

69V-160.017 Application of Payments.

Each payment shall be applied first to the accumulated interest charges and the remainder of the payment applied to the unpaid principal balance; provided that if the amount of the payment is insufficient to pay the accumulated interest charge, the unpaid accrued interest charge may continue to accumulate and the same may be paid from the proceeds of subsequent payments and shall not be added to the principal balance. No payment shall be accepted on the principal balance unless interest is paid to date or is waived by the licensee. Each payment received by the licensee shall be applied to borrower's account with an effective date of the date the payment was received in the licensee's office or at any branch of the licensee. license, except such payment may be credited to the principal where the amount thereof is not sufficient to pay the interest due for one day.

Rulemaking Specific Authority 516.22(1), 516.23(3) FS. Law Implemented 516.031(1) FS. History--Revised 10-20-73, Renumbered from 3-2.17 to 3D-160.17 on 8-11-75, Readopted 9-1-75, Formerly 3D-160.17, 3D-160.017, Amended \_\_\_\_\_.

69V-160.019 Monthly Installments Defined.

Loans shall be made repayable in equal monthly installments, including both principal and interest, with interest charges calculated on the assumption that all scheduled payments will be made when due. Provided, however, if the repayment schedule is ~~other~~ otherwise than regular, the first installment period only may exceed one month by as much as fifteen (15) days, and the additional interest for such excess days ~~shall may~~ be added to the first installment payment.

Rulemaking Specific Authority 516.22(1), 516.23(3) FS. Law Implemented ~~516.20(2)~~, 516.36 FS. History--Revised 10-20-73, Renumbered from 3-2.19 to 3D-160.19 on 8-11-75, Readopted 9-1-75, Formerly 3D-160.19, 3D-160.019, Amended \_\_\_\_\_.

69V-160.037 Collection Practices.

For purposes of Section 516.07(1)(f), F.S., a collection practice will be considered unreasonable if it constitutes a prohibited collection practice under Section 559.72, F.S.

Rulemaking Authority 516.22(1), 516.23(3) FS. Law Implemented 516.07(1)(f) FS. History--New \_\_\_\_\_.

69V-160.111 Disciplinary Guidelines.

Pursuant to Section 516.07(2), F.S., listed below is a range of disciplinary guidelines from which disciplinary penalties will be imposed upon any person guilty of violating Chapter 516, F.S. The disciplinary guidelines are based upon a single-act violation of each provision listed. Multiple acts of the violated provisions or a combination of violations may result in a higher penalty than that for a single, isolated violation. For purposes of this rule, the order of penalties, ranging from lowest to highest, is: reprimand, fine, probation, suspension, and revocation. Nothing in this rule shall preclude any discipline imposed upon a person pursuant to a stipulation or settlement

agreement, nor shall the ranges of penalties set forth in this rule preclude the Office of Financial Regulation from issuing a letter of guidance when appropriate.

(1) No change.

(2) The minimum penalty for all below listed sections is a reprimand, ~~and/or~~ a fine up to \$1,000.00 per act, or both. The maximum penalties are as listed:

(a) through (h) No change.

<u>(i)</u>	<u>516.07(1)(c)</u>	=	<u>Revocation</u>
<u>(j)(+)</u>	516.07(1)(d)	-	Revocation
<u>(k)(+)</u>	516.07(1)(e)	-	Revocation
<u>(l)(+)</u>	516.07(1)(f)	-	Suspension
<u>(m)(+)</u>	516.07(1)(g)	-	Probation
<u>(n)(+)</u>	516.07(1)(h)	-	Revocation
<u>(o)(+)</u>	516.07(1)(i)	-	Revocation
<u>(p)</u>	<u>516.07(1)(j)</u>	=	<u>Revocation</u>
<u>(q)</u>	<u>516.07(1)(n)</u>	=	<u>Revocation</u>
<u>(r)(+)</u>	516.08	-	Reprimand
<u>(s)(+)</u>	516.12	-	Revocation
<u>(t)(+)</u>	516.15	-	Probation
<u>(u)(+)</u>	516.16	-	Probation
<u>(v)(+)</u>	516.17	-	Probation
<u>(w)(+)</u>	516.21	-	Probation
<u>(x)(+)</u>	516.31(3)	-	Probation
<u>(y)(+)</u>	516.35	-	Probation
<u>(z)(+)</u>	516.36	-	Probation

(3) No change.

Rulemaking Specific Authority ~~516.22(1)~~, 516.23(3) FS. Law Implemented 516.02, 516.031, 516.035, 516.05, 516.07, ~~516.08~~, 516.12, 516.15, 516.16, 516.17, 516.21, 516.31, 516.35, 516.36 FS. History--New 3-20-91, Formerly 3D-160.111, Amended \_\_\_\_\_.

## Section II Proposed Rules

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

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

### EXECUTIVE OFFICE OF THE GOVERNOR Office of Tourism, Trade and Economic Development

RULE NOS.:	RULE TITLES:
27M-6.001	Definitions and Forms
27M-6.002	Application Process
27M-6.003	Certification

PURPOSE AND EFFECT: The proposed rule implements the Manufacturing and Spaceport Investment Incentive Program as created by Section 288.1083, F.S.

SUMMARY: The proposed rule governs the application and certification process used by the Office of Tourism, Trade, and Economic Development for the program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: OTTED will incur costs associated with reviewing and processing applications. This review includes a cost incurred by reviewing the financial history of an applicant through an outside agency. There should be no transactional costs for any entity applying to participate as a loan administrator since no additional licenses, registrations, or fees were required by this rule. There are costs associated with copying and duplicating information submitted in the application, however, such costs are offset by the potential refund.

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

RULEMAKING AUTHORITY: 288.1083(9) FS.

LAW IMPLEMENTED: 288.1083 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Tim Proctor, Office of Tourism, Trade, and Economic Development, Suite 1902, The Capitol, Tallahassee, Florida 32399, (850)487-2568, timothy.proctor@myflorida.com

THE FULL TEXT OF THE PROPOSED RULES IS:

27M-6.001 Definitions and Forms.

As used in Rules 27M-6.001, 27M-6.002, and 27M-6.003, F.A.C., the following capitalized terms have the meanings indicated. All referenced forms are available on the internet at [http://www.flgov.com/financial\\_incentives](http://www.flgov.com/financial_incentives) or may be obtained from the Office.

(1) “Allocation” means a set aside of available tax refund amounts.

(2) “Allocation Application” means the standard “Manufacturing and Spaceport Investment Incentives Program Allocation Application” form OTTED 9102-1 (6/10), which is hereby incorporated by reference.

(3) “Applicant” means a business that seeks Certification under Section 288.1083, F.S.

(4) “Application Period” means July 1, 2010 through June 30, 2011 for the 2010-11 Fiscal Year and then January 1 through June 30 of each fiscal year thereafter.

(5) “Certification” means the approval of eligible equipment purchases required for application to the Department of Revenue for a tax refund payment.

(6) “Office” means the Office of Tourism, Trade, and Economic Development, whose address is Suite 1902, The Capitol, 402 S. Monroe Street, Tallahassee, Florida 32399-0001.

(7) “Request for Certification” means the standard “Manufacturing and Spaceport Investment Incentives Program Request for Certification” form OTTED 9102-2 (6/10) which is hereby incorporated by reference.

Rulemaking Authority 288.1083(9) FS. Law Implemented 288.1083 FS. History—New \_\_\_\_\_.

27M-6.002 Application Process.

(1) An Applicant shall submit the original of its completed Allocation Application to the Office during the Application Period.

(2) The Office shall date and time stamp all Applications upon receipt, and thereafter take reasonable steps to preserve the integrity of the Application.

(3) The Office shall have ten (10) business days to review each Allocation Application for completeness and to notify any Applicant in writing if the Office determines that its Allocation Application is incomplete. The Office’s notice shall specify the reasons for its determination, and the Applicant shall have fifteen (15) business days after receipt of such notice to submit a revised Allocation Application to the Office. If the Applicant fails to submit a revised Allocation Application within the required time, the Office shall notify the Applicant in writing that it is removed from further consideration for that Application Period.

(4) The Office shall evaluate each complete Allocation Application in accordance with the requirements of Section 288.1083, F.S.

(5) Within thirty (30) days after an Allocation Application is deemed complete, the Office shall approve or disapprove each Allocation Application. If an Allocation Application is approved, the Office shall issue an Allocation up to \$50,000 of tax refunds to the successful Applicant, providing written notice of such Allocation to the Applicant.

Rulemaking Authority 288.1083(9) FS. Law Implemented 288.1083 FS. History—New \_\_\_\_\_.

27M-6.003 Certification.

(1) Within thirty (30) days after the Applicant has purchased the eligible equipment that was the basis for the original Allocation, the Applicant shall provide a Request for Certification and required supporting documentation to the Office prior to September 1st of the fiscal year following the fiscal year the Allocation was issued.

(2) If the Request for Certification and supporting documentation is not received prior to September 1st of the fiscal year following the fiscal year the Allocation was issued, the allocation will be withdrawn and issued to the next Applicant in the queue.

(3) The Office shall review such documentation to confirm the cost of eligible equipment purchases supporting the claim of State sales and use tax paid thereon.

(4) If the Office disapproves the request for certification, the Office shall notify the Applicant, specifying the reason for such determination.

(5) If the Office approves the Request for Certification, the Office shall notify the Applicant and the Florida Department of Revenue.

(6) The Office's decisions shall be subject to review under Chapter 120, F.S.

Rulemaking Authority 288.1081(7) FS. Law Implemented 288.1081 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Chris Hart, IV., Interim Director, Office of Tourism, Trade, and Economic Development

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Shane Strum, Chief of Staff

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 7, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 13, 2010

**EXECUTIVE OFFICE OF THE GOVERNOR**

**Florida Energy & Climate Commission**

RULE NOS.:	RULE TITLES:
27N-1.100	General
27N-1.200	Definitions
27N-1.500	Solar Energy Systems Incentives Program
27N-1.900	Forms

PURPOSE AND EFFECT: The Commission is initiating rulemaking to adopt rule Chapter 27N-1, Florida Administrative Code, implementing the Florida Energy and Climate Protection Act (Section 377.806, F.S.). Specifically, the Commission intends to adopt rules governing the Solar Energy Systems Incentives Program. The effect of the rule would be to: (1) reflect the transfer of program administration from the Department of Environmental Protection to the Florida Energy and Climate Commission; (2) revise application submission requirements and allow for the implementation of an online application for the Solar Energy Systems Incentives Program; The proposed rule provisions are a result of the enactment of HB 7135 during the 2008 Regular Session (Chapter No. 2008-227, Laws of Florida).

SUMMARY: 27N-1.100 (GENERAL) – Revised reference to grant program to include energy-efficient technologies.

27N-1.200 (DEFINITIONS) – Added reference to Florida Energy and Climate Commission.

27N-1.500 (SOLAR ENERGY SYSTEMS INCENTIVES PROGRAM)

- a) Revised application submission guidelines.
- b) Created online application process.

27N-1.900 (FORMS)

- a) Revised general contact information.
- b) Created new application form for Renewable Energy and Energy-Efficient Technologies Grant proposals that addresses pre-proposal and full proposal requirements.
- c) Updated contact information on application form for Solar Energy System Incentives Program.
- d) Updated contact information on application form for Renewable Energy Technologies Investment Tax Credit Program.
- e) Created new application form for Bioenergy Technologies Grant proposals that addresses pre-proposal and full proposal requirements.

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

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

RULEMAKING AUTHORITY: 377.6015, 377.804(3), 377.806(7), 220.192(3) FS.

LAW IMPLEMENTED: 377.6015, 377.801, 377.802, 377.803, 377.804, 377.806, 377.808, 220.192 FS.

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

DATE AND TIME: Monday, October 18, 2010, 1:00 p.m. – 3:00 p.m.

PLACE: Toni Jennings Room, 110 Senate Office Building, 404 S. Monroe St., Tallahassee, FL

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Brittany Cummins at (850)487-3800. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Brittany Cummins at (850)487-3800

THE FULL TEXT OF THE PROPOSED RULES IS:

## 27N-1.100 General.

This chapter implements the Florida Energy and Climate Protection Act, Florida Renewable Energy Technologies Act providing for grants for renewable energy and energy-efficient technologies and rebates for solar energy systems. This chapter also implements applications for corporate tax credits for renewable energy technologies provided for in Section 220.192, F.S.

Rulemaking Specific Authority 377.6015, 377.804(3), 377.806(7), 220.192(3) FS. Law Implemented 377.6015, 377.803, 377.804, 377.806, 377.808, 220.192 FS. History—New 10-22-07, Formerly 62-16.100, Amended \_\_\_\_\_.

## 27N-1.200 Definitions.

The words, terms and phrases used in this chapter, unless otherwise indicated, shall have the meaning set forth in Sections 377.803 and 220.192(1), F.S. In addition, when used in this chapter, the following words, phrases, or terms shall have the following meanings:

(1) “Bioenergy” means energy derived from biomass.

(2) “Biomass” means “biomass” as defined in Section 366.91(2)(a), F.S.

(3) “Commission” means the Florida Energy and Climate Commission. “Department” means the Florida Department of Environmental Protection.

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

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

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

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

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

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

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

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

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

(5) “Purchase date” means, for the purchase of solar energy equipment, the date of execution of a loan agreement or the date of final cash payment.

(6) “Solar thermal pool heater” means a device that traps the heat produced by incident sunlight in collector tubing through which swimming pool water is pumped in order to raise the temperature of the swimming pool water.

Rulemaking Specific Authority 377.6015, 377.804(3), 377.806(7), 220.192(3) FS. Law Implemented 377.6015, 377.802, 377.804, 377.806, 220.192 FS. History—New 10-22-07, Formerly 62-16.200, Amended \_\_\_\_\_.

## 27N-1.500 Solar Energy Systems Incentives Program.

(1) APPLICATION. Applications for rebates pursuant to the Solar Energy Systems Incentives Program, Section 377.806, F.S., shall be submitted to the Florida Energy and Climate Commission, ATTN: Solar Energy System Incentives Program, 600 South Calhoun Street, Holland Building, Suite 251, Tallahassee, FL 32399-0001 Department of Environmental Protection, ATTN: Solar Energy System Incentives Program, Florida Energy Office, 2600 Blair Stone Road, MS 21, Tallahassee, FL 32399-2400 as follows:

(a) Applications may shall be submitted in hard copy format, using application Form 27N-1.900(2) 62-16.900(2), which is adopted and incorporated by reference. Applications submitted in hardcopy format All applications must be submitted by certified mail or hand delivered to the commission department, and must be received by the commission department no later than 5:00 p.m. on the 90th day after the purchase date of the solar energy equipment. If the 12090th day after the purchase date of the solar energy equipment falls on a weekend or an observed holiday for which commission department offices have been closed, then the deadline shall be the next business day or,

(b) Applications may be submitted online at the Commission’s website, using the online version of application Form 27N-1.900(2). Online applications must be completed no later than 5:00 p.m. on the 120th day after the purchase date of the solar energy equipment. If the 120th day after the purchase date of the solar energy equipment falls on a weekend or an observed holiday for which commission offices have been closed, then the deadline shall be the next business day. Online applications shall not be deemed completed until the commission receives all of the information requested on the online form.

(c)(b) Rebates are limited to one solar photovoltaic system, one solar thermal system, and one solar pool heater per resident. A separate application must be submitted for each rebate.

(d)(e) All applications must include the information required on the application form, a photocopy of the original purchase agreement for the equipment and installation of the solar energy system, a copy of the final receipt of payment if

different from the original purchase agreement, and a photograph of the installed system. All information provided to the commission department must be legible.

(e)(4) The commission department shall review each timely filed application to determine if the application includes all required information.

~~1. An application that is determined to be complete upon initial filing shall be considered for eligibility and placement in the first-come, first-serve order for allocation of rebates based upon the date and time the application is filed.~~

~~1.2.~~ If the commission department determines that the application does not contain all of the required information the commission department shall notify the applicant of the incompleteness of the application. Timely filed applications which do not include all required information shall not be considered as eligible for rebates and shall not receive a position in the first-come, first-serve order for allocation of rebates.

~~2.3.~~ Applicants who are notified of the incompleteness of a timely filed application may file subsequent information in order to make the application complete. Timely filed applications that are initially determined incomplete, but are subsequently determined complete, shall be considered for eligibility for the rebate and placement in the first-come, first-served order for allocation of rebates based upon the date and time the application is determined complete.

(2) ISSUANCE. The commission department shall issue each rebate after the commission department determines that all required information has been provided for each application to make the application complete, provided funds are available to do so.

Rulemaking Specific Authority 377.6015, 377.806(7) FS. Law Implemented 377.6015, 377.801, 377.802, 377.803, 377.806 FS. History--New 10-22-07, Formerly 62-16.500, Amended.

27N-1.900 Forms.

The following forms are adopted and incorporated by reference in this rule chapter. The form is listed by rule number, which is also the form number, and by the subject title and effective date. Copies of the form may be obtained by writing to the Florida Energy and Climate Commission, 600 South Calhoun Street, Holland Building, Suite 251, Tallahassee, FL 32399-0001 Department of Environmental Protection, Florida Energy Office, 2600 Blair Stone Road, MS 19, Tallahassee, FL 32399-2400.

- (1) Renewable Energy and Energy-Efficient Technologies Grants Program Pre-proposal Application, Form 27N-1.900(1) ~~62-16.900(1)~~ (effective ~~10/07~~).
- (2) Solar Energy System Incentives Program Application, Form 27N-1.900(2) ~~62-16.900(2)~~.
- (3) Renewable Energy Technologies Investment Tax Credit Program Application, Form 27N-1.900(3) ~~62-16.900(3)~~.

(4) Renewable Energy and Energy-Efficient Technologies Grants Program for Bioenergy Pre-proposal Projects Application, Form 27N-1-900(4).

(5) Renewable Energy and Energy-Efficient Technologies Grants Program Full Proposal Application, Form 27N-1.-900(5).

(6) Renewable Energy and Energy-Efficient Technologies Grants Program for Full Proposal Bioenergy Pre-proposal Projects Application, Form 27N-1.900(6).

(7) Green Governments Grant Application, Form 27N-1.900(7).

Rulemaking Specific Authority 220.192(3), 377.6015, 377.804(3), 377.806(7) FS. Law Implemented 377.6015, 377.804, 377.806, 220.192 FS. History--New 10-22-07, Formerly 62-16.900, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Brenda Buchan  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alexander Mack  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 24, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 10, 2010

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-108.201  
RULE TITLE: Sanitary Practices Relating to Correctional Facilities

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to provide a process for the processing of and response to complaints related to sanitary conditions in correctional facilities.

SUMMARY: The proposed rule specifies that the Office of the Inspector General is charged with inspecting correctional facilities, that facilities shall be inspected monthly, and that complaints regarding sanitary practices shall be forwarded to the Office of the Inspector General for review.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.31 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-108.201 Sanitary Practices Relating to Correctional Facilities.

(1) Pursuant to Section 944.31, F.S., the Office of the Inspector General is charged with inspection of each correctional facility with reference to its physical conditions, cleanliness, sanitation, safety and comfort; the quality and supply of all bedding; the quality, quantity and diversity of food served and the manner in which it is served; the number and condition of the prisoners confined therein; and the general conditions of each institution.

(2) Each facility will be inspected monthly by the facility environmental health and safety officer and annually by the regional safety consultant and records of such inspections shall be maintained for three years in order to facilitate review in assuring maintenance of safety standards.

(3) Complaints regarding the matters outlined in subsection (1) above shall be forwarded to the Office of the Inspector General. Upon receipt of a complaint, the Office of the Inspector General shall review the complaint to determine whether further inspection of the facility is necessary in order to ensure compliance with state law and administrative regulations.

(3) If a determination is made that a violation exists, the Department will take the necessary steps to bring the facility into compliance with the applicable regulation.

Rulemaking Authority 944.09 FS. Law Implemented 20.15, 944.09, 944.31 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp, Deputy Secretary of Institutions  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter A. McNeil, Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 1, 2009  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-601.901  
RULE TITLE: Confidential Records

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to delete those provisions related to medical and substance abuse files that are being moved to proposed Rule 33-401.701, F.A.C., via the rulemaking process.

SUMMARY: The rule is amended to remove language related to medical and substance abuse clinical files, as those provisions are being relocated to proposed Rule 33-401.701, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 20.315, 944.09, 945.10 FS.

LAW IMPLEMENTED: 119.07, 944.09, 945.10, 945.25 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.901 Confidential Records.

(1) Inmate and offender access to records or information.

(a) No change.

(b) Inmate and offender access to their own medical or substance abuse clinical files is addressed in Rule 33-401.701, F.A.C records.

1. Definitions.

a. "Medical record" as used in this rule includes the inmate's medical, mental health, and dental files maintained by the department.

b. "Protected health information" or "PHI" as used in this rule means individually identifiable health information about an inmate or offender.

c. "Psychotherapy notes" as used in this rule means notes recorded by a mental health professional documenting or analyzing the contents of conversation during a private or group session. The term does not include medication prescription and monitoring, session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following: diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

d. "Substance abuse clinical record" as used in this rule means the department inmate file containing all written documents and records, including department forms compiled to detail an inmate's substance abuse history, substance abuse screening, assessment, intervention, and other substance abuse services, including the results of urinalysis testing done for treatment, program participation, and admission and discharge summaries.

e. "Substance abuse progress notes" as used in this rule means notes recorded by a substance abuse health care professional documenting or analyzing the contents of conversation during a private or group session. The term does not include session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following: diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

2. An inmate shall be allowed to have access to his own medical record and, if such exists, his own substance abuse clinical record. An inmate desiring access to his own medical record shall submit a written request to the health services administrator or his designee; an inmate desiring access to his own substance abuse clinical record shall submit a written request to the substance abuse program manager or his designee.

3. The department does not maintain medical records or substance abuse clinical records on offenders under community supervision. Access to records maintained by treatment providers under contract with the department should be requested by contacting the treatment provider.

4.a. Inmates shall have no access to psychotherapy notes or substance abuse progress notes maintained in the department's records:

b. Inmates and offenders shall have no access to health information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding.

5. The request for access shall be denied in whole or in part due to any of the following reasons:

a. The request is for records or information identified in subparagraph 4. above.

b. The request is for PHI that was obtained from someone other than a health care provider under a promise of confidentiality and the access requested would with reasonable likelihood reveal the source of the information.

c. The request is for information not maintained or no longer maintained by the department in its files.

d. There has been a determination by a licensed or certified health care professional that:

I. The requested access is reasonably likely to endanger the life or physical safety of the inmate or another person;

II. The requested access is to PHI that makes reference to another person (other than a health care provider) and such access is reasonably likely to cause substantial harm to such other person; or

III. The access is requested by a personal representative of the inmate and such access is likely to cause substantial harm to the inmate.

6. All requests shall be granted, including providing access or copies or both, or denied, in whole or in part, by the health services administrator or his designee or substance abuse program manager or his designee in writing within 30 days of the date of receipt of the request, except that where the

requested records are not maintained on-site, the department shall provide or deny access, in whole or in part, within 60 days from receipt of the request. If the department is unable to grant or deny, in whole or in part, the request for access within the 30 or 60 day time periods, the department is authorized to extend the time for such action an additional 30 days by providing the inmate a written statement that the time period has been extended for 30 days and the reason(s) for the extension. This extension is available only one time.

7. Denials must provide:

a. The basis for the denial;

b. Information on where the requested information is maintained if sub-subparagraph 5.c. applies, and the department knows where the information is maintained;

c. Notification that the inmate may request a review of the denial by submitting a written request to the health services administrator or his designee in the case of medical records, or the substance abuse program manager or his designee in the case of substance abuse clinical records; and

d. That the inmate may grieve the denial through the inmate grievance process pursuant to Chapter 33-103, F.A.C.

8. Upon written request of the inmate to the staff member designated above, denials based on sub-subparagraph 5.d. shall be reviewed by a licensed or certified health care professional who is designated by the health services administrator or his designee or substance abuse program manager or his designee, and who did not participate in the original decision to deny the request. Review of the denial must be completed within a reasonable time after receipt of the request for review. Immediately upon determination on review, the inmate shall be notified in writing of the decision. The determination on review shall be followed by the department.

9. Where a request for access to an inmate's medical record or substance abuse clinical record is denied in part, the department shall provide access to the requested record after excluding the information for which access was denied.

(e) Copies will be provided upon receipt of payment as provided in subsection (2) of this rule, except that when providing the inmate a copy of the requested information would jeopardize either the health, safety, security, custody of the inmate or of other inmates; or the safety of any officer, employee, or other person at the correctional institution or a person responsible for the transporting of the inmate, no copies shall be provided. A denial of copies on this basis shall not be subject to review under subparagraph (b)8. above.

(2) No change.

(3) The following records or information contained in department files shall be confidential and shall be released for inspection or duplication only as authorized in this rule or in Rule 33-401.701, F.A.C.:

(a) Medical reports, opinions, memoranda, charts or any other medical record of an inmate or offender, including dental and medical classification reports as well as clinical drug

treatment and assessment records; letters, memoranda or other documents containing opinions or reports on the description, treatment, diagnosis or prognosis of the medical or mental condition of an inmate or offender; the psychological screening reports contained in the admission summary; the psychological and psychiatric evaluations and reports on inmates or offenders; health screening reports; Mentally Disordered Sex Offender Status Reports. Other persons may review medical records only when necessary to ensure that the inmate's or offender's overall health care needs are met, or upon a specific written authorization from the inmate or offender whose records are to be reviewed, or as provided by law. If a request for inmate or offender medical records is submitted upon consent or authorization given by the patient inmate or offender, Form DC4-711B, the department's Consent and Authorization for Use and Disclosure, Inspection and Release of Confidential Information, ~~Form DC4-711B~~, or a legally approved, HIPAA compliant release of protected health information form from another governmental agency shall be utilized in accordance with Rule 33-401.701, F.A.C. Form DC4-711B is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is November 27, 2007. Offenders under supervision, or previously under supervision, who desire information from their own records, shall be referred to the agency or office originating the report or document to obtain such information.

(b) through (8) No change.

~~(9) Any information, whether recorded or not, concerning the identity, diagnosis, prognosis or treatment of any inmate or offender which is maintained in connection with the performance of any alcohol or drug abuse prevention or treatment function shall be confidential and shall be disclosed only as follows:~~

~~(a) With the prior written consent of the inmate or offender. The written consent shall include the following information:~~

- ~~1. The specific name or general designation of the program or person permitted to make the disclosure;~~
- ~~2. The name or title of the individual or the name of the organization to which disclosure is to be made;~~
- ~~3. The name of the inmate or offender;~~
- ~~4. The purpose of the disclosure;~~
- ~~5. How much and what kind of information is to be disclosed;~~
- ~~6. The signature of the inmate or offender; or, when required for an inmate or offender who is incompetent or deceased, the signature of a person authorized to sign in lieu of the inmate or offender;~~
- ~~7. The date on which the consent is signed;~~

~~8. A statement that the consent is subject to revocation at any time except to the extent that the program or person which is to make the disclosure has already acted in reliance on it.~~

~~9. The date, event, or condition upon which the consent will expire if not revoked before. This date, event, or condition must ensure that the consent will last no longer than reasonably necessary to serve the purpose for which it is given.~~

~~If a request for inmate medical records is submitted upon consent given by the patient inmate/offender, the department's Consent and Authorization for Use and Disclosure, Inspection and Release of Confidential Information, Form DC4-711B, or a legally approved, HIPAA compliant release of protected health information form from another governmental agency shall be utilized in order to obtain medical records held by the department.~~

~~(b) Pursuant to 42 C.F.R. Part 2, the department is authorized to disclose information about an inmate or offender to those persons within the criminal justice system who have made participation in the program a condition of the disposition of any criminal proceedings against the inmate or offender or of the inmate or offender's parole or other release from custody if:~~

~~1. The disclosure is made only to those individuals within the criminal justice system who have a need for the information in connection with their duty to monitor the inmate or offender's progress; and~~

~~2. The inmate or offender has signed Form DC4-711B meeting the requirements of paragraph (9)(a) except for the revocation provision in subparagraph (9)(a)8. This written consent shall state the period during which it remains in effect. This period shall be reasonable, taking into account:~~

~~a. The anticipated length of the treatment;~~

~~b. The type of criminal proceeding involved, the need for the information in connection with the final disposition of that proceeding, and when the final disposition will occur; and~~

~~e. Such other factors as the program, the inmate or offender, and the persons who will receive the disclosure consider pertinent. The written consent shall state that it is revocable upon the passage of a specified amount of time or the occurrence of a specified, ascertainable event. The time or occurrence upon which consent becomes revocable shall be no later than the final disposition of the action in connection with which consent was given.~~

~~(c) A disclosure may not be made on the basis of a consent which:~~

~~1. Has expired;~~

~~2. On its face substantially fails to conform to any of the requirements set forth in paragraph (9)(a) above;~~

~~3. Is known to have been revoked; or~~

~~4. Is known, or through a reasonable effort could be known, by the person holding the records to be materially false.~~



(d) Each disclosure made with the inmate or offender written consent shall be accompanied by the following written statement:

This information has been disclosed to you from records protected by federal confidentiality rules (42 C.F.R. Part 2). The federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 C.F.R. Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

(e) Whether or not the inmate or offender has given written consent, 42 C.F.R. Part 2 permits disclosure of information as follows:

1. To medical personnel to the extent necessary to meet a medical emergency and for continuity of care;
2. To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel shall not identify, directly or indirectly, any individual inmate or offender in any report of such research, audit, or evaluation, or otherwise disclose inmate or offender identities in any manner.
3. To communicate within a program or between a program and an entity having direct administrative control over that program;
4. To law enforcement officers concerning crimes on program premises or against program personnel, or when a threat to commit such a crime has been made;
5. Reports of suspected child abuse and neglect; and
6. If authorized by a court order.

(10) Each employee of the Department of Corrections shall maintain as confidential all medical and mental health, including substance abuse information, regarding any inmate or offender that the employee obtains in conjunction with his or her duties and responsibilities, and shall not disseminate the information or discuss the medical, mental health or substance abuse condition of the inmate or offender with any person except persons directly necessary to the performance of the employee's duties and responsibilities. An employee who has been designated as a member of the healthcare transfer team or is part of a mental health or substance abuse treatment team shall not disseminate inmate medical or substance abuse information or discuss the medical or mental health or substance abuse condition of an inmate with any person except other members of the healthcare transfer team, medical, mental health or substance abuse staff, upper level management at the institution or facility level, regional level and central office level, inspectors from the Inspector General's Office, or department attorneys. Breach of this confidentiality shall subject the employee to disciplinary action. Each employee shall acknowledge receipt and review of Form DC2-813,

Acknowledgement of Responsibility to Maintain Confidentiality of Medical Information, indicating that he understands the medical and substance abuse confidentiality requirements. Form DC2-813 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is 2-9-06.

(11) Each inmate assigned as an inmate worker, inmate assistant, substance abuse peer facilitator, or other assignment involving possible contact with health or substance abuse information about other inmates shall maintain as confidential all health or substance abuse information that he sees or hears while performing his duties and responsibilities, and shall not disseminate the information or discuss the medical or substance abuse information with any person except health care staff or substance abuse program staff. Failure to keep health or substance abuse information confidential and private shall subject the inmate to disciplinary action. Each inmate assigned as an inmate worker, inmate assistant, substance abuse peer facilitator, or other assignment involving possible contact with health or substance abuse information about other inmates shall acknowledge receipt and review of Form DC1-206, Inmate Acknowledgement of Responsibility to Maintain Confidentiality of Health or Substance Abuse Information, indicating that he understands the medical and substance abuse confidentiality requirements. Form DC1-206 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is 7-8-03.

Rulemaking Specific Authority 20.315, 944.09, 945.10 FS. Law Implemented 119.07, 944.09, 945.10, 945.25 FS., 42 USCS 290 ee 3, 45 CFR Parts 160 and 164. History—New 10-8-76, Amended 6-10-85, Formerly 33-6.06, Amended 1-12-89, 7-21-91, 9-30-91, 6-2-92, 8-4-93, 6-12-96, 10-15-97, 6-29-98, Formerly 33-6.006, Amended 9-19-00, 7-8-03, 2-9-06, 11-27-07,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Dean Aufderheide, Mental Health Services Director  
NAME OF AGENCY HEAD WHO APPROVED THE  
PROPOSED RULE: Walter McNeil, Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: March 25, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: August 20, 2010

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Health Facility and Agency Licensing**

RULE NO.: 59A-7.034  
 RULE TITLE: Alternate-Site Testing

**PURPOSE AND EFFECT:** The Agency is proposing to amend the rule that establishes criteria for alternate-site testing within hospitals to consider advancements in clinical laboratory testing equipment and clarify the requirements regarding internal needs assessments and the responsibilities of the laboratory director.

**SUMMARY:** Revisions are needed to address advancements in clinical laboratory testing equipment, who may perform clinical laboratory testing at alternate-sites within hospitals, what is required to be submitted to the Agency for review and approval and timeframes for reviews.

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

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

**RULEMAKING AUTHORITY:** 483.051 FS.

**LAW IMPLEMENTED:** 483.051, 483.181, 483.201, 483.221, 483.23 408.806, 408.813, 408.814, 408.816, 483.813 FS.

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

**DATE AND TIME:** October 21, 2010, 2:30 p.m. – 5:00 p.m.  
**PLACE:** Agency for Health Care Administration, Building 3, Conference Room D, 2727 Mahan Drive, Tallahassee, Florida  
 Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Karen Rivera, Laboratory Unit, 2727 Mahan Drive, Building 1, Mail Stop 32, Tallahassee, Florida 32308, (850)412-4500. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Karen Rivera, Laboratory Unit, 2727 Mahan Drive, Building 1, Mail Stop 32, Tallahassee, Florida 32308, (850)412-4500

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

59A-7.034 Alternate-Site Testing.

(1) Agency Intent: This rule implements Section ~~Alternate site testing shall include laboratory tests performed in a hospital facility licensed under Chapter 395, F.S., out of the physical or administrative confines of the central laboratory~~

~~which is licensed under Chapter 483.051(9), Part I, F.S., regarding criteria for alternate-site testing to be performed under the supervision of a clinical laboratory director. A clinical laboratory licensed under Chapter 483, Part I, F.S., may establish satellite locations under its administrative confines on the same or adjoining grounds of a hospital licensed under Chapter 395, F.S., that is not an alternate-site. Clinical laboratory testing within the satellite locations shall be performed by clinical laboratory personnel licensed under Chapter 483, Part III, F.S., or exempt from licensure under that part, whereas testing at an alternate-site location shall be performed by personnel permitted under paragraph 59A-7.034(5)(a), F.A.C. Alternate site testing allows specific personnel, who are not licensed clinical laboratory personnel, and are listed under subparagraphs 59A-7.034(5)(a)1-7. and 9., F.A.C., to perform limited laboratory tests identified under paragraphs 59A-7.034(7)(a)-(c), F.A.C. Locations of alternate-site testing include, patients' bedsides, nurses' stations as well as locations determined appropriate by the laboratory director in a written plan that meets the requirements of Rule 59A-7.034, F.A.C.~~

(2)(1) Location and Required Licensure of Alternate-Site Testing: All alternate-site testing must be performed on the same or adjoining grounds, and on the physical premises of, the hospital facility licensed under Chapter 395, F.S. referenced in Rule 59A-7.034, F.A.C. Alternate-sites are sites that are located outside of the physical or administrative confines of the central laboratory, but still under the administrative control of the hospital.

(a) Hospitals may hold more than one clinical laboratory license. For each clinical laboratory license held by the hospital, a licensed clinical laboratory director must supervise the laboratory and any alternate-sites of that licensed laboratory.

~~(2) A hospital laboratory licensed under Chapter 483, Part I, F.S., located in a hospital licensed under Chapter 395, F.S., shall be permitted to maintain under its supervision, one or more testing sites as authorized under this section provided the laboratory submits written notification of such testing to the agency. Such notification shall specify the categories of personnel as provided in subsection 59A-7.034(5), F.A.C., that perform alternate-site testing in that hospital facility. The laboratory director must maintain a current listing of all personnel authorized to perform alternate-site testing as required under subsection 59A-7.034(4), F.A.C.~~

~~(a) Alternate sites for testing authorized under Rule 59A-7.034, F.A.C., shall be noted on all laboratory licensure applications submitted to the agency.~~

(b) The laboratory must be licensed in all specialties or subspecialties in which testing is performed at the alternate-sites referenced in paragraph (a), above. Testing at these sites shall be limited to those tests for which the

laboratory ~~supervising~~ director or designated supervisory and laboratory personnel are ~~licensed~~ qualified pursuant to Chapter 64B3, F.A.C., and authorized under Chapter 59A-7, F.A.C.

(3) Supervision of Alternate-Site Tests: All alternate-site tests must be performed under the supervision of the clinical laboratory director who is responsible for all laboratory testing conducted under the hospital's clinical laboratory license(s).

(4) Hospital Internal Needs Assessment:

(a) The laboratory director in consultation with the appropriate medical staff shall prepare an internal needs assessment for alternate-site testing. Each testing site assessment shall include an evaluation of patient benefits and criteria for such testing, location of alternate-site, population to be served, and an evaluation of proposed instruments or testing methodologies to determine if the requirements listed in subsections (8) through (12) are met.

(b) The selection of alternate-site test methods shall assure that performance and operational characteristics meet the clinical requirements for the intended alternate-site testing location. The internal needs assessment shall include an evaluation of proposed methodologies for tests to be performed at the alternate-sites composed, at a minimum, of evaluation of accuracy, precision, comparison of test results with the hospital laboratory, instrument performance, maintenance requirements, reagent preparation, if applicable, storage and availability of supplies such as reagents, controls and proficiency samples for the testing site and a written validation procedure.

(c) Alternate-site testing shall only be conducted at sites where the director has established and documented in the internal needs assessment that such testing is necessary for the proper care and treatment of patients.

(d) The internal needs assessment must be reviewed and approved by the laboratory director prior to initiation of testing at any alternate-test site and biennially thereafter.

(e) All records related to the internal needs assessment for the purpose of alternate-site testing must be readily available for inspection by the Agency and any other surveying agency including accrediting organizations, if the laboratory is accredited, for a minimum of two years after testing is discontinued.

(5) Approval of Alternate-Site Testing:

(a) A request for approval of any new instrument or testing methodology not currently listed by the Agency's Internet site: [http://ahca.myflorida.com/mchq/health\\_facility\\_regulation/laboratory\\_licensure/altsiterule.shtml](http://ahca.myflorida.com/mchq/health_facility_regulation/laboratory_licensure/altsiterule.shtml) and incorporated herein by reference, as approved for alternate-site testing, must be submitted to the Agency for review and approval prior to implementation. If the instrument is listed as an unapproved test, then it cannot be performed at an alternative-site. If a test is listed as approved under specific circumstances, those circumstances must be met in order for the test to be performed.

(b) A request for approval of any new instrument or testing methodology must include the location of the alternate-site, category of personnel who will perform the tests, name of the instrument or method to be used, instrument manufacturer and model number if applicable, and any other information necessary for the Agency to determine whether tests to be performed meet the criteria established in subsubparagraph 10.

(c) Requests must be sent to: Agency for Health Care Administration, Clinical Laboratory Unit, M.S. 32, 2727 Mahan Drive, Tallahassee, Florida 32308. The Agency will respond with either a request for additional information or approval within 30 days of receipt of the request.

(d) Instruments or testing methodologies previously approved and listed on the Agency's alternate-site testing website at: [http://ahca.myflorida.com/mchq/health\\_facility\\_regulation/laboratory\\_licensure/altsiterule.shtml](http://ahca.myflorida.com/mchq/health_facility_regulation/laboratory_licensure/altsiterule.shtml) do not require prior approval.

(f) A listing of all alternate-site testing locations and laboratory tests performed at each site must be included with each laboratory license renewal application.

~~(3) Testing shall be the responsibility of the clinical laboratory director and shall be performed under the director's supervision and administrative control as specified under subsection 59A 7.035(1), F.A.C. The director shall be responsible for selecting the tests to be performed in accordance with Rule 59A 7.034, F.A.C. All such testing is subject to requirements specified in Chapter 59A 7, F.A.C. The laboratory director has the authority and responsibility to determine corrective action to be taken to maintain an equivalent standard of care for the entire hospital facility up to and including termination of alternate site testing where there is documentation of noncompliance with Chapter 59A 7, F.A.C.~~

(6) Written Protocols and Quality Assurance Programs:

(a) A written protocol shall be established by the laboratory director and implemented according to by the service(s) being performed at the performing alternate-site testing as required under subsection 59A-7.029(3), F.A.C., applicable to tests performed.

1. There shall be a procedure manual at each site where alternate-site testing is performed.

2. The alternate-site procedure manual ~~located at the alternate-test site~~ shall specifically address the alternate-site testing done at that location.

3. The procedure manual shall be reviewed and signed, documenting that it has been reviewed biennially by the laboratory director.

(b) The laboratory director is responsible for developing a quality assurance program that is appropriate for the test methods used at the alternate-testing site as required under Rule 59A-7.031, F.A.C. Criteria for repeating a result or

obtaining a sample for assay in the hospital laboratory must be outlined by the director and included in the quality assurance program.

~~(c)4-~~ The laboratory must maintain the capability of verifying the validity of test results obtained at the alternate-test site as specified in Rule 59A-7.029, F.A.C.

~~2. Subparagraph 59A-7.034(3)(b)1., F.A.C., shall not be construed to prohibit the performance of Activated Clotting Time tests or referral of infrequently performed tests to another laboratory licensed under Chapter 483, Part I, F.S., for analysis.~~

~~(e) The director in consultation with the appropriate medical staff shall prepare an internal needs assessment for alternate-site testing for each testing site which shall include evaluation of patient benefits and criteria for such testing. The internal needs assessment shall also include an evaluation of proposed methodologies for tests to be performed at the alternate sites composed, at a minimum, of evaluation of accuracy, precision, comparison of test results with the hospital laboratory, instrument performance, maintenance requirements, reagent preparation, if applicable, and storage and availability of supplies such as reagents, controls and proficiency samples for the testing site.~~

~~1. The selection of alternate site test methods shall assure that their performance and operational characteristics meet the clinical requirements for the intended alternate site testing location.~~

~~2. A written procedure for validating alternate-site test methods shall be developed which outlines the process and criteria used to conduct the required validation to maintain an equivalent standard of care for the entire facility.~~

~~3. The validation process shall ensure that all alternate-site test methods chosen demonstrate accuracy, precision, reliability, correlation, ease of operation, and maintenance capabilities given the environment in which each will be used.~~

~~4. In addition to requirements set forth in Rule 59A-7.029, F.A.C., each alternate site test method shall be evaluated relative to reporting time and error.~~

~~5. Alternate-site testing shall only be conducted at sites where the director has established and documented in the internal needs assessment that such testing is necessary for the proper care and treatment of patients.~~

~~6. The internal needs assessment must be reviewed and approved by the laboratory director prior to initiation of testing at any alternate test site and biennially thereafter.~~

~~7. Documentation of the initial and each biennial review and approval of the internal needs assessment must be maintained in the laboratory and available for review by the agency for each site for a minimum of two years after testing is discontinued.~~

~~(d) The director shall designate in writing, for each test site, a director, supervisor or technologist qualified under Chapter 483, Part III, F.S., who in the absence of the director, monitors the performance of testing personnel, reporting of results and compliance with established policies.~~

~~(7)(4) Recordkeeping Requirements: Records.~~

~~(a) All records of personnel authorized to perform alternate-site testing must be readily available for inspection by the Agency and any other surveying agency including accrediting organizations if the laboratory is accredited, agency for at least two years. These records shall include the name of each person performing such testing and documentation that each individual performing alternate-site testing is licensed by the state or certified by a national organization in a health care profession as required in subsection 59A-7.034(8)(5), F.A.C., initial and ongoing competency evaluations, in-service training, and any corrective actions patient results, quality control, corrective actions, proficiency surveys, and instrument maintenance.~~

~~(b) Results of all testing performed shall be made a part of the patient's permanent medical record and shall meet the requirements specified in Rule 59A-7.028, F.A.C.~~

~~(c) Records of alternate-site tests, testing locations, quality control, evaluation of accuracy, precision, correlation studies, instrument performance, instrument maintenance, and the internal needs assessment for the tests, must be maintained for a minimum of two years after testing is discontinued and available to any surveying agency including an accrediting organization if the laboratory is accredited.~~

~~(8)(5) Alternate-Site Testing Personnel Requirements: Alternate-site testing personnel requirements. Staff performing the testing at these alternate-sites, as authorized under this subsection, are not required to be licensed under Chapter 483, Part III, F.S., as clinical laboratory personnel.~~

~~(a) Testing personnel shall have a high school diploma, or its equivalent, and have met the HIV/AIDS educational requirements pursuant to Section 381.0035, F.S. In addition, all testing personnel in the alternate-test site locations shall meet one of the following requirements:~~

~~1. Is licensed as an advanced registered nurse practitioner, a registered nurse or licensed practical nurse pursuant to Chapter 464, F.S.,~~

~~2. Is licensed as a radiologic technologist pursuant to Chapter 468, Part IV, F.S.,~~

~~3. Is licensed as a respiratory care practitioner certified in critical care services or a respiratory therapist pursuant to Chapter 468, Part V, F.S.,~~

~~4. Is a phlebotomist certified by the American Society of Clinical Pathologists (ASCP), National Certification Agency for Medical Laboratory Personnel (NCA), American Society of Phlebotomy Technicians (ASPT) or American Medical Technologists (AMT),~~

5. Is licensed as a physician assistant pursuant to Chapter 458 and 459, F.S.,

6. Is a perfusionist certified by the American Board of Cardiovascular ~~Perfusion~~ Perfusionists,

7. Is a cardiovascular technician certified by the Cardiovascular Credentialing International (CCI),

8. Is licensed as a director, supervisor, technologist or technician under Chapter 483, Part ~~III~~ IV, F.S., or exempt from such licensure as provided in that chapter, ~~or~~

9. Is a licensed Emergency Medical Technician (EMT) or Paramedic pursuant to Chapter 401, F.S., or

10. Meets the staff training and educational requirements set out in the alternate-site policy and procedure manual developed by the laboratory director for individuals performing tests categorized as waived.

(b) The laboratory director will determine if the above listed personnel are suitable to perform testing at the alternate-site.

~~(c)(b)~~ The laboratory director shall, in consultation with medical staff designated by the hospital, establish the training needs for the test methods used at each site. This training at a minimum must ensure that alternate-site testing personnel have had instruction in the following areas:

1. Specimen collection, handling and storage including infection control procedures.

2. Instrument procedures including skills required to perform preventive maintenance, calibration and troubleshooting.

3. Skills required to implement quality control procedures and evaluate quality control results.

4. Skills required to perform specific test procedures.

5. Result reporting and documentation techniques including knowledge of reporting procedures for life threatening results.

7. Monitoring of systems and results for errors including instruction on corrective action including whether or not results can be reported.6. Awareness of the factors that influence test results including the skills required to assess and verify the validity of patient test results through the assessment and correlation of pre-analytical and post-analytical phases of testing with laboratory data generated during the analytical phase of testing as they relate to common physiological conditions and quality control, and

~~(d)(e)~~ Successful completion of a training program approved by the Board of Clinical Laboratory Personnel provided under Section 483.811, F.S., shall meet the minimum training requirements specified in paragraph ~~(c)(b)~~, above.

~~(9)(6)~~ Responsibilities of the Laboratory Director Pertaining laboratory director pertaining to the Alternate-Test Site: alternate-test site

(a) The laboratory director shall:

1. Ensure that testing personnel are limited to those who meet the requirements of paragraph 59A-7.034~~(8)(5)~~(a), F.A.C.; and

2. Establish methods for the evaluation of competency to verify that alternate-site testing personnel perform procedures and report test results promptly and accurately. Evaluation of competency shall include:

a. Sample handling skills;

b. Skills required to perform the test method;

c. Skills required to perform preventive maintenance, troubleshooting, and calibration procedures, applicable to the ~~testing~~ test methodologies;

d. Demonstration of knowledge of reagent stability and storage applicable to the test system in use;

e. Skills required to implement quality control policies and procedures and evaluate quality control results;

f. An awareness of the factors that influence test results;

g. Skills required to assess and verify the validity of patient test results through the assessment of quality control ~~testing outcomes~~ results;

h. Demonstration of knowledge of patient preparation for each test performed;

i. Demonstration of knowledge of infection control procedures; and

j. Demonstration of knowledge of reporting procedures for life threatening results.

(b) Validation of personnel competency shall include review of test results, quality control records, proficiency testing results and preventive maintenance records; direct observation of test performance and instrument maintenance; and assessment of performance through testing previously analyzed specimens, internal blind samples, or proficiency testing samples.

(c) Evaluation of competency for alternate-site testing personnel must be performed prior to initiation of patient testing and at least annually thereafter.

(d) Documentation of licensure or certification, as applicable, pursuant to subsection 59A-7.034~~(8)(5)~~, F.A.C., and competency evaluations must be maintained during the tenure of all testing personnel and for a minimum of two years thereafter and made available to the agency at the time of inspection.

~~(10)(7)~~ Tests Performed: performed. Only test procedures approved by the ~~Agency laboratory director~~ and documented in the internal needs assessment in accordance with Rule 59A-7.034, F.A.C., shall be performed at the alternate-test site.

(a) Tests performed at these sites shall not exceed moderately complex test procedures and must:

1. Employ whole blood specimens that require no specimen or reagent manipulation, treatment, extraction, separation or any other processing of any kind by the operator; and

2. Utilize automated test systems in which a specimen is directly introduced into the system. Such instrumentation shall automatically provide for instrument calibration without access by the operator to modify or adjust calibration limits. If the instrument has a requirement to establish quality control ranges, the ranges must be established by appropriately licensed clinical laboratory personnel.

(b) Alternate-test sites are also permitted to perform waived tests, activated clotting times, gastric occult blood, gastric pH and urine specific gravity by refractometer. Heparin concentration, heparin assay, heparin dose response and thrombelastograph tests are permitted to be performed only by perfusionists certified by the American Board of Cardiovascular Perfusion or laboratory personnel licensed as director, supervisor, or technologist under Chapter 483, Part III, F.S.

(c) Data output must be directly reportable in the final units of measurement needed for patient care without need for data conversion or other manipulation, with the exception of heparin concentration, heparin assay, heparin dose response and thrombelastograph tests, which shall be interpreted by the attending physician.

(d) Electronic instrumentation must have a mechanism whereby the operator is alerted when patient results exceed the reportable operating range of the test method and when calibration is not acceptable; such results shall not be used for the diagnosis, treatment, management or monitoring of patients as required under Rule 59A-7.029, F.A.C., and shall be validated through the central laboratory.

~~(e) Waived tests are permitted to be performed by hospital staff designated to provide the testing under the hospital's policies and procedures.~~

~~(11)(8)~~ The Agency shall take administrative action pursuant to Sections 483.201, 483.221, 408.813, 408.814, 408.816 and 483.23, F.S., up to and including revocation of the approval for operation of any or all alternate-testing sites where the agency determines that said sites have operated in violation of Chapter 483, Part I, F.S., and the provisions of Chapter 59A-7, F.A.C. In addition, pursuant to Sections 483.201, 483.221, and 483.23, F.S., in the event of such a violation, the Agency shall take administrative action up to and including revocation of the laboratory license of the laboratory maintaining the alternate-testing site.

Rulemaking Authority 483.051 FS. Law Implemented ~~408.806, 408.813, 408.814, 408.816,~~ 483.051, 483.181, 483.201, 483.221, 483.23, ~~483.813~~ FS. History—New 12-27-95, Amended 12-8-09, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Karen Rivera

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Interim Secretary Dudek

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 13, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 2010

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Commission**

RULE NO.: 61J2-2.027                      RULE TITLE: Applications by Individuals

PURPOSE AND EFFECT: To incorporate forms into the applicable Florida Real Estate Commission license application rules.

SUMMARY: Changes the questions asked about treatment of mental impairment and alcohol and drug disorders.

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

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

RULEMAKING AUTHORITY: 475.05 FS.

LAW IMPLEMENTED: 475.17, 475.175, 475.451 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N802, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J2-2.027 Applications by Individuals.

The application of a natural person for active licensure pursuant to Rule 61-35.0271, Florida Administrative Code, with respect to sales associates and pursuant to Rule 61-35.02711, Florida Administrative Code, with respect to brokers, both of which are incorporated herein by reference, whether the applicant expects to operate alone, or as a partner, or with a corporation, or as a sales associate, is governed by substantially the same rules and forms.

(1) The applicant must meet necessary personal qualifications as follows:

- (a) No change.
- (b) If the application is for broker:

1. Has been registered as an active sales associate for at least ~~24~~ 42 months during the preceding 5 years under one or more brokers;

2. Has held a current and valid real estate sales associate's license for at least ~~24~~ 12 months during the preceding 5 years in the employ of a governmental agency for a salary and performing the duties authorized in Chapter 475, F.S.; or

3. Has held a current and valid real estate broker's license for at least ~~24~~ 12 months during the preceding 5 years in any other state, territory, or jurisdiction of the United States, or in any foreign national jurisdiction.

(c) No change.

(2) The applicant must make it possible to immediately begin the inquiry as to whether the applicant is honest, truthful, trustworthy, of good character, and bears a good reputation for fair dealings, and will likely make transactions and conduct negotiations with safety to investors and to those with whom the applicant may undertake a relation of trust and confidence. The applicant is required to disclose:

(a) No change.

(b) In the last five years, have you been admitted or referred to a hospital, facility or impaired practitioner program for treatment of a diagnosed mental disorder or impairment? If now a patient of a mental health facility or similar institution for the treatment of mental disabilities, or

(c) In the last five years, were you admitted or directed into a program for the treatment of a diagnosed substance-related (alcohol/drug) disorder or, if you were previously in such a program, did you suffer a relapse within the last five years?

(d)(e) If ever called by, or done business under any other name, or alias, than the name signed on the application, with sufficient information to enable the Commission to investigate the circumstances, or

(e)(d) If ever had a broker's or sales associate's license revoked, suspended, or otherwise acted against, or had an application for such licensure denied, by the real estate licensing agency of another state, territory, or country.

(3) Each application shall be accompanied by digital fingerprint data a completed FBI fingerprint card for processing to determine if the applicant has a criminal history record, and

(4) All applicants for permits to instruct or be a permitholder for a real estate school must comply with Sections 475.451(2)(a) and (c), F.S.

Rulemaking Specific Authority 475.05 FS. Law Implemented 475.17, 475.175, 475.451 FS., Georgia Association of Realtors, Inc., et al. v. Florida Real Estate Commission, et al., Civil Case No. 87-15-Orl-Civ-18 (M.D. Fla. 1987). History--New 1-1-80, Formerly 21V-2.27, Amended 4-10-88, 5-20-90, 1-13-91, 7-15-92, 7-20-93, Formerly 21V-2.027, Amended 11-10-97, 1-18-00, 11-26-03,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Florida Real Estate Commission

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Real Estate Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 20, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 25, 2009

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Commission**

RULE NO.:	RULE TITLE:
61J2-3.020	Post-licensing Education for Active and Inactive Broker and Sales Associate Licensees

PURPOSE AND EFFECT: The proposed rule amendment deletes the exemption for a licensee who has a 4 year degree in real estate from the post-license education requirements.

SUMMARY: The proposed rule amendment deletes the exemption from the post-license education requirements of a licensee having a 4 year degree in real estate.

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

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

RULEMAKING AUTHORITY: 475.05, 475.17 FS.

LAW IMPLEMENTED: 475.04, 475.17, 475.182 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N802, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J2-3.020 Post-licensing Education for Active and Inactive Broker and Sales Associate Licensees.

(1) through (9) No change.

(10) ~~Any licensee who has received a 4-year degree in real estate from an accredited institution of higher education is exempt from the post-license education requirements.~~

Rulemaking Specific Authority 475.05, 475.17 FS. Law Implemented 475.04, 475.17, 475.182 FS. History--New 1-1-89, Amended 1-4-90, 6-28-93, Formerly 21V-3.020, Amended 8-2-95, 12-30-97, 2-24-00, 7-23-00, 5-12-04,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Florida Real Estate Commission

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Real Estate Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 20, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 2, 2009

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Commission**

RULE NOS.:                   RULE TITLES:  
61J2-24.004                Mediation  
61J2-24.006                Probation

PURPOSE AND EFFECT: Rule 61J2-24.004, F.A.C.: To increase the violations that may be resolved through mediation. Rule 61J2-24.006, F.A.C.: To clarify and update language in the rule.

SUMMARY: Rule 61J2-24.004, F.A.C.: The rule amendments increase the number of violations that can be resolved through mediation. Rule 61J2-24.006, F.A.C.: To allow the Division Director to grant an initial extension of time in a hardship case to a licensee who has not completed requirements of probation.

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

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

RULEMAKING AUTHORITY: 455.2235, 475.05 FS.

LAW IMPLEMENTED: 455.2235, 455.227, 475.25 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N802, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULES IS:

61J2-24.004 Mediation.

(1) No change.

(2) The Commission finds that mediation is an acceptable method of dispute resolution for the following violations as they are ~~it is~~ economic in nature or can be remedied by the subject of the complaint:

(a) Failure to maintain office or sign at entrance of office pursuant to Section 475.22, F.S.

(b) Failure to register a branch office pursuant to Section 475.24, F.S.

(c) Failure ~~Has failed~~ to deliver to a licensee a share of a real estate commission if the licensee has obtained a civil judgment and the judgment has not been satisfied pursuant to Section 475.25(1)(d), F.S.

(d) Failure to give Commission 30 day written notice after a guilty or nolo contendere plea or convicted of any felony pursuant to Section 475.25(1)(p), F.S.

(e) Failure to have a current license as a broker or sales associate while listing or selling one or more timeshare periods per year pursuant to Section 475.42(1)(m), F.S.

(f) Failure to keep and make available to the department such books, accounts, and records as will enable the department to determine whether the broker is in compliance with the provisions of this chapter pursuant to Section 475.453, F.S.

Rulemaking Specific Authority 455.2235, 475.05 FS. Law Implemented 455.2235 FS. History–New 12-13-94, Amended \_\_\_\_\_.

61J2-24.006 Probation.

(1) No change.

(2) If a respondent is unable to complete the requirements of probation within the ninety (90) days or such other time specified in the final order, the Division Director is authorized to grant a one-time 180 ~~ninety (90)~~ days extension for the following reasons:

(a) through (b) No change.

(c) Any substantiated hardship.

(3) through (5) No change.

Rulemaking Specific Authority 475.05 FS. Law Implemented 455.227, 475.25, (4) FS. History–New 2-13-96, Amended 11-10-97, 12-8-02, 7-10-06, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Commission

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Real Estate Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 20, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 7, 2010

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

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

**DEPARTMENT OF HEALTH**

**Division of Medical Quality Assurance**

RULE NO.:                   RULE TITLE:  
64B-7.001                   Pain Management Clinic  
  Registration Requirements

PURPOSE AND EFFECT: The department determined the need to update the clinic registration requirements in accordance with Chapter 2010-211, Laws of Florida.



SUMMARY: This rule describes the ownership and other requirements for registering as a pain-management clinic and for maintaining that registration. It defines what constitutes practice at the clinic location and incorporates by reference the form required for registration.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will have an impact on small business. A SERC has been prepared by the agency. The SERC indicates the number of pain-management clinics that will be affected by the rule. The rule will require that certain clinics hire a new designated physician who is able to be present enough to establish acceptance of responsibility for the operation of the clinic.

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

RULEMAKING AUTHORITY: 456.004, 458.3265(4), 459.0137(4) FS.

LAW IMPLEMENTED: 456.037, 456.0635, 458.3265, 459.0137 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry McPherson, Executive Director, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B-7.001 Pain Management Clinic Registration Requirements.

(1) Every practice location or clinic that is advertising pain-management services or employing a physician who is primarily treating pain by administering, prescribing or dispensing controlled substance medications, unless exempt under Sections 458.3265(1) or 459.0137(1), F.S., must register and maintain a valid registration with the Department. Every registered practice clinic location upon change of ownership must register and maintain a valid registration with the Department. To be eligible to register with the Department, the clinic must meet the statutory requirements, which include the requirement that the clinic be fully owned by a physician or group of physicians who are currently licensed pursuant to Chapter 458 or 459, F.A.C., or licensed as a health care clinic with the Agency for Health Care Administration pursuant to Part X of Chapter 400, F.S.

(2) The clinic's designated physician must have a full, active, and unencumbered license, which includes:

(a) Having a clear, active license as a medical doctor or osteopathic physician under Chapter 458 or 459, F.S., that permits the physician to perform all duties authorized by holding a license without restriction.

(b) Having a license that is not designated as limited, restricted, retired, temporary, training, or that includes other limitations.

(c) Having a license with no restrictions on practice and no current disciplinary or other unsatisfied obligations imposed by the Board of Medicine, Board of Osteopathic Medicine, or the Department that limits or restricts the practice of medicine or osteopathic medicine, which includes suspension, probation, or any other restrictions on practice.

(3) The designated physician "shall practice at the clinic location," which means retaining documentation of being physically present and practicing medicine or osteopathic medicine at that location for no less than at least 33% of the hours per week that the clinic is open for business. For clinic locations with 3 or more physicians administering, prescribing, or dispensing controlled substance medications, including the designated physician, or for those clinic locations administering, prescribing or dispensing more than half the maximum number of controlled substance prescriptions that the boards allow a clinic to issue over a 24-hour period, the designated physician must be present at least 67% of the hours per week that the clinic is open for business. When the designated physician is unable to be present to meet these requirements, any administering, prescribing or dispensing of controlled substance medications at the clinic must cease unless and until another designated physician is approved by the board.

(4) To register with the Department, the designated physician must submit Application for Pain Management Clinic Registration, Form #DH-MQA 1219, 10/10, incorporated herein by reference. This form can be obtained from the Department of Health, Division of Medical Quality Assurance, at: 4052 Bald Cypress Way, Bin C-01, Tallahassee, FL 32399 or on the Board of Medicine or Board of Osteopathic Medicine website, which can be accessed at: [www.flhealthsource.com](http://www.flhealthsource.com) or at [MQA\\_medicine@doh.state.fl.us](mailto:MQA_medicine@doh.state.fl.us). At this mail or electronic address, the clinic owner is responsible to provide notice of the departure of the designated physician and, within 10 days after termination, the identity of another designated physician for the clinic. At this mail or electronic address, the designated physician at a registered clinic also within 10 days of departure shall notify the board of the date of termination from employment.

Rulemaking Authority 456.004, 458.3265(4), 459.0137(4) FS. Law Implemented 456.037, 456.0635, 458.3265, 459.0137 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Larry McPherson  
NAME OF AGENCY HEAD WHO APPROVED THE  
PROPOSED RULE: Ana M. Viamonte Ros, M.D. M.P.H.  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: September 14, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: August 6, 2010

## DEPARTMENT OF HEALTH

### Division of Emergency Medical Operations

RULE NO.: 64J-2.019  
RULE TITLE: Funding for Verified Trauma Centers  
PURPOSE AND EFFECT: This notice is to alert the public that the Office of Trauma is proposing rulemaking to revise Rule 64J-2.019, F.A.C. pursuant to the implementation of Chapter 2010-80, Laws of Florida (Enrolled CS/CS/HB 325) and Chapter 2010-161 (Enrolled HB 5311) passed during the 2010 Legislative Session.

SUMMARY: For the implementation of Chapter 2010-80, Laws of Florida, the proposed rule revisions add the new statutes (318.0083(1)(b)3.a. and 3.b.) for funds generated from the use of traffic infraction cameras to enforce violations of red-light running. Ten dollars of each citation generated from the implementation of these statutes are to be deposited into the DOH administrative trust fund for distribution to verified trauma centers pursuant to Section 395.4036(1), F.S.

Pursuant to the provisions of Chapter 2010-161, Laws of Florida, the proposed rule revisions remove reference to the DOH Administrative Trust Fund where referenced in this rule, and provides that all funds governed under this rule shall be distributed to verified trauma centers in the quarter following deposit into the Department's trust funds.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The proposed revisions to this rule do not require additional regulatory costs to hospitals that operate a verified trauma center or to hospitals seeking to become a verified trauma center in the State of Florida. Therefore, a statement of estimated regulatory costs was not prepared.

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

RULEMAKING AUTHORITY: 395.4036 FS.

LAW IMPLEMENTED: 395.4036 FS.

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

DATE AND TIME: Tuesday, October 19, 2010, 10:00 a.m. – 11:00 a.m. (ET) and 9:00 a.m. – 10:00 a.m. (CT)

PLACE: Department of Health, Office of Trauma, Capital Circle Office Complex, 4025 Esplanade Way, Conference Room 301, Tallahassee, Florida, Conference Call Number: 1(888)808-6959, Conference Code: 2354440

If a hearing is not requested, the Office of Trauma will cancel the tentative hearing and move forward to request certification of the proposed revisions for adoption. The hearing cancellation will be noticed on the Office of Trauma Website at <http://doh.state.fl.us/demo/Trauma/notices.htm> and in the Traumacom List Serv. To subscribe to Traumacom: [http://ww7.doh.state.fl.us/mailman/listinfo/office\\_of\\_trauma](http://ww7.doh.state.fl.us/mailman/listinfo/office_of_trauma).

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Janet Collins, (850)245-4440, ext. 2775. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan McDevitt, Office of Trauma, Department of Health, 4052 Bald Cypress Way, Bin #C18, Tallahassee, Florida 32399-1738, (850)245-4440, ext. 2760; Email: [susan\\_mcdevitt@doh.state.fl.us](mailto:susan_mcdevitt@doh.state.fl.us); Fax: (850)488-2512

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

64J-2.019 Funding for Verified Trauma Centers.

(1) No change.

(2) Funds governed under this rule shall be distributed to verified trauma centers in the quarter following deposit into the Department's trust funds. Funds collected under Sections 318.14(5), 318.18(5)(c) and (20) and 318.18(15), F.S., and deposited into the department's administrative trust fund shall be distributed quarterly to the certified trauma centers.

(a) No change.

(b) Funds collected under Section 318.14(5), F.S., governed under this rule and deposited into the department's administrative trust fund shall be distributed to the trauma centers as follows:  $[(.5 \times \text{funds}) / \text{Current total number of trauma centers}] + [(.5 \times \text{funds}) \times (\text{Caseload volume for the trauma center for the year} / \text{The sum of caseload volume for all trauma centers during the year})]$ .

(c) Funds collected under Sections 318.18(15), 316.0083(1)(b)3.a. and 316.0083(1)(b)3.b., F.S., governed under this rule and deposited in accordance with ~~into the department's administrative trust funds under~~ Section 395.4036(1), F.S., shall be distributed as follows:

1. through 3. No change.

(d) Funds collected under Section 318.18(5)(c) and (20), F.S., governed under this rule and deposited into the department's administrative trust fund shall be distributed as follows.

1. through 3. No change.

(3) No change.

Rulemaking Authority 395.4036 FS. Law Implemented 395.4036 FS. History--New 4-25-06, Amended 1-9-07, Formerly 64E-2.040, Amended 10-22-09,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Susan McDevitt, Director, Office of Trauma

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ana M. Viamonte-Ros, State Surgeon General

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 25, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 2010

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Family Safety and Preservation Program**

RULE NOS.:	RULE TITLES:
65C-31.001	Definitions
65C-31.002	Case Management for Young Adults Formerly in Foster Care
65C-31.003	Aftercare Support Services for Young Adults Formerly in Foster Care
65C-31.004	Road to Independence Program (RTI)
65C-31.005	Transitional Support Services for Young Adults Formerly in Foster Care
65C-31.006	Young Adult Services Documentation Requirements
65C-31.007	High School Needs Assessment
65C-31.008	Post Secondary Needs Assessment
65C-31.009	Independent Living Benefits Due Process Notification
65C-31.010	Jurisdictional and Service Requirements for Young Adults Formerly in the Custody of the Department
65C-31.011	Independent Living Program Budget Management

PURPOSE AND EFFECT: The number of young adults formerly in foster care who are eligible for Independent Living services continues to increase. However, the FY 2010-2011 program funding allocation cannot be sustained at the previous year's level. Prior to July 1, 2010, Section 409.1451(10), F.S., specifically prohibited the Department from adopting rules relating to the reduction in Road-to-Independence awards. The Legislature amended this sub-section during the 2010 legislative session requiring the Department to adopt rules

governing the payments and conditions relating to payments for services to youth or young adults provided under Section 409.1451, F.S.

The purpose and effect of this rule is to ensure the equitable treatment of young adults formerly in foster care and to ensure their safety and well-being. These changes will provide increased fiscal oversight and accountability at all levels including the Department, Community-Based Care Lead Agencies, and young adults so as to maximize the effective and efficient operation of the Independent Living Program.

SUMMARY: This rule makes changes to permanent rule Chapter 65C-31, F.A.C., relating to the Independent Living Services Program. Chapter 65C-31, F.A.C., Definitions – Removes the word “scholarship” for Road to Independence to agree with the law and to clarify that this income is tax exempt. Defines “qualifying residential facility” to include juvenile or adult correctional facility

Rule 65C-31.002, F.A.C., Case Management for Young Adults Formerly in Foster Care – Clarifies that the Independent Living Program is not an entitlement program. Removes the word “scholarship” for Road to Independence to agree with the law and to clarify that this income is tax exempt. Requires the services worker in consultation with the young adult to determine the frequency of contact. Requires agencies to provide information to all youth regarding public assistance programs and to help the youth apply for these benefits. Reemphasizes that the youth must be advised verbally and in writing and must acknowledge in writing that the information supplied in the application is true and correct.

Rule 65C-31.003, F.A.C., Aftercare Support Services for Young Adults Formerly in Foster Care – Revises forms incorporated by reference.

Rule 65C-31.004, F.A.C., Road to Independence Program – Requires that postsecondary education institutions be covered by the Florida Tuition and Fee Exemption or be recognized by Workforce Florida, Inc. as a eligible training provider. Removes the word “scholarship” for Road to Independence to agree with current law and to clarify that this income is tax exempt. Clarifies that a Road To Independence recipient attending institutions of higher education meets the student eligibility criteria for the Food Assistance Program.

Rule 65C-31.005, F.A.C., Transitional Support Services for Young Adults Formerly in Foster Care – Revises forms incorporated by reference.

Rule 65C-31.006, F.A.C., Young Adult Services Documentation Requirements – Requires greater accountability for case managers and students in documenting enrollment and proof of attendance for students in a GED program. Requires students who participate in a GED program to take the full battery of GED exams that they have not previously passed at least twice per year and that the Community-based care lead agencies shall bear the costs.

Removes the word “scholarship” for Road to Independence to agree with current law and to clarify that this income is tax exempt.

Rule 65C-31.007, F.A.C., High School Needs Assessment – Students living in a qualifying residential facility should not be assessed for Road to Independence funding but shall be assessed for aftercare and/or transitional support services. SSA benefits shall be included in the student’s budget as a deduction.

Rule 65C-31.008, F.A.C., Post Secondary Needs Assessment – Provides that students living in a qualifying residential facility should not be assessed for Road to Independence funding but shall be assessed for aftercare and/or transitional support services. SSA benefits shall be included in the student’s budget as a deduction. Clarifies that federal financial assistance does not qualify for the \$1,500 disregard in determining the student’s needs.

Rule 65C-31.009, F.A.C., Independent Living Benefits Due Process Notification – This section was not considered an emergency as the only change was to remove the word “scholarship” for Road to Independence program.

Rule 65C-31.010, F.A.C., Jurisdictional and Service Requirements for Young Adults Formerly in the Custody of the Department – No change.

Rule 65C-31.011, F.A.C., Independent Living Program Budget Management – Clarifies that the contracted service providers must include all funding in their spending plan including prior funding that was not expended. Requires annual submission of a spending plan that outlines services to be provided to young adults formerly in foster care and stipulates it must be approved by the Department as well as any modification requests that are submitted throughout the year. Requires the Department to review all approved plans: six months after approval for accuracy and needed modifications and at the end of fiscal year to ensure final expenditures are allowable and clients served are eligible. Requires submission and approval of all across the board payment reductions to maximum awards to Road to Independence and/or terminations of Independent Living services due to the availability of funds. Establishes Review Team and outlines membership; requires the team to review the spending plans and modifications to the plans and make recommendations to the Director of Family Safety Program Office. Requires Lead Agencies to repay any payments that are disallowed during the Department’s six month or end of year review if they failed to comply with state or federal regulations; also requires the Lead Agencies to repay any incorrect claim discovered in any federal or state audit.

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

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

RULEMAKING AUTHORITY: 409.145(10) FS.

LAW IMPLEMENTED: 409.1451 FS.

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

DATE AND TIME: Thursday, October 21, 2010, 1:00 p.m. – 5:00 p.m.

PLACE: 1317 Winewood Boulevard, Building 4, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Julie Mayo, Office of Family Safety, 1317 Winewood Boulevard, Building 1, Tallahassee, Florida 32399, phone: (850)922-0375, Email: Julie\_Mayo@dcf.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Marci Kirkland, Office of Family Safety, 1317 Winewood Boulevard, Tallahassee, Florida 32399, phone: (850)487-2464, Email: Marci\_Kirkland@dcf.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

65C-31.001 Definitions.

(1) “Aftercare Support Services” means services intended to assist young adults in developing “the skills and abilities necessary for independent living”. These services specifically include temporary financial assistance, mentoring and tutoring, mental health services and substance abuse counseling, life skills classes, including credit management and preventive health activities, parenting classes, job skills training, and counselor consultations. Temporary assistance to prevent homelessness should be considered emergency assistance.

(2) “Approval Authority” means the staff member(s) designated by the district/region/Community-based care with fiscal authority to approve cash payments. (Note: reviewing and approval authorities may be the same person(s).)

(3) “Case File” means all information for a case contained in the department’s Statewide Automated Child Welfare Information System (SACWIS), i.e., HomeSafenet, as well as the supporting paper documentation gathered during provision of services to that family. The “case file” may also refer to a duplicate, paper copy of the electronic case file and the supporting paper documentation. The department’s SACWIS is the primary record for each investigation and case.

(4) “Contracted Service Provider” means a private agency that has entered into a contract with the department or with a community-based care lead agency to provide supervision of and services to dependent children and children who are at risk of abuse, neglect, or abandonment.

(5) “Denial” means full denial or partial denial, in cases where the department or its contracted service provider does not approve the full amount of funding or services requested.

(6) “Designated Staff” means those staff assigned by the district/region or its contracted service provider to work with youth age 13 up to the 23rd birthday to implement and conduct a program for independent living as mandated by Section 409.1451, F.S.

(7) “Education and Training Vouchers” (ETV) means federal funds provided to young adults formerly in foster care eligible to receive independent living services and youth who were adopted from foster care at age 16 or 17. Students receiving ETV funds must be attending an institution of higher education. ETV funds provide financial assistance to young adults to promote educational and vocational training opportunities.

(8) “Fair Hearings” means the appeals process federally mandated for the title IV-E independent living program by 45 C.F.R. 1356.10 and 45 C.F.R. 1355.30. The required details of this appeals process are provided in 45 C.F.R. 205.10. The Department of Children and Family Services has already incorporated this appeals process, in Chapter 65-2, F.A.C., for other federal public assistance programs. However, certain provisions for Independent Living Fair Hearings which differ from those for other programs will be listed in the [next] draft of Rule 65C-28.0200, F.A.C.

(9) “Interim Child Welfare Services Information System (ICWSIS)”, means the department’s automated system containing invoice data pertaining to services provided to children under the department’s supervision. The ICWSIS is the state’s primary audit record for client specific expenditures until such time that the system’s functionality is subsumed by SACWIS.

(10) “Independent Living Benefit” means any type of financial aid or service provided to eligible young adults pursuant to Section 409.1451(5), Florida Statutes. These benefits are categorized as either aftercare support services, transitional services, or the Road to Independence Program Scholarship.

(11) “Initial Application” means the “Initial Road to Independence Program Scholarship and/or ETV Funds Application” CF-FSP 5295, September 2010 2005, incorporated by reference, is required for the initial Road to Independence Program Scholarship, which can be made anytime prior to the young adult’s 21st birthday. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399.

(12) “Institution of Higher Education” means a school that awards a bachelor’s degree or not less than a two year program that provides credit towards a degree or, provides not less than one year of training towards gainful employment or, is a vocational program that provides training for gainful employment and has been in existence for at least two years. The school must be accredited or preaccredited and is authorized to operate in that state.

(13) “Qualifying residential facility” means a juvenile or adult correctional facility operated by, or licensed by, a governmental entity and which provides housing, including all utilities, and meals, without charge to the resident.

(14)(13) “Reinstatement Application” means the “Road to Independence Program Scholarship and/or Education Training Vouchers (ETV) Funds Reinstatement Application”, CF-FSP 5297, September 2010 2005, incorporated by reference, that must be submitted by a former recipient of the Road to Independence Program scholarship prior to his or her 23rd birthday in order to reinstate their scholarship award after an interruption of benefits. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399.

(15)(14) “Renewal Application” means the “Road to Independence Program Scholarship and/or ETV Funds Renewal Checklist” CF-FSP 5296, September 2010 2005, incorporated by reference, means the application that must be submitted by Road to Independence scholarship recipients on an annual basis in order to continue his or her stipend scholarship award. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399.

(16)(15) “Reviewing Authority” means the staff member(s) or committee head(s) designated by the district/region or community-based care to review the applications associated with Section 409.1451, F.S., and determine eligibility.

(17)(16) “Road to Independence Scholarship Program” means the financial educational assistance available to qualifying young adults under the eligibility requirements contained in Section 409.1451(5)(b), F.S.

(18)(17) “Services Worker” means an employee of the department or its contracted service provider who is accountable for service delivery regarding safety, permanency, and well-being for a caseload of children and families under supervision. This includes an individual assigned to assist a young adult formerly in the custody of the department who is receiving independent living services.

(19)(18) “Special Immigrant Juvenile Status” means an immigration benefit that allows undocumented children who have been abused, abandoned or neglected to petition for permanent resident status as long as he or she meets the following criteria:

- (a) The child is eligible for long term foster care;

(b) It is in the best interest of the child to remain in the United States; and

(c) The child remains under the jurisdiction of the juvenile court.

~~(20)(19)~~ “Statewide Automated Child Welfare Information System (SACWIS)” (i.e., HomeSafenet), means the department’s statewide automated system containing all reports, investigations, special conditions referrals, child-on-child sexual abuse reports and related child safety assessments and safety actions or plans and cases regarding child abuse, neglect or abandonment and pertinent information regarding all activities involved in investigative and some case management functions, including the Child’s Resource Record. The SACWIS is the state’s primary record for each investigation and case and all documentation requirements of the system shall be met.

~~(21)(20)~~ “Transition Plan”, CF-FSP 5293, September 2010 ~~2005~~, incorporated by reference means the required written plan that contains specific strategies to assist the young adult with achieving self-sufficiency and developing a personal support system. This plan is created by the young adult with the assistance of the department or its contracted service provider. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399.

~~(22)(21)~~ “Transitional Support Services” means “other appropriate short-term services” to be provided if the young adult demonstrates that the services are critical to the young adult’s own efforts to achieve self-sufficiency and to develop a personal support system. These may include financial, housing, counseling, employment, education, mental health, disability, and other services. Financial transitional support services may be provided in increments of up to 3 months. The young adult must apply again to obtain further transitional funds. See paragraph 65C-31.005(4)(b), F.A.C.

Rulemaking Specific Authority 39.5075(8), 409.1451(10) FS. Law Implemented 39.5075, 409.1451 FS. History—New 7-27-06, Amended \_\_\_\_\_.

65C-31.002 Case Management for Young Adults Formerly in Foster Care.

(1) The services that shall be provided to young adults formerly in foster care to transition successfully to independent living shall include, as appropriate for the individual young adult:

(a) Aftercare support services,

(b) Road to Independence (RTI) ~~Scholarship~~ Program, and

(c) Transitional support services, as specified in Section 409.1451(5)(c)1., F.S.

The Independent Living Program is not an entitlement program. Services provided to eligible youth are based on the availability of funds to provide these services.

(2) Case Management/Contact with Young Adults Formerly in Foster Care/Support by Services Worker.

(a) Depending upon the stated wishes and needs of the young adult formerly in foster care, services worker support through home visits, office visits, and other types of contact shall occur.

(b) A plan for transition is required for all recipients of RTI scholarship and/or transitional support funds.

(c) The services worker shall arrange and provide services to support young adults formerly in foster care between the ages of 18 and up to his or her 23rd birthday.

(d) The services worker shall provide young adults formerly in foster care with developmental disabilities, mental health needs, and/or other special needs more contact, as necessary, to assist in the ability of the young adult to transition successfully to independent living.

(e) The frequency of contact by the services worker with the young adult shall be determined by the services worker ~~young adult~~ in consultation with the young adult services worker.

(3) Preparation and Education of the Child/Youth Age 16-17 in Foster Care. The services worker shall arrange or provide the services necessary to ensure that preparation/education for the young adult formerly in foster care to achieve independence occurs.

(4) Initial Application, Renewal and Reinstatement for the RTI Program Road to Independence Scholarship. The RTI Road to Independence Act provides specific direction for young adults formerly in foster care to renew or continue receiving benefits and to reinstate, one time only, benefits for young adults whose ~~scholarship~~ benefits were interrupted and who wishes to begin receiving benefits again.

(5) Selecting the Appropriate Funding Source for Young Adult Services (Chafee or Education and Training Voucher [ETV]).

(a) Two major types of federal funding sources are available to support the program for young adults formerly in foster care: Chafee funds and ~~Education and Training Voucher (ETV)~~ funds. The services worker shall determine the appropriate fund in order to comply with federal regulations and to maximize available funding.

(b) ETV funds have more restrictions than Chafee funds and shall be used for eligible students as the first option.

1. ETV may be used only for eligible students attending a postsecondary (college, university or vocational) school either part-time or full-time.

2. Chafee funds may be used for any of the young adult services identified in Florida Statutes, though not for young adults age 21 or 22.

3. State funds must be used for young adults age 21 and 22 if they are not eligible for ETV funds.

(6) Young Adults Formerly in Foster Care with Children of Their Own.

(a) The services worker shall determine which funds may be used for children whose parents are young adults formerly in foster care.

(b) If the parent of a child in a dependency case is a young adult formerly in foster care, the processes required in Chapter 39, F.S., for any parent still apply. Case planning, case management and required contacts shall continue as with any other dependency case.

(7) Selection of Placements for Young Adults Formerly in Foster Care. Prior to his or her 18th birthday, each young adult formerly in foster care shall choose the placement that best suits his or her needs. The services worker assigned to work with a young adult shall provide information to the young adult so as to assist in the best decision making.

(a) If the young adult elects to reside in the same or different licensed placement after reaching age 18, the services worker assigned to work with the young adult shall assist both the placement provider and the young adult to understand the roles and the responsibilities of continuing this placement after the young adult's eighteenth birthday.

(b) A young adult who continues with the foster family shall not be included as a child in calculating any licensing restriction on the number of children in the foster home.

(8) Implementation Plan, Steps for Effective Implementation.

(a) Program for Young Adults Formerly in Foster Care. This plan shall be used in order to develop each departmental district/ region or contracted service provider specific implementation plan.

(b) Steps for Effective Implementation:

1. Departmental districts/regions and contracted service providers shall designate staff responsible for receiving inquiries about services available to young adults formerly in foster care. The departmental district/region and contracted service providers shall also develop methods to provide information about ETV, prior to their 18th birthday, to youth adopted from foster care at ages 16 and 17, and to perform outreach for those adopted since July 1, 1999.

2. District/region and/or contracted service providers shall develop a process with fiscal/budget staff to ensure expedited and/or emergency assistance is provided.

3. District/region and/or contracted service providers shall develop a tracking system for approved cash assistance payments until such time as Florida Safe Families Network (FSFN) HSN can capture this information.

4. Pursuant to Chapter 39 and Section 409.1451, Florida Statutes, district/region and community-based care agencies must inform all youth aging out of foster care, prior to age 18, of these benefits. In addition, the agencies must provide information to all youth about public assistance programs (cash assistance, food stamps, Medicaid, etc.) and help in applying for these benefits.

(9) ETV Education and Training Voucher Funds.

(a) ~~Education and Training Voucher (ETV)~~ Program Requirements.

1. Young adult must have been:

a. Adjudicated dependent, pursuant to Chapter 39, F.S., have been in the custody of the State of Florida on his or her 18th birthday and have spent at least 6 months in foster care prior to reaching his or her 18th birthday; or

b. Adopted from the Florida foster care system at age 16 or 17 as of July 1, 1999.

2. Young adults are potentially eligible for services from age 18 through age 22.

3. Initial application must be completed before 21st birthday.

4. Benefits from this and other federal educational assistance sources may not exceed the young adult's "cost of attendance" at an "institution of higher education," as defined by federal statute.

5. The young adult must be attending an institution of higher education.

6. The young adult may receive a maximum of \$5000 per year towards the payment of RTI ~~stipend~~ Scholarship awards.

7. For a student attending an institution of higher education on a part-time basis, ETV funds of up to \$5000 per year may be used to pay for Transitional Support Services.

8. The young adult shall provide proof of enrollment and satisfactory progress.

(b) Application for ETV Funds.

1. Students applying for the RTI Program Road to Independence (RTI) Scholarship will use the application form "Road to Independence Program Scholarship and/or ETV Funds Application", CF-FSP 5295, September 2010 ~~2005~~, incorporated by reference, unless they are attending school part-time. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399. If determined eligible for ETV, a portion of the student's RTI ~~stipend~~ scholarship award will be covered by ETV funds. The maximum per student per year is \$5000.

2. Students attending school at least part-time may receive ETV funds. These students shall complete the "Transitional Support Eligibility and/or Education Training Vouchers (ETV) Funds Application" CF-FSP 5292, September 2010 ~~2005~~, incorporated by reference, and can receive up to \$5000 per year, which may be funded by ETV. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399.

3. ETV funds are used for educational assistance currently authorized in Florida Statutes. The only new eligible group is young adults formerly in foster care adopted at age 16 or 17.

4. Chafee funds shall be used to cover the costs of RTI stipends ~~Road to Independence Scholarships~~ for high school/GED students, for those students attending institutions

not meeting the federal definition of higher education, for transitional support services (exclusive of support for attendance at institutions of higher education), and for aftercare services.

5. Upon application for any independent living services, youth shall be provided with information regarding the appeal process, as well as the “Independent Living Benefits Due Process Rights” brochure, CF/PI 175-11, September ~~2010~~ ~~2005~~, incorporated by reference. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399. This includes applications for services made in anticipation of the youth’s 18th birthday. In addition, the youth must be advised verbally and in writing and must acknowledge in writing that the information supplied in his/her application(s) for services must be true, complete, and correct.

Rulemaking Specific Authority 409.1451(10) FS. Law Implemented 409.1451 FS. History–New 7-27-06, Amended \_\_\_\_\_.

65C-31.003 Aftercare Support Services for Young Adults Formerly in Foster Care.

(1) The services worker shall provide support to young adults formerly in foster care through making of service referrals in the community to assist young adults in developing “the skills and abilities necessary for independent living”.

(2) Eligibility for Aftercare Support. A young adult who leaves foster care at age 18 but requests services prior to his or her 23rd birthday shall be eligible for aftercare support services. There is no formal written application to receive aftercare support service referrals.

(3) Application Process for Aftercare Support Cash Assistance.

(a) The services worker shall assist the young adult to receive cash assistance for housing, electric, water, gas, sewer service, food, and any other provisions permitted under Section 409.1451(5)(a), F.S. Prior to arranging for the provision of cash assistance, the services worker shall explore the feasibility of agreements with community providers to waive fees, contacting relatives and other such options.

(b) The young adult shall complete the “Aftercare Support Services Cash Assistance Application”, CF-FSP 5294, September ~~2010~~ ~~2005~~, incorporated by reference.

(c) If a young adult requests further services, see Rule 65C-31.005, F.A.C., Transitional Support Services for Young Adults Formerly in Foster Care.

(4) Payment Requirements for Aftercare Support Services Recipients. The services worker responsible for the case shall choose between making one payment directly to the young adult formerly in foster care or, at the request of the young adult, paying all or a portion of the funds to a service provider.

Rulemaking Specific Authority 409.1451(10) FS. Law Implemented 409.1451(1), (2), (3)(a), (c), (d), (5)(a) FS. History–New 7-27-06, Amended \_\_\_\_\_.

65C-31.004 Road to Independence Program (RTI) Scholarship.

(1) Initial Application for RTI Program Scholarship Eligibility. Each student, with the assistance of the services worker if requested by the young adult, shall complete an RTI Program Scholarship Application. This application shall be completed and signed by the student, reviewing authority and approval authority and a copy must be placed in the case file.

(a) For the initial award, a young adult formerly in foster care must:

1. Be age 18, 19 or 20;
2. Have been a dependent child pursuant to Chapter 39;
3. Be or have been in the legal and/or physical custody of the Department of Children and Family Services at the time of his or her 18th birthday.

4. Have spent at least 6 months in foster care before reaching his or her 18th birthday, which may include the time the youth spent in shelter status in state custody;

5. Be a resident of Florida per Section 1009.40, F.S.; and

6. Meet one of the following educational requirements:

a. Earned a standard high school diploma or its equivalent as described in Section 1003.43 or 1003.435, F.S., or earned a special diploma or special certificate of completion as described in Section 1003.438, F.S., and has been admitted for full-time enrollment in an eligible postsecondary education institution as defined in:

(I) Section 1009.533, F.S., if the institution accepts the Florida Tuition and Fee Exemption provided in Section 1009.25, F.S. For good cause shown, the Secretary and/or designee may waive the requirement for educational institutions to comply with Section 1009.25, F.S.; or

(II) Section 445.09(7), F.S. that addresses eligible training providers recognized by Workforce Florida, Inc.

b. Is enrolled full time in an accredited high school, unless he or she has a documented disability and has provided documentation that part-time attendance is a necessary accommodation; or

c. Is enrolled full time in an accredited adult education program designed to provide the student with a high school diploma or its equivalent, unless he or she has a documented disability and has provided documentation that part-time attendance is a necessary accommodation.

(b) In addition, young adults age 18 up to their 23rd birthday who were adopted from foster care at age 16 or 17 and are attending an institution of higher education, whether on a full or part time basis, and meet the other criteria set forth for RTI Program scholarship eligibility are eligible to receive the RTI stipend scholarship award. The same application shall be used for children adopted at age 16 or 17 applying for ETV funds. These funds are intended to assist in meeting the student’s living expenses or provide for basic personal needs.

(c) Application Process for RTI Program Scholarship.



1. The services worker shall assist each youth between the ages 17 years, 6 months and 18 years of age to apply for the RTI Program Road to Independence Scholarship. The youth shall:

- a. Complete the application.
- b. Obtain document of proof of enrollment.

2. Each departmental district/region or contracted service provider shall designate a services worker to assist each young adult applying for or receiving independent living services. The young adult shall submit his or her application to the Independent Living services worker designated by the department or its contracted service provider. The Independent Living services worker shall have 10 working days to review the application and approve or deny the RTI stipend scholarship award or, if not the approval authority, shall forward the request to the approval authority early enough to have it approved within the ten-day period.

3. If approved, the services worker or Independent Living services worker shall notify the youth in writing within 10 working days of the determination. The monthly RTI stipend scholarship award shall be distributed at the beginning of the month that the recipient turns 18 years of age or, if approval occurs after the youth's 18th birthday, at the beginning of the next month following approval of the application. For youth approved prior to their 18th birthday, the first monthly RTI stipend scholarship award shall not be prorated regardless of the day of the month recipient turns 18 years of age.

4. If the application is denied, the services worker or Independent Living services worker shall notify the youth in writing within 10 working days of the determination and shall provide the youth the procedure for filing an appeal and the "Independent Living Benefits Due Process Rights" brochure, CF/PI 175-11, September 2010 2005, incorporated by reference, and notify the youth of other available benefits, including transitional support services or aftercare support.

5. If a young adult formerly in foster care did not complete the application process prior to his or her 18th birthday, or if the application was not approved, the young adult may apply once prior to his or her 21st birthday. The eligibility requirements contained in paragraph 65C-31.004(1)(a), F.A.C., apply. No retroactive benefits are available due to delayed completion of the application process by the youth.

(2) RTI Program Scholarship Renewal. The services worker shall evaluate for renewal each RTI stipend scholarship award annually during the 90-day period before the student's birthday. In order to be eligible for a renewal award for the subsequent year the student shall:

(a) Complete the number of hours, or the equivalent considered full time by the educational institution, in the last academic year in which the young adult earned a RTI stipend scholarship, except for a young adult who meets the requirements of Section 1009.41, F.S.

(b) Maintain appropriate progress as required by the educational institution, except that, if the young adult's progress is insufficient to renew the RTI stipend scholarship at any time during the eligibility period, the young adult may restore eligibility by improving his or her progress to the required level.

(3) RTI Program scholarship Reinstatement. A student who has lost eligibility for the RTI stipend scholarship or who choose not to renew the award may apply for reinstatement one time only before his or her 23rd birthday using "Road to Independence Program scholarship and/or Education Training Vouchers (ETV) Funds Reinstatement Application", CF-FSP 5297, September 2010 2005, incorporated by reference. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399. In order to be eligible for reinstatement the student must meet the eligibility criteria and the criteria for RTI Program scholarship renewal.

(4) RTI Program Scholarship Needs Assessment. An RTI Program Needs Assessment must be completed on each student who has been awarded the RTI stipend scholarship.

(a) State Requirements. The amount of the award, whether it is being used by a young adult working toward completion of a high school diploma or its equivalent or working toward completion of a postsecondary education program, shall be determined based on an assessment of the funding needs of the young adult. This assessment shall consider the young adult's living and educational costs and other grants, scholarships, waivers, earnings, and other income to be received by the young adult.

(b) Federal Requirements. The total amount of ETV funds and any other federal educational assistance to the young adult shall not exceed the young adult's cost of attendance.

(5) Payment Requirements for RTI Program Scholarship Recipients.

(a) The services worker responsible for the case shall determine how the monthly RTI stipend scholarship awards will be paid according to either of the two following methods:

1. Direct payment to the young adult,

2. Payment of a portion of the RTI stipend scholarship award to a service provider and the balance to the young adult, if requested by the young adult. If the young adult makes this request, it must be made in writing.

(b) ETV funds are available pursuant to the following:

1. For students attending an institution of higher education, including community college, university or vocational education courses. High school or GED attendance does not qualify.

2. For youth adopted at age 16 or 17 from foster care who are attending an institution of higher learning.

3. Part-time attendance at an institution of higher education may qualify young adults under Florida's transitional support services component.

(c) Renewal of Road to Independence Program Scholarships.

1. Young adults formerly in foster care are required to renew their RTI stipends scholarships on an annual basis.

2. Departmental districts/regions or contracted service provider agencies shall develop a plan for renewal of RTI stipends scholarships. At a minimum, the plan shall address the tracking and scheduling of RTI Program scholarship renewals and those staff responsible for notifying for these activities as well as notifying the RTI Program scholarship recipient of his or her obligations during the renewal period.

3. Each approved award shall be evaluated and renewed during the 90-day period prior to the young adult's birthday.

4. If the young adult is awarded a RTI stipend scholarship within 90 days prior to his or her next birthday, he/she is not required to file for renewal until the following birthday.

5. For young adults who were adopted from foster care at age 16 or 17, the same procedures established above shall be followed when renewing their ETV funds.

(d) Eligibility to Renew RTI Stipend Road to Independence Scholarships. The young adult shall:

1. Make one application for the initial award prior to his or her 21st birthday.

2. Complete the number of hours, or the equivalent considered full time by the educational institution, in the last academic year in which the young adult earned a scholarship, except for a young adult who meets the requirements of Section 1009.41, F.S.

3. Maintain appropriate progress as required by the educational institution, except that, if the young adult's progress is insufficient to renew the scholarship at any time during the eligibility period, the young adult may restore eligibility by improving his or her progress to the required level.

(e) Documentation Requirements for RTI Program Scholarship Recipients. All eligible recipients shall:

1. Provide documentation of enrollment in a high school or institution of higher education; and

2. Provide documentation of progress made in his or her course of study during the most recently completed school term.

(f) RTI recipients attending institutions of higher education are participating in an activity equivalent to an acceptable food stamp employment and training program component as specified in 7 CFR 273.7. This activity meets the student eligibility criteria for the Food Assistance Program.

Rulemaking Specific Authority 409.1451(10) FS. Law Implemented 409.1451(1), (2), (3)(a), (c), (d), (5)(b) FS. History—New 7-27-06, Amended \_\_\_\_\_.

65C-31.005 Transitional Support Services for Young Adults Formerly in Foster Care.

(1) A young adult formerly in foster care may request Transitional Support Services in addition to aftercare referrals, cash assistance or the Road to Independence Scholarship if the young adult demonstrates that the services are critical to his or her own efforts to achieve self-sufficiency and develop a personal support system.

(2) Eligibility/Assessment for Transitional Support. In order to be eligible, the young adult shall:

(a) Be age 18, 19, 20, 21 or 22;

(b) Have been a dependent child pursuant to Chapter 39, F.S.;

(c) Be or have been in the legal and/or physical custody of the Department of Children and Family Services at the time of his or her 18th birthday.

(d) Have spent at least 6 months in foster care before his or her 18th birthday.

(e) Demonstrate that the services are critical to his or her own efforts to achieve self-sufficiency and to develop a personal support system. The young adult shall complete a "Transition Plan", CF-FSP 5293, September 2010 2005, incorporated by reference, with designated staff of the department or its contracted service provider.

(3) If at any time the services are determined by the services worker as no longer critical to the young adult's own efforts to achieve self-sufficiency and to develop a personal support system, they shall be terminated or reapplication denied.

(4) Application Process to Receive Transitional Support Services.

(a) A Transitional Support Services application shall be completed by the young adult with assistance from the assigned services worker. The "Transitional Support Eligibility and/or Education Training Vouchers (ETV) Funds Application" CF-FSP 5292, September 2010 2005, incorporated by reference, shall be used to apply for these services.

(b) An application for Transitional Support Services is limited to a maximum three-month benefit period. A young adult may re-apply for Transitional Support Services after the three-month period but must demonstrate that the services are vital for achieving self-sufficiency.

(5) Transition Plan. Each young adult requesting transitional support services shall prepare a transition plan using "Transition Plan", CF-FSP 5293, September 2010 2005, incorporated by reference. This plan shall:

(a) Outline the types of services being provided by the department and the types of activities that the young adult will complete in order to achieve self-sufficiency.

(b) Be reviewed a minimum of every three months, if the young adult intends to re-apply for services, and adjusted according to the young adult's needs at the time of review and reapplication.

(6) Service Worker and Young Adult Contact Requirements. The services worker shall work with the young adult formerly in foster care to determine the need for contact.

(7) Payment Requirements for Transitional Support Services Recipients. Payments shall be made directly to the young adult formerly in foster care unless the young adult requests all or a portion of the funds be paid to a service provider. This request shall be made in writing.

(8) Confidentiality. The youth's status as a former foster youth and recipient of public benefits is confidential and shall not be revealed to anyone without the youth's permission. Staff shall not have direct contact with the youth's landlords or third parties, unless the youth provides written permission.

(9) Mandatory Access to Application for Services.

(a) Services workers shall process a young adult's request for assistance. If a young adult requests assistance in completing the application, the services worker shall provide the requested assistance.

(b) Each office of the department or its contracted service provider involved in serving young adults formerly in the custody of the department shall maintain application forms for the Road to Independence Scholarship, Transitional Support Services and Aftercare Support Services in a visible area and shall assist the youth with completing the application forms.

(10) Youth with Disabilities. Youth who have disabilities shall be provided with an equal opportunity to participate in the continuum of independent living services.

(a) Though a youth who has a physical, emotional, or learning disability may need additional support, he or she still is eligible for all independent living and post-18 services.

(b) Each office of the department or its contracted service provider involved in serving young adults formerly in the custody of the department shall provide youth with disabilities with reasonable accommodations and appropriate services to ensure the equal opportunities and participation of these youth.

(11) Youth who are Pregnant or Parenting. Youth who are pregnant or who are parenting shall be provided with an equal opportunity to participate in the continuum of independent living and post-18 services. The services worker shall assist these youth with accessing needed services, such as prenatal care, daycare, other public benefits, and appropriate housing.

Rulemaking Specific Authority 409.1451(10) FS. Law Implemented 409.1451(1), (2), (3)(a), (c), (d), (5)(c) FS. History--New 7-27-06, Amended \_\_\_\_\_.

65C-31.006 Young Adult Services Documentation Requirements.

(1) General Documentation Requirements.

(a) Pursuant to federal documentation requirements, for each young adult receiving funding from the RTI Program Road to Independence Scholarship, transitional support services and/or aftercare support services the department or its contracted service provider shall have an active case and a case file containing at minimum:

1. A document that contains current demographic information on the student such as, name, address, DOB, social security number, school attending, etc.

2. Completed applications signed by the young adult and review and approval authorities.

3. Follow up renewal applications or evidence of review of transitional support services cases.

4. Completed Needs Assessments for RTI cases.

5. Documentation to support eligibility requirements for the services provided.

(b) When requesting documentation from the young adult, the services worker shall use "Request for Road to Independence Program Scholarship Documentation" CF-FSP 5302, September 2010 ~~2005~~, incorporated by reference. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399.

(2) Documentation Requirements for Aftercare Support Services. The following documentation requirements apply to both referrals and cash assistance.

(a) Requests for Aftercare Support service referrals shall be recorded in the young adult's case file.

(b) Requests for Aftercare support cash assistance shall be recorded in the young adult's case file. The application shall be kept in a hard copy file.

(c) The services worker shall verify the young adult is in need of services through an eviction notice; utility cut-off notice or similar document; estimate of move-in costs, or by assessing the situation through an interview with the young adult.

(3) Documentation Requirements for RTI Program Road to Independence Scholarship. The services worker or other designated staff of the department or its contracted service provider shall maintain the following documentation in the case file of each young adult receiving the RTI stipend Road to Independence Scholarship to verify the young adult's eligibility for the initial application, ongoing eligibility, at renewal and for reinstatement.

(a) Initial RTI Program Scholarship Approval Documentation Requirements. In order for a student to be eligible for the Road to Independence Scholarship.

1. Documentation of application(s) for the RTI Program Scholarship, including the initial, renewal and reinstatement applications. The services worker shall maintain the following documentation in the young adult's case file:

- a. Renewal checklists,
- b. Chronological entries of contacts made,
- c. All completed scholarship applications, including as appropriate, the initial, renewal and reinstatement applications,
- d. A log of financial disbursements, and
- e. Any other pertinent supporting documentation.

2. Documentation for Eligibility Requirements.

a. Each student, with the assistance of the services worker, shall complete an RTI Program Scholarship Application. This "application" shall be completed and signed by the student, reviewing authority and approval authority and a copy shall be placed in the case file.

b. Adjudication of dependency shall be documented by placement in the case file of at least one of the following documents:

(I) Adjudicatory Order if there is follow up documentation indicating that the student was placed in foster care.

(II) Dispositional Order if the order placed the student in foster care or if there is follow up documentation indication that the student was placed in foster care.

(III) Judicial Review Order if the order indicates that the student was adjudicated dependent and placed in foster care. The Judicial Review Social Study Report shall be an acceptable source of supporting documentation if information regarding adjudication of dependency and status in foster care are mentioned in the report.

(IV) A Criminal Justice Information System (CJIS) if it is a complete report that includes adjudication date and date placed in foster care.

c. Documentation that the student was living in licensed foster care at age 18 shall be provided by placement in the case file of at least one of the following documents:

(I) Judicial Review Order or other Court Order if the order indicates that the student was living in foster care on his or her 18th birthday. The order may contain language releasing child from foster care on 18th birthday. The Judicial Review Social Study Report shall be an acceptable source of supporting documentation if information regarding adjudication of dependency and status in foster care are mentioned in the report.

(II) An Integrated Child Welfare Services Information System (ICWSIS) printout showing child in placement on 18th birthday if other supporting documentation such as orders are in the file verifying that the child was in custody of the department.

d. Documentation that the student spent at least six months in foster care before reaching his or her 18th birthday shall be provided by placement in the case file of at least one of the following documents:

(I) An ~~Integrated Child Welfare Services Information System (ICWSIS)~~ printout providing at least six months of residing in licensed care prior to the students 18th birthday if other supporting documentation such as orders are in the file verifying that the child was in custody of the department.

(II) A Statewide Automated Child Welfare Information System (SACWIS) printout showing six months of licensed placement.

e. Documentation that the student is a Florida resident shall be provided by placement in the case file of at least one of the following documents:

(I) Driver's license or Florida Identification card.

(II) Document proving Florida residence, including but not limited to, a copy of an RTI check, an electric bill, a lease, a current school enrollment form.

3. Documentation for Educational Requirements.

a. Full-time enrollment by the student in university, college or community college shall be documented by placement in the case file of at least one of the following documents:

(I) A current enrollment form or letter from the institution clearly showing the student enrolled for at least 12 credit hours.

(II) If the student is enrolled fewer than 12 hours, a current enrollment form or letter from the institution stating that the student is enrolled full-time.

b. Full-time enrollment by the student in vocational school, high school or GED shall be documented by placement in the case file of an enrollment form or letter from the school that states that he or she is a full-time student.

(I) For students in a General Education Development (GED) program, this documentation shall also include documentation in the case file notes that a school official has been contacted and has verified continued full-time enrollment of the student and that the student meets any attendance requirements of the GED program to be considered enrolled full-time.

c. Students must be able to periodically prove that they continue to be enrolled and attending school full-time. This shall be verified by placement in the case file of at least one of the following forms of documentation:

(I) A progress report from the school.

(II) Document in case notes that a school official has been contacted and has verified continued full-time enrollment of the student. The name, title, school and phone number for the school official who has been contacted shall also be included in the case note.

d. At the end of each semester the student shall provide the following documents and a copy shall be placed in the case file:

(I) A report card showing completion of classes registered for previously; and

(II) An enrollment form or letter from the educational institution showing full-time enrollment for the following semester.

(III) If participating in a GED program, the student shall submit the results of the most recent exam attempt(s). Full time students must take the full battery of GED exams that they have not previously passed at least twice per year. Community-based care lead agencies shall bear the costs for students to take the exams as required by this provision.

(b) RTI Program Scholarship Renewal Documentation Requirements.

1. For each student the services worker shall complete a "Road to Independence Program Scholarship and/or ETV Funds Renewal Checklist" CF-FSP 5296, September 2010 2005, incorporated by reference. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399. The completed checklist shall be signed by the student, reviewing authority and approval authority and a copy shall be placed in the case file.

2. The case file shall also contain:

a. Proof of full-time enrollment at the institution, unless exempted, and

b. Proof of satisfactory progress at the institution.

(c) RTI Program Scholarship Reinstatement Documentation Requirements.

1. Each student who wishes to apply for reinstatement shall complete a "Road to Independence Program Scholarship and/or Education Training Vouchers (ETV) Funds Reinstatement Application", CF-FSP 5297, September 2010 2005, incorporated by reference. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399.

2. This application shall be completed and signed by the student, reviewing authority and approval authority and a copy shall be placed in the case file.

3. The case file shall also contain:

a. Proof of eligibility,

b. Proof of full-time enrollment at the institution, unless exempted, and

c. Proof of satisfactory progress at the institution.

(d) Road To Independence Program RTI Scholarship Needs Assessment. ~~An Road To Independence Program RTI Needs Assessment shall be completed on each student who has been awarded the RTI stipend scholarship. See Rule 65C-31.007, F.A.C., High School Needs Assessment, and Rule 65C-31.008, F.A.C., Postsecondary Needs Assessment.~~

(4) Documentation Requirements for Transitional Support Services.

(a) A case shall be open in the ~~Statewide Automated Child Welfare Information System (SACWIS)~~ and a hard copy case folder is required for any documentation not contained in the electronic system.

(b) Staff are required to maintain the following documentation in the youth's case file: chronological entries to document face to face contacts, phone calls, and other contacts such as letters, facsimile transmissions or e-mail correspondence, documentation of referrals for services and documentation of young adults progress in attaining his or her transition plan, including:

1. Completing the attached application,

2. Obtaining a copy of documentation of grade point average,

3. Obtaining document of proof of enrollment,

4. Performing any other specific tasks identified in transition plan.

(c) Other required documentation for Transitional Support Services that shall be maintained in the case file is:

1. The completed transitional support services application,

2. The completed transitional plan, and

3. Documentation that the young adult meets the requirements for eligibility for transitional support services.

Rulemaking Specific Authority 409.1451(10) FS. Law Implemented 409.1451(1), (2), (3)(a), (c), (d), (5)(a), (c) FS. History--New 7-27-06, Amended \_\_\_\_\_.

65C-31.007 High School Needs Assessment.

(1) The Road to Independence Program Scholarship Needs Assessment for high school education has been developed to determine the funding needs of a young adult student formerly in foster care attending high school after considering other income sources. This section does not apply to any student who is living in a qualifying residential facility. These students shall be assessed for aftercare and/or transitional support services.

(2) Procedure:

(a) Before completing the Road to Independence Program Scholarship Needs Assessment, the services worker shall verify that the student has submitted a Road To Independence an RTI scholarship application and has been determined eligible to receive an award.

(b) The amount of the monthly scholarship award shall not exceed the federal minimum wage times 40 hours per week times 4.33 weeks per month.

(c) In order to complete the Road to Independence Program Scholarship Needs Assessment, the services worker shall meet with the student and explain the needs assessment process to the student and obtain the required information and, when applicable, supporting documentation. For students located out-of-state, a phone interview is sufficient.

(d) If the student has not provided all necessary documentation and information the services worker shall provide a written list of items needed for the needs assessment process to be completed. The written list shall also include a due date for all requested items to be submitted to ensure that benefits will not be reduced or interrupted. This list shall include:

1. A statement that the requested information is needed before the needs assessment tool is processed;
2. A date by which the information must be received; and
3. A statement that the student's benefits will be initially established or reduced to the minimum award amount of \$25 until the information is provided. Once the information has been provided the services worker shall have 7 calendar days to process the needs assessment.

(e) No later than 30 days prior to the student's 18th birthday, or, if the student is 18 years of age or older, within 30 days after receiving the application and all required documentation and information, the department shall notify the student, in writing, of the award amount and the anticipated date of first payment. This notification shall also include the process for appealing the amount of the award (See attachment E).

(3) Elements of the Tool: The elements listed below correspond to the elements in the "Road to Independence Program Scholarship High School Needs Assessment Tool" CF-FSP 5299, September 2010 ~~2005~~, incorporated by reference. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399. An explanation of each element and instructions for obtaining the correct figures are included. There is an electronic version of the form that will perform the required calculations as data is entered on the form.

(a) Total Cost of Attendance: The maximum award that a student can receive is equivalent to the amount one would earn by working a full-time federal minimum wage job. The monthly amount has been computed to a yearly amount and has been included in the "cost/need" column on the "Total Cost of Attendance" (COA) line. Deductions will be subtracted from this figure to establish the RTI award amount.

2. Funds received from aftercare and transitional support services do not count against the "cost of attendance" for high school students. 1. In addition to the RTI award, a high school student may apply for aftercare and/or transitional support services, when needed.

(b) Special Needs Allowance: If a student expects to incur special costs during the academic year, the services worker shall obtain documentation of the special needs from the student and enter the amount on the "Special Needs Allowance" line on the needs assessment tool.

1. Costs that can be included in the "Special Needs Allowance" include but are not limited to: costs associated with a special field of study requiring additional costs such as nursing uniforms for nursing students, special equipment or assistance needed for disabled students, child care costs for students with dependent children, and medical or dental expenses not covered by medical insurance.

2. The services worker shall determine the validity of the request for special needs allowance, determine that the cost is associated with assisting in educational achievement and that the costs are not already included in the cost of attendance figure.

(c) Earned Income: If the student is employed, a verification of his or her earned income is required.

1. The services worker shall provide the student with two options for verifying earned income:

a. The student may provide recent pay stubs. The pay stubs must be averaged to compute a monthly amount.

b. The student may instead submit a letter from his or her employer stating the average number hours to be worked per month and the hourly wage.

2. Include the amount in the "income" column on the "Student's Monthly Wages" line. The monthly amount will automatically be calculated into a yearly figure on the next box below.

(d) Income Protection Allowance: The "Income Protection Allowance" figure is already included on the needs assessment form. This figure is equal to what a student would earn by working 20 hours per week at Florida's minimum wage computed over 12 months. Any student income less than or equal to this amount is disregarded for purposes of computing the scholarship amount. This means that a student may work the equivalent of a part-time job at Florida's minimum wage without impacting his or her RTI award.

(e) Student's Available Income: This is the amount of student income after deducting the "Income Protection Allowance." The electronic version of the form calculates this amount automatically.

(f) Contribution from Income: The federal financial aid application process allows for half of the "Student's Available Income" to count as a deduction when determining financial need. The electronic version of the needs assessment form automatically calculates the "Contribution from Income" figure and enters it in the "deductions" column.

(g) Federal Income: The services worker completing the needs assessment shall inquire and verify through available resources whether the student is receiving funds from any other source including Supplemental Security Income (SSI) and Social Security (SSA). The student shall have a choice, based on his or her individual situation, whether or not to include ~~SSI/SSA~~ SSI/SSA benefits shall be included in his or her budget as a deduction. The staff shall assist the student in maximizing all benefits to

attend school and for his or her living needs. Any child support or other funds received (i.e., WAGES, Food Stamps, etc.) on behalf of the student's child shall not be included as income in the needs assessment.

(h) Totals: The electronic version of the needs assessment form automatically calculates the totals in the "cost/need" column and the "deductions" column.

(i) Total Need: The electronic version of the needs assessment form automatically subtracts the "deductions" from "cost/need" to get the "total need" amount.

(j) Adjusted Total Need: If the "Total Need" figure exceeds the amount equal to a full-time federal minimum wage job computed over 12 months the electronic version of the needs assessment form will automatically adjust the figure to that amount and enter the adjusted figure in the "cost/need" column.

(k) Aftercare and Transitional Support Services Funds Provided – Year to Date: Indicate the amount of Aftercare and/or Transitional Support Services Funds that have been provided to the student during the fiscal year (July 1st through June 30th). These funds shall not be factored as a deduction for the monthly scholarship award.

(l) Monthly RTI Program Scholarship Award: The electronic version of the needs assessment form automatically calculates the monthly award amount by dividing the "adjusted total need" by 12 months. The electronic version of the form automatically adjusts the monthly award to \$25, in the following row, if the award calculates to less than \$25 per month.

(4) Needs Assessment Totals. The bottom of the electronic version of the needs assessment form displays calculations of the total income and benefits for the student. These totals are calculated automatically based on the information input by staff. The totals calculated are:

(a) Total Earned and Unearned Income: This shows the student's annual amount of Earned Income plus Other Income, without deductions.

(b) Annual RTI Program Scholarship Award: This is the monthly scholarship award multiplied by 12.

(c) Total Annual Income Available to the Student: This is the amount of income from all sources and represents the total amount of income available to the student for educational and living needs.

(d) Monthly Income Available to the Student: This is the amount of income available to the student on a monthly basis.

(5) Documentation and Signature.

(a) The services worker shall obtain the student's signature on the "Road to Independence RTI Program Scholarship Needs Assessment Face to Face Consultation Form", CF-FSP 5298, September 2010 2005, incorporated by reference. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee,

Florida 32399. By signing the form the student is only certifying that he/she has had a face to face meeting and the appeals process has been explained and provided.

(b) Once each individual needs assessment tool has been fully completed, and an award amount determined, two copies shall be printed. One copy shall be maintained in the student's case file. The second copy shall be provided to the student, either in person or by mail, with a copy of the "Independent Living Benefits Due Process Rights" brochure, CF/PI 175-11, September 2010 2005, incorporated by reference, attached to the needs assessment tool. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399.

Rulemaking Specific Authority 409.1451(10) FS. Law Implemented 409.1451(5)(b)4. FS. History--New 7-27-06, Amended \_\_\_\_\_.

65C-31.008 Post Secondary Needs Assessment.

(1) The Road to Independence Program (RTI) Scholarship Needs Assessment for post secondary education has been developed to determine the funding needs of young adults formerly in foster care attending a post secondary institution, after considering other income sources and educational scholarships. This section does not apply to any student who is living in a qualifying residential facility. These students shall be assessed for aftercare and/or transitional support services.

(2) Procedure:

(a) Before completing the Road to Independence Program Scholarship Needs Assessment, the services worker shall verify that the student has submitted an RTI scholarship application and has been determined eligible to receive an award.

(b) The amount of the monthly stipend scholarship award shall not exceed the federal minimum wage times 40 hours per week times 4.33 weeks per month. The total amount of federal educational assistance funds provided to a student from all federal sources shall not exceed the "total cost of attendance" figure determined by the educational institution.

(c) In order to complete the Road to Independence Program Scholarship Needs Assessment, the services worker shall meet with the student and explain the needs assessment process to the student. For students located out-of-state, a phone interview is sufficient.

(d) The student shall provide documentation evidencing the following:

1. Living and Educational Expenses.

a. An individual itemized "Cost of Attendance" (COA) for the academic year from the school the student will attend. The financial aid office at every university, college, community college, and vocational school establishes a COA, also referred to as a "student budget," for each of its students. Some institutions automatically factor into the individual COA certain qualifying costs, including dependent care and costs associated with a particular course of study. Other institutions

will consider adjustments to the COA for certain qualifying costs on a case-by-case basis upon request by the student. The COA will also indicate the length of the academic year considered.

b. It may be necessary for the student to formally request that the financial aid office make adjustments to his or her COA based on individual circumstances. The student is responsible for collecting and transmitting to the financial aid office any information relevant to the COA adjustments sought. The services worker shall make efforts to facilitate this process. The student shall execute such authorizations as may be necessary to enable the services worker to assist with financial aid issues.

c. In addition to establishing the individual COA for each student, many institutions publish an average or estimated COA. If a student fails to provide his or her individual COA, the services worker shall obtain the average or estimated COA published by the institution. The services worker shall make reasonable efforts to obtain the most current COA information by contacting the financial aid office. If COA information cannot be obtained via the financial aid office, the case worker shall use the most current COA information listed on the institution's website.

d. If the student is unable to obtain an individual COA, and an average or estimated COA is unavailable, the case worker shall contact DCF for further guidance.

2. Fee exemption for the academic year.
3. Federal scholarships received (including Pell Grants).
4. Other Federal Income (SSI, Social Security).
5. Earned Income (pay stubs or other documentation).
6. Other scholarships and grants from all sources.
7. Alternate sources of funds and services.

(e) If the student has not provided all necessary documentation the services worker shall provide a written list of items necessary for the needs assessment process to be completed. The written list shall also include a due date for all requested items to be submitted. The list shall include:

1. A statement that the requested information is needed before each needs assessment tool is processed; and
2. A date by which the information must be received; and
3. A statement that the student's benefits will be initially established at or reduced to the minimum monthly award amount of \$25 until the information is provided. Once the information has been provided the services worker shall have 7 calendar days to process the needs assessment.

(f) No later than 30 days prior to the student's 18th birthday or, if the student is 18 years of age or older, within 30 days after receiving the application and all required documentation and information, DCF shall notify the student, in writing, of the award amount and the anticipated date of first payment. This notification shall also include the process for appealing the amount of the award (See attachment E).

(3) Calculating Awards for Post Secondary Students. The award for post secondary students shall be calculated no less than twice each year, once for the academic year and once for the summer months. The award may also be recalculated upon a change of circumstance, as provided for under subsection 65C-31.008(5), F.A.C., below. The award shall be calculated as follows:

(a) Academic Year Needs Assessment. The services worker shall use the form "Road To Independence Program Post Secondary Needs Assessment ROAD TO INDEPENDENCE SCHOLARSHIP POST SECONDARY NEEDS ASSESSMENT - ACADEMIC YEAR (FSP 5300 - September 2010 May 2006)", incorporated by reference, DCF has supplied an electronic version of the form that will perform the required calculations as data is entered by the services worker. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399.

1. Living and Educational Expenses: Enter the total academic year COA. (See Rule 65C-31.008(2)(d)1., F.A.C.)

2. Fee Exemption (Tuition and Fees): Enter Tuition and Fee waiver amount. This amount is deducted from the Living and Educational Expenses.

3. Federal Scholarships Received: Enter the total amount of all Federal Scholarships received. This includes the amount of any Pell Grant received. Calculate the monthly amount of Federal Scholarships received by dividing the total amount by 12, then multiply the monthly amount by the number of months in the institution's academic year. This amount is deducted from the Living and Educational Expenses.

4. Other Federal Income: The services worker completing the needs assessment shall inquire and verify through available resources whether the young adult is receiving federal funds from any other source including Supplemental Security Income (SSI) and Social Security (SSA). The young adult shall have a choice, based on his or her individual situation, whether or not to include SSI/SSA benefits in his or her budget as a deduction. The staff shall assist the young adult in maximizing all benefits to attend school and for his or her living needs. If the young adult elects to have SSI or SSA benefits included as a deduction, the amount of such benefits shall be calculated on a monthly basis and deducted according to the number of months in the academic year. The SSA benefits received by the young adult must be included as a deduction and the amount of such benefits shall be calculated on a monthly basis and deducted according to the number of months in the academic year.

5. Available Income:

a. Earned income. Calculate the student's expected earned income for the academic year on a monthly basis. The student may verify his or her monthly income by providing recent pay stubs or a letter from his or her employer indicating the number of hours to be worked and the hourly wage. Enter the number



of months in the academic year. The months of a specific institution's academic year can be determined from the COA. Multiply to determine the "earned income" for the academic year.

b. Income protection allowance. Calculate 20 hours per week at Florida's minimum wage on a monthly basis. Multiply by number of months in the academic year to determine the income protection allowance.

c. Total available income is determined by subtracting the income protection allowance from the student's earned income. This amount is deducted from the Living and Educational Expenses.

6. Other Scholarships and Grants: Enter all other scholarships and grants to be received for the academic year. This amount is deducted from the Living and Educational Expenses, except that a \$1,500 disregard shall apply to offset any deduction to the award based on other scholarships and grants.-

7. Alternate Sources of Funds and Services: To the extent that any of the expenses contained in the COA can be reduced through alternate funding sources or services at a reduced cost, the services worker shall employ such alternate funding sources and/or services and assist the student as needed in applying for such funding and/or services. Enter the amount of funds from alternate sources employed to pay for any portion of the academic year Living and Educational Expenses. This amount is deducted from the Living and Educational Expenses.

8. Total Academic Year Award: The total academic year award is calculated by subtracting all the deductions from the Living and Educational Expenses.

9. Monthly Academic Year Award: The monthly academic year award is determined by dividing the total academic year award by the number of months in the institution's academic year.

(b) Summer Months.

1. Student attending school, including internships. The service worker shall use the form "Road To Independence Post Secondary Needs Assessment – Summer Months – ATTENDING SCHOOL ROAD TO INDEPENDENCE POST SECONDARY NEEDS ASSESSMENT – SUMMER MONTHS – Attending School (FSP 5300a – September 2010 ~~March 2006~~),<sup>2</sup>" Incorporated by reference. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399. DCF has supplied an electronic version of the form that will perform the required calculation as the data is entered by the services worker.

a. Living and Educational Expenses: Enter the total summer school COA. The summer school COA is obtained in the same manner as the academic year COA. (See Rule 65C-31.008(2)(d)1., F.A.C., above.) If no summer school COA is available from the financial aid office or the institution's website, the summer Living and Educational expenses are

determined based on the student's academic year COA. The services worker shall reduce the academic year COA by the academic related costs and divide by the number of months in that institution's academic year to determine the monthly living expenses. Multiply the monthly living expenses by the number of summer months to determine the summer living expenses, then add the total summer educational expenses to be incurred, including tuition, fees, and books.

b. Fee Exemption (Tuition and Fees): Enter tuition and fee waiver amount. This amount is deducted from the Living and Educational Expenses.

c. Federal Scholarships Received: Enter the total amount of all Federal Scholarships received. This includes the amount of any Pell Grant received. Calculate the monthly amount of Federal Scholarships received by dividing the total amount by 12, then multiply the monthly amount by the number of summer months. This amount is deducted from the Living and Educational Expenses.

d. Other Federal Income: The services worker completing the needs assessment shall inquire and verify through available resources whether the young adult is receiving federal funds from any other source including Supplemental Security Income (SSI) and Social Security (SSA). The young adult shall have a choice, based on his or her individual situation, whether or not to include SSI/SSA benefits in his or her budget as a deduction. The staff shall assist the young adult in maximizing all benefits to attend school and for his or her living needs. If the young adult elects to have SSI-~~or SSA~~ benefits included as a deduction, the amount of such benefits shall be calculated on a monthly basis and deducted according to the number of summer months. The SSA benefits received by the young adult must be included as a deduction and the amount of such benefits shall be calculated on a monthly basis and deducted according to the number of summer months.

e. Available Income:

(I) Earned income. Calculate the student's expected earned income for the summer on a monthly basis. The student may verify his or her monthly income by providing recent pay stubs or a letter from his or her employer indicating the number of hours to be worked and the hourly wage. Enter the number of summer months. The summer months are those not included in the institution's academic year. Multiply to determine the "earned income" for the summer months.

(II) Income protection allowance. Calculate 20 hours per week at Florida's minimum wage on a monthly basis. Multiply by the number of summer months to determine the income protection allowance.

(III) Total available income is determined by subtracting the income protection allowance from the student's earned income. This amount is deducted from the Living and Educational Expenses.

f. Other Scholarships and Grants: Enter all other scholarships and grants to be received for summer school. This amount is deducted from the Living and Educational Expenses, except that a \$500 disregard shall apply to offset any deduction to the award based on other scholarships and grants.

g. Alternate Sources of Funds and Services: To the extent that any of the summer Living and Educational expenses can be reduced through alternate funding sources or services at a reduced cost, the services worker shall employ such alternate funding sources and/or services and assist the student as needed in applying for such funding and/or services. Enter the amount of funds from alternate sources employed to pay for any portion of the summer Living and Educational Expenses. This amount is deducted from the summer Living and Educational Expenses.

h. Total Summer Award: The total summer award is calculated by subtracting all the deductions from the summer Living and Educational Expenses.

i. Monthly Summer Award: The monthly summer award is determined by dividing the total summer award by the number of summer months, which is the number of months not included in the institution's academic year.

2. Student not attending school. The case worker shall use the form "Road To Independence Program Post Secondary Needs Assessment – Summer Months – NOT ATTENDING SCHOOL ROAD TO INDEPENDENCE SCHOLARSHIP POST SECONDARY NEEDS ASSESSMENT – SUMMER MONTHS – Not attending school (FSP 5300b – September 2010 May 2006)." incorporated by reference. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399. DCF has supplied an electronic version of the form that will perform the required calculation as the data is entered by the services worker.

a. Summer Living Expenses: The summer living expenses are determined based on the student's academic year COA. The case worker shall reduce the academic year COA by the academic related costs and divide by the number of months in that institution's academic year to determine the monthly living expenses. Multiply the monthly living expenses by the number of summer months to determine the summer living expenses.

b. Federal Scholarships Received: Enter the total amount of all Federal Scholarships received. This includes the amount of any Pell Grant received. Calculate the monthly amount of Federal Scholarships received by dividing the total amount by 12, then multiply the monthly amount by the number of summer months. This amount is deducted from the Living Expenses.

c. Other Federal Income: The services worker completing the needs assessment shall inquire and verify through available resources whether the young adult is receiving federal funds from any other source including Supplemental Security Income (SSI) and Social Security (SSA). The young adult shall

have a choice, based on his or her individual situation, whether or not to include SSI/SSA benefits in his or her budget as a deduction. The staff shall assist the young adult in maximizing all benefits to attend school and for his or her living needs. If the young adult elects to have SSI or SSA benefits included as a deduction, the amount of such benefits shall be calculated on a monthly basis and deducted according to the number of summer months. The SSA benefits received by the young adult must be included as a deduction and the amount of such benefits shall be calculated on a monthly basis and deducted according to the number of summer months.

d. Available income:

i. Earned income. Calculate the student's expected earned income for the summer on a monthly basis. The student may verify his or her monthly income by providing recent pay stubs or a letter from his or her employer indicating the number of hours to be worked and the hourly wage. Enter the number of summer months. The summer months are those not included in the institution's academic year. Multiply to determine the "earned income" for the summer months.

ii. Income protection allowance. Calculate 20 hours per week at Florida's minimum wage on a monthly basis. Multiply by the number of summer months to determine the income protection allowance.

iii. Total available income is determined by subtracting the income protection allowance from the student's earned income. This amount is deducted from the Living Expenses.

e. Alternate Sources of Funds and Services: To the extent that any of the summer Living expenses can be reduced through alternate funding sources or services at a reduced cost, the services worker shall employ such alternate funding sources and/or services and assist the student as needed in applying for such funding and/or services. Enter the amount of funds from alternate sources employed to pay for any portion of the summer Living Expenses. This amount is deducted from the summer Living Expenses.

f. Total Summer Award: The total summer award is calculated by subtracting the deductions from the summer living expenses.

g. Monthly Summer Award: The monthly summer award is determined by dividing the total summer award by the number of summer months, which is the number of months not included in the institution's academic year.

h. A young adult not attending school is expected to obtain employment for the summer months, and if not employed, has the obligation to diligently seek employment.

i. A young adult seeking employment must provide the case worker with documentation of his or her job search consistent with the documentation required by the office of unemployment compensation on a monthly basis. If the unemployed young adult fails to provide such documentation in a given summer month, no award payment shall issue for the following summer month.

j. The young adult is required to inform the case worker of successful summer job placement within 7 days.

(4) Documentation and Signature:

(a) At the face-to-face meeting with the young adult, the services worker shall obtain the young adult's signature on the "Road to Independence (RTI) Program Scholarship Needs Assessment Face to Face Consultation Form", CF-FSP 5298, September 2010 ~~2005~~, incorporated by reference. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399. By signing the form the young adult is only certifying that he or she has had a face-to-face meeting and the appeals process has been explained and provided.

(b) Once each individual needs assessment tool has been fully completed, and an award amount determined, two copies shall be printed. One copy shall be maintained in the young adult's case file. The second copy shall be provided to the young adult, either in person or by mail, with a copy of the "Independent Living Benefits Due Process Rights" brochure, CF/PI 175-11, September 2010 ~~2005~~, incorporated by reference, attached to the needs assessment tool. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399.

(5) Needs Assessment Recalculations.

(a) Changes in circumstances: The needs assessment may be recalculated at any time upon request by the young adult or the services worker to address material changes in the young adult's circumstances. Such a recalculation shall be completed within 7 working days of the request.

1. Changes in circumstances may include, but are not limited to, changes in the amount of grants, transfer to another academic institution, changes in the amount of earned income, and changes in living and educational expenses.

2. A change in circumstances is material if it is likely to result in a change in the amount of the monthly award of at least \$50 per month for the remainder of the award period.

Rulemaking Specific Authority 409.1451(10) FS. Law Implemented 409.1451(1), (2), (3)(a), (c), (d), (5)(b) FS. History--New 7-27-06, Amended \_\_\_\_\_.

65C-31.009 Independent Living Benefits Due Process Notification.

(1) The Independent Living program and its departmental or contracted service provider staff shall seek to treat all young adults fairly and to afford them due process. A young adult applying for or receiving Independent Living benefits has the right to receive adequate written notice of adverse actions by the department or its contracted service provider, to present grievances about adverse actions by the department or its contracted service provider, and to resolve issues about

eligibility by meeting informally with representatives of the department or its contracted service provider or through the fair hearing process.

(2) The services worker shall, at the time of application for independent living benefits, provide the applying young adult a copy of the brochure "Independent Living Benefits Due Process Rights", CF/PI 175-11, September 2010 ~~2005~~, incorporated by reference. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399. As stated in the brochure, the young adult's services worker shall be available to help with the request for a fair hearing at any time that an adverse decision is made regarding the benefit.

(3) Actions by the department or its contracted service provider that require due process notification:

(a) The young adult is for any reason initially determined to be ineligible for any Independent Living benefit;

(b) The young adult is denied an Independent Living benefit due to lack of available funding;

(c) The young adult's services are reduced or terminated for any reason other than at the request of the young adult;

(4) Actions by the department or its contracted service provider that require confirmation: Voluntary reductions or terminations of services by a young adult. Due process notification is not required for these voluntary actions on the part of the young adult.

(a) A voluntary decision made by a young adult to reduce, terminate, or suspend services does not require due process notification. A decision to reduce, terminate, or suspend services is voluntary when the young adult determines that he or she does not need the service or scope of the service at issue and requests a reduction or termination of the service without being pressured to do so by staff of the department or its contracted service provider.

(b) Each young adult who makes a voluntary reduction or termination shall be allowed ten calendar days from the date the letter of confirmation was sent to reconsider. If after ten calendar days the young adult has not contacted the services worker in response to the letter of confirmation, the reduction or termination shall take effect.

(c) If the young adult contacts the services worker within ten (10) days to indicate that he or she does not agree to a voluntary reduction or termination of services, then services shall continue.

(5) Common bases on which Independent Living funding requests may be denied, or otherwise acted on in a manner adverse to the beneficiary. Most often, a request for Independent Living funding may be adversely acted upon (i.e., denied, reduced, or terminated) for one of the three following reasons:

(a) The young adult does not qualify for post-foster care Independent Living benefits;

(b) The young adult is not eligible (or is no longer eligible) for the Road to Independence Program Scholarship, or is eligible only for a reduced amount; or

(c) There are no available funds for Independent Living benefits.

(6) Determination of Service Denial. A determination regarding eligibility or continued eligibility for an Independent Living benefit shall be made by the young adult's services worker.

(7) Supervisory review of the determination prior to issuance of a letter denying, terminating, reducing or suspending an Independent Living benefit shall occur as follows:

(a) Before a letter is issued that denies, terminates, or reduces an Independent Living benefit request, the supervisor of the Independent Living services worker shall review the letter.

(b) The supervisory review shall consist of a review of all documents relied upon in denying, reducing, or terminating the service request, to ensure that the necessary documentation is present and to ensure that the decision to deny the service is supported by the documentation and pertinent policies regarding the requested Independent Living benefit.

(c) The purpose of the supervisory review is to ensure that the correct decision has been made with respect to the request for services. If the supervisor determines that an incorrect decision has been made, the service shall not be denied, but rather approved. If the supervisor determines that the denial was appropriate, the supervisor shall document that the supervisory review has occurred.

(d) Only after the supervisory review is successfully completed, and a determination is made by the supervisor that the denial is appropriate, shall the due process notification letter regarding denial, reduction, or termination of Independent Living benefits be issued (See attached Sample Letters, Attachments "A" through "D"). A decision to deny, reduce or terminate benefits shall be documented on "Documentation of Supervisory Review for Notices of Denial, Reduction or Termination of Benefits" or an alternate form that provides the same information (See Attachment G).

(8) Signing the Letter/Notice of adverse action. After the supervisory review is successfully completed, the young adult's services worker shall sign the letter notifying the young adult of the intended adverse action and providing due process information.

(9) Notification of Adverse Action. The services worker shall provide written notice to the young adult regarding any of the actions listed in subsection 65C-31.009(3), F.A.C.

(a) In the Notice, the young adult shall be advised of his or her right to request a fair hearing in accordance with 45 CFR § 1355.30 and 45 CFR 205.10.

(b) The Notice shall notify the young adult of the adverse action and the date the young adult can expect that action to be implemented.

(c) The services worker shall inform a young adult of the adverse action regarding eligibility within the following time frames:

1. One (1) calendar day of receiving a request for aftercare assistance to prevent homelessness;

2. Five (5) business days of receiving a request for transitional benefits or aftercare benefits other than assistance to prevent homelessness; OR

3. Ten (10) business days of receiving a request and required documentation for the Road to Independence program.

(d) Notices regarding reduction or termination of benefits shall be sent at least 10 days in advance of the adverse action. The notices shall provide the day prior to the effective date of the reduction or termination as the deadline for a request for a fair hearing to continue benefits until the hearing process is complete. If the day prior to the effective date is on a weekend or holiday, the deadline must be on the effective date itself.

(10) Form of Notification. Notification shall be in writing. One of the attached sample letters shall be used to notify young adults of the adverse action (See Attachments "A" through "D"). All relevant reasons for the adverse action must be indicated on the appropriate notice.

(a) The completed notification shall include notice of action, reason(s) for action, and relevant citations. The form shall be completed in its entirety and all relevant blanks shall be filled in. If there are multiple reasons for denial, reduction, or termination, all shall be listed.

(b) A "Request for Fair Hearing on Denial, Termination, or Reduction of Independent Living Benefits", CF-FSP 5304, September ~~2010~~ ~~2005~~, incorporated by reference, and the brochure "Independent Living Benefits Due Process Rights", CF/PI 175-11, September ~~2010~~ ~~2005~~, incorporated by reference, shall be attached to the Notice. A copy of the forms are available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399.

(c) A Notice that pertains to fair hearing rights shall include the name, address and phone number of the services worker responsible for providing Independent Living Services to the young adult.

(d) The Notice shall be sent by Certified Mail or provided to the young adult by hand delivery. Documentation of hand delivery shall be made in the young adult's file contemporaneously with the hand delivery. The certified mail receipt shall also be placed in the young adult's file.

(e) Timeframes for response shall be clearly defined.

1. The request for a fair hearing shall be received by the services worker no later than thirty (30) calendar days from the date the notice was mailed or hand delivered to the individual.

2. If a request for hearing is received by the services worker on or before the day prior to the effective date of the reduction or termination of benefits, those benefits shall continue at their current level until the fair hearing process is completed. If the day prior to the effective date of the reduction or termination is on a weekend or holiday, the deadline to request a fair hearing and continue benefits shall be the effective date of the reduction or termination. The deadline shall be clearly stated in the Notice.

3. The right to request a fair hearing shall be exercised within thirty (30) days of the date the notice of adverse action was mailed or hand delivered. However, the issue of whether a request was timely made is one that shall be determined by the hearing officer. A request for a hearing can be rejected or dismissed only by the hearing officer. Therefore, if a request for a hearing is not within the given timeframes, the request shall not be refused. It shall be taken and forwarded to the Florida Department of Children and Family Services Office of Appeal Hearings with a notation on the "Independent Living Fair Hearing Request", which is used as a Fax cover sheet, (Attachment F) that the request was late. The Office of Appeal Hearings will handle late-filed requests from the central office.

(f) The request for a fair hearing may be made orally or in writing.

1. The form "Oral Request for Fair Hearing" CF-FSP 5303, September ~~2010~~ 2005, incorporated by reference, shall be used by the services worker to document oral requests for a fair hearing. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399.

2. Written requests shall be prepared by the young adult on "Request for Fair Hearing on Denial, Termination, or Reduction of Independent Living Benefits", CF-FSP 5304, September ~~2010~~ 2005, incorporated by reference. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399.

(11) Timeframes.

(a) Response to a Notice of Action of Termination or Reduction of Existing Benefits. When a young adult receives notice of recommended action from the services worker, the following time limitations to request a hearing shall apply:

1. The written or oral request for a fair hearing shall be made no later than thirty (30) days from the date a notice is mailed or hand delivered to the young adult.

2. When a request for a fair hearing is made at least one calendar day prior to the date of the reduction or termination of benefits, (See attached Sample Letters, Attachments "B" and "C"), the request shall suspend or stay the termination or reduction action until the conclusion of the hearing process. If the day prior to the date of the reduction or termination is a weekend day or holiday, a request for a fair hearing received on

the date of the reduction or termination shall also suspend or stay the reduction or termination action until the conclusion of the hearing process.

(b) Response to a Notice of Action of Denial of an Application for Benefits. When a young adult receives notice of denial of benefits (for benefits which have not yet been received, rather than the reduction or termination of benefits currently being received) from the services worker, the following time limitations to request a hearing shall apply:

2. The young adult shall not receive the denied services until the hearing officer rules in favor of the individual (but may receive other services for which he or she has not been denied). 1. The written or oral request for a fair hearing shall be made no later than thirty (30) days from the date a notice is mailed to the young adult.

(12) Transmittal of Hearing Request to the Department or Its Contracted Service Provider.

(a) The completed "Oral Request for Fair Hearing" form or the written request on the "Request for Fair Hearing on Denial, Termination, or Reduction of Independent Living Benefits" form and a copy of the Due Process notice letter shall be faxed by the services worker, using as a cover sheet the form "Independent Living Fair Hearing Request" (Attachment F), within one (1) business day of receipt to the District Legal Counsel, the Attorney General's Office and the Office of Appeal Hearings of the Department of Children and Family Services, whose address and fax number is noted on the cover sheet (Attachment F).

(b) The services worker receiving the request shall forward a copy of all documentation supporting the decision regarding the Independent Living benefit at issue to the District Legal Counsel and the Office of the Attorney General within three (3) business days.

(13) Additional Local Preparation for Fair Hearings.

(a) The services worker receiving the request shall immediately prepare copies of the young adult's complete Independent Living file to provide to both the young adult and the legal representative for the department or its contracted service provider. The services worker shall provide the complete file to both the young adult and the legal representative for the department or its contracted service provider, whether or not a request has been made.

(b) The Office of the Attorney General (~~OAG~~) will appear as counsel to defend the adverse action only if the OAG has received copies of the written request, the due process letter, and all the documentation supporting the decision at least 14 days before a scheduled hearing. Otherwise, the District Legal Counsel is responsible for the hearing.

(c) The services worker responsible for the young adult's Independent Living benefits case (the services worker in the county where the young adult's involvement in independent living services originated) shall coordinate and participate in

the Fair Hearing, even if the hearing takes place in a different county or district. The Fair Hearing will take place wherever the young adult lives.

(d) Staff in each departmental zone shall be available to provide technical assistance regarding Independent Living requirements to counsel for the department and its contracted service provider in preparation for the Fair Hearing. Therefore, the legal representative for the department and its contracted service provider shall be provided access to the young adult's Independent Living file by departmental zone staff when needed as part of trial preparation.

(14) Update to the department's Interim Child Welfare Services Information System (ICWSIS), or contracted service provider payment system:

(a) Update after initial notice of termination or reduction.

1. No update shall be made to the ICWSIS system to reduce or terminate funding for any service until the 11th day after the notice was sent to the individual, or the effective date of the reduction, whichever occurs later, and only if the individual has not requested a hearing and continuation or reinstatement of services.

2. If the young adult files for a hearing in accordance with the timeframes in subsection 65C-31.009(11), F.A.C., no adjustment shall be made to ICWSIS until after the appeal hearing decision is rendered.

(b) Update after Hearing Officer's decision.

1. If ICWSIS was not initially adjusted and the decision is in favor of the Department, ICWSIS will be adjusted within five days after the Department receives a copy of the order to reflect the decision of the officer.

2. If the decision is in favor of the individual and ICWSIS had not been adjusted because the individual requested a hearing in accordance with subsection 65C-31.009(11), F.A.C., then no change shall be made to ICWSIS and services will continue.

(15) Local [Informal] Review. Upon receipt of a Request for Hearing, an informal Local Review is mandated prior to the Fair Hearing itself.

(a) In view of the fact that a hearing may be scheduled fairly quickly, the Local Review shall occur no later than 10 days after receipt of the request for hearing. This Review shall mirror the supervisory review done prior to the issuance of the due process letter (subsection (7) above).

(b) The Local Review shall be done by the local department administrator or the administrator of its contracted service provider in charge of the Independent Living program in consultation with the services worker's supervisor.

(c) The Local Review shall include an informal meeting with the young adult and/or the young adult's legal representative, if the young adult requests such a meeting.

(d) The young adult or the young adult's legal representative shall be provided, without charge, with a copy of all of the records and documents of the department or its

contracted service provider relating to the denied, reduced, or terminated benefit within three (3) business days of the receipt of the Request for a Hearing by the department or its contracted service provider.

(e) If the Local Review or interview resolves the issue to the satisfaction of the young adult, the request for hearing shall be withdrawn. Should an error be discovered during the Local Review, immediate action shall be taken to rectify it, and the young adult or the young adult's legal representative shall be advised.

(f) The informal review determination by the department or its contracted service provider, including specific findings, shall be provided in writing to the young adult or the young adult's legal representative, the District Legal Counsel, the Office of the Attorney General and the Department's Office of Appeal Hearings.

(16) Hearing Officer Decisions for all due process actions regarding denials, reductions and terminations of service.

(a) Hearing Officer Rules in favor of the department or its contracted service provider.

1. If the hearing officer affirms the decision of the department or its contracted service provider to terminate or reduce services, the services worker shall terminate or reduce services if they were continued or reinstated during the appeals process. The services worker shall implement the order five (5) days after the date the order is received by the department or its contracted service provider. The services worker shall immediately notify the young adult or the young adult's legal representative in writing informing him or her of the hearing officer's order and the effective date of the termination or reduction.

2. If the hearing officer affirms the decision of the department or its contracted service provider to terminate or reduce services, and the services have not been continued during the appeal process, the department or its contracted service provider does not need to take any further action regarding the services at issue. The Final Order shall be sent directly to the young adult and the young adult's legal representative as well as to the services worker.

(b) Hearing Officer Rules in favor of the Individual.

1. If services were discontinued pending the hearing officer's review and the hearing officer's finding is in favor of the individual, then service(s) shall be reinstated according to the hearing officer's decision. This decision shall make clear the required corrective action, including retroactive payment. The services worker shall reinstate services according to the hearing officer's decision within five (5) business days of the date the department or its contracted service provider receives the order.

2. If services were continued or reinstated pending the hearing officer's review and the hearing officer's finding is in favor of the individual, then the service(s) shall continue in accordance with the hearing officer's decision.

3. If services were denied, the services worker shall provide those services, pursuant to the hearing officer's decision, within five (5) business days of receiving the order.

(17) Termination upon failure to renew Road to Independence Program Scholarship. When a services worker is unable to update a young adult's Road to Independence Scholarship during the 3 months prior to the young adult's birthday due to an inability to either locate or gain the cooperation of the young adult, the following action shall be taken:

(a) The services worker shall document in the case file "due diligence" in trying to locate or secure the cooperation of the young adult to update his or her continued eligibility for the Road to Independence Program Scholarship. This shall include checking with the post office for a forwarding address and sending the Request for Road to Independence Documentation form to the last known address, requesting forwarding by the post office, and allowing the individual 30 days from date of receipt (or 35 days from date the letter is mailed) to contact the services worker and renew the Road to Independence Program Scholarship.

(b) If after 35 days, there has been no contact by the young adult, or if it has been verified that the young adult has been terminated from the rolls of the post-secondary school, a letter (See Attachment "C") shall be sent by U.S. mail, certified, return receipt, to the last known address to notify the young adult that he or she is terminated from the program. The effective date of termination shall be calculated at 35 days following the date the oral request form was mailed.

Rulemaking Specific Authority 409.1451(10) FS. Law Implemented 409.1451(5)(e) FS. History—New 7-27-06, Amended \_\_\_\_\_.

65C-31.010 Jurisdictional and Service Requirements for Young Adults Formerly in the Custody of the Department.

(1) through (3) No change.

Rulemaking Specific Authority 39.012, 39.0121(13), 39.5075(8), 409.1451(10) FS. Law Implemented 39.013, 39.5075, 39.701(6)(a), 409.1451(5)(d) FS. History—New 7-27-06.

65C-31.011 Independent Living Program Budget Management.

(1) General Requirements. Based on the availability of funds, the department or its contracted service provider shall manage funding and stay within the Independent Living Program's contracted amount provided by the department to provide Independent Living service payments such as the Road To Independence Program scholarships, transitional support services, pre-independent living skills, subsidized independent living services, and aftercare support services to eligible young adults. Availability of funds shall include funds that have been appropriated by the Legislature of the State of Florida to the department for the current state fiscal year in which fall under the purview of child welfare services. Availability of funds

shall also include unexpended state funds from previous state fiscal years that had been appropriated by the Legislature of the State of Florida to the Department in which fell under the purview of child welfare services, for nonrecurring Independent Living services for the current state fiscal year. A plan shall be provided to the department of the contracted service providers' funding availability and projected Independent Living services to be provided by service type, with the main goal The departmental district/region or its contracted service provider shall develop a fundamental methodology of projecting how much funding is needed to support the program, compared to the available contracted amount, and adjust accordingly. If a contracted service provider decides that the need is more than the contracted allocation, the contracted service provider has the flexibility to increase the Independent Living allocation within existing state funds within its contract, but this will not be considered part of the base allocation from the department. The goal of the contracted service provider shall be to provide as many services within the Independent Living Program within the funds available.

(2) Plan to Implement Services of Young Adults Formerly in Foster Care. Each contracted service provider shall provide a plan to the department of the services to be provided to young adults formerly in foster care who are determined eligible for such services. The Plan to Implement Independent Living Services to Young Adults Formerly in Foster Care (CF-FSP 5350, September 2010), incorporated by reference, shall be completed by each contracted service provider, and submitted to the department by July 31st for each state fiscal year. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399. Each plan shall be reviewed and approved by the department by August 31st of each state fiscal year. Plans not approved by the department will be returned to the contracted service provider for adjustments deemed necessary. Once a plan has been approved, a contracted service provider, at any time, may submit a modified plan to the department for approval. Each approved plan will be reviewed six (6) months after its approval date for accuracy and/or to allow for modifications needed at that time. Plans that require modification shall be reviewed and approved by the department. A final review of the approved plan will be completed at the end of the state fiscal year for to ensure allowability of final expenditures and eligibility of clients served.

(3) Review Team. The Review Team shall consist of Department representatives from budget, fiscal, contracts, legal, and the Family Safety Program Office. The Secretary may add additional representatives including but not limited to youth, advocates, and community-based care agencies. They will review and make recommendations to the Director of

Family Safety Program Office for all submitted Plans to Implement Independent Living Services to Young Adults Formerly in Foster Care.

(4)(2) Payment Adjustments. Once the Plan to Implement Independent Living Services to Young Adults Formerly in Foster Care has been reviewed and approved by the department, if across the board reductions in maximum awards to Road To Independence and/or terminations of Independent Living services are needed due to the availability of funds, a modified plan must be submitted and approved by the department before such reductions and/or terminations are made. Throughout the year a contracted service provider shall have the flexibility to make adjustments to payments in all Independent Living service areas in order to prevent a budgetary shortfall, within the following parameters:

(a) Reduction of new Road to Independence awards or other new benefits based on unavailability of funds. Upon a budget projection that no further full Road to Independence awards or other Independent Living benefits can be provided without impacting current Road to Independence awards, contracted care providers may:

1. Reduce new Road to Independence awards proportionally or down to a minimum award of \$25.00, based on projected availability of funds, AND/OR

2. Reduce or deny new requests for other Independent Living benefits, based on projected availability of funds.

(b) Reduction or termination of current transitional or aftercare financial services. Current transitional and aftercare financial services may be reduced or terminated based on unavailability of funds.

(c) Reduction of current Road to Independence awards.

1. Section 409.1451(10), F.S., specifically states: "The department shall not adopt rules relating to reductions in scholarship awards. The department shall engage in appropriate planning to prevent, to the extent possible, a reduction in scholarship awards after issuance." Therefore, it is clear that while awards may be reduced based on lack of available funding only as a last resort, guidance regarding that reduction may not be addressed in rule.

2. Current Road to Independence awards may be reduced at the time of the annual reassessment.

(5) Validation of Payments. At the six (6) month and end of the year reviews of the approved Plan to Implement Independent Living Services to Young Adults Formerly in Foster Care, a validation of eligibility may be required of the young adults who have received direct Independent Living services' payments. Validation of a client's eligibility could include, but is not limited to:

(a) Completion of Road To Independence – Client Education Verification (CF-FSP 5351, September 2010), incorporated by reference, by the contracted service provider

and submitted to the department. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., Tallahassee, Florida 32399.

(b) Reconciliation of the Integrated Child Welfare Services Integrated System (ICWSIS) data fields by the department of clients invoiced to the department for accuracy and completeness of these data fields.

(c) Verification of progression in school, attendance document, end of semester grades, class schedules, highest grade of completion, reading assessments, substantial compliance of transition plan goals set in place have been achieved, and/or the client's demonstration of need.

(6) Disallowance of Funds Provided by the Department. At the time of the six (6) month and end of the state fiscal year reviews and validation of payments made on behalf of the Independent Living Program, as specified in the approved Plan to Implement Independent Living Services to Young Adults Formerly in Foster Care, the amount of disallowance caused by the Lead Agency's failure to comply with state or federal regulations or the amount of any incorrect claim discovered in any federal or state audit shall be repaid to the department by the Lead Agency upon discovery.

Rulemaking Specific Authority 409.1451(10) FS. Law Implemented 409.1451(5) FS. History--New 7-27-06, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Alan Abramowitz, State Director, Office of Family Safety

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Don Winstead

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 8, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 28, 2010, Vol. 36, No. 21

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

RULE NO.: 68A-13.004

RULE TITLE:

Open Season for Taking and Bag Limits for Non-Migratory Game and Issuance of Antlerless Deer Permits

PURPOSE AND EFFECT: The purpose of the proposed rule change is to better manage hunting opportunities in Florida by increasing hunting opportunities with crossbows. The effect would be to increase the length of the zonal crossbow season by 30 days in Zones A, B and C and by 33 days in Zone D, thereby having it coincide with zonal archery season and allow antlerless deer to be taken during the first 30 days of the crossbow season in Zones A, B and C and during the first 33 days in Zone D.



SUMMARY: The proposed rule changes would increase the length of the zonal crossbow season by 30 days in zones A, B and C and by 33 days in Zone D, thereby having it coincide with zonal archery season and to allow antlerless deer to be taken during the first 30 days of the crossbow season in zones A, B and C and during the first 33 days in Zone D on lands otherwise not established as a wildlife management area, wildlife and environmental area or miscellaneous area.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will \_\_\_ or will not X have an impact on small business. A SERC has \_\_\_ or has not X been prepared by the agency.

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

RULEMAKING AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diane R. Eggegan, Director, Division of Hunting and Game Management, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-13.004 Open Season for Taking and Bag Limits for Non-Migratory Game and Issuance of Antlerless Deer Permits. The open season and bag limits for non-migratory game shall be as follows unless otherwise amended by the Commission, provided that regulations for hunting on wildlife management areas shall be as established by specific rule.

(1) Bag and possession limits:

(a) Deer: Possession limit, four; daily bag as follows:

1. Two (2) antlered deer during the antlered deer, crossbow (last 5 days), muzzleloading gun or archery/muzzleloading gun seasons.

2. No change.

3. Two (2) antlerless deer, or 2 antlered deer, or 1 antlered and 1 antlerless deer during the archery and crossbow seasons except that antlerless deer may not be taken during each zone's last 5 days of the crossbow season.

4. No change.

(b) through (c) No change.

(2) Open seasons:

(a) through (f) No change.

(g) Notwithstanding the provisions of paragraphs (2)(a)-(e)(~~g~~) deer of either sex, gobblers or bearded turkeys, gray squirrel and quail may be taken; ~~where same are legal game,~~

1. ~~During~~ an archery season opening 49 days prior to the first day of the antlered deer season and closing 29 days thereafter in Zones A, B and C and opening 33 days prior to the first day of the antlered deer season and closing 32 days thereafter in Zone D except that turkey may not be taken in Holmes County.

2. During a crossbow season opening 49 days prior to the first day of the antlered deer season and closing 34 days thereafter in Zones A, B and C and opening 33 days prior to the first day of the antlered deer season and closing 32 days thereafter and reopening 4 days after the fourth Thursday in November and closing 4 days thereafter in Zone D except that turkey may not be taken in Holmes County and antlerless deer deer may not be taken during each zone's last 5 days.

(h) Notwithstanding the provisions of paragraphs (2)(a), (b), (c), (d), (e), and ~~(g)(h)~~, antlered deer, gobblers or bearded turkeys, gray squirrel and quail may be taken:

1. ~~During a crossbow season opening 19 days prior to the first day of the antlered deer season and closing 4 days thereafter in Zones A, B and C and opening 4 days after the fourth Thursday in November and closing 4 days thereafter in Zone D except that turkey may not be taken in Holmes County.~~

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

(3) Issuance of antlerless deer permits to landowners – Antlerless deer may be taken under permit from the executive director during the crossbow (last 5 days), muzzleloading gun, and antlered deer seasons in accordance with the following:

(a) through (d) No change.

PROPOSED EFFECTIVE DATE: January 1, 2011

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 8-1-79, Amended 5-19-80, 6-4-81, 6-21-82, 7-1-83, 7-1-84, 7-1-85, Formerly 39-13.04, Amended 6-1-86, 5-10-87, 6-8-87, 5-1-88, 7-1-89, 7-1-90, 7-1-91, 7-1-92, 7-1-93, 3-1-94, 7-1-94, 7-1-96, 10-28-97, 4-27-98, 12-28-98, Formerly 39-13.004, Amended 7-1-01, 5-13-02, 10-16-02, 7-1-05, 7-1-06, 7-1-08, 7-1-10, 1-1-11.

NAME OF PERSON ORIGINATING PROPOSED RULE: Diane R. Eggegan, Director, Division of Hunting and Game Management, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 1, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 11, 2009