

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF INSURANCE

RULE TITLE: Annual and Quarterly Reporting Requirements
 PURPOSE AND EFFECT: To update Annual and Quarterly Reporting Requirements to be consistent with new NAIC Standards.

RULE NO.: 4-137.001

SUBJECT AREA TO BE ADDRESSED: Annual and Quarterly Reporting Requirements.

SPECIFIC AUTHORITY: 624.307, 624.308(1) FS.

LAW IMPLEMENTED: 624.307(1), 624.424(1) 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 SHOWN BELOW:

TIME AND DATE: 9:30 a.m., Tuesday, November 26, 2002

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

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 below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kerry Krantz, Bureau of L&H Solvency, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0333, (850)413-3153

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

DEPARTMENT OF INSURANCE

RULE TITLE: NAIC Financial Examiners Handbook Adopted
 PURPOSE AND EFFECT: To adopt the 2003 Edition of NAIC Financial Examiners Handbook.

RULE NO.: 4-138.001

SUBJECT AREA TO BE ADDRESSED: Insurance Company Financial Examinations.

SPECIFIC AUTHORITY: 624.308(1) FS.

LAW IMPLEMENTED: 624.307(1), 624.316(1)(c) 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 SHOWN BELOW:

TIME AND DATE: 9:30 a.m., Tuesday, November 26, 2002

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

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 below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kerry Krantz, Bureau of L&H Solvency, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0333, (850)413-3153

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

DEPARTMENT OF INSURANCE

RULE TITLES:	RULE NOS.:
Definitions	4-149.0025
Rate Filing Procedures	4-149.003
Actuarial Memorandum and Definitions	4-149.006
Form Filing Procedures	4-149.021
Forms Adopted	4-149.022
Calculation of Premium Rates	4-149.037
Employee Health Care Access Act Annual and Quarterly Statement Reporting Requirements	4-149.038
Marketing Communication Material and Marketing Guidelines	4-149.041
Small Employer Health Reinsurance Program	4-149.043

PURPOSE AND EFFECT: The rule:

- Provides rating standards to be used in the small employer group market. It provides for the implementation of recent law changes made to the small group market which allows for a higher rate for 1-life groups compared to 2-50 life groups.
- Relocates existing definitions to a definition section of the rule.
- Adopts an updated form DI4-1507 to be used in making filings to the Department.
- Allows exclusion of claims covered by workers' compensation and permits a rating factor based on the presence of workers' compensation coverage.
- Requires that a quote of a community rate must include a disclosure that the actual rate can vary 15%+/- based on underwriting.
- Prohibits issuers of guaranteed issue policies to small employers from imposing limitations not provided by §626.6699, F.S.

SUBJECT AREA TO BE ADDRESSED: Rating Standards to be used in the small employer group market.

SPECIFIC AUTHORITY: 624.308, 624.308(1), 626.9611, 627.410(6)(b),(e), 627.6699(5)(i)3.a.,4.a., (11)(b)3.a., (13)(i),(16) FS.

LAW IMPLEMENTED: 119.07(1)(b), 624.307, 624.424(6), 625.121, 626.9541(1)(b),(g)2.,(x)3., 627.410, 627.476, 627.6699(3)(g),(v), (5)(a),(i) 3.a.,4.a., (6),(7),(11), (12)(c),(e), (13)(b),(i), 627.807 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 SHOWN BELOW:

TIME AND DATE: 1:00 p.m., November 25, 2002

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

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 below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Frank Dino, Bureau of Life and Health Forms and Rates, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)413-5014

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

4-149.0025 Definitions.

(1) Actual-to-Expected Claims ratio: The expected claims are the product of the anticipated loss ratio and the earned premium, both on a policy year or issue year basis. The ratio is actual incurred claims under the policy form divided by expected claims. Both the year-by-year pattern of these ratios and the inception-to-date total ratio shall be presented.

(2) Anticipated Loss Ratio*N: For each value of N, this is the anticipated loss ratio with the first (N-1) policy years removed and is read "the anticipated loss ratio star N". The present value calculations use pricing assumptions. These values shall be provided for each policy year for each new policy filing. These shall be updated for each rate filing to reflect any change in the minimum lifetime loss ratio for the policy form.

(3) Attained Age Premium Schedule: An attained age premium schedule is one in which the policyholder's premium is dependent upon his or her age at policy renewal. The aging component of the claim cost is not pre-funded. These schedules shall be constructed so that the slope by age is substantially similar to the slope of the ultimate claim cost curve. The premiums must form a smooth progression and, to eliminate jumps in premium caused by bracketed age groups,

insurers shall use each available renewable age. These requirements do not apply to any group policy where the final premium charged is an average of the individual members.

(4) Closed Policy Form: A policy form is closed for rating purposes if the insurer has not actively offered it for sale in the previous twelve (12) months.

(5) Credible Data: If a policy form has 2000 or more policies in force, then full (100%) credibility is given to the experience; if fewer than 500 policies are in force, then zero (0%) credibility is given. Linear interpolation is used for in force amounts between 500 and 2000. For group policy forms, the numbers in this definition refer to group certificates, not policies. A combination of Florida and nationwide data shall be used only if Florida-only data is not fully credible. Specific alternate credibility standards for particular lines of business shall be submitted to the Department by affected insurers no later than 4/1/94. The Department shall consider such alternate standards and commence formal rulemaking no later than 6/1/94. Prior to and ending on the effective date of such rules, alternate credibility standards advanced by any insurer for a particular line of business shall be considered by the Department. In order for those alternate standards to be acceptable, the insurer must demonstrate that the standards are: based on sound actuarial principles and that the resulting loss ratios are in substantial compliance with the requirements of Rules 4-149.003 and 4-149.006, F.A.C.

(6) Entire Future Lifetime: This is the maximum period over which the policy would be in effect if not terminated by action of the insurer or the insured. For individual policies, the minimum acceptable period for calculation purposes is the number of years before fewer than 5% of the original policyholders remain in force. This period is determined using the anticipated termination rates for the form. For group policies, the Entire Future Lifetime is the rating period. Policy Forms which have had rate revisions prior to the effective date of this rule with a projection period shorter than the entire lifetime of the policy shall, for the purposes of computing loss ratios, continue to use the same number of years in the projection period for future rate revisions.

(7) Franchise policies are considered to be individual policies under these rules unless the franchise policies are health benefit plans under Section 627.6699, F.S. In this event, the franchise policies will be considered to be group policy forms.

(8) Group Insurance Policy Form: This means any insurance provided by a group master contract issued to any entity representing a group specified in Chapter 627, Part VII, F.S., such as a trust, an association, a union, an employer, or a group established primarily for the purpose of providing insurance coverage.

(9) Group Size: For Group Insurance Policy Forms insuring employer/employee relationships, the Group Size is the average number of certificates per employer. For other

types of groups, the Group Size is the number of certificates issued in the State of Florida for out-of-state group master contracts or the average number of certificates per master contract issued in the State of Florida for in-state groups, up to a maximum of 50 certificates.

(10) Line of Business: For rating purposes, the Department recognizes the following types of policy forms:

(a) Medical Expense: Policy forms that pay benefits based on the actual costs charged for hospital care (in or out patient), health care provider services, durable medical equipment, drugs, blood, medical supplies, x-ray and radiology services, lab work or like services which are reasonable and medically necessary and are not otherwise excluded under the policy. The Policy Form will be considered a "Medical Expense" policy if at least 50% of total benefits of the policy based upon expected claim costs are subject to Medical Trend. The following coverages will not be considered medical expense insurance:

1. Medicare Supplement insurance.
2. Long Term Care insurance.
3. Coverage supplemental to liability insurance.
4. Worker's compensation or similar insurance.
5. Automobile medical payment insurance.

(b) Medical Indemnity: Policy forms that pay a predetermined, specified, fixed benefit for services provided. Claim costs under these forms are generally not subject to Medical Trend, although they may be subject to utilization changes. Policy forms that can use this structure include Hospital Indemnity, Dread Disease, and Accident policy forms.

(c) Medicare Supplement: Policy forms which pay benefits supplementing the federal Medicare program. These are subject to Rule Chapter 4-156, F.A.C.

(d) Long Term Care: Policy forms which provide benefits as defined in Rule Chapter 4-157, F.A.C. These policies are subject to this Part I, except that the minimum loss ratios shall be as required by Rule Chapter 4-157, F.A.C. In the event of any conflict between this rule chapter and Rule Chapter 4-157, F.A.C., the latter shall prevail.

(e) Loss of Income: Policy forms which pay a regular income as long as the insured is disabled but not beyond the benefit period.

(11) New Policy Form: This means a policy form that is proposed for approval to the Department and has no policies issued or in force.

(12) Policy Form: This means either a single policy form or any collection of policy forms that have been combined for rating purposes. A collection once combined continues to be combined.

(13) Premium Schedule: This is the collection of rates to be charged, and encompasses base rates and any modifying factors.

(14) Rate Change: This is any change to the premium schedule being charged.

(15) Renewal Clauses:

(a) Optionally Renewable means that renewal can be declined on any individual or group contract at the option of the insurer.

(b) Conditionally Renewable means that renewal can be declined by class, by geographic area or for stated reasons other than deterioration of health. The insurer may revise rates on a class basis.

(c) Guaranteed Renewable means that renewal cannot be declined by the insurer for any reason other than fraud, misrepresentation, or failure to pay the premium when due, but the insurer can revise rates on a class basis.

(d) Non-cancelable means that renewal cannot be declined for any reason other than fraud, misrepresentation, or failure to pay the premium when due and that rates cannot be revised by the insurer.

(e) Non-Renewable means that there is a contractual provision which prevents a policy duration of more than a specific period which shall be no more than one (1) year.

(16) Select and Ultimate Premium Schedule: This is any premium schedule which has premiums that vary based on the time elapsed since issuance of the policy.

(17) Similar Benefits: Policy Forms may be considered by the insurer to have Similar Benefits if the benefit configuration under the forms is of the same type. Covered services, benefit triggers, copay amounts, copay options, deductible sizes, daily limits, inside and outside limits may vary and still be considered by the insurer as having similar benefits up to an entire Line of Business.

Specific Authority 624.308(1), 627.410(6)(b),(e) FS. Law Implemented 627.410(1), (2), (6), 627.411(1)(e) FS. History—New

4-149.003 Rate Filing Procedures.

(1) No change.

(2) Filing Format for Individual Policies and Group Policies and Certificates.

(a) No change.

(b) A health insurance rate filing shall consist of one copy of each of the following items:

1. No change.

2. Form DI4-1507, "The Florida Department of Insurance, Treasurer and Fire Marshal Life and Health Forms and Rates Universal Standardized Data Letter", as adopted in Rule 4-149.022, F.A.C. rev. 7/01, completely filled out in accordance with Form DI4-1507A, "The Florida Department of Insurance, Treasurer and Fire Marshal Life and Health Forms and Rates Universal Standardized Data Letter Instruction Sheet", as adopted in Rule 4-149.022, F.A.C. rev. 7/01.

3. through 5. No change.

(3) through (5) No change.

Specific Authority 624.308(1), 627.410(6)(b),(e) F.S. Law Implemented 119.07(1)(b), 627.410 F.S. History—New 7-1-85, Formerly 4-58.03, 4-58.003, Amended 8-23-93, 4-18-94, 8-22-95, 4-4-02, _____.

4-149.006 Actuarial Memorandum and Definitions.

(1) through (3) No change.

(4) Definitions.

(a) ~~Actual-to-Expected Claims ratio: The expected claims are the product of the anticipated loss ratio and the earned premium, both on a policy year or issue year basis. The ratio is actual incurred claims under the policy form divided by expected claims. Both the year-by-year pattern of these ratios and the inception-to-date total ratio shall be presented.~~

(b) ~~Anticipated Loss Ratio*N: For each value of N, this is the anticipated loss ratio with the first (N-1) policy years removed and is read “the anticipated loss ratio star N”. The present value calculations use pricing assumptions. These values shall be provided for each policy year for each new policy filing. These shall be updated for each rate filing to reflect any change in the minimum lifetime loss ratio for the policy form.~~

(c) ~~Attained Age Premium Schedule: An attained age premium schedule is one in which the policyholder’s premium is dependent upon his or her age at policy renewal. The aging component of the claim cost is not pre-funded. These schedules shall be constructed so that the slope by age is substantially similar to the slope of the ultimate claim cost curve. The premiums must form a smooth progression and, to eliminate jumps in premium caused by bracketed age groups, insurers shall use each available renewable age. These requirements do not apply to any group policy where the final premium charged is an average of the individual members.~~

(d) ~~Closed Policy Form: A policy form is closed for rating purposes if the insurer has not actively offered it for sale in the previous twelve (12) months.~~

(e) ~~Credible Data: If a policy form has 2000 or more policies in force, then full (100%) credibility is given to the experience; if fewer than 500 policies are in force, then zero (0%) credibility is given. Linear interpolation is used for in force amounts between 500 and 2000. For group policy forms, the numbers in this definition refer to group certificates, not policies. A combination of Florida and nationwide data shall be used only if Florida-only data is not fully credible. Specific alternate credibility standards for particular lines of business shall be submitted to the Department by affected insurers no later than 4/1/94. The Department shall consider such alternate standards and commence formal rulemaking no later than 6/1/94. Prior to and ending on the effective date of such rules, alternate credibility standards advanced by any insurer for a particular line of business shall be considered by the Department. In order for those alternate standards to be acceptable, the insurer must demonstrate that the standards are:~~

~~based on sound actuarial principles and that the resulting loss ratios are in substantial compliance with the requirements of Rules 4-149.003 and 4-149.006, F.A.C.~~

(f) ~~Entire Future Lifetime: This is the maximum period over which the policy would be in effect if not terminated by action of the insurer or the insured. For individual policies, the minimum acceptable period for calculation purposes is the number of years before fewer than 5% of the original policyholders remain in force. This period is determined using the anticipated termination rates for the form. For group policies, the Entire Future Lifetime is the rating period. Policy Forms which have had rate revisions prior to the effective date of this rule with a projection period shorter than the entire lifetime of the policy shall, for the purposes of computing loss ratios, continue to use the same number of years in the projection period for future rate revisions.~~

(g) ~~Franchise policies are considered to be individual policies under these rules unless the franchise policies are health benefit plans under Section 627.6699, F.S. In this event, the franchise policies will be considered to be group policy forms.~~

(h) ~~Group Insurance Policy Form: This means any insurance provided by a group master contract issued to any entity representing a group specified in Chapter 627 Part VII, F.S., such as a trust, an association, a union, an employer, or a group established primarily for the purpose of providing insurance coverage.~~

(i) ~~Group Size: For Group Insurance Policy Forms insuring employer/employee relationships, the Group Size is the average number of certificates per employer. For other types of groups, the Group Size is the number of certificates issued in the State of Florida for out-of-state group master contracts or the average number of certificates per master contract issued in the State of Florida for in-state groups, up to a maximum of 50 certificates.~~

(j) ~~Line of Business: For rating purposes, the Department recognizes the following types of policy forms:~~

~~1. Medical Expense: Policy forms that pay benefits based on the actual costs charged for hospital care (in or out patient), health care provider services, durable medical equipment, drugs, blood, medical supplies, x-ray and radiology services, lab work or like services which are reasonable and medically necessary and are not otherwise excluded under the policy. The Policy Form will be considered a “Medical Expense” policy if at least 50% of total benefits of the policy based upon expected claim costs are subject to Medical Trend. The following coverages will not be considered medical expense insurance:~~

- ~~a. Medicare Supplement insurance.~~
- ~~b. Long Term Care insurance.~~
- ~~c. Coverage supplemental to liability insurance.~~
- ~~d. Worker’s compensation or similar insurance.~~
- ~~e. Automobile medical payment insurance.~~

~~2. Medical Indemnity: Policy forms that pay a predetermined, specified, fixed benefit for services provided. Claim costs under these forms are generally not subject to Medical Trend, although they may be subject to utilization changes. Policy forms that can use this structure include Hospital Indemnity, Dread Disease, and Accident policy forms.~~

~~3. Medicare Supplement: Policy forms which pay benefits supplementing the federal Medicare program. These are subject to Rule Chapter 4-156, F.A.C.~~

~~4. Long Term Care: Policy forms which provide benefits as defined in Rule Chapter 4-157, F.A.C. These policies are subject to this Part I, except that the minimum loss ratios shall be as required by Rule Chapter 4-157, F.A.C. In the event of any conflict between this rule chapter and Rule Chapter 4-157, F.A.C., the latter shall prevail.~~

~~5. Loss of Income: Policy forms which pay a regular income as long as the insured is disabled but not beyond the benefit period.~~

~~(k) New Policy Form: This means a policy form that is proposed for approval to the Department and has no policies issued or inforce.~~

~~(l) Policy Form: This means either a single policy form or any collection of policy forms that have been combined for rating purposes. A collection once combined continues to be combined.~~

~~(m) Premium Schedule: This is the collection of rates to be charged, and encompasses base rates and any modifying factors.~~

~~(n) Rate Change: This is any change to the premium schedule being charged.~~

~~(o) Renewal Clauses:~~

~~1. Optionally Renewable means that renewal can be declined on any individual or group contract at the option of the insurer.~~

~~2. Conditionally Renewable means that renewal can be declined by class, by geographic area or for stated reasons other than deterioration of health. The insurer may revise rates on a class basis.~~

~~3. Guaranteed Renewable means that renewal cannot be declined by the insurer for any reason other than fraud, misrepresentation, or failure to pay the premium when due, but the insurer can revise rates on a class basis.~~

~~4. Non-Cancelable means that renewal cannot be declined for any reason other than fraud, misrepresentation, or failure to pay the premium when due and that rates cannot be revised by the insurer.~~

~~5. Non-Renewable means that there is a contractual provision which prevents a policy duration of more than a specific period which shall be no more than one (1) year.~~

~~(p) Select and Ultimate Premium Schedule: This is any premium schedule which has premiums that vary based on the time elapsed since issuance of the policy.~~

~~(q) Similar Benefits: Policy Forms may be considered by the insurer to have Similar Benefits if the benefit configuration under the forms is of the same type. Covered services, benefit triggers, copay amounts, copay options, deductible sizes, daily limits, inside and outside limits may vary and still be considered by the insurer as having similar benefits up to an entire Line of Business.~~

~~Specific Authority 624.308(1), 627.410(6)(b),(e) FS. Law Implemented 627.410(1),(2),(6), 627.411(1)(e) FS. History—New 7-1-85, Formerly 4-58.06, 4-58.006, Amended 4-18-94, 4-9-95,_____.~~

~~4-149.021 Form Filing Procedures.~~

~~(1) No change.~~

~~(b) A form filing shall consist of one copy of each of the following items:~~

~~1. No change.~~

~~2. Form DI4-1507, “The Florida Department of Insurance, Treasurer and Fire Marshal Life and Health Forms and Rates Universal Standardized Data Letter”, as adopted in Rule 4-149.022, F.A.C. rev. 7/01, completely filled out in accordance with Form DI4-1507A, “The Florida Department of Insurance, Treasurer and Fire Marshal Life and Health Forms and Rates Universal Standardized Data Letter Instruction Sheet”, as adopted in Rule 4-149.022, F.A.C. rev. 7/01.~~

~~3. through 6. No change.~~

~~(2) through (7) No change.~~

~~Specific Authority 624.308 FS. Law Implemented 624.307, 625.121, 627.410, 627.476, 627.807 FS. History—New 10-29-91, Amended 8-23-93, 4-18-94, 8-22-95, 5-15-96, 4-4-02,_____.~~

~~4-149.022 Forms Adopted.~~

~~(1) No change.~~

~~(2)(a) Form DI4-1507, “The Florida Department of Insurance, Treasurer and Fire Marshal Life and Health Forms and Rates Universal Standardized Data Letter”, rev. 10/02 1/02-~~

~~(b) Form DI4-1507A, “The Florida Department of Insurance, Treasurer and Fire Marshal Life and Health Forms and Rates Universal Standardized Data Letter Instruction Sheet”, rev. 10/02 1/02.~~

~~(c) through (jjj) No change.~~

~~Specific Authority 624.308 FS. Law Implemented 627.410 FS. History—New 10-29-91, Amended 5-15-96, 4-4-02, 5-2-02,_____.~~

~~4-149.037 Calculation of Premium Rates.~~

~~(1) through (2) No change.~~

~~(3)(a) through (b) No change.~~

~~(c)1. All health benefit plans shall provide coverage required by Section 627.6699, Florida Statutes, and shall not exclude any coverage unless specifically authorized under Section 627.6699, Florida Statutes.~~

2. To avoid over insurance and to provide for coordination of benefits pursuant to Section 627.4235, Florida Statutes, a plan may include a provision to exclude claims for benefits paid by workers' compensation insurance coverage of the employer.

3. To reflect the benefit differences provided by the plan, a carrier may file for approval a rating factor reflecting the additional benefits being provided by the health plan if the small employer does not have workers' compensation insurance.

(4) Rate filing requirements – Modified Community Rating. Premium schedules for benefit plans offered to small employer groups shall be based solely on the following categories and factors of the employee, without regard to the nature of the employer group.

- (a) No change.
- (b) 1. through 3. No change.

4. The rate required by subparagraph (4)(a)7. above shall be applicable when both employee and spouse are enrolled in Medicare. If one is enrolled and one is not, regardless of which spouse is the employee, the rate charged shall be adjusted to reflect the reduction of exposure due to the fact that one spouse is enrolled in Medicare. The rate shall be determined assuming that one individual is enrolled in Medicare. The rate for the individual enrolled in Medicare will be isolated, multiplied by the Medicare primary to Medicare secondary ratio, and then added back to the portion of the rate that is not Medicare primary. A sample illustrative calculation follows; other combinations should be calculated in a similar manner:

a. For employee + spouse coverage where the spouse is Medicare primary – The difference between the employee + spouse Medicare secondary rate and the employee only Medicare secondary rate shall be determined. This shall reflect the implied spouse rate. This implied spouse rate shall be multiplied by the ratio of the Medicare primary rate divided by the Health plan primary rate. This resulting rate shall be added to the employee only rate.

b. For family coverage – The difference between the family rate and the employee + dependent rate shall be determined. This shall reflect the implied spouse rate. This implied spouse rate shall be multiplied by the ratio of the Medicare primary rate divided by the Health plan primary rate. This resulting rate shall be added to the employee + dependent only rate.

- (c) through (e) No change.
- (5) through (6) No change.

(7)(a) A small employer carrier may file for approval subject to Part I of this rule chapter a rate factor to be applied to one-life groups.

(b) If elected, future rate filings shall file the rate schedule applicable to the 2-50 eligible employee groups based on the 2-50 group experience and include the rate factor to be applied to such rate schedule resulting in the rate schedule to be applied to one-life groups.

(c) The one-life factor shall not exceed 1.50.

(d) The one-life factor shall be applied to all one-life groups.

(e) If the small employer carrier elects the option permitted by Rule 4-149.037(6), F.A.C. in addition to this option, the one-life factor shall be determined such that the one-life factor times the maximum increase permitted under Rule 4-149.037(6), F.A.C. does not exceed 1.50.

(f) If the small employer carrier elects the options permitted by Rule 4-149.037(6), F.A.C. and this option, the rate quoted to the one-life group shall first apply the one-life factor under this subsection (7) and then apply the provisions of subsection (6) limited to 1.50.

(g) Future filings shall include aggregate small group experience, actual one-life group experience, and the one-life group experience with the earned premium restated to remove the one-life factor; i.e., restate earned premium as though the 2-50 eligible employee rate schedule without the one-life factor rate had been charged.

(h) The aggregate experience, as well as the separate one-life experience, shall meet the target loss ratio standards for the form.

Specific Authority 624.308(1), 627.6699(16) FS. Law Implemented 627.410, 627.6699(6), (12)(e), (13), (13)(i) FS. History—New 3-1-93, Amended 11-7-93, 5-11-94, 4-23-95, 8-4-02, _____.

4-149.038 Employee Health Care Access Act Annual and Quarterly Statement Reporting Requirement.

(1)(a) Pursuant to Section 627.6699, F.S., each carrier that provides health benefit plans in this state shall file, pursuant to Paragraph 4-149.044(2)(b), F.A.C., ~~with its annual statement each year,~~ on or before March 1 for the preceding year ending December 31, Form DI4-1094, Report of Gross Annual Premiums and Enrollment Data for Health Benefit Plans Issued to Florida Residents adopted in Rule 4-149.044, F.A.C., providing information on health benefit plans written in this state.

- (b) No change.
- (2) No change.

(3)(a) All small employer carriers utilizing rating adjustments pursuant to subsection 4-149.037(7), F.A.C., shall make semiannual reports of their experience. The semiannual reports shall reflect experience from January 1 through June 30 and from July 1 through December 31 of each year. The reports shall be filed with the Department, pursuant to paragraph 4-149.044(2)(b), F.A.C., within 45 days following the last day of the reporting period. The carrier shall report:

- 1. through 7. No change.

8. ~~(7)/(4) (7)/(3)~~ percentage deviation of charged rate to community rate for claims, health and duration status.

(b) through (d) No change.

Specific Authority 627.6699(5)(i)3.a., 4.a., (16) FS. Law Implemented 624.424(6), 627.6699(5)(i)3.a., 4.a. FS. History—New 3-1-93, Amended 11-7-93, 8-4-02, _____.

4-149.041 Marketing Communication Material and Marketing Guidelines.

(1) No change.

(2) Any insurer marketing small group health plans shall comply with the following guideline:-

(a) through (e) No change.

(f)1. Pursuant to Section 626.9611, Florida Statutes F.S., the Department identifies the following as being prohibited by Section 626.9541(1)(b), Florida Statutes F.S., for a small employer carrier in reflecting any of the permitted rate adjustments in subsection 4-149.037(6), F.A.C.:

a. No change.

b. Where necessary underwriting information has not been analyzed, to quote a rate other than the approved community rate. Any such quote of the community rate shall include a disclosure that the rate will be affected by the results of underwriting by up to 15 percent without disclosure that the rate may be adjusted up or down to 15 percent for new groups, or up to a 10 percent increase for renewal groups.

2. No change.

(g) Any practice that results in the declination of an application from a small employer constitutes a failure to comply with the guaranteed-issue requirements of Section 627.6699(5), Florida Statutes; for example, imposing standards for eligibility that are not required by law, such as:

- 1. Requiring the small employer be a domestic entity; or
- 2. Requiring the group have prior group coverage; or
- 3. Requiring payment of premiums with business checks instead of personal checks.

Specific Authority 627.6699(13)(i),(16), 626.9611 FS. Law Implemented 626.9541(1)(b),(g)2.,(x)3., 627.6699(3)(g),(v), (5)(a),(7),(12),(12)(c),(13),(b) FS. History—New 3-1-93, Amended 11-7-93, 4-23-95, 8-4-02, _____.

4-149.043 Small Employer Health Reinsurance Program.

(1) No change.

(2) Of the 8 additional members of the board, subsequently amended to 13 in the 2000 legislative session, 5 shall be selected from individuals recommended by small employer carriers. Any small employer carrier wishing to do so may submit a list of recommended appointees to the commissioner either on its own behalf or through its trade organization. The list shall be submitted to: Chief, Bureau of Life and Health Forms & Rates, Division of Insurer Services, Department of Insurance, Larson Building, Tallahassee, FL 32399-0328 or submitted electronically to lhfrbureau@doi.state.fl.us ~~lhfrbureau@doi.state.fl.us~~. The

carrier or trade organization submitting the list shall include the following information about the persons it is recommending:

(a) through (d) No change.

Specific Authority 624.308(1), 627.6699(11)(b)3.a. FS. Law Implemented 627.6699(11) FS. History—New 11-7-93, Amended 8-4-02, _____.

DEPARTMENT OF INSURANCE

RULE CHAPTER TITLE: Filing of Forms and Rates for Life and Health Insurance; Electronic Filing

RULE CHAPTER NO.: 4-149

RULE TITLES: Rate Filing Procedures Form Filing Procedures

RULE NOS.: 4-149.003 4-149.021

PURPOSE AND EFFECT: To implement electronic filing and require it to be mandatory.

SUBJECT AREA TO BE ADDRESSED: Method of submitting filings as required by statute.

SPECIFIC AUTHORITY: 624.308(1), 627.410(6)(b),(e) FS.

LAW IMPLEMENTED: 119.07(1)(b), 627.410 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 SHOWN BELOW:

TIME AND DATE: 11:00 a.m., December 3, 2002

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

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 below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Frank Dino, Bureau of L&H Forms and Rates, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)413-5014

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

DEPARTMENT OF INSURANCE

RULE TITLES: Outline of Coverage Indemnity Standard Risk Rates Preferred Provider/Exclusive Provider Standard Risk Rates Health Maintenance Organization Standard Risk Rates

RULE NOS.: 4-149.204 4-149.205 4-149.206 4-149.207

PURPOSE AND EFFECT: The rule amendment adopts new standard risk rates pursuant to § 627.6675(3)(c), F.S., and makes minor corrections to conform the rule to current statutory language. The standard risk rates are required to be amended annually.

SUBJECT AREA TO BE ADDRESSED: Standard risk rates.

SPECIFIC AUTHORITY: 624.308, 627.6675(3)(c) FS.

LAW IMPLEMENTED: 624.307(1), 627.6498(4), 627.6675(3), 641.3922(3) 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 SHOWN BELOW:

TIME AND DATE: 11:00 a.m., November 26, 2002

PLACE: Room 143, Larson Building, 200 East Gaines Street, Tallahassee, Florida

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 below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Frank Dino, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)413-5014

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT WILL BE AVAILABLE AT THE WORKSHOP.

DEPARTMENT OF INSURANCE

RULE CHAPTER TITLE: Minimum Reserve Standards for Individual Group Health Insurance Contracts
RULE CHAPTER NO.: 4-154, Part III

PURPOSE AND EFFECT: To update Health Reserves to be consistent with new NAIC Standards.

SUBJECT AREA TO BE ADDRESSED: Minimum Reserve Standards for Individual Group Health Insurance Contracts.

SPECIFIC AUTHORITY: 624.308(1), 625.121(14), 625.081 FS.

LAW IMPLEMENTED: 624.307(1), 625.081, 625.121 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 SHOWN BELOW:

TIME AND DATE: 9:00 a.m., Tuesday, November 26, 2002

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

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 below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kerry Krantz, Bureau of L&H Solvency, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0333, (850)413-3153

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

DEPARTMENT OF INSURANCE

RULE TITLE: Guaranteed Availability of Individual Health Coverage to Eligible Individuals;
RULE NO.: 4-154.112
Electronic Filing

PURPOSE AND EFFECT: To amend Florida Administrative Code to implement electronic filing and require it to be mandatory.

SUBJECT AREA TO BE ADDRESSED: Guaranteed availability of individual health coverage to eligible individuals.

SPECIFIC AUTHORITY: 624.308, 627.6487(4)(b) FS.

LAW IMPLEMENTED: 624.307(1), 627.6487 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 SHOWN BELOW:

TIME AND DATE: 11:00 a.m., December 3, 2002

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Frank Dino, Actuary, Bureau of L&H Forms and Rates, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)413-5014

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 PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF INSURANCE

RULE TITLE: RULE NO.:

Loss Ratio Standards and Refund or Credit of Premium; Electronic Filing 4-156.011

PURPOSE AND EFFECT: The rule is being amended to implement electronic filing and require it to be mandatory.

SUBJECT AREA TO BE ADDRESSED: Medicare Supplement Insurance.

SPECIFIC AUTHORITY: 624.308, 627.674(2), 627.410 FS.

LAW IMPLEMENTED: 624.307(1), 627.410, 627.674 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 SHOWN BELOW:

TIME AND DATE: 11:00 a.m., December 3, 2002

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Frank Dino, Bureau of L&H Forms & Rates, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)413-5014

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 PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF INSURANCE

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Credit Life and Credit Disability Insurance 4-163

RULE TITLE: RULE NO.:
Filing Requirements; Electronic Filing 4-163.0045

PURPOSE AND EFFECT: The purpose and effect is to implement electronic filing and require it to be mandatory.

SUBJECT AREA TO BE ADDRESSED: Credit Life and Credit Disability Insurance.

SPECIFIC AUTHORITY: 624.308(1), 627.678, 627.410 FS.

LAW IMPLEMENTED: 624.307(1), 624.410, 627.6785, 627.682 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 SHOWN BELOW:

TIME AND DATE: 11:00 a.m., December 3, 2002

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Frank Dino, Bureau of L&H Forms & Rates, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)413-5014

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 PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF INSURANCE

RULE TITLE: RULE NO.:

Filing, Approval of Subscriber Contract and Related Forms; Electronic Filing 4-191.051

PURPOSE AND EFFECT: To implement electronic filing and require it to be mandatory.

SUBJECT AREA TO BE ADDRESSED: Method of submitting filings as required by statute.

SPECIFIC AUTHORITY: 641.36, 624.308 FS.

LAW IMPLEMENTED: 641.31 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 SHOWN BELOW:

TIME AND DATE: 11:00 a.m., December 3, 2002

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Frank Dino, Bureau of L&H Forms & Rates, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)413-5014

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 PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF INSURANCE

RULE TITLE: RULE NO.:

Filing, Approval of Subscriber Contract and Related Forms; Electronic Filing 4-203.042

PURPOSE AND EFFECT: To implement electronic filing and require it to be mandatory.

SUBJECT AREA TO BE ADDRESSED: Method of submitting filings as required by statute.

SPECIFIC AUTHORITY: 636.067, 624.308 FS.

LAW IMPLEMENTED: 636.018 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 SHOWN BELOW:

TIME AND DATE: 11:00 a.m., December 3, 2002.

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

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 below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Frank Dino, Bureau of L&H Forms and Rates, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)413-5014

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Office of Agricultural Water Policy

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Best Management Practices for Citrus, Cow/Calf, Dairy, and Used in the Lake Okeechobee Priority Basins (S-191, S-154, S-65 D and E) 5M-3

PURPOSE AND EFFECT: The purpose of this rule is to effect pollutant reduction through the implementation of non-regulatory and incentive based programs, which may be determined to have minimal individual or cumulative adverse impacts to the water resources of the state.

SUBJECT AREA TO BE ADDRESSED: The purpose of this workshop is to review a draft rule that adopts the document titled *Water Quality/Quantity BMPs for Indian River Area Citrus Groves* and the document titled *Water Quality/Quantity BMPs for Cow/Calf Operations*. The draft rule also purposes to adopt, by reference, *Site Specific Agricultural Nutrient Management Assessments and Plans for Dairies and Cow/Calf operations*. In addition, the draft rule establishes record keeping requirements and procedures for landowners and leaseholders to submit a Notice of Intent to Implement the Best Management Practices (BMPs) and interim measures.

SPECIFIC AUTHORITY: 403.067(7) FS.

LAW IMPLEMENTED: 373.4595(3) FS.

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

TIME AND DATE: 7:00 p.m. – 9:00 p.m., December 5, 2002

PLACE: Okeechobee County Civic Center, Hwy. 98, North, Okeechobee, FL 34972, (863)763-6469

If an accommodation is needed for a disability in order to participate in this meeting, please notify the Bureau of Personnel Management, Department of Agriculture and Consumer Services, (850)488-1806, at least seven days prior to the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: R. Clegg Hooks, Environmental Administrator, Office of Agricultural Water Policy, 1203 Governor’s Square Blvd., Suite 200, Tallahassee, Florida 32399-1650, (850)488-6249 or FAX (850)921-2153

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

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Highway Beautification and Landscape Management 14-40

RULE TITLES: RULE NOS.:

Grant Process 14-40.020

Funding, Construction, and Maintenance of Beautification Projects 14-40.021

Florida Highway Beautification Council Grant Process 14-40.022

Funding, Construction, and Maintenance of Beautification Projects 14-40.023

PURPOSE AND EFFECT: This amendment to Part II of Rule Chapter 14-40, F.A.C., includes a restructuring of the rules. The definitions are expanded to include additional terms, which are subsequently referred to by the defined term only. The order of the rules within Part II of Rule Chapter 14-40, F.A.C., is being changed by repealing Rule 14-40.021, F.A.C., and then adopting it as a new Rule 14-40.023, F.A.C. The Award of Grants and Execution of Grants sections in Rule 14-40.020, F.A.C., also are deleted in that rule and moved to Rule 14-40.022, F.A.C.

SUBJECT AREA TO BE ADDRESSED: This is a restructuring of Part II of Rule Chapter 14-40, F.A.C., covering the Florida Highway Beautification Council.

SPECIFIC AUTHORITY: 334.044(2), 337.2505(1), 339.2405 FS.

LAW IMPLEMENTED: 335.167, 337.405, 339.2405 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 IS: James C. Myers, Management Analyst 4, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

PART II FLORIDA HIGHWAY BEAUTIFICATION
COUNCIL GRANTS

14-40.020 Grant Process.

(1) Definitions.

(a) "Applicant" means a local governmental entity, as defined in Section 11.45(1)(d), Florida Statutes, or a local highway beautification council.

(b) "Department" means the Florida Department of Transportation.

(c) "FHBC" means the Florida Highway Beautification Council.

(d) "Grant" means funds provided by the Department to Applicants, pursuant to this Rule Chapter.

(e) "Grant Agreement" means the contract between the Applicant and the Department setting forth the terms of the Grant.

(f) "Grant Application" means the Florida Highway Beautification Council Grant Application, Form 850-060-01, Rev. 03/03, incorporated herein by reference. Copies of the Florida Highway Beautification Council Grant Application form (grant application), Form 850-060-01, Rev. 03/03, incorporated herein by reference, and instructions for completing the grant application may be obtained from Department District Maintenance Offices, District Public Information Offices, Area Maintenance Offices, Central Public Information Office, by writing to the Environmental Management Office, 605 Suwannee Street, Mail Station 37, Tallahassee, Florida 32399-0450, or through the Department website at <http://www11.myflorida.com/emo/>.

(g) "Grant Coordinator" means the Department District FHBC employee responsible for the program.

(2) Grant Application Process.

(a) Grant Applications for highway beautification grants from the FHBC must be filed and processed in accordance with this Rule Chapter. When preparing an application for the next fiscal year, applicants should meet and work with the Grant Coordinator on or about October 1, to give adequate time for review and revisions before the February 1, application deadline.

(b)(a) Previous recipients of grants are eligible to submit a grant application if their previous FHBC grant projects are maintained according to the terms of grant agreements, and any construction or maintenance agreements. Prior to submitting a grant request, applicants must prepare a landscape

plan and have it reviewed by the District Landscape Manager for compliance with Part I of this rule chapter. Following the review, the applicant must make any plan revisions required by the District Landscape Manager prior to approval. The Department's landscape plan review, revision, and approval process may require up to 120 days.

(c)(b) The After the landscape plan has been approved by the District Landscape Manager, in accordance with paragraph (a) above, the applicant must submit grant requests on a completed grant application Florida Highway Beautification Council Grant Application, Form 850-060-01, Rev. 09/01, (hereinafter "grant application") incorporated herein by reference, to the Department District Maintenance Engineer having jurisdiction over the state highway on which the beautification project is proposed. Copies of the grant application form and instructions for completing the grant application may be obtained from Department District Maintenance Offices, District Public Information Offices, Area Maintenance Offices, Central Public Information Office, or by writing to the Environmental Management Office, 605 Suwannee Street, Mail Station 37, Tallahassee, Florida 32399-0450. The grant application must designate the Department fiscal year in which the grant applicant would like the application considered. The grant application must be accompanied by the following supporting documents: location map, photographs of existing conditions, one page written project narrative, written or graphic conceptual plan (in accordance with Part I of this Rule Chapter), one paragraph descriptions of each evaluation attribute, photographs or sketches of examples of proposed improvements, list of proposed plant species (scientific and botanical names) and anticipated quantities, anticipated maintenance schedule, proposed means of providing supplemental water, project schedule, and resolutions required in paragraph (g) below plans which were approved in accordance with subsection 1. above.

(e) The grant application must be complete and must contain all of the information required in Section 339.2405(11), Florida Statutes. The applicant may make corrections, additions, or deletions to the grant application and resubmit the grant application at any time prior to the due date as required in subparagraph 4. below.

(d) Grant applications may be submitted at any time of the year. In order for the FHBC to consider a grant application for any Department fiscal year, ten paper copies or an electronic file copy of the completed grant application and supporting documents must be received by the Grant Coordinator appropriate District Maintenance Engineer by February 1 of the prior Department fiscal year. When requested by the Grant Coordinator District Maintenance Engineer, additional copies will be provided. Incomplete grant applications, or grant applications that do not comply with state or federal regulations, will be returned to the applicant. An applicant may amend and resubmit any returned grant application by the

~~February 1 deadline~~ for consideration for a future fiscal year. Grant applications which are not accompanied by an approved set of plans will not be considered complete. Accordingly, it is the responsibility of the applicant to submit plans for approval under subsection 1. in time to allow approval prior to the grant application submittal deadline for the appropriate Department fiscal year.

(e) In accordance with Section 215.01, Florida Statutes, the Department's fiscal year begins on July 1 and ends on June 30.

(f) Applicants may submit an unlimited number of grant applications requests, for any number of project sites.

(g) The applicant's governing body must have passed a resolution approving the grant application and authorizing the individual who signs the grant application for the applicant local government to execute agreements and documents associated with the grant request, including a Highway Beautification gGrant aAgreement. A copy of such resolution must shall be included with the application.

~~(3) Award of Grants.~~

(a) The FHBC must provide the Department a list of prioritized projects with recommended funding levels by the first day of the fiscal year. In order to distribute the available funds to the greatest number of applicants, each grant award must be limited to a maximum of 10% of the total FHBC grants budget, or \$25,000, whichever is greater.

(b) Offers of grant awards must be made by the Department by certified letter to the applicant named in the grant application, detailing the grant award.

(c) An applicant must accept a grant by sending a letter of acceptance by certified mail to the Department's District Secretary, with copies to the Department's District Maintenance Engineer and the FHBC staff coordinator, within 15 days from the date of receipt of the offer of the award.

(d) No funds will be released by the Department until the Grant Agreement and any construction and maintenance agreements are executed.

(e) All funding of grants is contingent upon legislative appropriations.

~~(4) Execution of Grant Agreement.~~

(a) It will be the responsibility of the applicant to ensure that the Grant Agreement and any other construction and maintenance agreements associated with the grant proposal are fully executed by the applicant within 90 days after the agreements are sent to the applicant by the District. Failure to comply with this requirement will result in the grant offer being withdrawn. The grant may be awarded to another applicant. Grant applications from an applicant who fails to comply with this subsection will not be accepted for a period of two grant years.

(b) The Grant Agreement between the applicant and the Department must state:

~~1. The intended use of the grant, as described in the grant application.~~

~~2. The payment terms for the grant (e.g., lump sum reimbursement or progress payments for long term work).~~

~~3. Any actions which the Department will take in the event of noncompliance by the applicant.~~

~~4. The methods to be used by the Department to determine compliance with the terms of the grant and the agreement.~~

~~Specific Authority 339.2405 334.044(2), 337.2505(1) FS. Law Implemented 335.167, 337.405, 339.2405 FS. History--New 1-19-99, Amended 11-22-01,~~

~~14-40.021 Funding, Construction, and Maintenance of Beautification Projects.~~

~~Specific Authority 334.044(2), 337.2505(1) FS. Law Implemented 335.167, 337.405, 339.2405 FS. History--New 1-19-99, Amended 11-22-01, Repealed~~

~~14-40.022 Florida Highway Beautification Council Grant Process.~~

~~This rule sets forth the FHBC's process for evaluating and ranking applications for grants, pursuant to Section 339.2405(7)(a)4., Florida Statutes.~~

~~(1) The FHBC will consider develop a prioritized list, ranked in numerical order, of all grant applications submitted by each Grant Coordinator reported to be sufficient by the Department's District Maintenance Engineer.~~

~~(a) The FHBC will evaluate the applications based on the following attributes:~~

~~1. Aesthetic value, imaginative concept and Appropriateness of the design for the location.~~

~~2. Level of local support and community involvement. Use of desirable native, hybrid native, or naturalized plant materials.~~

~~3. Cost effectiveness. Use of wildflowers.~~

~~4. Feasibility of installation and maintenance. Irrigation requirements matched to plant needs and water conservation requirements, including Xeriscape practices.~~

~~5. Contribution to improvement of environmental conditions, including litter prevention, erosion control, visual screening, and noise abatement. Emphasis on low maintenance requirements.~~

~~6. Use of Florida native wildflowers, and diversity of other desirable native, hybrid native, or noninvasive plant species. Aesthetic values.~~

~~7. Emphasis on low maintenance, irrigation, and water conservation. Contribution to noise abatement, visual screening, litter prevention, or the correction of other environmental problems.~~

~~8. Use of recycled materials such as mulch, reuse water, or solid yard waste compost. Evidence of local governmental and community support.~~

~~9. Contribution to an area wide or regional beautification plan. Use of imaginative design concepts.~~

- 10. Provisions for minimal impacts on traffic safety during maintenance operations.
- 11. Contribution to an area wide or regional beautification plan.
- 12. Cost effectiveness.
- 13. Feasibility of installation and maintenance.
- 14. Demonstration of the use of environmentally sensitive materials, such as solid yard waste compost or the use of reuse water, in the construction or maintenance of the project for which a Florida Department of Environmental Protection permit is required.

10.15. Value to the community.

(b) The FHBC will assign a numerical score to each application by:

- 1. ~~Reviewing each application and assigning a numerical score using the established~~ Establishing a range of 0 to 10 points for each attribute for a total possible score of 100 450 points.
- 2. ~~Reviewing each application and assigning a numerical score in the established range for each attribute.~~
- 2.3. ~~Totaling~~ Summing all the attribute scores for a total application numerical score.

(c) Applications will be ranked in priority by numerical score, the highest numerical score being ranked the highest priority.

~~(d) Applicants that have not maintained their landscape projects according to the terms of a Grant Agreement, and any construction or maintenance agreements, and have not corrected deficiencies within the allotted time addressed by the agreement, shall not be eligible for a grant for a two-year period.~~

(2) The FHBC will provide the Department with a list of prioritized ~~applications~~ projects, with recommended funding levels, and conditions for grant awards, by the first day of the fiscal year in which the funds are available.

Specific Authority 339.2405 FS. Law Implemented ~~335-167~~, 339.2405(7)(a)4. FS. History—New 3-9-99, Amended 11-22-01, _____.

14-40.023 Funding, Construction, and Maintenance of Beautification Projects.

(1) Award of Grants.

(a) Each grant will be limited to a maximum of 10% of the total Department’s FHBC grants budget. Applicants are encouraged to submit applications for projects supported with equal (50%) matching funds from other sources. Other match percentages will be considered.

(b) Official notice of each grant award will be made by the Department by certified mail to the applicant named in the grant application.

(c) To accept a grant, an applicant must send a letter of acceptance by certified mail to the Grant Coordinator within 15 days from the date of receipt of the offer of the award.

(d) Funds will be released by the Department when the grant agreement and any construction and maintenance agreements are executed, the project is constructed as per plans approved by the Department (see Part I of this Rule Chapter), there is written final acceptance by the Department, and receipts for grant expenses are reviewed and approved by the Department.

(e) All funding of grants is contingent upon legislative appropriations.

(2) Execution of Grant Agreements.

(a) The applicant must execute a grant agreement within 90 days after the agreement is received from the Grant Coordinator. Construction and maintenance agreements associated with the grant must be executed within one year from date of grant agreement, and meet the requirements of paragraph 14-40.003(3)(c), F.A.C. Failure to execute the required agreements will result in the grant award being withdrawn. Future grant applications from an applicant who fails to comply with this subsection will not be accepted for a period of two fiscal years.

(b) The grant agreement between the applicant and the Department must state:

- 1. The intended use of the grant, as described in the grant application.
- 2. The payment terms for the grant (e.g., lump sum reimbursement or progress payments for long term work).
- 3. Any actions which the Department will take in the event of noncompliance by the applicant.
- 4. The methods to be used by the Department to determine compliance with the terms of the grant and the agreement.

(c) The individual(s) who sign the agreements on behalf of the grant applicant, or the grant applicant’s designee, shall certify that the project is implemented as specified in the grant agreement, and any construction and maintenance agreements, and shall provide a certification of completion before the final invoices are submitted for the project.

Specific Authority 339.2405 FS. Law Implemented 339.2405 FS. History—New _____.

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Railroad Safety and Clearance Standards, and Public Railroad-Highway Grade Crossings	14-57
RULE TITLES:	RULE NOS.:
Definitions for Use in Part II	14-57.010
Public Railroad – Highway Grade Crossing Costs	14-57.011
Standards for Opening and Closing of Public Railroad – Highway Grade Crossings	14-57.012
PURPOSE AND EFFECT: This amendment to Rule Chapter 14-57 is to create a Part I and Part II structure where the existing Rule 14-57.003, F.A.C., is in Part I Railroad and Clearance Standards, and new Rules 14-57.010, 14-57.011,	

and 14-57.012, F.A.C., are being adopted within Part II Public Railroad-Highway Grade Crossings. After this rule chapter amendment is adopted, existing rules relating to railroad crossings will be repealed in Rule Chapter 14-46, F.A.C., so that chapter will be limited to utilities.

SUBJECT AREA TO BE ADDRESSED: This is a basic restructuring of Rule Chapter 14-57, F.A.C., to create a Part I and Part II structure. There are no proposed amendments to the existing Rule 14-57.003, F.A.C., but it is being moved into Part I, and the three proposed rules are being adopted under Part II.

SPECIFIC AUTHORITY: 334.044(2), 335.141 FS.

LAW IMPLEMENTED: 335.141 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 IS: James C. Myers, Management Analyst 4, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

RAILROAD SAFETY STANDARDS AND CLEARANCE STANDARDS, AND PUBLIC RAILROAD-HIGHWAY GRADE CROSSINGS REQUIREMENTS

14-57.010 Definitions for Use in Part II.

The following definitions apply to this Part II:

(1) “Applicant” means any person, group, railroad, governmental entity, or the Department.

(2) “Application” means a Request to Open or Close a Public Railroad-Highway Grade Crossing, Form 725-090-66 (Rev. 10/00), incorporated herein by reference. Form 725-090-66 can be obtained from <http://www11.myflorida.com/rail/xingopenclose.htm> or Central Rail Office, Department of Transportation, 605 Suwannee Street, MS 25, Tallahassee, Florida 32399-0450.

(3) “Department” means the Florida Department of Transportation.

(4) “Governmental Entity” means as defined in Section 11.45(1)(d), Florida Statutes.

(5) “Public Railroad-Highway Grade Crossing” means as defined in Section 335.141(1)(b), Florida Statutes.

(6) “Railroad” means as defined in Section 341.301(5), Florida Statutes.

(7) “State Highway System” means as defined in Section 334.03(25), Florida Statutes.

(8) “Stipulation of Parties” means a voluntary agreement between the railroad(s), the governmental entity(ies), the Department, and the applicant, if different from the aforementioned.

Specific Authority 334.044(2), 335.141 FS. Law Implemented 335.141, 339.05 FS. History–New _____.

14-57.011 Public Railroad – Highway Grade Crossings Costs.

(1) Purpose. To establish the degree of Department and Railroad participation in the cost of public railroad-highway grade crossings.

(2) Installation and Modification. The method of determining responsibility for installation or modification costs shall be as follows: At all public railroad-highway grade crossings, the method of determining railroad responsibility will be in accordance with the Federal Highway Administration Federal-Aid Policy Guide, Subchapter B, Part 141, Subpart I, incorporated herein by reference. To obtain copies of this document, go to www.fhwa.dot.gov: link to Legislation and Regulations.

(3) Maintenance. The method of determining participation in public railroad-highway grade crossing maintenance costs shall be as follows:

(a) Grade Crossing Traffic Control Devices. The Department shall participate in 50% of the cost of maintaining grade crossing traffic control devices so long as the devices are located on the State Highway System.

(b) Travel Way. When the grade crossing is located on the State Highway System, the railroad shall be responsible for the maintenance cost of all trackbed and rail components, and the highway roadbed for the width of the rail ties within the crossing area. The Department shall be responsible for the maintenance cost of the highway roadbed outside of the railway ties on crossings where the railroad has a property interest. The railroad shall be responsible for the maintenance cost of the highway roadbed where the crossing occupies public right of way.

(c) Grade Separation Structures. The Department shall be responsible for the maintenance cost of railroad overpasses when the structure is located on the State Highway System and carries highway traffic over a railroad. The railroad shall be responsible for the maintenance cost of railroad underpasses which carry highway traffic under a railroad.

Specific Authority 334.044(2), 335.141 FS. Law Implemented 335.141, 339.05 FS. History–New _____.

14-57.012 Standards for Opening and Closing of Railroad – Highway Grade Crossings – Opening and Closure.

(1) Purpose. To establish standards for the opening and closing of public railroad-highway grade crossings. The objectives of these uniform standards will be to reduce the

accident frequency and severity at public railroad-highway grade crossings, and improve rail and motor vehicle operating efficiency.

(2) Opening and Closing Public Railroad-Highway Grade Crossings. The Department will accept applications for the opening and closing of public railroad-highway grade crossings from the governmental entity that has jurisdiction over the public street or highway; any railroad operating trains through the crossing; any other applicant for a public railroad-highway grade crossing provided there is in existence an agreement between the applicant and governmental entity to assume jurisdiction as a public crossing. The Department, on behalf of the State of Florida, will also open or close public railroad-highway grade crossings in accordance with the criteria set forth herein. Closure applications will also be accepted from individual citizens or groups, such as neighborhood associations. Opening or closure of public railroad-highway grade crossings shall be based upon Notices of Intent issued by the Department, administrative hearings conducted pursuant to Chapter 120, Florida Statutes, or upon a Stipulation of Parties executed by any applicant, governmental entity, the appropriate railroad, and the Department. The burden of proof for the opening or closing of a crossing is on the applicant. Acceptance of any application for processing by the Department shall not be construed as indicating the Department's position regarding the application. If the preliminary review of the application does not support the crossing opening or closure, the applicant will be advised of these findings. The applicant may choose to withdraw the application or continue the process. If withdrawn, the process is concluded. An applicant may suspend an application at any time. If the applicant chooses to pursue the opening or closure of the public railroad-highway crossing, the railroad and governmental entity having jurisdiction at the location are notified and provided a copy of the application. The governmental entity should provide a public forum for community involvement and contact affected individuals or groups to obtain input on impacts to the community. The expense of crossing closures or openings, which shall include installation, maintenance, and replacement of grade crossing traffic control devices and grade crossing surfaces, will be the responsibility of the applicant, unless otherwise negotiated and accepted by all parties.

(a) Opening of Public Railroad-Highway Grade Crossings. In considering an application to open a public railroad-highway grade crossing, the following criteria will apply:

1. Safety.
2. Necessity for rail and vehicle traffic.
3. Alternate routes.
4. Effect on rail operations and expenses.
5. Design of the grade crossing and road approaches.

6. Presence of multiple tracks and their effect upon railroad and highway operations.

(b) Conversion of Crossings. Conversion of private railroad-highway grade crossings to public use constitutes opening a new public crossing, and shall meet the same requirements. Active grade crossing traffic control devices meeting the criteria set forth in subsection 14-57.012(3), F.A.C., are required at all new public railroad-highway grade crossings.

(c) Closure of Public Railroad-Highway Grade Crossings. In considering an application to close a public railroad-highway grade crossing, the following criteria will apply:

1. Safety.
2. Necessity for rail and vehicle traffic.
3. Alternate routes.
4. Effect on rail operations and expenses.
5. Excessive restriction to emergency type vehicles resulting from closure.
6. Design of the grade crossing and road approaches.
7. Presence of multiple tracks and their effect upon railroad and highway operations.

(d) Closure of Public Railroad-Highway Grade Crossings by the Department. The Department will initiate and maintain a crossing consolidation and closure program based on analysis of engineering and safety factors, and impact on operating efficiency to vehicle and rail traffic. Governmental entities will be provided the listing of potential closures for review and recommendation. Closures by the Department will be considered based upon following:

1. Systems or Corridor Approach. Review of crossings on a specific corridor by railroads, cooperative teams (railroads, state, governmental entity), or state rail personnel, to determine redundant or unused crossings that are viable candidates for closure.

2. Diagnostic Team Safety Review. Diagnostic teams review and recommend candidates for closure on a rail corridor, based on overall safety index, specific hazards, or response to a serious accident(s).

3. Rail Changes, Construction, or Improvement Impacts. Closure candidates may result from track rehabilitation, new highway or railroad construction, adjacent crossing improvements or signalization, and changes in passenger or freight service.

4. Individual Recommendations: Recommendations for closure may be submitted by federal or state Safety Inspectors, Operation Lifesaver volunteers, Railroad Safety Committees, engineers involved in "near misses," neighborhood associations, or other persons.

(e) Grade Separation. When estimated highway traffic has 30,000 vehicles a day across main line tracks, an engineering and benefit-cost analysis must be performed by the applicant to determine if a grade separation is warranted.

(3) Installation Criteria. Warning devices.

(a) Basic Equipment. All existing public railroad-highway grade crossings without active warning devices shall have reflectorized railroad crossbucks on the right hand side of the road on both sides of the tracks as specified in the U. S. Department of Transportation *Manual on Uniform Traffic Control Devices* (MUTCD), incorporated by reference under Rule 14-15.010, F.A.C. The reflectorized railroad advance warning sign and pavement markings shall be located at those public grade crossings which are specified in the MUTCD.

(b) Minimum Active Grade Crossing Traffic Control Devices. All new public railroad-highway grade crossings shall have, as a minimum, roadside flashing lights and gates on all roadway approaches to the crossing, usually placed on the right of approaching traffic. Lamp units shall be in accordance with the standards recommended by the *American Railroad Engineering Manual*, incorporated herein by reference. The location of the roadside flashing lights and gates shall be in accordance with the Department's *Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System*, "Railroad Grade Crossing Traffic Control Devices" with the primary emphasis being the visibility of the flashing lights and gates. The Department's *Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System*, "Railroad Grade Crossing Traffic Control Devices," is hereby incorporated by this rule and made a part of the rules of this Department. Copies of this document and any amendments thereto are available at <http://www11.myflorida.com/rddesign/Design%20Standards/designstds.htm>.

(c) Cantilevered Flashing Lights. Pairs of flashing lights placed on cantilevered arms extended over traffic lanes shall be employed when any one or more of the following conditions:

1. Multilane highways (two or more lanes in each direction).
2. Sight restrictions to the grade crossing affecting either the motorist or train crew.
3. Signal stanchion located greater than 23 feet from centerline of roadway. The length of the cantilever arm shall be in accordance with the Department's Standard Index, "Railroad Grade Crossing Traffic Control Devices."

(d) Automatic Crossing Gates. Automatic crossing gates in conjunction with flashing lights shall be installed if any one of the following conditions exist:

1. Multilane highway.
2. Multiple railroad tracks including passing tracks.
3. High speed train operation (greater than 65 mph) or commuter train operation (greater than 45 mph).

4. Traffic counts greater than 5,000 vehicles per day.

5. Greater than 30 through trains per day.

6. Traffic with greater than nine school buses per day.

7. Three or more tracks carrying hazardous material.

8. Continuance of accident history after installation of flashing lights.

9. Intersections within 200 feet of track (measured from the edge of travelway), providing the intersection has traffic signals or there are heavy turning movements from parallel highways onto the tracks.

(e) Traffic Signal Preemption. When new and existing grade crossings are within 200 feet of an intersection with traffic signals, a train activated preemption phase shall be provided in the active grade crossing traffic control device for the traffic signal system. The design of the traffic signal and phase sequencing shall be as specified in the MUTCD. Crossings located between 200 and 500 feet from a signalized intersection must either be preempted or be supported by an engineering study that determines that preemption is not in the interest of public safety.

(f) Train Speed Detection Devices. The activation of automatic flashing lights shall precede the train by a minimum of 20 seconds. Train arrival at the crossing shall not exceed 35 seconds from the start of the flashing lights. When train speeds on a given track vary considerably under normal operation, special devices or circuits shall be installed to provide notice in advance of all train movements over the crossing.

(g) Exceptions.

1. An exception will be granted to subsection 14-57.003(4), F.A.C., by the Department based on engineering design standards.

2. A new public railroad-highway grade crossing over an industrial spur tract may be considered for a delay in the installation of active grade crossing traffic control devices when train movements are two trains per day or less, and if the Department determines that the characteristics of the highway traffic is conducive to requiring a flagman; the Department will require the crossing to be manually flagged (e.g., highway in two lanes or less than 5,000 ADT, less than 30 mph operating speed, and, if train movements are at night, the grade crossing must be illuminated).

3. The Department will grant a temporary delay for the installation of such signals at a new public railroad-highway grade crossing when the installation of such signals would adversely affect the scheduled installation of signal improvements at those grade crossings deemed to have a higher state-wide priority.

(4) Public Railroad-Highway Grade Crossing Traffic Control Devices. All public railroad-highway grade crossing traffic control devices shall conform to the Department's *Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System*, "Railroad Grade Crossing Traffic Control Devices."

Specific Authority 334.044(2), 335.141 FS. Law Implemented 335.141 FS. History—New

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

DOCKET NO.: 02-48R

RULE CHAPTER TITLE: Sovereignty Submerged Lands Management
RULE CHAPTER NO.: 18-21

RULE TITLE: Management Policies, Standards and Criteria
RULE NO.: 18-21.004

PURPOSE AND EFFECT: To add language in this chapter to establish management policies, standards, and criteria to be referenced when reviewing requests for authorization of activities at sovereignty and state-owned springs and spring runs.

SUBJECT AREA TO BE ADDRESSED: Standards and Criteria necessary to be followed to qualify for a Board of Trustees' authorization for activities at sovereignty and state-owned springs. Any area in any of this chapter may be addressed in furtherance of the purpose of this rulemaking.

SPECIFIC AUTHORITY: 253.03(7)(a), 253.73 FS.

LAW IMPLEMENTED: 253.03, 253.034, 253.04, 253.041, 253.141, 253.51, 253.61, 253.68, 253.72, 253.74, 253.75, 253.77 FS.

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

TIME AND DATE: 2:00 p.m., November 26, 2002

PLACE: Conference Rooms A & B, Douglas Building, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop by contacting the Bureau of Personnel Services, (850)245-2511. If you are hearing or speech impaired, please contact the Florida Relay Service by calling 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: James A. Stevenson, Office of Environmental Services, 3900 Commonwealth Blvd., M.S. 140, Tallahassee, Florida 32399-3000, (850)245-2784 or SC 205-2784, Fax (850)245-2786 or SC 205-2786, E-mail: James.Stevenson@dep.state.fl.us

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

PUBLIC SERVICE COMMISSION

DOCKET NO.: Undocketed

RULE TITLES: Number Portability
Preferred Carrier Freeze
Customer Billing for Local Exchange Telecommunications Companies
RULE NOS.: 25-4.082
25-4.083
25-4.110

PURPOSE AND EFFECT: To codify the requirements that a company must release a subscriber's telephone number when the subscriber elects to switch providers and that a company may only put a preferred carrier freeze on a subscriber's service when one is requested by the subscriber.

SUBJECT AREA TO BE ADDRESSED: Number Portability and Preferred Carrier Freezes.

SPECIFIC AUTHORITY: 350.127, 364.16(4), 364.337, 364.603, 364.604(5) FS.

LAW IMPLEMENTED: 350.113, 364.16, 364.03, 364.17, 364.04, 364.05, 364.052, 364.19, 364.602, 364.604 FS.

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

TIME AND DATE: 9:30 a.m., November 25, 2002

PLACE: Betty Easley Conference Center, Room 152, 4075 Esplanade Way, Tallahassee, Florida, Call-In No.: (850)488-5776

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 hearing. 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 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Ray Kennedy, Division of Competitive Markets & Enforcement, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, (850)413-6584

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-4.082 Number Portability.

(1) The serving local provider shall facilitate porting of the subscriber's telephone number upon request from the acquiring company.

(2) A number shall be ported regardless if a balance is owed. A local provider shall not disconnect a subscriber's service upon receiving a local service request from another local provider.

(3) A number that has been disconnected shall be aged for a minimum period of 30 days before it is released for reassignment.

(4) Numbers that have been disconnected for a period of less than 30 days shall be ported upon request from another local provider.

Specific Authority 350.127, 364.16(4), 364.337 FS. Law Implemented 364.16 FS. History—New _____.

25-4.083 Preferred Carrier Freeze.

A PC Freeze prevents a change in a subscriber's preferred provider selection unless the subscriber gives the provider from whom the PC Freeze was requested consent to remove the PC Freeze.

(1) A PC Freeze shall not be imposed on a subscriber's account without the subscriber's authorization and shall not be required as a condition for obtaining service.

(2) A PC Freeze shall be implemented or removed at no charge to the subscriber.

(3) A PC Freeze shall be offered on a nondiscriminatory basis to all subscribers, regardless of the subscriber's provider selections.

(4) The subscriber's authorization shall be obtained for each service for which a PC Freeze is requested. Procedures implemented by local exchange providers, including any solicitation, must clearly distinguish among telecommunications services (e.g., local, local toll, and toll) subject to a PC Freeze.

(5) All solicitation and other materials regarding PC Freezes must include:

(a) An explanation of what a PC Freeze is and what services are subject to a freeze;

(b) A description of the specific procedures necessary to lift a PC Freeze and an explanation that the subscriber will be unable to make a change in provider selection unless the subscriber authorizes lifting of the PC Freeze;

(c) An explanation that there are no charges for implementing or removing a PC Freeze;

(6) A local exchange provider shall not implement a PC Freeze unless the subscriber's request to impose a freeze has first been confirmed in accordance with one of the following procedures:

(a) The local exchange provider has obtained the subscriber's written or electronically signed authorization in a form that meets the requirements of subsection (g); or

(b) The local exchange provider has obtained the subscriber's electronic authorization, placed from the telephone number(s) on which the PC Freeze is to be imposed. The electronic authorization should confirm appropriate verification data (e.g., the subscriber's date of birth or the last four digits of the subscriber's social security number) and the information required in subsection (g)1. through 4. Telecommunications providers electing to confirm PC Freeze

orders electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a subscriber to a voice response unit, or similar mechanism that records the required information regarding the PC Freeze request, including automatically recording the originating automatic numbering identification; or

(c) An appropriately qualified independent third party has obtained the subscriber's oral authorization to submit the PC Freeze and confirmed the appropriate verification data (e.g., the subscriber's date of birth or the last four digits of the subscriber's social security number) and the information required in subsection (g)1. through 4. The independent third party must not be owned, managed, or directly controlled by the provider or the provider's marketing agent; must not have any financial incentive to confirm PC Freeze requests for the provider or the provider's marketing agent; and must operate in a location physically separate from the provider or the provider's marketing agent. The content of the verification must include clear and conspicuous confirmation that the subscriber has authorized a PC Freeze.

(7) A local exchange provider shall accept a subscriber's written and signed authorization to impose a PC Freeze on a preferred provider selection. A written authorization shall be printed with a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms:

(a) The subscriber's billing name and address and the telephone number(s) to be covered by the PC Freeze;

(b) The specific service, (e.g., local, local toll, and toll), separately stated, on which a PC Freeze will be imposed.

(c) That the subscriber understands that to make a change in provider selection, the subscriber must lift the PC Freeze; and

(d) That there will be no charge to the subscriber for a PC Freeze.

(8) All local exchange providers shall, at a minimum, offer subscribers the following procedures for lifting a PC Freeze:

(a) Acceptance of a subscriber's written or electronically signed authorization;

(b) Acceptance of a subscriber's oral authorization along with a mechanism that allows the submitting provider to conduct a three-way conference call between the provider administering the PC Freeze and the subscriber. The provider administering the PC Freeze shall confirm appropriate verification data (e.g., the subscriber's date of birth or the last four digits of the subscriber's social security number) and the subscriber's intent to lift a specific PC Freeze.

(9) A PC Freeze shall not prohibit a LP from changing wholesale services when serving the same end user.

Specific Authority 350.127, 364.603 FS. Law Implemented 364.603 FS. History—New _____.

25-4.110 Customer Billing for Local Exchange Telecommunications Companies.

(1) No change.

(2) ~~Each Six months after the effective date of this rule,~~ each billing party shall set forth on the bill all charges, fees, and taxes which are due and payable.

(a) through (15)(g) No change.

(16) Companies that bill for local service must provide notification with the subscriber's first bill or via letter, and annually thereafter that a PC Freeze is available. Existing "subscribers" or "end-users" ~~customers~~ must be notified annually that a PC Freeze is available.

(17) through (18) No change.

(19)(a) ~~Upon Within one year of the effective date of this rule and upon~~ request from any customer, a billing party must restrict charges in its bills to only:

1. through (20) No change.

Specific Authority 350.127, 364.604(5) FS. Law Implemented 364.17, 350.113, 364.03, 364.04, 364.05, 364.052, 364.19, 364.602, 364.604 FS. History—New 12-1-68, Amended 3-31-76, 12-31-78, 1-17-79, 7-28-81, 9-8-81, 5-3-82, 11-21-82, 4-13-86, 10-30-86, 11-28-89, 3-31-91, 11-11-91, 3-10-96, 7-20-97, 12-28-98, 7-5-00, _____.

PUBLIC SERVICE COMMISSION

DOCKET NO.: Undocketed

RULE TITLES: Customer Relations; Rules Incorporated
 RULE NOS.: 25-24.490
 Customer Relations; Rules Incorporated 25-24.845

PURPOSE AND EFFECT: To codify the requirements that interexchange and alternative local exchange companies must release a subscriber's telephone number when the subscriber elects to switch providers and that a preferred carrier freeze may only be put on a subscriber's service when one is requested by the subscriber.

SUBJECT AREA TO BE ADDRESSED: Number Portability and Preferred Carrier Freezes.

SPECIFIC AUTHORITY: 350.127, 364.16(4), 364.337(2), 364.604(5) FS.

LAW IMPLEMENTED: 364.03, 364.14, 364.15, 364.16, 364.603, 364.19, 364.337, 364.602, 364.604 FS.

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

TIME AND DATE: 9:30 a.m., November 25, 2002

PLACE: Betty Easley Conference Center, Room 152, 4075 Esplanade Way, Tallahassee, Florida, Call-In No.: (850)488-5776

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 hearing. 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 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Ray Kennedy, Division of Competitive Markets & Enforcement, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, (850)413-6584

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-24.490 Customer Relations; Rules Incorporated.

(1) The following rules are incorporated herein by reference and apply to IXCs.

<u>SECTION</u>	<u>TITLE</u>	<u>PORTIONS APPLICABLE</u>
25-4.083	Preferred Carrier Freeze	All
25-4.110	Customer Billing	Subsections 7, (14), (15), (17), (18), and (20)
25-4.111	Customer Complaint and Service Requests	All except Subsection (2)
25-4.112	Termination of Service by Customer	All
25-4.113	Refusal or Discontinuance of Service by Company	All
25-4.114	Refunds	All
25-4.117	800 Service	All
25-4.118	Local, Local Toll, or Toll Provider Selection	All

(2) through (3) No change.

(4) Toll free number portability.

(a) The serving IXC shall facilitate porting of the subscriber's toll free telephone number (e.g., 800, 877, 888) upon request from the acquiring company.

(b) A toll free number shall be ported regardless if a balance is owed. An IXC shall not disconnect a subscriber's service upon receiving a service transfer request from another IXC.

(c) A number that has been disconnected shall be aged for a minimum period of 30 days before it is released for reassignment.

(d) Numbers that have been disconnected for a period of less than 30 days shall be ported upon request from another IXC.

Specific Authority 350.127(2), 364.604(5) FS. Law Implemented 364.03, 364.14, 364.15, 364.603, 364.19, 364.337 364.602, 364.604 FS. History—New 2-23-87, Amended 10-31-89, 3-5-90, 3-4-92, 3-13-96, 7-20-98, 12-28-98, 7-5-00, _____.

25-24.845 Customer Relations; Rules Incorporated.

The following rules are incorporated herein by reference and apply to ALECs. In the following rules, the acronym 'LEC' should be omitted or interpreted as 'ALEC'.

SECTION	TITLE	PORTIONS APPLICABLE
25-4.082	Number Portability	All
25-4.083	Preferred Carrier Freeze	All
25-4.110	Customer Billing	Subsections (14), (15), (16), (17), (18), and (20)
24-4.118	Local, Local Toll, or Toll Provider Selection	All

Specific Authority 350.127(2), ~~364.16(4)~~, 364.337(2), 364.604(5) FS. Law Implemented 364.337(2), 364.602, 364.604, ~~364.16~~ FS. History—New 7-20-98, Amended 12-28-98, 7-5-00, _____.

DEPARTMENT OF CORRECTIONS

RULE TITLES: Food Services – Definitions
 Food Services – Standards of Operation
 PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to simplify definitions used in conjunction with food services, to correct titles of food services personnel, to provide for the provision of food services by contract personnel, and to eliminate unnecessary language from the rules.

RULE NOS.: 33-204.002

33-204.003

SUBJECT AREA TO BE ADDRESSED: Food services.

SPECIFIC AUTHORITY: 20.315, 944.09 FS.

LAW IMPLEMENTED: 20.315, 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:

33-204.002 Food Services – Definitions.

For the purposes of this chapter:

(1) “Master menu” means the menu which is designed to be served at all facilities to provide uniformity in items served to each inmate. The master menu shall be planned under the direction of the department’s master menu committee. It should be certified nutritionally adequate as determined by a licensed registered dietitian employed by the department. ~~The master menu shall provide all Recommended Dietary Allowances or Dietary Reference Intakes as established by the Food and Nutrition Board of the National Academy of Sciences. The Recommended Dietary Allowances and Dietary Reference Intakes are incorporated by reference in Rule 33-204.003, F.A.C.~~

(2) “Therapeutic diet” means a diet that is prescribed for medical reasons and is designed to meet the requirements of a given medical condition. ~~Therapeutic diets are planned, prepared and served modifying the regular menus as little as needed in order to avoid unjustified budgetary and operational burdens while reasonably accommodating individual therapeutic and nutritional needs.~~ All menus for therapeutic diets shall be planned, analyzed and certified as to ~~for~~ nutritional adequacy by a licensed registered dietitian.

(3) No change.

(4) “Master Menu Committee” refers to the food services advisory group which consists of the Assistant Director of Field Support Services or his designee central office’s Bureau of Food Services staff as designated by the bureau chief, the central office public health nutrition program manager, the field food service coordinators, the central office food service managers, and the field public health nutrition consultants, the field support food service representatives and the central office food services administrator. ~~The Assistant Director of Field Support Services chief of food services~~ has the authority to invite other staff as necessary.

(5) “Facility” “Centers” refers to all Department of Corrections operated locations providing food services to offenders including references to institutions, work release centers, probation and restitution centers and drug treatment centers.

(6) “National Child Nutrition Program,” (NCNP), refers to the National School Breakfast Program and School Lunch Program through which reimbursement is received by the department for eligible breakfast and lunch meals. Eligible meals contain specifically required components as defined by the program for the purpose of meeting federal program minimal nutritional requirements. The Food and Nutrition Service, a subdivision of the United States Department of Agriculture, administers the programs ~~which have as their objective the provision of a healthful diet and nutrition in a manner that supports American agriculture and inspires public confidence,~~ pursuant to the Child Nutrition Act of 1966, 42 USC § 1773, and the Richard B. Russell National School Lunch Act, 42 USC § 1751 et seq. The department utilizes the programs to provide enhanced nutrition for qualified ~~and participating~~ inmates under the age of 21 at participating facilities. To qualify and participate, the inmate must be under the age of 21; and be housed in an NCNP designated dormitory housing, and be located at a participating facility.

(7) No change.

(8) “Contract Manager” refers to the Assistant Director of Field Support Services.

Specific Authority 20.315, 944.09 FS. Law Implemented 20.315, 944.09 FS. History—New 1-18-89, Amended 7-21-97, Formerly 33-30.002, Amended 8-9-00, 11-16-00, 10-2-01, 2-18-02, _____.

33-204.003 Food Services – Standards of Operation.

(1) General. Inmates in general population shall receive three meals per day, of which at least two shall be hot meals. The meals shall be provided at regular meal times during each 24-hour period, with a period of no more than 14 hours between the end of the evening meal and the beginning of the morning meal, weather and security permitting. ~~The warden, work release center major or the lieutenant in charge of a probation and restitution center or drug treatment center shall be allowed to authorize an altered meal schedule of two meals for approved holidays listed in the master menu manual, but both must be hot meals.~~ Holiday substitutions that deviate from the master menu must be approved in advance by the contract manager chief of food services. ~~An alternate meal schedule for therapeutic diets shall provide regular meal times during each 24-hour period with no more than 14 hours between the end of the evening and the beginning of the morning meal. Prescribed therapeutic diets shall be available to all inmates with a current diet prescription.~~

(2) Confinement.

(a) No change.

(b) Hot food served in satellite food operations shall be protected from contamination in transit and shall be served at no less than 110 degrees F. within 120 minutes from removal from 140 degrees F. or above ~~hot and cold food shall be served cold in accordance with the standards of the State Sanitary Code, Department of Health, Chapter 64E-11, F.A.C.~~

(c) through (3)(d) No change.

(e) All vegetables shall be prepared without meat, animal fat, meat-based broth, ~~or~~ margarine or butter ~~so as~~ to be suitable for religious and strict vegetarian diets.

(4) Sanitation.

(a) through (b) No change.

(c) The individual responsible for food service at the institution or facility shall be responsible for the following:

1. Writing instructions for the operation and cleaning of the physical plant, equipment and utensils. Instructions shall be in A current copy of these instructions shall be forwarded to the regional food service coordinator for review to check for compliance with the State Sanitary Code, Department of Health Rule 64E-11.005, F.A.C.

2. through 3. No change.

(d) through (5) No change.

(6) Security. The chief of security shall write and post a plan and schedule for supervision of inmates during meals. The chief of security shall be responsible for enforcement of the written plan to ensure ~~for~~ control of inmates.

(7) Therapeutic Diets. Therapeutic diets for medical or dental reasons shall be provided as ordered by a Department of Corrections credentialed physician, clinical associate (physicians assistant, advanced registered nurse practitioner) or dentist. All orders for therapeutic diets shall be in writing utilizing the Diet Prescription/Order, Form DC4-728. A copy

of this form is 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 August 9, 2000. Non-standard therapeutic diets shall be approved by the public health nutrition program manager and the regional medical executive director. Therapeutic diets shall be served for a maximum of 90 days. Diets extending for periods longer than 90 days shall require a new diet order from the attending Department of Corrections credentialed physician, clinical associate (physicians assistant or advanced registered nurse practitioner) or dentist. Diet prescription orders must be received in food services prior to the expiration of the current prescription to avoid interruption of the therapeutic diet. The Public Health Nutrition Program Manager and the Public Health Consultants shall be available for consultation by Bureau of Food Services shall be responsible for providing consultation to health and food service personnel regarding therapeutic diets.

(8) No change.

(9) National Child Nutrition Program.

(a) No change.

(b) The National Child Nutrition Program ~~youthful offender~~ master menu will be utilized to provide enhanced nutrition to program participants who are under the age of 21.

Specific Authority 20.315, 944.09 FS. Law Implemented 20.315, 944.09 FS., Child Nutrition Act of 1966, 42 USC § 1773, Richard B. Russell National School Lunch Act, 42 USC § 1751 et seq. History—New 1-18-89, Amended 7-21-97, Formerly 33-30.003, Amended 8-9-00, 11-16-00, 10-2-01, 2-18-02.

DEPARTMENT OF CORRECTIONS

RULE TITLES: RULE NOS.:
 Youthful Offenders – Definitions 33-601.220

Youthful Offender Program Participation 33-601.226

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify definitions used in conjunction with the youthful offender program and the process for making requests for sentence modification.

SUBJECT AREA TO BE ADDRESSED: Youthful Offenders.

SPECIFIC AUTHORITY: 958.11 FS.

LAW IMPLEMENTED: 958.11, 958.12 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:

33-601.220 Youthful Offenders – Definitions.

(1) through (3) No change.

(4) Inmate Management Plan (IMP) – refers to the individualized plan developed for each inmate based upon information collected from various risk and needs assessments and other documents or reports that identify deficiencies ICT decisions. The plan establishes specific goals and performance objectives for meeting assessed needs in program, work and adjustment areas ~~is used to make priority program or work placement recommendations, develop objectives and set timelines for accomplishments.~~

(5) Release ~~Placement Management~~ Plan – refers to a report prepared by the Office of Community Corrections field office staff outlining information relative to the inmate's proposed employment, residence, family ties or support system, financial resources and other resources available to the inmate upon release.

(6) No change.

(7) Institutional Classification Team (ICT) – refers to the team consisting of the warden or assistant warden, classification supervisor, and chief of security and other necessary staff when appointed by the warden or designated by rule, which is responsible for making work, program, housing and inmate status classification decisions at a facility and for making other recommendations to the State Classification Office (SCO).

(8) No change.

(9) Youthful Offender – where used herein, refers to any person who is sentenced as such by the court or is classified as such by the department pursuant to s. 958.04, F.S.

Specific Authority 944.09, 958.11 FS. Law Implemented 944.09, 958.11 FS. History—New 3-13-01, Formerly 33-506.100, Amended _____.

33-601.226 Youthful Offender Program Participation.

(1) through (2) No change.

(3) Successful participation in all phases of the youthful offender extended day program and successful completion of the offender management plan and reclassification to minimum or community custody will result in an evaluation by the ICT to determine the inmate's eligibility for a recommendation to the court for a modification of sentence at any time prior to the scheduled expiration of sentence as provided in s. 958.04(2)(d), F.S. Requests for sentence modification will not be made before successful completion of the extended day program.

(a) After the youthful offender has successfully participated in the youthful offender program and completed the IMP as developed, a complete evaluation of the case shall be initiated. The evaluations shall include a review and summary of the following areas:

1. through 3. No change.

4. Work assignments which would assist the youthful offender in obtaining future employment;

5. through 9. No change.

(b) The evaluation of the youthful offender's eligibility for a recommendation for a modification of sentence shall be coordinated by the institutional classification staff and incorporated into a complete progress report assessment. The completed progress report assessment shall be reviewed and, once approved, signed by the ICT and a representative of the SCO.

(c) Prior to making a recommendation for sentence modification, the inmate's classification officer shall send a Victim Input Statement, Form DC1-701B, to the victim(s) or the victims' family for comments regarding the release of the inmate. Form DC1-701B 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 _____.

(d) Once the inmate has been approved by the ICT and the SCO for a recommendation for sentence modification, a request for initiation of a Youthful Offender's Release Placement Plan, Form DC6-121, shall be made to the community corrections office in the county where the inmate plans to reside. The community corrections office in the county where the inmate plans to reside shall complete the placement release plan and return it to the requesting institution. Form DC6-121 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 _____.

(e) The sentence modification package shall include at a minimum the following:

1. The completed release placement plan that has been verified by community corrections field staff;

2. The completed victim input statement forms;

3. A progress report with justification for sentence modification;

4. An order of modification of sentence placing defendant on probation prepared by the classification officer for the judge's signature;

5. A completed Defendant's Waiver of Rights to Modify Sentence and Place Defendant on Probation, Form DC3-235. Form DC3-235 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 _____.

(f) The completed sentence modification package shall be forwarded to the Bureau of Classification and Central Records for review by the central office screening committee.

~~(g)(e) Upon the approval of the ICT and SCO, recommendation for sentence modification shall be forwarded to the Chief of the Bureau of Classification and Central Records for review by the central office screening committee who shall review the sentence modification request for completeness and shall make a written recommendation. If approved by the central office screening committee, the recommendation will be forwarded to the Deputy Director of the Office of Institutions (classification) to approve or disapprove the request for review.~~

1. If the Deputy Director concurs with the recommendation for sentence modification, the Chief of the Bureau of Classification shall transmit a written request recommendation to the sentencing judge to consider modifying the inmate's sentence court for consideration.

2. If the Deputy Director does not concur with the recommendation for sentence modification, the Chief of Classification will notify the ICT at the facility where the inmate is housed. The ICT will notify the inmate of the decision.

~~(h)(4)~~ No change.

Specific Authority 958.11(1) FS. Law Implemented 958.11, 958.12 FS. History—New 10-11-95, Amended 9-11-97, Formerly 33-33.013, Amended 3-13-01, Formerly 33-506.106, Amended 4-2-02, _____.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Regulation of Wells
RULE TITLE: Inspection
RULE CHAPTER NO.: 40D-3
RULE NO.: 40D-3.461

PURPOSE AND EFFECT: The purpose of the proposed revisions is to exempt from the District's requirement that District staff observe the grouting, plugging or abandonment of all wells, those wells that are 2 inches or less in diameter, or 20 feet or less in depth. The effect of the proposed revisions will be to allow District staff to focus on higher risk activities through a reduction in the number of low-risk, labor intensive inspections.

SUBJECT AREA TO BE ADDRESSED: The inspection of water well plugging, grouting and abandonment activities by District staff.

SPECIFIC AUTHORITY: 373.044, 373.171, 373.309, 373.337, 373.308, 373.309, 373.319 FS.

LAW IMPLEMENTED: 373.308, 373.309, 373.319 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: Karen E. West, Deputy

General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40D-3.461 Inspection.

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

(5)(b) Plugging an abandoned well that is greater than 2 inches in diameter, or that is more than 20 feet in depth.~~or~~

(5)(c) No change.

(6) For wells identified in (5) above, a~~A~~ District representative must be on site to observe the grouting or plugging procedure, except for wells that are 2 inches or less in diameter, and wells that are 20 feet or less in depth. The District shall grant a variance to this requirement upon oral request at the time of the 24-hour notification by a contractor provided that:

(a) through (d) No change.

Specific Authority 373.044, 373.171, 373.309, 373.337 FS. Law Implemented 373.308, 373.309, 373.319 FS. History—Readopted 10-5-74, Amended 8-9-77, 4-27-80, 11-8-82, Formerly 16J-3.12, Amended 7-1-90, 9-30-91, 12-31-92, _____.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Individual Environmental Resource Permits
RULE TITLE: Formal Determination of Wetlands and Other Surface Waters
RULE CHAPTER NO.: 40D-4
RULE NO.: 40D-4.042

PURPOSE AND EFFECT: This proposed rulemaking will amend Rule 40D-4.042, Florida Administrative Code (F.A.C.), to provide that a petitioner requesting a formal determination of wetlands and other surface waters may publish notice of the intended agency action in accordance with Rule 40D-1.1010, F.A.C. The amendment will make the administrative process for noticing petitions for formal wetland determinations consistent with the processes for noticing water use and environmental resource permit applications.

SUBJECT AREA TO BE ADDRESSED: Subsection 40D-4.042(3), F.A.C., which addresses a notice of agency action on petitions for formal determination of wetlands and other surface waters.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.421(2) FS.

LAW IMPLEMENTED: 373.421(2) 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: Jack R. Pepper, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40D-4.042 Formal Determination of Wetlands and Other Surface Waters.

(1) through (2)(b) No change.

(3)(a) Within 30 days of receipt of a petition for a formal determination, the District shall notify the petitioner of any additional information which may be necessary to complete review of the petition. The District shall complete the determination and shall issue a notice of ~~intended~~ agency action within 90 days after the petition is deemed complete. ~~The petitioner may District shall~~ publish the notice of ~~intended~~ agency action on the petition in a newspaper of general circulation in the county or counties where the property is located in accordance with Rule 40D-1.1010, F.A.C.

(b) The provisions of Sections 120.57 and 120.569, F.S., apply to formal determinations made pursuant to this section. Any person whose substantial interests will be affected by the District's proposed action on the petition may request an administrative hearing on the proposed action. ~~If no request for an administrative hearing is filed, the District will then take final action on the petition for the formal determination.~~

(4) through (8) No change.

Specific Authority 373.044, 373.113, 373.421(2) FS. Law Implemented 373.421(2) FS. History--New 10-3-95, Amended 7-2-98, 2-14-00, 5-28-00, 7-29-02, _____.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Individual Environmental
Resource Permits

RULE CHAPTER NO.: 40D-4

RULE TITLE: Publications and Agreements Incorporated
by Reference

RULE NO.: 40D-4.091

PURPOSE AND EFFECT: The purpose and effect of the proposed amendment is to incorporate by reference revisions to the Memorandum of Understanding Between the Southwest Florida Water Management District and the Florida Department of Agriculture and Consumer Services for the Non-binding Review of Disputed Environmental Resource Permitting Exemption Claims under Section 373.406(2), Florida Statutes, dated September 20, 2000, (MOU). Currently, paragraph 2 of the MOU provides that, upon receipt of the FDACS non-binding opinion, District staff will prepare a written recommendation for action to be considered by the Governing Board at its next meeting for which proper notice

can be provided. Compliance with this requirement is not always practical or advisable. The effect of the proposed revision to the MOU will provide for a written recommendation to the Governing Board only where authorization for a Consent Order or litigation is being requested by District Staff.

SUBJECT AREA TO BE ADDRESSED: The incorporation by reference of revisions to the Memorandum of Understanding Between the Southwest Florida Water Management District and the Florida Department of Agriculture and Consumer Services for the Non-binding Review of Disputed Environmental Resource Permitting Exemption Claims under 373.406(2), Florida Statutes, dated September 20, 2000.

SPECIFIC AUTHORITY: 373.044, 373.046, 373.113, 373.171, 373.414 FS.

LAW IMPLEMENTED: 373.0361, 373.114, 373.171, 373.403, 373.413, 373.414, 373.416, 373.429, 373.441 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: Karen E. West, Deputy General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40D-4.091 Publications and Agreements Incorporated by Reference.

The following documents are hereby incorporated into this chapter and Chapters 40D-40 and 40D-400, F.A.C.:

(1) through (3) No change.

(4) Memorandum of Understanding Between the Southwest Florida Water Management District and the Florida Department of Agriculture and Consumer Services for the Non-Binding Review of Disputed Environmental Resource Permitting Exemption Claims Under Section 373.406(2), Florida Statutes, dated _____ ~~September 20, 2000~~. This document is available from the District upon request.

Specific Authority 373.044, 373.046, 373.113, 373.171, 373.414 FS. Law Implemented 373.0361, 373.114, 373.171, 373.403, 373.413, 373.414, 373.416, 373.429, 373.441 FS. History--New 4-2-87, Amended 3-1-88, 9-11-88, 10-1-99, 4-1-91, 11-16-92, 1-30-94, 10-3-95, 12-26-95, 5-26-96, 7-23-96, 4-17-97, 4-12-98, 7-2-98, 12-3-98, 7-28-99, 8-3-00, 9-20-00, 6-12-01, 10-11-01, 2-27-02, 7-29-02, 9-26-02, _____.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Individual Environmental 40D-4
Resource Permits

RULE TITLE: RULE NO.:

Content of Application 40D-4.101

PURPOSE AND EFFECT: This proposed rulemaking will amend subsection 40D-4.101(6), Florida Administrative Code (F.A.C.), to delete the Department of Environmental Protection as an agency to receive notice of Environmental Resource Permit applications involving activities in, on or over wetlands or other surface waters, including activities that have a potential to impact listed species.

SUBJECT AREA TO BE ADDRESSED: Subsection 40D-4.101(6), F.A.C., which provides that the District will send notice to and request comments from certain agencies for environmental resource permit applications involving activities located in, on or over wetlands or other surface waters.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.042, 373.413 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: Jack R. Pepper, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40D-4.101 Content of Application.

(1) through (6)(c) No change.

~~(d) The Department of Environmental Protection, if the proposed activities have a potential to impact marine listed species.~~

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042, 373.413 FS. History—Readopted 10-5-74, Amended 12-31-74, 6-7-78, Formerly 16J-4.06(1),(2), Amended 10-1-84, 3-1-88, 10-3-95, 10-16-96, 12-16-97, _____.

DEPARTMENT OF MANAGEMENT SERVICES

Agency for Workforce Innovation

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Workforce Programs' Grievance,
Complaint, Hearing and

Appeal Procedure 60BB-1

PURPOSE AND EFFECT: Florida Statutes, sections 20.50 and chapter 445, transferred the functions of the federally funded employment and training programs from the

Department of Labor and Employment Security to the Agency for Workforce Innovation (AWI). The federally funded Workforce Investment Act (WIA), Welfare Transition (WT)/TANF Program, and the Welfare-to-Work (WtW) Grant Program require the State, the local areas, and that the recipients of program funds establish and maintain grievance, complaint, hearing and appeal procedures for handling program related complaints. These rules implement those requirements.

SUBJECT AREA TO BE ADDRESSED: During the rule development process the agency will review the rules to identify those areas that require amendment.

SPECIFIC AUTHORITY: 20.02(1)(e), 20.50, 120.54(6) FS.

LAW IMPLEMENTED: 445, 120.54(2), 120.569, 120.57, 445.002(1)(4), 445.004(1),(2),(3),(5), 445.006, 445.024, 455.028, 445.031 FS., Federal Laws: 29 USCA 2801 et seq. Workforce Investment Act (WIA); 42 USCA 601-619, Temporary Assistance for Needy Families (TANF).

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sonja P. Mathews Agency for Workforce Innovation, Office of the General Counsel, 107 E. Madison Street, MSC 150, Tallahassee, FL 32399-4128

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

**Section II
Proposed Rules**

DEPARTMENT OF INSURANCE

Division of Workers' Compensation

RULE TITLE: RULE NO.:

Confidentiality of Records Produced 4L-6.022
by the Division

PURPOSE AND EFFECT: The purpose and effect of the rule is to facilitate compliance with the confidentiality requirements of Sections 440.185(11) and 440.125, F.S.

SUMMARY: The rule specifies what constitutes information that would identify an injured worker which would be exempt from disclosure. The rule also provides a means for persons whose information is protected by the statutes to waive confidentiality of the information.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The impact of the rule is not expected to be significant; however, businesses which sell