Drive, Jacksonville, FL 32207, until the time and date(s) recorded below and immediately thereafter publicly opened and recorded in the Fifth (5th) Floor, Conference Room No. 513D, School Board Building.

November 6, 2001, 2:00 p.m.

DCSB Project No. C-90830 Additions, Remodeling and Site Improvements at Holiday Hill Elementary School No. 209 (6900 Altama Road, Jacksonville, Florida 32216). New construction of media center and remodel existing administration with a total construction budget of \$2,610,885. All general contractors or prime bidders that are interested in bidding are required to attend a mandatory pre-bid conference to be held on October 17, 2001, 10:00 a.m., Holiday Hill Elementary School No. 209, 6900 Altama Road, Jacksonville, Florida 32216. Failure to attend the pre-bid conference shall result in disqualification of that firm's proposal. Attendees will be required to sign an attendance register.

All bidders and subcontractors shall be licensed contractors and registered corporations as required by the laws of the State of Florida.

Contract documents for bidding may be obtained for a fee of \$100.00 at the office of Drake/Pattillo & Associates Architects, Inc., 126 W. Adams Street, Suite 602, Jacksonville, Florida 32202, (904)598-0072. Contact: R. Dean Scott. DCSB Point of Contact: Russell Gustafson, (904)390-2279.

Contract documents for bidding may be examined at but not obtained at Duval County Public Schools, Facilities Services, 5th Floor, 1701 Prudential Drive, Jacksonville, FL.

MBE Participation Goal: 6% AA; 7% WBE; 9% HANA

**DEPARTMENT OF MANAGEMENT SERVICES**

**PUBLIC ANNOUNCEMENT FOR  
CONSTRUCTION MANAGEMENT SERVICES  
FOR CONTINUING AREA CONTRACTS AREA 1**

The State of Florida, Department of Management Services, requests qualifications from firms to provide Construction Management Services in Area 1 counties of Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, Washington; and other counties as may be determined necessary by the owner. The Department of Management Services will enter into a contract with one construction management firm with responsibility for performance of construction contracts that will vary in size up to \$500,000. This will be a multiple award contract for an initial period of one year with an option to renew for two additional one-year periods.

Selection of finalists for interview will be made on the basis of construction manager qualifications including experience and ability, bondability, record-keeping/administrative ability, scheduling expertise, cost estimating and cost control ability, quality control capability, qualifications of involved management staff and ability to involve Minority Business Enterprises.

Applicant must be licensed in the State of Florida at the time of application. Further, if a corporation, the applicant must be registered by the Department of State, Division of Corporations, to operate in the State of Florida at the time of application. The selection will be made in accordance with Section 255.29(3), F.S., and the procedures and criteria of Building Construction.

**INSTRUCTIONS**

Firms interested in being considered for this project must submit four (4) copies of their application with a table of contents and tabbed sections in the following order:

1. A letter of interest detailing the firm's qualifications to meet the above referenced selection criteria.
2. A current Experience Questionnaire and Contractor's Financial Statement, Form DBC5085 dated 3/00.
3. Resumes of proposed staff and staff organizations.
4. Any examples of project reporting manuals, schedules, past experience and examples of similar projects completed by the firm.
5. A description of the applicant's plan for Minority Business Enterprise and Women-Owned Business Enterprise.
6. References from prior clients received within the last five years.

**RESPONSE DUE DATE:** October 29, 2001, by 5:00 p.m. (Local Time)

Applications are to be sent to: Carole Nichols, Department of Management Services, Division of Building Construction, Suite 125A, Building 4050, 4050 Esplanade Way, Tallahassee, Florida 32399-0950, (850)487-2824. Facsimile (FAX) submittals are not acceptable and will not be considered. Applicants that do not comply with these instructions or those that do not include the requested data will not be considered.

DATE AND LOCATION OF SHORTLIST: November 6, 2001, Department of Management Services, Division of Building Construction, Suite 115B, 4050 Esplanade Way, Tallahassee, FL 32399-0950

DATE AND LOCATION OF INTERVIEWS: November 27, 2001, Department of Management Services, Division of Building Construction, Suite 115B, 4050 Esplanade Way, Tallahassee, FL 32399-0950.

Any person requiring a special accommodation at the meetings because of a disability or physical impairment should contact Ms. Betty Stevens, Department of Community Affairs, (850)487-1824, at least ten days before the meetings. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

Any changes to the above dates will be published on our website, <http://fcn.state.fl.us/dms/dbc/opportun/index.html>.

The selected firms will be given official notice of selection results by Fax and/or mail. Please include one stamped, self-addressed envelope. Failure to file a protest within 72 hours (not including Saturday, Sunday or a legal holiday) after receipt of notice shall constitute a waiver of proceedings under Chapter 120, Florida Statutes. The selection results will be published in the "Florida Administrative Weekly" and on our website.

---

**NOTICE TO PROFESSIONAL CONSULTANTS  
FOR PROFESSIONAL SERVICES FOR CONTINUING  
AREA CONTRACTS FOR ARCHITECTURAL  
SERVICES AREA 1**

The State of Florida, Department of Management Services, requests qualifications from Architectural firms to provide services as stated in Area 1, counties of Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, Washington; and other area counties as may be determined necessary by the owner. The firm selected under this Continuing Area Contract and will be responsible for assigned projects having estimated construction costs and study fees not exceeding the threshold amounts of \$500,000 (construction) and \$25,000 (fees) respectively, provided for in Section 287.055, Florida Statutes. This will be a multiple award contract for an initial period of one year with an option to renew for two additional one-year periods.

RESPONSE DUE DATE: October 25, 2001, by 5:00 p.m. (Local Time)

Applications are to be sent to: Carole Nichols, Department of Management Services, Division of Building Construction, Suite 125A, 4050 Esplanade Way, Tallahassee, Florida 32399-0950, (850)487-2824.

DATE AND LOCATION OF SHORTLIST: October 30, 2001, Department of Management Services, Division of Building Construction, Suite 115B, 4050 Esplanade Way, Tallahassee, FL 32399-0950.

DATE AND LOCATION OF INTERVIEWS: November 15, 2001, Department of Management Services, Division of Building Construction, Suite 115B, 4050 Esplanade Way, Tallahassee, FL 32399-0950.

Any person requiring a special accommodation at the meetings because of a disability or physical impairment should contact Ms. Betty Stevens, Department of Community Affairs, (850)487-1824, at least ten days before the meetings. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

Any changes to the above dates will be published on our website, <http://fcn.state.fl.us/dms/dbc/opportun/index.html>.

**INSTRUCTIONS**

Firms interested in being considered for this project must submit four (4) copies of their application with a table of contents and tabbed sections containing the following information:

1. Letter of interest which indicates the firm's qualifications, related experience, the firm's abilities to do the work and other pertinent data.
2. Professional Qualifications Supplement (PQS) Form DBC5112, Revised 2/99.
3. A copy of the firm's current Florida Professional Registration License Renewal.
4. For Corporations only: If the firm offering services is a corporation, it must be properly chartered with the Department of State to operate in Florida and must provide a copy of the firm's current Florida Corporate Charter.
5. Completed SF-254.
6. Completed SF-255.

Please include one stamped, self-addressed envelope for notice of selection results. Firms must be properly registered at the time of application to practice their profession in the State of Florida. Representative samples of related work may be submitted in a separate binder. Applications that do not comply with these instructions or those that do not include the requested data may not be considered. All information received will be maintained with the project file and will not be returned. Applicants are advised that plans and specifications for A/E projects may be reused.

Selections will be made in accordance with Chapter 287.055, Florida Statutes.

Selected firms will be given official notice of selection results by Fax and/or mail. Failure to file a protest within 72 hours (not including Saturday, Sunday or a legal holiday) after receipt of notice shall constitute a waiver of proceedings under Chapter 120, Florida Statutes. The selection results will be published in the "Florida Administrative Weekly" and on our website.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**NOTICE OF INVITATION TO BID**

BID NO. BDRS 42-01/02

The Department of Environmental Protection, Division of Recreation and Parks, Bureau of Design and Recreation Services is soliciting formal competitive bids for the project listed below:

**PROJECT NAME:** Thursby House repairs at Blue Spring State Park

**SCOPE OF WORK:** The contractor shall provide the necessary labor, supervision, equipment and materials for repairs, modifications to the Thursby House including any associated work.

**PARK LOCATION:** Blue Spring State Park  
2100 W. French Avenue  
Orange City (Volusia County), Florida

**PROJECT MANAGER:** Marvin Allen  
Bureau of Design and Recreation Services  
Telephone Number (850)488-5372  
Fax Number (850)488-1411

**MINORITY BUSINESS REQUIREMENT:** The Department of Environmental Protection supports diversity in its Procurement Program and requests that all sub-contracting opportunities afforded by this bid embrace diversity enthusiastically. The award of sub-contracts should reflect the full diversity of the citizens of the State of Florida. The Department will be glad to furnish a list of Minority Owned Firms that could be offered sub-contracting opportunities.

**PRE-QUALIFICATION:** When the total bid price including alternates exceeds \$200,000.00, each bidder whose field is governed by

Chapters 399, 489 and 633 of the Florida Statutes for licensure or certification must submit prequalification data of their eligibility to submit bids five (5) calendar days prior to the opening date.

**INSTRUCTIONS:** Any firm desiring plans and bid specifications for this project may obtain a copy by writing the address or calling the telephone number below. Plans and specifications will be available on Friday, September 28, 2001 at:  
Blue Spring State Park  
2100 W. French Avenue  
Orange City, FL 32763  
Attention: Danny Paul, Park Manager  
Telephone Number (904)775-3663

**ADA REQUIREMENTS:** Any person with a qualified disability shall not be denied equal access and effective communication regarding any bid/proposal documents or the attendance at any related meeting or bid/proposal opening. If accommodations are needed because of disability, please contact the Bureau of Design and Recreation Services, (850)488-5372, at least five (5) workdays prior to openings.

**BID SUBMITTAL DUE DATE:** No later than 3:30 p.m., Tuesday, October 23, 2001 to the below address:  
Florida Department of Environmental Protection  
Bureau of Design and Recreation Services  
3540 Thomasville Road  
Tallahassee, Florida 32309

The Department reserves the right to reject any or all bids. Michael Renard, Contracts Manager, Bureau of Design and Recreation Services.

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**NOTICE TO PROFESSIONAL CONSULTANTS FOR PROFESSIONAL SERVICES FOR ENGINEERING**  
The Florida Fish and Wildlife Conservation Commission (FWC) announces that professional services in the discipline of civil and architectural engineering with specific expertise in the design of fish production hatcheries will be required for the project listed below.

**PROJECT NUMBER:** FWC 01/02-15

PROJECT NAME: Florida Largemouth Bass Conservation Center

PROJECT LOCATION: Sumter County, Florida

SERVICES TO BE PROVIDED: The Design Professional is expected to schedule services and design phases (preliminary and final design), request additional services (such as soil borings, surveys, testing, permits, etc.) leading to a design solution with adequate documentation.

RESPONSE DUE DATE: October 26, 2001, 3:00 p.m. (EDT)

To request a complete Solicitation of Interest announcement, contact the Commission Purchasing Director:

Ms. Barbara Levins  
 Florida Fish and Wildlife Conservation Commission  
 Purchasing Office, Room 364  
 620 South Meridian Street  
 Tallahassee, Florida 32399-1600  
 Tel: (850)488-3428  
 Fax: (850)921-2500  
 email: levinsb@gfc.state.fl.us

**NORTHEAST FLORIDA AREA AGENCY ON AGING**

**LEGAL NOTICE**

The Northeast Florida Area Agency on Aging, Inc. (NEFAAA) is bidding Older American Act Services for FY-2002 for Senior Citizens in the following Florida counties, Baker, Clay, Duval, Flagler, Nassau, St. Johns and Volusia. Examples of the services include: Adult Day Care, companionship, Chore, counseling, congregate meals, education, escort, information and referral health support, home delivered meals, homemaking, housing improvement, nutrition education, outreach, legal services, recreation screening assessment, telephone reassurance and transportation.

Individual Requests for Proposal for each county will be available at the NEFAAA, Inc., 2nd Floor, 4401 Wesconnett Blvd., Jacksonville, FL 32210-7387, beginning October 1, 2001. A bidder's conference and workshops will be held on October 8, 9 and 24, 2001. Proposals must be received at the NEFAAA, by 11:00 a.m., November 7, 2001.

**DAYTONA BEACH COMMUNITY COLLEGE**

**LEGAL ADVERTISEMENT**

Pursuant to the provisions of Section 287.055, Florida Statutes, the "Consultants' Competitive Negotiations Act", Daytona Beach Community College hereby publicly announces it will consider qualified professional firms, registered to do work in the State of Florida, for a project requiring architectural and/or engineering services. The project is the first classroom and laboratory building for the undeveloped Deltona Center. The scope of work is the development of general classrooms and laboratories. This facility will provide needed space for general and adult education classrooms as well as high-tech

laboratories for students. The facility will be approximately 32,000 gross square feet. The estimated construction budget is \$4 million. A potential phase II addition consisting of approximately 33,000 gross square feet, with an estimated construction budget of \$4 million, may become part of this project pending Legislative funding. Firms or individuals with experience in designing higher education facilities and desiring to qualify for consideration must submit seven copies of a proposal to: Mr. Steven D. Eckman, Director, Facilities Planning Department, Daytona Beach Community College, Post Office Box 2811, Daytona Beach, Florida 32120-2811 or deliver to Room 112, Building 540, 1200 West International Speedway Boulevard, Daytona Beach, FL 32114, to arrive no later than 12:00 Noon, October 12, 2001. Each proposal must include:

1. A letter of interest.
2. United States Government Architect – Engineer Questionnaire Standard Form 254.
3. United States Government Architect – Engineer Questionnaire Standard Form 255, including in Section 10 of the questionnaire the firm's practice concerning affirmative action.
4. A letter from an insurance company certifying insurability in accordance with Board of Trustee's policy as summarized below:
  - a. Professional Liability Insurance in limits not less than One Million Dollars (\$1,000,000) per occurrence, covering errors, omissions or negligent acts, with a per occurrence deductible not to exceed Five Thousand Dollars (\$5,000).
  - b. Commercial Comprehensive Liability Insurance in limits of not less than One Million Dollars (\$1,000,000) per occurrence, with no deductible.
  - c. Comprehensive Automobile Liability Insurance (including owned and non-owned vehicles) in limits of not less than Five Hundred Thousand Dollars (\$500,000) per occurrence.
  - d. Workers' Compensation Insurance in compliance with Chapter 440, Florida Statutes, with unlimited employer's liability coverage.
  - e. Valuable papers and records insurance in an amount of not less than One Hundred Thousand Dollars (\$100,000) per occurrence, with no deductible.
  - f. All insurance will be with insurers authorized to do business in Florida and all non-self insured companies will be rated at least a VI by Best's Key Rating Guide.
5. Copies of State of Florida licensing board certificates for the firm, members of the firm and consultants of the proposed project.
6. A notarized statement of financial status. (The form of the statement is optional and could be in a form such as Dun & Bradstreet, by a certified public accountant, or other.)

**Section XII  
Miscellaneous**

**DEPARTMENT OF BANKING AND FINANCE**

**NOTICE OF FILINGS**

Notice is hereby given that the Department of Banking and Finance, Division of Banking, has received the following applications and/or other notices. Comments may be submitted to the Director, Division of Banking, 101 East Gaines Street, Suite 636, Fletcher Building, Tallahassee, Florida 32399-0350, for inclusion in the official record without requesting a hearing; however, any person may request a public hearing by filing a petition with the Clerk, Legal Division, Department of Banking and Finance, 101 East Gaines Street, Suite 526, Fletcher Building, Tallahassee, Florida 32399-0350, pursuant to provisions specified in Rule 3C-105.100, Florida Administrative Code. Petition must be received by the Clerk within twenty-one (21) days of publication of this notice (by 5:00 p.m., October 19, 2001):

**APPLICATIONS FOR CONVERSION OF AN  
INTERNATIONAL BANK AGENCY TO AN  
INTERNATIONAL BANK BRANCH**

Applicant and Location: Banque Sudameris, Miami Agency, 701 Brickell Avenue, Barnett Tower, 9th Floor, Miami, Florida 33131

With Title: Banque Sudameris, Miami Branch

Correspondent: Bowman Brown, Shutts & Bowen LLP, 1500 Miami Center, 201 South Biscayne Boulevard, Miami, Florida 33131

Received: September 11, 2001

Applicant and Location: Banco de Credito e Inversiones, S.A., 701 Brickell Avenue, Suite 1450, Miami, Florida 33131

With Title: Banco de Credito e Inversiones, S.A., Miami Branch

Correspondent: Alcides I. Avila, Esquire, Holland & Knight, 701 Brickell Avenue, Suite 3000, Miami, Florida 33131

Received: August 16, 2001

**EXPANDED FIELD OF MEMBERSHIP**

Name and Address of Applicant: Railroad & Industrial Credit Union, Post Office Box 5125, Tampa, Florida 33675-5125

Expansion Includes: Employees of Pepsi Bottling Group, Tampa; Sunbelt Rentals, Inc., Tampa; Plant City Motors, Inc., dba B.M. Smith Motors, Plant City; TruGreen ChemLawn, Plant City; MGL Engineering, Inc., Lakeland; Willamette Industries, Plant City; Hoffman Chiropractic Centre, Tampa; James Hardie Building Products, Plant City; One Commerce Group, Inc., Tampa and St. Petersburg; Tomasino and Associates, Tampa; McDonald Valve of Mulberry; Keith and Schnars, P.A., Lakeland; Advanced Handling Systems of

Lakeland; Florida Army National Guard Armory, Plant City; Greater Temple Terrace Chamber of Commerce; and ECR Technologies, Inc.

Received: September 4, 2001

Name and Address of Applicant: City County Credit Union of Fort Lauderdale, 1982 North State Road 7, Margate, Florida 33063

Expansion Includes: Margate Health Care Center, Inc.

Received: September 17, 2001

**DEPARTMENT OF INSURANCE**

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL  
CIRCUIT, IN AND FOR LEON COUNTY, FLORIDA**

CASE NO.: 01-0993

In Re: The Receivership of N.A.P.T., NAPT, National Association of Physical Therapists, National Association of Professionals and Technicians, National Association of Professional Technical, National Association of Professional Truckers, National Association of Professional Traders, National Association of Chiropractic Professionals, National Association of Dental Professionals, [Dental Division], National Tourism and Hospitality Association [Division], National Veterinarian Association, National Real Estate Association [Division], Physician's Choice Limited a/k/a Physician's Choice Ltd., collectively "N.A.P.T."

You are hereby notified that by order of the Circuit Court of the Second Judicial Circuit, in and for Leon County, Florida, entered the 3rd day of August, 2001, the Department of Insurance of the State of Florida was appointed as Receiver of N.A.P.T. and was ordered to liquidate the assets located in Florida of said company. Contract holders, claimants, creditors and other persons in this State having claims against the assets of N.A.P.T. shall present such claims to the Receiver on or before 11:59 p.m., February 2, 2002, or such claims shall be forever barred. Requests for forms for the presentation of such claims and inquiries concerning this Receivership should be addressed to: The Division of Rehabilitation and Liquidation, Florida Department of Insurance, Receiver for N.A.P.T., Post Office Box 110, Tallahassee, Florida 32302-0110.

**DEPARTMENT OF COMMUNITY AFFAIRS**

DCA Final Order No. DCA01-OR-143

In re: MONROE COUNTY LAND DEVELOPMENT  
REGULATIONS ADOPTED BY MONROE COUNTY  
ORDINANCE NO. 027-2001

FINAL ORDER

The Department of Community Affairs (the "Department") hereby issues its Final Order, pursuant to §§ 380.05(6) and (11), Fla. Stat., and § 380.0552(9), Fla. Stat. (2000), approving Monroe County Ordinance No. 027-2001 as set forth below.

FINDINGS OF FACT

- 1. The Florida Keys Area is a statutorily designated area of critical state concern, and Monroe County is a local government within the Florida Keys Area.
- 2. On August 10, 2001, the Department received for review Monroe County Ordinance No. 027-2001 which was adopted by the Monroe County Board of County Commissioners on July 18, 2001 ("Ord. 027-2001"). Ord. 027-2001 creates Zoning District Overlays for several land uses which had never had corresponding zoning districts created. The new zoning districts are: Agriculture (A), Education (E), Institutional (I), Public Facilities (PF), and Public Buildings (PB).
- 3. Ord. 027-2001 is consistent with the County's 2010 Comprehensive Plan.

CONCLUSIONS OF LAW

- 4. The Department is required to approve or reject land development regulations that are enacted, amended or rescinded by any local government in the Florida Keys Area of Critical State Concern. §§ 380.05(6) and (11), Fla. Stat., and § 380.0552(9), Fla. Stat. (2000).
- 5. Monroe County is a local government within the Florida Keys Area of Critical State Concern. § 380.0552, Fla. Stat. (2000) and Rule 28-29.002 (superseding Chapter 27F-8), Fla. Admin. Code.
- 6. "Land development regulations" include local zoning, subdivision, building and other regulations controlling the development of land. § 380.031(8), Fla. Stat. (2000). The regulations adopted by Ord. 027-2001 are land development regulations.
- 7. All land development regulations enacted, amended or rescinded within an area of critical state concern must be consistent with the Principles for Guiding Development (the "Principles"). § 380.0552(7), Fla. Stat.; see Rathkamp v. Department of Community Affairs, 21 F.A.L.R. 1902 (Dec. 4, 1998), aff'd, 740 So. 2d 1209 (Fla. 3d DCA 1999). The Principles are construed as a whole and no specific provision is construed or applied in isolation from the other provisions. § 380.0552(7), Fla. Stat. (2000).
- 8. Ord. 027-2001 promotes and furthers Principle, §380.0552(7)(a), Fla. Stat. (2000): To strengthen local government capabilities for managing land use and development so that local government is able to achieve these objectives without the continuation of the area of critical state concern designation.
- 9. Ord. 027-2001 is not inconsistent with the remaining Principles. Ord. 027-2001 is consistent with the Principles for Guiding Development as a whole.

WHEREFORE, IT IS ORDERED that Ord. 027-2001 is found to be consistent with the Principles for Guiding Development of the Florida Keys Area of Critical State Concern, and is hereby APPROVED.

This Order becomes effective 21 days after publication in the Florida Administrative Weekly unless a petition is filed as described below.

DONE AND ORDERED in Tallahassee, Florida.

/s/ \_\_\_\_\_  
 CARI ROTH, ACTING DIRECTOR  
 Division of Community Planning  
 Department of Community Affairs  
 2555 Shumard Oak Boulevard  
 Tallahassee, Florida 32399-2100

NOTICE OF ADMINISTRATIVE RIGHTS

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES, REGARDING THE AGENCY'S ACTION. DEPENDING UPON WHETHER YOU ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT IN YOUR PETITION REQUESTING AN ADMINISTRATIVE PROCEEDING, YOU ARE ENTITLED TO EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING.

IF YOUR PETITION FOR HEARING DOES NOT ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT CONTAINED IN THE DEPARTMENT'S ACTION, THEN THE ADMINISTRATIVE PROCEEDING WILL BE AN INFORMAL ONE, CONDUCTED PURSUANT TO SECTIONS 120.569 AND 120.57(2), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND III, FLORIDA ADMINISTRATIVE CODE. IN AN INFORMAL ADMINISTRATIVE PROCEEDING, YOU MAY BE REPRESENTED BY COUNSEL OR BY A QUALIFIED REPRESENTATIVE, AND YOU MAY PRESENT WRITTEN OR ORAL EVIDENCE IN OPPOSITION TO THE DEPARTMENT'S ACTION OR REFUSAL TO ACT; OR YOU MAY EXERCISE THE OPTION TO PRESENT A WRITTEN STATEMENT CHALLENGING THE GROUNDS UPON WHICH THE DEPARTMENT HAS CHOSEN TO JUSTIFY ITS ACTION OR INACTION.

IF YOU DISPUTE ANY ISSUE OF MATERIAL FACT STATED IN THE AGENCY ACTION, THEN YOU MAY FILE A PETITION REQUESTING A FORMAL ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE DIVISION OF ADMINISTRATIVE HEARINGS, PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND II, FLORIDA ADMINISTRATIVE CODE. AT A FORMAL ADMINISTRATIVE HEARING, YOU MAY BE REPRESENTED BY COUNSEL OR OTHER QUALIFIED REPRESENTATIVE, AND YOU WILL HAVE THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT ON ALL THE ISSUES INVOLVED, TO CONDUCT CROSS-EXAMINATION AND SUBMIT



REBUTTAL EVIDENCE, TO SUBMIT PROPOSED FINDINGS OF FACT AND ORDERS, AND TO FILE EXCEPTIONS TO ANY RECOMMENDED ORDER.

IF YOU DESIRE EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING, YOU MUST FILE WITH THE AGENCY CLERK OF THE DEPARTMENT OF COMMUNITY AFFAIRS A WRITTEN PLEADING ENTITLED, "PETITION FOR ADMINISTRATIVE PROCEEDINGS" WITHIN 21 CALENDAR DAYS OF PUBLICATION OF THIS NOTICE. A PETITION IS FILED WHEN IT IS RECEIVED BY THE AGENCY CLERK, IN THE DEPARTMENT'S OFFICE OF GENERAL COUNSEL, 2555 SHUMARD OAK BOULEVARD, TALLAHASSEE, FLORIDA 32399-2100.

THE PETITION MUST MEET THE FILING REQUIREMENTS IN RULE 28-106.104(2), FLORIDA ADMINISTRATIVE CODE. IF AN INFORMAL PROCEEDING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.301, FLORIDA ADMINISTRATIVE CODE. IF A FORMAL HEARING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.201(2), FLORIDA ADMINISTRATIVE CODE.

A PERSON WHO HAS FILED A PETITION MAY REQUEST MEDIATION. A REQUEST FOR MEDIATION MUST INCLUDE THE INFORMATION REQUIRED BY RULE 28-106.402, FLORIDA ADMINISTRATIVE CODE. CHOOSING MEDIATION DOES NOT AFFECT THE RIGHT TO AN ADMINISTRATIVE HEARING.

YOU WAIVE THE RIGHT TO AN INFORMAL ADMINISTRATIVE PROCEEDING OR A FORMAL HEARING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 DAYS OF PUBLICATION OF THIS FINAL ORDER.

**CERTIFICATE OF FILING AND SERVICE**

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the persons listed below by the method indicated this 19th day of September, 2001.

/s/ \_\_\_\_\_  
Paula Ford, Agency Clerk

By U.S. Mail:  
Honorable George Neugent  
Mayor of Monroe County  
500 Whitehead Street  
Key West, Florida 33040  
Danny L. Kolhage  
Clerk to the Board of County Commissioners  
500 Whitehead Street  
Key West, Florida 33040

Timothy J. McGarry, AICP  
Director, Growth Management Division  
2798 Overseas Highway, Suite 400  
Marathon, Florida 33050  
By Hand Delivery or Interagency Mail:  
Michael McDaniel, Growth Management Administrator, DCA  
Tallahassee  
Rebecca Jetton, DCA Florida Keys Field Office  
Richard A. Lotspeich, Assistant General Counsel, DCA  
Tallahassee

**DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES**

Notice of Publication for a New Point  
Franchise Motor Vehicle Dealer in a County of Less  
than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, notice is given that Global Electric Motorcars, LLC, intends to allow the establishment of Alan Jay KIA, as a dealership for the sale of GEM vehicles at 901 US 27, North, Suite 59, Sebring (Highlands County), Florida 33870, on or after August 30, 2001.

The name and address of the dealer operator(s) and principal investor(s) of Alan Jay KIA are: dealer operator(s) and principal investor(s): Alan Jay Wildstein and Lawrence D. Wildstein, 901 US 27, North, Suite 59, Sebring, FL 33870.

The notice indicates an intent to establish the new point location in a county of less than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, as amended by Chapter 88-395, Laws of Florida, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Mr. Ronald D. Reynolds, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by US Mail to: Kenneth R. Montler, President/COO, Global Electric Motorcars, LLC, 3601 7th Avenue, N. W., Fargo, ND 58102.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving

the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

Notice of Publication for a New Point  
Franchise Motor Vehicle Dealer in a County of More  
than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, Kannon Motorcycles, LLC, intends to allow the establishment of Kannon Sales of Daytona Beach, as a dealership for the sale of Kannon V-cycles, at 1081 S. Nova Rd., Hollyhill (Volusia County), Florida 32174, on or after September 12, 2001.

The name and address of the dealer operator(s) and principal investor(s) of Kannon Sales of Daytona Beach are: dealer operator(s) and principal investor(s): Joseph Cary, 96 S. Beach, Ormond Beach, FL 32174.

The notice indicates an intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Mr. Ronald D. Reynolds, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by US Mail to: Stephanie Hough, Kannon Motorcycles, LLC, Post Office Box 761, Ketchum, OK 74349.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

Amended Notice Regarding Establishment of Dealership

On September 7, 2001, at page 4223, of the Florida Administrative Weekly, The Department of Highway Safety and Motor Vehicles published a notice concerning the establishment of Orlando Freightliner South, as a dealership for a parts sale facility, at 10812 Satellite Blvd., Orlando (Orange County), Florida 32837. The notice incorrectly reflected that one of the principal investors and dealer operators is Mr. Robert J. Dollar. Mr. Robert J. Dollar in fact is not in any manner affiliated with Freightliner Trucks, LLC or Orlando Freightliner. The dealer operator and principal

investors of Orlando Freightliner South are: Orlando Freightliner, Inc. and John A. Taggart, 2455 South Orange Blossom Trail, Apopka, Florida 32703.

This correction is a factual correction and does not otherwise affect the content of the September 7, 2001, notice.

**AGENCY FOR HEALTH CARE ADMINISTRATION**

NOTICE OF LITIGATION

The Agency For Health Care Administration has received the following petitions for administrative hearings as of the close of business on September 6, 2001, concerning certificate of need decisions. A brief description of these projects is listed below. Resolution of these requests for hearings by way of a grant or denial of their certificate of need at issue will determine substantial interest of person. Those persons whose substantial interest may be determined by these proceedings including settlements, grants and denials are advised to govern themselves accordingly and may wish to exercise rights including intervention. See Chapter 120, F.S., as well as Section 28-5.111 and 28-5.207, F.A.C. In deference to rights of substantially affected person, AHCA will not settle or otherwise reach a final resolution of these matters for a period of 30 days from the date of the publication.

- CON# INITIAL DECISION, PROJECT, CTY, APPLICANT, PARTY REQUEST HEARING (PRH)
- FNP Denial, amend the hospice fixed need pool, Subdistrict 2B, Big Bend Hospice, Inc., (PRH) same as applicant  
LOI H0108062  
Denial, transfer an existing adult cardiac catheterization program, St. Luke's Hospital Association, (PRH) same as applicant
- 9087 Denial, extension of the validity period to establish an adult lung transplant program, Florida Health Sciences Center, Inc. d/b/a Tampa General Hospital, (PRH) same as applicant
- 9438 Supports Denial, establish a hospice program, Polk County, Vitas of North Florida, Inc., (PRH) Hospice of Lake & Sumter, Inc.
- 9439 Supports Approval, establish a hospice program, Polk County, Hospice of Lake & Sumter, Inc., (PRH) same as applicant

CERTIFICATE OF NEED  
EXEMPTIONS

The Agency For Health Care Administration authorized the following exemptions pursuant to Section 408.036(3), Florida Statutes:

County: Pasco District: 5  
ID #: 0100020 Decision: A Issue Date: 9/18/2001  
Facility/Project: Community Hospital of New Port Richey  
Applicant: New Port Richey Hospital, Inc.

Project Description: Convert 23 hospital-based skilled nursing beds to 23 acute care beds  
 Proposed Project Cost: \$0                      Equipment Cost:  
 AHCA Purchase Order Number S5900I00310

NOTICE OF BATCHED APPLICATION RECEIPT  
 AND NOTICE OF TENTATIVE PUBLIC HEARINGS

The Agency For Health Care Administration has received and accepted the following Certificate of Need applications for review in the batched hospital review cycle with an application due date of September 12, 2001. Because of recent horrific events in our nation and the closing of all airports, the September 12, 2001 initial application deadline was extended to 5:00 p.m., Monday, September 17, 2001.

County: Okaloosa                                      Service District: 1  
 CON#: 9474    Application Receipt Date: September 12, 2001  
 Facility/Project: Fort Walton Beach Medical Center  
 Applicant: Fort Walton Beach Medical Center, Inc.  
 Project Description: Add up to 35 new acute care beds  
 County: Leon    Service District: 2  
 CON#: 9475    Application Receipt Date: September 7, 2001  
 Facility/Project: Covenant Hospice, Inc.  
 Applicant: Covenant Hospice, Inc.  
 Project Description: Establish a Hospice Program  
 County: Hernando                                      Service District: 3  
 CON#: 9478    Application Receipt Date: September 11, 2001  
 Facility/Project: Brooksville Regional Hospital  
 Applicant: Hernando HMA, Inc.  
 Project Description: Replace a 91-bed acute care hospital  
 County: Lake    Service District: 3  
 CON#: 9479    Application Receipt Date: September 12, 2001  
 Facility/Project: Leesburg Regional Medical Center  
 Applicant: Leesburg Regional Medical Center, Inc.  
 Project Description: Add up to 15 acute care beds  
 County: Marion    Service District: 3  
 CON#: 9477    Application Receipt Date:  
 Facility/Project: Ocala Regional Medical Center  
 Applicant: Marion Community Hospital, Inc.  
 Project Description: Add up to 25 acute care beds  
 County: Marion    Service District: 3  
 CON#: 9476    Application Receipt Date: September 11, 2001  
 Facility/Project: Hospice of Marion County, Inc.  
 Applicant: Hospice of Marion County, Inc.  
 Project Description: Establish up to a 16-bed freestanding inpatient hospice  
 County: Duval    Service District: 4  
 CON#: 9482    Application Receipt Date: September 12, 2001  
 Facility/Project: Baptist Medical Center  
 Applicant: Southern Baptist Hospital of Florida, Inc.

Project Description: Establish up to a new 125-bed acute care hospital  
 County: Duval    Service District: 4  
 CON#: 9483    Application Receipt Date: September 10, 2001  
 Facility/Project: St. Luke's Hospital  
 Applicant: St. Luke's Hospital Association  
 Project Description: Construct a replacement facility of up to 214 acute care beds and existing cardiac cath and transplant services  
 County: Duval    Service District: 4  
 CON#: 9480    Application Receipt Date: September 11, 2001  
 Facility/Project: Brooks Rehabilitation Hospital  
 Applicant: Genesis Rehabilitation Hospital, Inc.  
 Project Description: Add 9 comprehensive medical rehabilitation beds  
 County: Duval    Service District: 4  
 CON#: 9484    Application Receipt Date: September 11, 2001  
 Facility/Project: St. Vincent's Medical Center, Inc.  
 Applicant: St. Vincent's Medical Center, Inc.  
 Project Description: Establish up to a new 220-bed acute care hospital  
 County: Duval    Service District: 4  
 CON#: 9485    Application Receipt Date: September 12, 2001  
 Facility/Project: Baptist Medical Center – Beaches  
 Applicant: Baptist Medical Center of the Beaches, Inc.  
 Project Description: Add up to 25 acute care beds  
 County: Duval    Service District: 4  
 CON#: 9481    Application Receipt Date: September 11, 2001  
 Facility/Project: St. Vincent's Medical Center  
 Applicant: St. Vincent's Medical Center, Inc.  
 Project Description: Establish up to a 10-bed Level II NICU at a proposed new acute care hospital through the delicensure of up to 10 Level II NICU beds at St. Vincent's Med. Ctr.  
 County: Volusia    Service District: 4  
 CON#: 9486    Application Receipt Date: September 5, 2001  
 Facility/Project: Hospice of Volusia-Flagler  
 Applicant: Halifax Hospice, Inc.  
 Project Description: Convert an existing 16-bed residential hospice to a 16-bed inpatient hospice  
 County: Pasco    Service District: 5  
 CON#: 9487    Application Receipt Date: September 7, 2001  
 Facility/Project: Hernando-Pasco Hospice, Inc.  
 Applicant: Hernando-Pasco Hospice, Inc.  
 Project Description: Establish a 24-bed freestanding inpatient hospice  
 County: Pasco    Service District: 5  
 CON#: 9489    Application Receipt Date: September 11, 2001  
 Facility/Project: East Pasco Medical Center  
 Applicant: East Pasco Medical Center, Inc.

Project Description: Establish a 20-bed comprehensive medical rehabilitation unit  
 County: Pinellas Service District: 5  
 CON#: 9488 Application Receipt Date: September 11, 2001  
 Facility/Project: Kindred Hospital – Bay Area  
 Applicant: Kindred Hospitals East, L.L.C.  
 Project Description: Add up to 30 long-term hospital beds to existing 60-bed long-term hospital  
 County: Hillsborough Service District: 6  
 CON#: 9492 Application Receipt Date: September 11, 2001  
 Facility/Project: University Community Hospital  
 Applicant: University Community Hospital, Inc.  
 Project Description: Establish a five-bed Level III NICU through the conversion of five acute care beds  
 County: Hillsborough Service District: 6  
 CON#: 9490 Application Receipt Date: September 11, 2001  
 Facility/Project: Continental Medical of Palm Beach, Inc.  
 Applicant: Continental Medical of Palm Beach, Inc.  
 Project Description: Establish up to a new 60-bed comprehensive medical rehabilitation hospital  
 County: Hillsborough Service District: 6  
 CON#: 9493 Application Receipt Date: September 14, 2001  
 Facility/Project: St. Joseph’s Hospital  
 Applicant: St. Joseph’s Hospital, Inc.  
 Project Description: Add up to five Level III NICU beds through delicensure of up to five acute care beds  
 County: Hillsborough Service District: 6  
 CON#: 9491 Application Receipt Date: September 11, 2001  
 Facility/Project: Genesis Rehabilitation Hospital, Inc.  
 Applicant: Genesis Rehabilitation Hospital, Inc.  
 Project Description: Establish a new 60-bed comprehensive medical rehabilitation hospital  
 County: Brevard Service District: 7  
 CON#: 9494 Application Receipt Date: September 11, 2001  
 Facility/Project: Wuesthoff Memorial Hospital  
 Applicant: Wuesthoff Memorial Hospital, Inc.  
 Project Description: Add 50 acute care beds  
 County: Brevard Service District: 7  
 CON#: 9498 Application Receipt Date: September 11, 2001  
 Facility/Project: Vitas Healthcare Corporation of Central Florida  
 Applicant: Vitas Healthcare Corporation of Central Florida  
 Project Description: Establish a hospice program  
 County: Brevard Service District: 7  
 CON#: 9495 Application Receipt Date: September 11, 2001  
 Facility/Project: Wuesthoff Memorial Hospital – Melbourne  
 Applicant: Wuesthoff Memorial Hospital, Inc.  
 Project Description: Add 50 acute care beds to the 50 approved beds under CON #8740

County: Seminole Service District: 7  
 CON#: 9497 Application Receipt Date: September 12, 2001  
 Facility/Project: Adventist Health System/Sunbelt, Inc.  
 Applicant: Adventist Health System/Sunbelt, Inc.  
 Project Description: Establish a 60-bed acute care hospital through delicensure of 50 acute care beds at Winter Park Memorial campus & 10 beds at Apopka campus  
 County: Seminole Service District: 7  
 CON#: 9496 Application Receipt Date: September 12, 2001  
 Facility/Project: Orlando Regional Healthcare System  
 Applicant: Orlando Regional Healthcare System  
 Project Description: Establish up to a new 60-bed acute care hospital through delicensure of up to 50 acute care beds at South Seminole Hospital & the addition of up to 30 new beds  
 County: Collier Service District: 8  
 CON#: 9502 Application Receipt Date: September 5, 2001  
 Facility/Project: Hospice of Naples, Inc.  
 Applicant: Hospice of Naples, Inc.  
 Project Description: Establish a 16-bed inpatient hospice facility  
 County: Lee Service District: 8  
 CON#: 9501 Application Receipt Date: September 7, 2001  
 Facility/Project: Lee Memorial Hospital-Health Park  
 Applicant: Lee Memorial Health System  
 Project Description: Add up to 125 acute care beds  
 County: Sarasota Service District: 8  
 CON#: 9500 Application Receipt Date: September 12, 2001  
 Facility/Project: Select Specialty Hospital-Sarasota, Inc.  
 Applicant: Select Specialty Hospital-Sarasota, Inc.  
 Project Description: Establish up to a 40-bed long-term care hospital  
 County: Sarasota Service District: 8  
 CON#: 9499 Application Receipt Date: September 11, 2001  
 Facility/Project: HealthSouth LTAC of Sarasota, Inc.  
 Applicant: HealthSouth LTAC of Sarasota, Inc.  
 Project Description: Establish up to a 40-bed long-term care hospital  
 County: Sarasota Service District: 8  
 CON#: 9503 Application Receipt Date: September 11, 2001  
 Facility/Project: Hospice of Southwest Florida, Inc.  
 Applicant: Hospice of Southwest Florida, Inc.  
 Project Description: Establish up to a 12-bed inpatient hospice facility  
 County: Indian River Service District: 9  
 CON#: 9504 Application Receipt Date: September 11, 2001  
 Facility/Project: HealthSouth Treasure Coast Rehabilitation Hospital  
 Applicant: HealthSouth of Treasure Coast, Inc.  
 Project Description: Add up to 28 comprehensive medical rehabilitation beds

County: Indian River Service District: 9  
 CON#: 9510 Application Receipt Date: September 11, 2001  
 Facility/Project: Indian River Memorial Hospital  
 Applicant: Indian River Memorial Hospital, Inc.  
 Project Description: Establish an adult open heart surgery program

County: Martin Service District: 9  
 CON#: 9506 Application Receipt Date: September 11, 2001  
 Facility/Project: Martin Memorial Medical Center  
 Applicant: Martin Memorial Medical Center, Inc.  
 Project Description: Establish a 20-bed comprehensive medical rehabilitation unit

County: Martin Service District: 9  
 CON#: 9505 Application Receipt Date: September 11, 2001  
 Facility/Project: HealthSouth of Stuart, Inc.  
 Applicant: HealthSouth of Stuart, Inc.  
 Project Description: Establish up to a new 60-bed comprehensive medical rehabilitation hospital

County: Martin Service District: 9  
 CON#: 9511 Application Receipt Date: September 11, 2001  
 Facility/Project: Martin Memorial Medical Center  
 Applicant: Martin Memorial Medical Center, Inc.  
 Project Description: Establish an adult open heart surgery program

County: Martin Service District: 9  
 CON#: 9517 Application Receipt Date: September 11, 2001  
 Facility/Project: Martin Memorial Medical Center  
 Applicant: Martin Memorial Medical Center, Inc.  
 Project Description: Transfer 29 acute care beds from Martin Memorial Hospital South to Martin Memorial Medical Center

County: Palm Beach Service District: 9  
 CON#: 9519 Application Receipt Date: September 11, 2001  
 Facility/Project: Hospice of Palm Beach County  
 Applicant: Hospice of Palm Beach County  
 Project Description: Add up to 12 inpatient beds to the existing 24 inpatient bed hospice

County: Palm Beach Service District: 9  
 CON#: 9516 Application Receipt Date: September 11, 2001  
 Facility/Project: St. Mary's Medical Center  
 Applicant: Tenet St. Mary's, Inc.  
 Project Description: Add up to 10 Level III NICU beds through the conversion of up to 10 acute care beds

County: Palm Beach Service District: 9  
 CON#: 9515 Application Receipt Date: September 11, 2001  
 Facility/Project: St. Mary's Medical Center  
 Applicant: Tenet St. Mary's, Inc.  
 Project Description: Add up to 10 Level II NICU beds through the conversion of acute care beds

County: Palm Beach Service District: 9  
 CON#: 9514 Application Receipt Date: September 11, 2001

Facility/Project: Palms West Hospital  
 Applicant: Columbia Palms West Hospital  
 Project Description: Establish up to a five-bed Level II NICU through the delicensure of five Level II beds at Lawnwood Regional Medical Center

County: Palm Beach Service District: 9  
 CON#: 9513 Application Receipt Date: September 11, 2001  
 Facility/Project: Boca Raton Community Hospital  
 Applicant: Boca Raton Community Hospital, Inc.  
 Project Description: Establish an adult open heart surgery program

County: Palm Beach Service District: 9  
 CON#: 9508 Application Receipt Date: September 11, 2001  
 Facility/Project: JFK Medical Center  
 Applicant: Columbia/JFK Medical Center, L.P.  
 Project Description: Establish up to a 28-bed comprehensive medical rehabilitation unit

County: Palm Beach Service District: 9  
 CON#: 9507 Application Receipt Date: September 7, 2001  
 Facility/Project: Bethesda Memorial Hospital  
 Applicant: Bethesda Healthcare System, Inc.  
 Project Description: Establish a 28-bed comprehensive medical rehabilitation unit

County: Palm Beach Service District: 9  
 CON#: 9512 Application Receipt Date: September 11, 2001  
 Facility/Project: Bethesda Memorial Hospital  
 Applicant: Bethesda Healthcare System, Inc.  
 Project Description: Establish an adult open heart surgery program

County: Palm Beach Service District: 9  
 CON#: 9518 Application Receipt Date: September 11, 2001  
 Facility/Project: Wellington Regional Medical Center  
 Applicant: Wellington Regional Medical Center, Inc.  
 Project Description: Add up to 23 acute care beds

County: St. Lucie Service District: 9  
 CON#: 9509 Application Receipt Date: September 7, 2001  
 Facility/Project: Lawnwood Regional Medical Center  
 Applicant: Lawnwood Medical Center, Inc.  
 Project Description: Add up to 28 comprehensive medical rehabilitation beds

County: Broward Service District: 10  
 CON#: 9520 Application Receipt Date: September 11, 2001  
 Facility/Project: South Broward Hospital District  
 Applicant: South Broward Hospital District  
 Project Description: Establish a new 100-bed acute care hospital

Also, IF REQUESTED, tentative public hearings have been scheduled as follows:  
 PROPOSALS: District 1

DATE AND TIME: Friday, November 2, 2001, 1:00 p.m.  
(Central Time)

PLACE: West Florida Regional Planning Council  
Conference Room  
3435 North 12th Ave.  
Pensacola, Florida 32503

PROPOSALS: District 2

DATE AND TIME: Thursday, November 1, 2001, 3:00 p.m.  
(Central Time)

PLACE: Big Bend Health Council  
431 Oak Ave.  
Panama City, Florida 32401

PROPOSALS: District 3

DATE AND TIME: Tuesday, October 30, 2001, 2:00 p.m.  
(EST)

PLACE: North Central Florida Health Planning  
Council, Inc.  
18 N. W. 33rd Court  
Gainesville, Florida 32607

PROPOSALS: District 4

DATE AND TIME: Thursday, November 1, 2001, 10:00 a.m.  
(EST)

PLACE: Health Planning Council of N. E. Florida,  
Inc.  
(Daytona Beach Office)  
900 University Blvd., 2nd Floor,  
Conference Room  
Jacksonville, Florida 32211

PROPOSALS: Districts 5 & 6

DATE AND TIME: Tuesday, October 30, 2001, 9:00 a.m.  
(EST)

PLACE: Baker Building Conference Room  
888 Executive Center Drive, North  
St. Petersburg, Florida 33702

PROPOSALS: District 7

DATE AND TIME: Friday, November 2, 2001, 9:00 a.m.  
(EST)

PLACE: Local Health Council of East Central  
Florida, Inc.  
1155 South Semoran Blvd., Room 1111  
Winter Park, Florida 32792

PROPOSALS: District 8

DATE AND TIME: Friday, November 2, 2001, 10:00 a.m.  
(EST)

PLACE: Health Planning Council of S. W. Florida,  
Inc.  
9250 College Parkway, Suite 3  
Ft. Myers, Florida 33919

PROPOSALS: District 9

DATE AND TIME: Tuesday, October 30, 2001, 9:00 a.m.  
(EST)

PLACE: Treasure Coast Health Council  
Conference Room  
4152 West Blue Herron Blvd., Suite 229  
Riviera Beach, Florida 33404

PROPOSALS: District 10

DATE AND TIME: Monday, October 29, 2001, 10:00 a.m.  
(EST)

PLACE: Broward Regional Health Planning  
Council  
915 Middle River Drive, Conference  
Room 113  
Ft. Lauderdale, Florida 33304

Public hearing requests must be in writing and be received at the Agency For Health Care Administration, CON Office, 2727 Mahan Drive, Mail Stop #28, Tallahassee, Florida 32308, by 5:00 p.m., October 12, 2001. In lieu of requesting and attending a public hearing, written comments submitted to the department relative to the merits of these applications will become part of the official project application file. Pursuant to subsection 59C-1.010(3), F.A.C., written comments must be received by 5:00 p.m., October 17, 2001.

AHCA Purchase Order Number S5900I00310.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**NOTICE OF INTENT TO GRANT  
WATER QUALITY CRITERIA EXEMPTION**

The Department of Environmental Protection gives notice of its intent to grant a water quality criteria exemption for the aesthetically based secondary drinking water standard for color (standard 15 color units, exemption limit 100 color units), to Florida Water Services, Mr. Ying C. Lee, P. E., Manager of Engineering Services. The water quality criteria exemption is for the raw water aquifer storage and recovery (ASR) project at the Marco Lakes raw water supply. The exemption is granted for the duration of the Marco Lakes raw water ASR-1 Class V well operation permit. Future exemptions must be petitioned for by the applicant in conjunction with an operation permit for any ASR project at this site. The ASR facility is located east of CR 951, north of US 41, and west of Henderson Creek, Collier County, Florida.

A person whose substantial interests are affected by the Department's proposed exemption decision may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida 32399-3000. The petitioner must mail a copy of the petition to the applicant Mr. Ying C. Lee, P. E., Manager of Engineering Services, P. O. Box 609520, Orlando, Florida 32860-9520, at the time of filing. The failure of any person to file a petition within the appropriate time period shall

constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57 of the Florida Statutes, or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will only be at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205 of the Florida Administrative Code.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

- (a) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any; the Department case or identification number and the county in which the subject matter or activity is located;
- (b) A statement of when and how each petitioner received notice of the Department action;
- (c) A statement of how each petitioner's substantial interests are affected by the Department action;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A statement of facts that the petitioner contends warrant reversal or modification of the Department action;
- (f) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and
- (g) Demand for relief (sought by the petitioner, stating precisely the action that the petitioner wants the Department to take).

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise contain the same information as set forth above, as required by Rule 28-106.301, F.A.C.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any such final decision of the Department on the petitions have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation is not available for this proceeding.

The application is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Tallahassee Office, 2600 Blair Stone Road, Room 212E, Tallahassee, Florida 32399-2400.

NOTICE OF AVAILABILITY  
 FLORIDA CATEGORICAL EXCLUSION NOTIFICATION  
 CHIPLEY, FLORIDA

LIFT STATIONS MODIFICATION & I/I CORRECTION

The Florida Department of Environmental Protection has determined that proposed Lift Station Modification Project will not have a significant adverse impact on the environment. The total project cost is estimated at \$348,100. The project is expected to qualify for a State Revolving Fund loan composed of federal and state matching funds.

A full copy of the Florida Categorical Exclusion Notification can be obtained by writing: Troy Mullis, Bureau of Water Facilities Funding, Department of Environmental Protection, 2600 Blair Stone Road, MS #3505, Tallahassee, Florida 32399-2400.

**DEPARTMENT OF HEALTH**

On September 13, 2001, John O. Agwunobi, M.D., Acting Secretary of the Department of Health, issued an Order of Emergency Suspension, with regard to the license of Maxine Short Feliciano, RN. Feliciano holds license number RN 1946202. Feliciano's last known address is 1419 North East 5th Lane, Cape Coral, FL 33909. This Emergency Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(8), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

On September 13, 2001, John O. Agwunobi, M.D., Acting Secretary of the Department of Health, issued an Order of Emergency Suspension, with regard to the license of Tiffany Lynne Martin, L.P.N. Martin holds license number PN 1225941. Martin's last known address is 3700 Flynn Road, Dothan, AL 36303. This Emergency Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(8), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

On September 13, 2001, John O. Agwunobi, M.D., Acting Secretary of the Department of Health, issued an Order of Emergency Suspension, with regard to the license of Tonya Lynn Davis, R. N. license number RN 3022452. Davis' last known address is 1547 Highway 177A, Bonifay, FL 32425. This Emergency Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(8), Florida Statutes. The Secretary determined that this

summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

On September 13, 2001, John O. Agwunobi, M.D., Acting Secretary of the Department of Health, issued an Order of Emergency Suspension, with regard to the license of Paul Vines, LPN and CNA license number PN 1319761 and CNA certificate number 0297592205591. Vines' last known address is 3208 C East Colonial Drive, #187, Orlando, FL 33283. This Emergency Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(8), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

On September 13, 2001, John O. Agwunobi, M.D., Acting Secretary of the Department of Health, issued an Order of Emergency Suspension, with regard to the license of Ernest Nicholas Salvo, R. N. license number RN 2878682. Salvo's last known address is 736 Sandy Creek Dr., Brandon, FL 33511. This Emergency Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(8), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

On, September 13, 2001, Robert G. Brooks, M.D., Secretary of the Department of Health, issued an Order of Emergency Suspension, with regard to the license of Dianna Hawkins, RN license number RN 2875562. Hawkins's last known address is 1201 Seminole Blvd., Apt. #255, Largo, Florida 33770. This Emergency Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(8), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

On, September 13, 2001, Robert G. Brooks, M.D., Secretary of the Department of Health, issued an Order of Emergency Suspension, with regard to the license of Claire Blass, RN license number RN 2622042. Blass's last known address is 112 Muscovy Court, Daytona Beach, Florida 32119. This Emergency Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(8),

Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

On, September 13, 2001, Robert G. Brooks, M.D., Secretary of the Department of Health, issued an Order of Emergency Suspension, with regard to the license of Tracy Drenzo, RN license number RN 2202982. Drenzo's last known address is 2141, S. E. Santa Barbara Place, Cape Coral, Florida 33990. This Emergency Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(8), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

#### **FISH AND WILDLIFE CONSERVATION COMMISSION**

The Florida Fish and Wildlife Conservation Commission announces the availability of permits giving alligator farmers the authority to collect alligator hatchlings pursuant to Rule 68A-25.031(1), F.A.C. Persons wishing to apply for an available permit shall do so in writing within 30 days after original publication of this notice. Late applications shall not be accepted. Only persons licensed as alligator farmers pursuant to Section 372.6673, Florida Statutes, may apply, and only one application per person shall be accepted. The available permits shall be assigned by random drawing of qualified applicants. Individuals assigned an available permit shall be notified. Applicants shall have 180 days after notification to meet the eligibility criteria for alligator farm facilities specified in Florida Administrative Code.

The applications should be sent to: Florida Fish and Wildlife Conservation Commission, Attn: Lieutenant Delmar Teagan, 620 S. Meridian Street, Tallahassee, FL 32399-1600.

#### **Request for Written Comments on Biological Status**

The Florida Fish and Wildlife Conservation Commission has been petitioned to reclassify the red-cockaded woodpecker (*Picoides borealisrom*) from State of Florida threatened status to species of special concern status. The Commission hereby requests written comments on the biological status of the red-cockaded woodpecker pursuant to Rule 68A-27.0012, Florida Administrative Code.

Written comments should be sent to: Dr. Brad Gruver, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, FL 32399-1600. Written comments will be accepted until 5:00 p.m., November 13, 2001.



**Section XIII**  
**Index to Rules Filed During Preceding Week**

**RULES FILED BETWEEN September 10, 2001  
 and September 14, 2001**

Rule No.	File Date	Effective Date	Proposed Vol./No.	Amended Vol./No.
----------	-----------	----------------	-------------------	------------------

**DEPARTMENT OF INSURANCE**

4-154.112	9/10/01	9/30/01		27/30
-----------	---------	---------	--	-------

**DEPARTMENT OF REVENUE**

12-13.001	9/12/01	10/2/01		27/17
12-13.002	9/12/01	10/2/01		27/17
12-13.003	9/12/01	10/2/01		27/17
12-13.004	9/12/01	10/2/01		27/17
12-13.005	9/12/01	10/2/01		27/17 27/27
12-13.006	9/12/01	10/2/01		27/17
12-13.007	9/12/01	10/2/01		27/17
12-13.0075	9/12/01	10/2/01		27/17
12-13.008	9/12/01	10/2/01		27/17
12-13.009	9/12/01	10/2/01		27/17
12-13.010	9/12/01	10/2/01		27/17
12-26.003	9/14/01	10/4/01		27/17 27/27
12-26.004	9/14/01	10/4/01		27/17
12-26.008	9/14/01	10/4/01		27/17

**Sales and Use Tax**

12A-1.001	9/12/01	10/2/01		27/17
12A-1.001	9/12/01	10/2/01		27/27
12A-1.001	9/12/01	10/2/01		27/27
12A-1.005	9/12/01	10/2/01		27/27
12A-1.016	9/12/01	10/2/01		27/27
12A-1.0161	9/12/01	10/2/01		27/17
12A-1.038	9/12/01	10/2/01		27/17 27/29
12A-1.039	9/12/01	10/2/01		27/17
12A-1.043	9/12/01	10/2/01		27/17
12A-1.046	9/12/01	10/2/01		27/27
12A-1.051	9/12/01	10/2/01		27/17
12A-1.051	9/12/01	10/2/01		27/27
12A-1.053	9/12/01	10/2/01		27/17 27/28
12A-1.059	9/12/01	10/2/01		27/17 27/28
12A-1.060	9/12/01	10/2/01		27/17
12A-1.060	9/12/01	10/2/01		27/27
12A-1.061	9/12/01	10/2/01		27/17
12A-1.064	9/12/01	10/2/01		27/27
12A-1.0911	9/12/01	10/2/01		27/27
12A-1.095	9/14/01	10/4/01		27/27 27/34
12A-1.097	9/12/01	10/2/01		27/17 27/29

Rule No.	File Date	Effective Date	Proposed Vol./No.	Amended Vol./No.
12A-15.003	9/12/01	10/2/01		27/27
12A-15.004	9/12/01	10/2/01		27/27
12A-15.007	9/12/01	10/2/01		27/27
12A-15.014	9/12/01	10/2/01		27/27

**Miscellaneous Tax**

12B-7.026	9/14/01	10/4/01		27/17
-----------	---------	---------	--	-------

**Corporate, Estate and Intangible Tax**

12C-1.013	9/12/01	10/2/01		27/27
12C-1.0151	9/12/01	10/2/01		27/27
12C-1.0155	9/12/01	10/2/01		27/27
12C-1.022	9/12/01	10/2/01		27/27

**DEPARTMENT OF TRANSPORTATION**

14-110.001	9/12/01	10/2/01		27/29
------------	---------	---------	--	-------

**DEPARTMENT OF CORRECTIONS**

33-204.002	9/12/01	10/2/01		27/29
33-204.003	9/12/01	10/2/01		27/29
33-302.105	9/12/01	10/2/01		26/46 26/52
33-302.106	9/12/01	10/2/01		27/31

**DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY**

**Division of Workers' Compensation**

38F-7.020	9/10/01	9/30/01		27/28
38F-7.900	9/10/01	9/30/01		27/28

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid Program Office**

59G-4.170	9/14/01	10/4/01		27/27
59G-4.200	9/14/01	10/4/01		27/27

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

62-204.800	9/10/01	10/1/01		27/32
------------	---------	---------	--	-------

**DEPARTMENT OF HEALTH**

**Board of Medicine**

64B8-2.001	9/12/01	10/2/01		27/20 27/29
------------	---------	---------	--	-------------

**Board of Optometry**

64B13-5.001	9/12/01	10/2/01		27/25
-------------	---------	---------	--	-------