

for the first time. All forms to be included in this action have not yet been identified so that specific forms are not being listed in this notice.

**SUBJECT AREA TO BE ADDRESSED:** This rule amendment will place revised editions of forms incorporated by reference into rule 65A-1.400 and will newly incorporate some forms by reference. One specific action will be to remove a requirement for ten-day compliance with work requirements before a sanction can be lifted from the form CF-ES 2097.

**SPECIFIC AUTHORITY:** 409.919, 410.033, 414.45 FS.

**LAW IMPLEMENTED:** 400.903, 409.904, 410.033, 414.065, 414.075, 414.085, 414.095, 414.105, 414.115, 414.122, 414.125, 414.13, 414.16, 414.21, 414.28, 414.31 FS.

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

**TIME AND DATE:** 2:00 p.m., June 8, 1999

**PLACE:** Building 3, Room 414, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS:** Audrey Mitchell, Program Administrator, Building 3, Room 412-D, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700

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

Proposed Rules

## Section II Proposed Rules

### DEPARTMENT OF BANKING AND FINANCE

#### Division of Finance

RULE TITLES:	RULE NOS.:
Mortgage Broker Education Requirement	3D-40.027
Permit for Mortgage Brokerage School	3D-40.028
Mortgage Brokerage School Permit Renewal	3D-40.029
Accreditation Process for a Mortgage Brokerage School	3D-40.030
Application Procedure for Mortgage Broker License	3D-40.031
Application Procedure for Mortgage Brokerage Business License	3D-40.051
Application Procedure for Mortgage Brokerage Business Branch Office Permit	3D-40.058
Application Procedure for Change in Ownership or Control of Savings Clause Mortgage Lender	3D-40.100
Branch Office Permit for Change in Ownership or Control of Savings Clause Mortgage Lender	3D-40.105

Application Procedure for Mortgage Lender License 3D-40.200

Application Procedure for Correspondent Mortgage Lender License 3D-40.220

Application Procedure for Mortgage Lender or Correspondent Mortgage Lender Branch Office Permit 3D-40.240

**PURPOSE AND EFFECT:** To update the application and renewal forms for mortgage broker schools; to change the application and renewal fees for mortgage broker schools; and to make other changes to the mortgage broker application rules.

**SUMMARY:** The proposed amendments incorporate changes to the Application for Mortgage Brokerage School and Mortgage Brokerage School Renewal Form. The accreditation fee is raised to \$400 for each mortgage brokerage school and the accreditation fee for instructors has been deleted. The recertification accreditation fee is raised to \$400 for each school and this fee for instructors has been deleted. Citations to statutory provisions have also been changed.

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

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

**SPECIFIC AUTHORITY:** 494.0011(2) FS.

**LAW IMPLEMENTED:** 494.0031, 494.00311, 494.0033, 494.0036, 494.0061, 494.0062, 494.0064, 494.0065, 494.0066, 494.0071 FS.

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

**TIME AND DATE:** 10:00 a.m., June 22, 1999

**PLACE:** Room 550, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Geraldine Harrison, Bureau of Registrations, Room 550, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350 (850)410-9805

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

3D-40.027 Mortgage Broker Education Requirement. ~~Within 10 days of completion of each 24-hour mortgage broker course, the classroom instructor shall submit to the Department a list of all students who successfully completed the course. The list shall include the name and social security number of each student and the school's name and the instructor's signature. Electronic signatures are allowable per Florida Statutes when the required data is submitted to the Department via computer transmission from a school.~~

(1) No change.

(2) Qualifying hours may be obtained by attendance at a duly permitted and accredited Mortgage Brokerage School or an accredited college, university, community college, or area vocational-technical school in this State which offers the twenty-four (24) hour mortgage training course ~~taught by a classroom instructor having a minimum of one year's experience in primary and subordinated financing transactions or a minimum of one year's experience conducting classes in primary and subordinated financial transactions; or from a school in which qualifying hours are obtained from a classroom instructor having a minimum of one year's experience in primary and subordinated financial transactions or one year's experience in conducting classes in primary and subordinate financial transactions.~~ Any individual person or school offering qualifying hours must include the curriculum for mortgage broker classroom education, Rule 3D-40.026, F.A.C. Florida Administrative Code, and the laws and rules of ss. 494.001 – 494.0077, F.S. Florida Statutes, as the basis for course study.

(3) ~~As used in this rule, the following definitions apply:~~

~~(a) For the purpose of this rule "School" means any duly permitted and accredited Mortgage Brokerage School and any accredited college, university, community college or area vocational-technical school in this State, which offers the twenty-four (24) hour mortgage brokerage training course as a condition precedent to licensure as a mortgage broker. Such course to include the curriculum described in Rule 3D-40.026, F.A.C.~~

~~(b) For the purpose of this rule "classroom instructor" means any person who teaches the curriculum for mortgage broker classroom education, and~~

~~1. who is registered as an instructor for a duly permitted and accredited Mortgage Brokerage School, or~~

~~2. who is employed by or serves as an independent contractor with an accredited college, university, community college or area vocational technical school in this State.~~

(4) Within five (5) days of completion of each twenty-four (24) hour mortgage broker course, the school shall submit to the Department a typed list of all students who successfully completed the course. The list should be typed in a format prescribed by the Department or in lieu of the typed list, the school may submit the list on a 3.5" diskette or by e-mail or by accessing the Department's website at www.dbf.state.fl.us. The list shall include the full name of the student, the social security number of each student, the school's name, the school's license number and the completion date.

Specific Authority 494.0011(2) FS. Law Implemented 494.0033, ~~282.73~~ FS. History—New 7-5-92, Amended 11-5-95, 11-24-97, \_\_\_\_\_.

3D-40.028 Permit for Mortgage Brokerage School.

(1) Application Process. Each person, school, or institution desiring to obtain a permit for a Mortgage Brokerage School shall apply to the Department by submitting the following:

(a) a completed Application for Mortgage Brokerage School Permit, Form DBF-MBS-101, revised \_\_\_\_\_ effective 10/95, and a completed ~~Registration Application for each instructor, Form DBF-MBS-102, effective 10/95,~~ which is are hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350.

(b) No change.

(c) a ~~\$400~~ non-refundable accreditation fee which shall be for the annual period beginning October 1 of each year or any part thereof ~~and calculated as follows: Each school, \$200.00; each instructor, \$100.00.~~

(2) Request for Additional Information. Any request for additional information will be made by the Department within thirty (30) days after receipt of the application by the Department. The additional information must be received by the Department within thirty (30) days from the date of the request. Failure to respond to the request shall be construed by the Department as grounds for denial for failure to complete the application, and the application shall be denied pursuant to Section 120.60(1)(2), F.S. Florida Statutes.

(3) through (5) No change.

Specific Authority 494.0011(2), 494.00311(1),(3)(b) FS. Law Implemented 120.60(1)(2), 494.00311 FS. History—New 11-5-95, Amended \_\_\_\_\_.

3D-40.029 Mortgage Brokerage School Permit Renewal.

(1) Each active Mortgage Brokerage School permit shall be renewed for the annual period beginning October 1 of each year upon submission of the following:

(a) a permit renewal fee of \$500 and a completed renewal form, Form DBF-MBS-202, Mortgage Brokerage School Renewal Form, revised \_\_\_\_\_ effective 10/95, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350; and

(b) a recertification accreditation fee of ~~\$400~~ \$200 for the school and ~~\$100 for each currently registered instructor;~~ which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350.

(2) No change.

Specific Authority 494.0011(2), 494.00311(1),(3)(b) FS. Law Implemented 494.00311 FS. History—New 11-5-95, Amended \_\_\_\_\_.

3D-40.030 Accreditation Process for a Mortgage Brokerage School.

(1) Section 494.00311, ~~F.S., Florida Statutes~~, authorizes the Department to evaluate each school by an accreditation process to determine compliance and competency of mortgage brokerage schools and to recertify each school on an annual basis. The basis for accreditation will consist of the following evaluation criteria:

(a) through (d) No change.

(e) Instructor's ~~experience and~~ ability to convey subject matter.

(f) through (2)(f) No change.

Specific Authority 494.0011(2) FS. Law Implemented 494.00311 FS. History--New 11-5-95, Amended.

3D-40.031 Application Procedure for Mortgage Broker License.

(1)(a) No change.

(b) a non-refundable application fee of \$200 which shall be the fee for the biennial period beginning September 1 of each odd numbered year or any part thereof; and

(c) a completed fingerprint card accompanied by a \$15 non-refundable processing fee. ~~The fingerprint card will be valid for a period of 90 days from the date of receipt by the Department; and~~

~~(d) after July 1, 1992, a Mortgage Broker Education Completion Certificate required by Rule 3D-40.027, Florida Administrative Code.~~

(2) Request for Additional Information. Any request for additional information, including a passing score on the Mortgage Broker Examination, will be made by the Department within thirty (30) days after receipt of the application by the Department. The additional information must be received by the Department within ninety (90) days from the date of the request. Failure to respond within ninety (90) days from the date of request shall be construed by the Department as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1)(2), ~~F.S. Florida Statutes~~.

(3) through (7) No change.

Specific Authority 494.0011(2), 494.0033(2)(d), 215.405 FS. Law Implemented 120.60(1), 494.0033(2)(d) FS. History--New 10-30-86, Amended 1-30-89, 5-23-89, 11-28-89, 10-1-91, 6-8-92, 6-3-93, 6-6-93, 4-25-94, 5-14-95, 9-3-95, 11-24-97, \_\_\_\_\_.

3D-40.051 Application Procedure for Mortgage Brokerage Business License.

(1) through (2) No change.

(3) Request for Additional Information. Any request for additional information will be made by the Department within thirty (30) days after receipt of the application by the Department. The additional information must be received by the Department within forty-five (45) days from the date of the request. Failure to respond to the request within forty-five (45)

days from the date of request shall be construed by the Department as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1)(2), ~~F.S. Florida Statutes~~.

(4) through (8) No change.

Specific Authority 494.0011(2), 494.0031(2), 215.405 FS. Law Implemented 494.0031(2) FS. History--New 10-30-86, Amended 1-30-89, 11-28-89, 10-1-91, 6-6-93, 5-14-95, 7-14-96, 11-24-97, \_\_\_\_\_.

3D-40.058 Application Procedure for Mortgage Brokerage Business Branch Office Permit.

(1) through (2) No change.

(3) Request for Additional Information. Any request for additional information will be made by the Department within thirty (30) days after receipt of the application by the Department. The additional information must be received by the Department within forty-five (45) days from the date of the request. Failure to respond to the request within forty-five (45) days from the date of request shall be construed by the Department as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1)(2), ~~F.S. Florida Statutes~~.

(4) through (7) No change.

Specific Authority 494.001(2) FS. Law Implemented 494.0036 FS. History--New 10-1-91, Amended 6-6-93, 5-14-95, \_\_\_\_\_.

3D-40.100 Application Procedure for Change in Ownership or Control of Savings Clause Mortgage Lender.

(1) No change.

(2) Request for Additional Information. Any request for additional information will be made by the Department within thirty (30) days after receipt of the application by the Department. The additional information must be received by the Department within forty-five (45) days from the date of the request. Failure to respond to the request within forty-five (45) days from the date of request shall be construed by the Department as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1)(2), ~~F.S. Florida Statutes~~.

(3) through (6) No change.

Specific Authority 494.0011(2) FS. Law Implemented 494.00171, 494.0061(1), 494.0065 FS. History--New 8-24-93, Amended 9-3-95, \_\_\_\_\_.

3D-40.105 Branch Office Permit for Change in Ownership or Control of Savings Clause Mortgage Lender.

(1) through (2) No change.

(3) Request for Additional Information. Any request for additional information will be made by the Department within thirty (30) days after receipt of the application by the Department. The additional information must be received by the Department within forty-five (45) days from the date of the request. Failure to respond to the request within forty-five (45) days from the date of request shall be construed by the

Department as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1)(2), F.S. Florida Statutes.

(4) through (7) No change.

Specific Authority 494.0011(2) FS. Law Implemented 494.00171, 494.0065, 494.0066 FS. History--New 8-24-93, Amended 9-3-95,\_\_\_\_\_.

3D-40.200 Application Procedure for Mortgage Lender License.

(1) through (2) No change.

(3) Request for Additional Information. Any request for additional information will be made by the Department within thirty (30) days after receipt of the application by the Department. The additional information must be received by the Department within forty-five (45) days from the date of the request. Failure to respond to the request within forty-five (45) days from the date of request shall be construed by the Department as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1)(2), F.S. Florida Statutes.

(4) through (8) No change.

Specific Authority 494.0011(2), 494.0061(3), 215.405 FS. Law Implemented 494.0061(3) FS. History--New 10-1-91, Amended 6-6-93, 5-14-95, 9-3-95, 11-5-95, 7-14-96, 11-24-97,\_\_\_\_\_.

3D-40.220 Application Procedure for Correspondent Mortgage Lender License.

(1) through (2) No change.

(3) Request for Additional Information. Any request for additional information will be made by the Department within thirty (30) days after receipt of the application by the Department. The additional information must be received by the Department within forty-five (45) days from the date of the request. Failure to respond within forty-five (45) days from the date of request shall be construed by the Department as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1)(2), F.S. Florida Statutes.

(4) through (8) No change.

Specific Authority 494.0011(2), 494.0062(3), 215.405 FS. Law Implemented 494.0062(3) FS. History--New 10-1-91, Amended 6-6-93, 5-14-93, 9-3-95, 11-5-96, 7-14-96, 11-24-97,\_\_\_\_\_.

3D-40.240 Application Procedure for Mortgage Lender or Correspondent Mortgage Lender Branch Office Permit.

(1) through (2) No change.

(3) Request for Additional Information. Any request for additional information will be made by the Department within thirty (30) days after receipt of the application by the Department. The additional information must be received by the Department within forty-five (45) days from the date of the request. Failure to respond to the request within forty-five (45) days from the date of request shall be construed by the

Department as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1)(2), F.S. Florida Statutes.

(4) through (7) No change.

Specific Authority 494.0011(2) FS. Law Implemented 494.00171, 494.0066 FS. History--New 10-1-91, Amended 6-6-93, 5-14-95, 9-3-95,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Geraldine Harrison, Chief, Bureau of Registrations

NAME OF PERSON OR SUPERVISOR WHO APPROVED THE PROPOSED RULE: Don B. Saxon, Director, Division of Securities

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 11, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 23, 1999

**DEPARTMENT OF INSURANCE**

**State Fire Marshal**

RULE CHAPTER TITLE: Standard for Layout, Installation,

RULE CHAPTER NO.: 4A-45

and Maintenance of Sprinkler Systems

for Light Hazard Occupancies

4A-45

RULE TITLES:

RULE NOS.:

Purpose

4A-45.002

Definitions

4A-45.003

Classification of Sprinkler Systems

4A-45.005

PURPOSE AND EFFECT: Repeals Rule Chapter 4A-45, F.A.C., which is duplicative and unnecessary since the same standards and requirements now exist within NFPA 13R which has been incorporated by reference and adopted by the Department through Rule 4A-46.035, F.A.C. These section were inadvertently left off when the rule was repealed.

SUMMARY: This action repeals Rule Chapter 4A-45, F.A.C., which is duplicative and unnecessary since the same standards and requirements now exist within NFPA 13R which has been incorporated by reference and adopted by the Department through Rule 4A-46.035, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 633.01 FS.

LAW IMPLEMENTED: 633.01(3)(c), 633.082 FS.

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

TIME AND DATE. 10:00 a.m., June 15, 1999

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Terry Barrow, State Fire Marshal, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0342

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Yvonne White at (850)922-3100, ext. 4214.

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

**4A-45.002 Purpose.**

Specific Authority 633.01 FS. Law Implemented 633.01(3)(c), 633.065, 633.082 FS. History—New 5-9-88, Repealed.

**4A-45.003 Definitions.**

Specific Authority 633.01 FS. Law Implemented 633.01(3)(c), 633.065, 633.082 FS. History—New 5-9-88, Repealed.

**4A-45.005 Classification of Sprinkler Systems.**

Specific Authority 633.01 FS. Law Implemented 633.01(3)(c), 633.065, 633.082 FS. History—New 5-9-88, Repealed.

**NAME OF PERSON ORIGINATING PROPOSED RULE:**

Terry Barrow, Safety Program Manager, State Fire Marshal

**NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:**

Charles Clark, Division Director, State Fire Marshal

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:**

November 25, 1998

**DEPARTMENT OF REVENUE**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Scope of Rules	12-25.0305
Definitions	12-25.031
Eligibility and Qualifications	12-25.033
Responsibility for Program Training, Certification Procedures, and Program Availability	12-25.035
Applying for Participation in the Program	12-25.037
Voluntary Disclosure of Liabilities for Other Taxes	12-25.038
Protest Procedure; Denial of a Request to Participate in the Certified Audit Program	12-25.039
Suspension of a Certified Audit in Progress	12-25.041
Withdrawal from the Certified Audit Program	12-25.042
A Certified Audit is Initiated by the Taxpayer, But Not Completed	12-25.045
Development of Agreed-Upon Procedures	12-25.047
Submission of the Certified Audit Report	12-25.048
Review of Certified Audit Reports	12-25.049
Protests	12-25.050

**PURPOSE AND EFFECT:** The proposed creation of Part II of Rule Chapter 12-25, FAC, consisting of Rules 12-25.0305, 12-25.031, 12-25.033, 12-25.035, 12-25.037, 12-25.038, 12-25.039, 12-25.041, 12-25.042, 12-25.045, 12-25.047,

12-25.048, 12-25.049 and 12-25.050, FAC, is necessary to implement the provisions of Chapter 98-95, Laws of Florida, which were enacted by the 1998 Legislature. Chapter 98-95, L.O.F., which created s. 213.285, F.S., 1998 Supplement, established a new tax compliance activity known as the certified audits program. This program allows a taxpayer to voluntarily employ a CPA firm, at the taxpayer's expense, to examine and report on the taxpayer's compliance with Florida's tax laws.

The effect of creating Part II of Rule Chapter 12-25, F.A.C., is to provide potential program participants with information about how the program will operate.

**SUMMARY:** These proposed new rules define terms used in the various rule provisions; explain the training and certification procedures for persons who want to participate in the certified audit program; outline the procedures a qualified practitioner must follow to apply, on behalf of a client, for participation in the program; stipulate how a qualified practitioner can protest the Department's decision to deny a request to participate; explain how the failure to complete a certified audit will be handled; discuss the development of agreed-upon procedures between the Department and a qualified practitioner, which will guide the performance of the audit; outline procedures for submitting a final certified audit report to the Department, and how the Department will review certain submitted reports; and, the general protest rights granted to qualified practitioners and their clients under the certified audit program.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** The implementation of this new program will not exceed the \$264,798 appropriation for state FY 1998-99 granted to the Department of Revenue by Section 4 of Chapter 98-95, Laws of Florida. In addition, this program is not regulatory in nature, but instead provides the administrative foundation for a new line of business for Florida CPA firms. Therefore, no statement of estimated regulatory costs has been prepared.

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

**SPECIFIC AUTHORITY:** 213.06(1) FS.

**LAW IMPLEMENTED:** Ch. 98-95, L.O.F., 213.285 FS.

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

**TIME AND DATE:** 10:00 a.m., June 14, 1999

**PLACE:** Conference Room, Room 435, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Post Office Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4830

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding before the Technical Assistance and Dispute Resolution Office should call (850)488-8026 (Voice) or 1(800)367-8331 (TDD), at least five working days before such proceeding.

THE FULL TEXT OF THE PROPOSED RULES IS:

Part II: CERTIFIED AUDIT PROGRAM

12-25.0305 Scope of Rules.

The rules set forth in this part are applicable to all taxes:

- (1) Imposed by Sections 125.0104 and 125.0108, F.S., unless the tax is self-administered by a county.
- (2) Imposed by Chapter 212, F.S.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History—New

12-25.031 Definitions.

The following definitions shall apply to this Part:

- (1) “Board” means the State of Florida Board of Accountancy, as provided in Chapter 473, F.S.
- (2) “Certified Public Accountant” shall have the same meaning as the term is defined in Chapter 473, F.S.
- (3) “CFST” means certified in Florida sales and use tax pursuant to the Department’s certified audit program.
- (4) “Department” means the Florida Department of Revenue.
- (5) “Qualified practitioner” means a certified public accountant who is licensed to practice in Florida and who has completed the certification program. The phrase “completed the certification program” means the participant has met all the requirements for the certified audit training course, achieved the required score approved by the Department, and has been certified by the Department.
- (6) “Qualified audit firm” means the audit firm which employs a qualified practitioner, and which is licensed by the Board as a licensed audit firm as required by s. 473.3101, F.S.
- (7) “Audit plan” means a detailed, comprehensive list of agreed-upon procedures developed by the qualified practitioner and approved by the Department. The Audit Plan will be customized for the subject taxpayer.
- (8) “Practitioner(s)” means the individual(s) that are on the certified audit engagement team that are not qualified practitioners.
- (9) “FICPA” means the Florida Institute of Certified Public Accountants.
- (10) “Scheduling” means transferring all of the information from a set of documents to a summary schedule. If the activity involves making decisions on what information will be excerpted from the documents and included on the summary schedule, then it is not, by definition, “scheduling.”

(11) “Reconciling” means verifying that all sales invoices and purchase orders for a certain period of time are accounted for and included in any samples being used in the certified audit. “Reconciling” also means identifying differences and explaining or resolving identified differences between numbers within the taxpayer’s books and records.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History—New

12-25.033 Eligibility and Qualifications.

(1)(a) Any employee or owner of a qualified audit firm responsible for planning, directing, conducting, reviewing, or reporting on a participating taxpayer's tax compliance in a certified audit must be a qualified practitioner.

(b) Any practitioner employed by the qualified audit firm and who performs audit analysis, makes auditing decisions on source documents, taxpayer data or sales transactions, or who performs agreed-upon procedures, except for the gathering of information for the planning work discussed in rule 12-25.047(1)(b)1., 2., 4., 5., 6., and 7., scheduling, or reconciling, must successfully complete a training course approved by the Department prior to their initial performance of the subject activities. However, the Department may grant a written waiver of this requirement for a specific certified audit. The training course will, at a minimum, teach the basics of Florida Sales and Use tax law, and will include a required examination. The Department will be the final authority on the content of the training course and the nature, number, and type of questions on the examination. “Successfully complete” means the participant has met all the requirements for the course and achieved a score approved by the Department. Further, any practitioner performing the subject activities shall be supervised by a qualified practitioner. The subject qualified practitioner will be physically on-site where the activities are performed.

(c) To continue to be qualified to perform the subject activities, the practitioner must complete a continuing education program developed by the FICPA and approved by the Department. The continuing education program requirement will not exceed eight hours every two years.

(d) All qualified practitioners and practitioners who work on the certified audit must be currently employed by a qualified audit firm.

(e) Only qualified audit firms are permitted to issue reports.

(f) In addition, the qualified audit firm must have received a timely on-site peer review dated prior to the date of the Request to Participate and must have received an “Unqualified Opinion” on such on-site peer review. Compliance with these requirements is based on the most recent on-site peer review received prior to the Request To Participate. If the qualified audit firm at the date of the Request To Participate has not received an on-site peer review with an unqualified opinion, dated prior to the date of the Request To Participate, then the

qualified audit firm is ineligible to participate in the certified audit program. The qualified audit firm can submit a new Request To Participate once the applicable requirements are met.

(2) To be eligible to provide a certified audit service to a taxpayer, the qualified audit firm must be independent with respect to that taxpayer, pursuant to the guidelines established by Florida Board of Accountancy Advisory Opinions issued on certified audit independence questions. The Department will determine if the circumstances and facts of the particular situation are materially the same as situations for which guidelines were previously issued. If the facts and circumstances are unique or if the qualified audit firm believes there are differences between their situation(s) and the situation(s) previously addressed by the Board that were the basis for the Department to deny participation, then the qualified audit firm can request an Advisory Opinion from the Board on the particular situation. If the facts and circumstances are unique or if the qualified audit firm believes there are differences between their situation(s) and the situation(s) previously addressed by the Board that were the basis for the Department to deny participation, then the qualified audit firm can request an Advisory Opinion from the Board on that particular situation(s). The Department shall then decide based on the guidelines in the Board's response to that request and based on General Standard No. 2 (Independence), Generally Accepted Auditing Standards. If the qualified audit firm does not agree with the Department's decision, it can request a Declaratory Statement from the Board, which determination will be final.

Specific Authority 213.06(1) FS, Law Implemented Ch. 98-95, L.O.F., 213.285 FS, History--New

#### 12-25.035 Responsibility for Program Training, Certification Procedures, and Program Availability.

(1) Subject to the Department's supervision and approval, the Florida Institute of Certified Public Accounts (FICPA) shall:

(a) Develop the instructional curriculum and materials for the certified audit program;

(b) Deliver this curriculum in a training context;

(c) Test qualified practitioners and practitioners who have participated in such training; and

(d) Administer the training and testing process.

(2) The FICPA will submit to the Department, within thirty calendar days of the date the final certification test is administered to training participants, a list containing the name and business address of all participants who successfully complete the training and examination program.

(3)(a) The Department is responsible for issuing a certification to each eligible training participant within twenty-one calendar days of receiving the list of participants who have successfully completed the training and examination

program. The initial certification will be valid for 24 consecutive months beginning with the date of issuance. Any subsequent recertification will be valid for 24 consecutive months.

(b) The Department shall issue temporary recertification if a previously certified qualified practitioner fails to timely apply for and receive a recertification. These temporary recertifications shall expire 90 consecutive calendar days after the date of issuance. No more than two consecutive temporary recertifications shall be issued to a qualified practitioner.

(4) Only those qualified practitioners who hold an active and valid certificate issued by the Department are eligible to state or imply that they are certified in Florida Sales and Use Tax (CFST) or use the CFST designation.

(5) To be recertified, a qualified practitioner must complete a continuing education program developed by the FICPA and approved by the Department. The continuing education program requirement will not exceed sixteen hours every two years.

(6) Revocation of a Certification or Recertification by the Department. A qualified practitioner's certification or recertification will be revoked by the Department if:

(a) The State of Florida Board of Accountancy revokes the license to practice of the qualified audit firm; or

(b) The qualified practitioner or qualified audit firm fails to comply with the provisions of rule 12-25.049.

(7) Procedures For Protesting Denials of Certification, Recertification, and Revocations:

(a) A qualified practitioner may protest the Department's decision to not issue a certification or recertification to such practitioner, or to revoke a previously-issued certification or recertification to such practitioner by following the procedures outlined in this rule.

(b) Within 30 days of receiving written notification from the Department of its decision to not issue a certification, recertification, or to revoke a previously-issued certification or recertification, the qualified practitioner must submit to the administrator of the certified audit program a request for reconsideration.

(c) A request for reconsideration must include additional material facts which the qualified practitioner believes the Department should review during the agency's reconsideration of its original decision.

(8) The FICPA shall provide the Department with a description of each fee for which it requests approval as payment for a service provided to any qualified practitioner prior to charging said fee, together with the information necessary for the Department to determine that the fee is consistent with making the certification program available to an otherwise qualified practitioner or practitioner.

(a) The Department shall make a determination regarding the fee request in relation to the program's availability by considering the following:

1. The contribution made by the FICPA in establishing, developing, administering, and updating the certification program, including associated costs;

2. The price per credit hour charged, compared to the price charged for similar professional programs;

3. The revenue required to maintain the program;

4. The revenue required to improve or update the training provided, and the testing conducted within the program.

(b) The amount of any fee so determined shall be rendered in an order and specified by amendment to a contract entered into between the FICPA and the Department.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History—New.

#### 12-25.037 Applying for Participation in the Program.

(1) When a qualified practitioner has a client who agrees to participate in the program, the qualified practitioner must complete a Request To Participate in the Certified Audit program (form DR-342000) which includes a Power of Attorney (form DR-835), and submit the Request to Participate, including any required supporting information to the Department.

(2)(a) The audit period must be a minimum of two consecutive years unless a specific exception is provided in this rule. An exception to the 2-year minimum will be granted to any requesting taxpayer who has been subject to Florida Sales and Use Tax for less than 2 years.

(b) Also, if it is within the statute of limitations, the audit period must begin in the month immediately subsequent to the ending month of any previous audit, or the earliest month within the lawful limitation.

(3) As a condition of acceptance in the Certified Audit program, a taxpayer will have to sign a statement declaring that he or she agrees to pay the audit assessment within 60 days of:

(a) The date the audit has been agreed to, or

(b) The date the taxpayer's protest and appeal rights have expired. However, if the Certified Audit results in the taxpayer entering into a stipulated payment agreement, interest would accrue from the date to which the stipulated payment agreement is mutually agreed. If payment has not been received with the 60 days stipulated, and a stipulated payment agreement has not been entered into, interest will accrue back to the date of the Notice of Proposed Assessment, and continue to accrue through the date of payment in full.

(4)(a) If the Request To Participate in the Certified Audit program received by the Department is incomplete or requires clarification, it will be returned to the qualified practitioner. When the Department returns an incomplete Request and/or supporting documentation to a qualified practitioner, it will issue a letter explaining how the Request and/or documentation must be revised, expanded, or clarified.

(b) The qualified practitioner will be given 30 calendar days from the date the letter is issued by the Department to resubmit the revised Request To Participate and/or supporting documentation.

(c) If the qualified practitioner does not resubmit the revised Request To Participate and/or supporting documentation to the Department within 30 calendar days, the Request To Participate will be denied. Both the qualified practitioner and the taxpayer will be notified in writing of the denial.

(5) A qualified practitioner may submit a written request to the Department for a 15-day extension of the 30-day time period discussed in subsection (4) of this rule. The Department will not accept more than two consecutive written requests for a 15-day extension for the same Request To Participate.

(6) The Request To Participate is not, by definition, "proper and complete" if the Department requests clarification of submitted information or requests additional information. The Department will, within ten working days of receiving a proper and complete Request To Participate in the Certified Audit program and application, issue written notification to the qualified practitioner:

(a) stating that the Request To Participate has been accepted, accompanied by an explanation of the steps the qualified practitioner must take to develop and submit the Audit Plan for conducting the certified audit; or

(b) denying the Request To Participate, unless the provisions of subsection (4) apply.

(7) Grounds for departmental denial of a Request To Participate include:

(a) The taxpayer has been issued a written notice of intent to audit by the Department which is postmarked before the date the Request To Participate is postmarked;

(b) The taxpayer is currently under investigation by the Department or the Department learns that the taxpayer is currently under investigation for financial impropriety by a local, state or federal government entity. The request will also be denied if an investigation by the Department or a local, state or federal government entity resulted in criminal conviction for financial impropriety against the taxpayer prior to the Request To Participate.

(c) The taxpayer has failed to register for, or file the returns for, corporate income tax, intangible personal property tax, fuel taxes, documentary stamp tax, insurance premium tax, or gross receipts tax. The local option surtaxes and fees specific to the type of industry or location of the participating taxpayer will be included with the sales and use tax in the certified audit.

(d) The taxpayer has filed for bankruptcy.

(e) The taxpayer has outstanding liens, warrants, or "Notices of Tax Action" filed against it by the Department. If the Department determines that unsatisfied liens, warrants, or



“Notices of Tax Action” exist, then the Request To Participate will be denied. The taxpayer can remedy the reason for denial by satisfying the lien, warrant, or “Notice of Tax Action.”

(f) The qualified audit firm has any currently delinquent Florida state tax liabilities.

(8)(a) The Department will include controls to ensure taxpayers are filing all appropriate tax returns for other taxes. As an attachment to the Request To Participate, the taxpayer must provide either the registration number for other taxes, or answer specific questions and provide requested information about each tax.

(b) If a taxpayer is unregistered or has not filed the appropriate returns for the subject taxes, he or she must answer a series of questions. The questions will be posed in such a manner that the answer “yes” to any will identify the taxpayer as potentially subject to the tax. Also, a “yes” will indicate the Department does not yet have all the information required to determine if the taxpayer is eligible for participation. Accordingly, the application would not qualify as “proper and complete” until the Department performed the necessary additional research.

(c) If the Department determines that the taxpayer is not properly registered or filing the appropriate returns, the Request To Participate will be denied.

(d) The taxpayer can remedy the reason for the denial and become eligible to participate by correctly registering and/or filing all appropriate tax returns.

(9) If a Request To Participate in the Certified Audit program is denied, the Department’s written notification to the qualified practitioner shall explain the specific reasons for such denial, unless:

(a) An ongoing investigation would be jeopardized; or,

(b) The confidentiality provisions of s. 213.053, F.S., prohibit such explanation.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History–New

#### 12-25.038 Voluntary Disclosure of Liabilities for Other Taxes.

(1) Section 213.21(7)(a), F.S., authorizes the Department to compromise or settle the tax and interest due on unpaid tax liabilities which are voluntarily self-disclosed to the Department, when the agency determines it is in the best interest of the state. Further, the Department’s Rule 12-13.007(9), F.A.C., provides that “reasonable cause” to compromise penalty is generally presumed to exist whenever a taxpayer voluntarily discloses a tax liability.

(2) A taxpayer who elects to voluntarily self-disclose an unpaid tax liability for the taxes identified in Rule 12-25.037(7)(c), F.A.C., shall receive a waiver of all resulting penalties, pursuant to Rule 12-13.007(9), F.A.C., except for penalties associated with the failure to remit taxes collected by the taxpayer, and is authorized to receive an abatement of

interest as provided by s. 213.21(7), F.S. However, this abatement of interest is conditioned upon the Department’s final approval of the certified audit report for such taxpayer.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History–New

#### 12-25.039 Protest Procedure; Denial of a Request To Participate in the Certified Audit Program.

(1) A qualified practitioner may protest the Department’s decision to deny a Request To Participate in the Certified Audit program by following the procedures outlined in this rule.

(2) If a qualified audit firm elects to submit to the administrator of the Certified Audit program a request for reconsideration, then the request must be postmarked within 15 calendar days of receiving written notification from the Department denying a Request To Participate.

(3) A request for reconsideration must include additional material facts which the qualified practitioner believes the Department should review during the agency’s reconsideration of the original denial.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History–New

#### 12-25.041 Suspension of a Certified Audit In Progress.

(1) Approval to participate will be suspended or revoked by the Department for good cause. Cause would include:

(a) The taxpayer files for bankruptcy subsequent to approval of participation but prior to Department approval of the subject certified audit report.

(b) The Department initiates an investigation or is notified by another local, state or federal agency of an investigation for financial impropriety subsequent to approval of participation but prior to Department approval of the subject certified audit report. Should the result of the investigation be unfavorable to the taxpayer, participation approval will be withdrawn.

(c) The Florida Board of Accountancy revokes or suspends the firm license of the qualified audit firm.

(2) This suspension shall last for no more than 60 calendar days. At the end of such 60 calendar day period the Department must either:

(a) Lift such suspension, and authorize the qualified practitioner to continue to perform any and all certified audits;

(b) Extend the suspension an additional 30 calendar days;  
or,

(c) Provide written notification to the taxpayer(s) and the qualified audit firm that the qualified audit firm has had its firm license revoked by the Board and accordingly, the Department is prohibiting the qualified audit firm from performing certified audits. In that circumstance, the taxpayer(s) has 60 calendar days to retain another qualified audit firm. Failure to retain a qualified audit firm within 60 calendar days will result in the application of the provisions of Rule 12-25.045.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History–New

12-25.042 Withdrawal from the Certified Audit Program.

(1) If the taxpayer withdraws from the Certified Audit program subsequent to Department approval of participation, but prior to Department approval of the Agreed Upon Procedures, then the taxpayer will again be eligible for selection through the normal case selection process and will be subject to the standard audit selection criteria and procedures.

(2) If the taxpayer withdraws from the Certified Audit program subsequent to the Department approval of the Agreed Upon Procedures or if a Certified Audit report is not provided to the Department within 90 calendar days upon approval, and the Department denies an extension of time, then the Department will conduct an audit of the taxpayer for the same audit period and taxes addressed by the Agreed Upon Procedures.

(3) If the Department completes the audit, the taxpayer will not benefit from the automatic abatement of penalty and interest granted by the Certified Audit program.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History—New.

12-25.045 A Certified Audit is Initiated by the Taxpayer but Not Completed.

If, for whatever reason, the taxpayer's designated qualified audit firm fails to submit a completed certified audit report that meets the requirements of rule 12-25.048 after there has been approval of the "Agreed Upon Procedures" a Department auditor will complete the audit. If a Department auditor completes the audit, the taxpayer will not benefit from the automatic abatement of penalty and interest granted by the Certified Audit program.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History—New.

12-25.047 Development of Agreed Upon Procedures.

(1)(a) Certified Audits conducted pursuant to the authority of s. 213.285, F.S., are attestation engagements that are conducted under Statements on Standards for Attestation Engagements #4. – Agreed Upon Procedures.

(b) Subsequent to the Department's approval of the Request To Participate, and prior to the qualified practitioner submitting the Audit Plan, the qualified practitioner will perform required planning work. The planning work performed will include:

1. A written reconciliation of the Florida sales reported on the taxpayer's federal income tax returns to Florida sales reported on the taxpayer's Florida sales and use tax returns;

2. Identification and documentation of all revenue sources;

3. A comprehensive written narrative of the taxpayer's operations;

4. A current chart of accounts and the year-to-date general ledger activity for the last year in the audit period;

5. Copies of the Federal income tax returns for the audit period;

6. The DR-15 download print-out from the Department's audit software;

7. Performance of and reporting on steps AP .001 through AP .300 of the Standard Audit Program.

8. Required planning work will also include identification and disclosure to the Department of any known tax issues where the tax returns subject to the certified audit reflect an interpretation of applicable Florida Statutes and rules that is different from an interpretation presented in a previously published:

a. Technical Assistance Advisement;

b. Attorney General Opinion;

c. Declaratory Statement;

d. Tax Information Publication;

e. Training Update Bulletin;

f. Internal Technical Advisement; or,

g. General Tax Administration Bulletin.

9. A walk-through of both sales and purchases invoices for the audit period sufficient to understand the accounting system for recording and reporting Florida sales and use tax transactions and the associated internal accounting controls.

10. Any information the Department determines is necessary to clarify items 1 through 9.

(2) The starting point for development of the Agreed Upon Procedures includes information resulting from required planning work performed by the qualified practitioner, taxpayer profile information, the Certified Audit Standard Audit Program and the Certified Audit Standard Industry Guides. The qualified practitioner will use the described starting point information and materials to develop a document termed the "Audit Plan".

(3) The Audit Plan will be provided to the Department for review and approval. The review and approval of the Audit Plan will be a cooperative effort between the Department and the qualified practitioner. However, the Department, specifically the administrator of the Certified Audit program, will be the final authority on the nature, extent and type of audit procedures.

(4) Once the Department approves the final Audit Plan, it will become the Agreed Upon Procedures for the subject certified audit. Each set of Agreed Upon Procedures will be customized, as necessary, for the subject taxpayer.

(5) After the Department approves the Agreed Upon Procedures, the qualified practitioner must submit a written request to the Department and receive written approval from the Department prior to making any additions, deletions, or revisions to the approved Agreed Upon Procedures.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History—New.

12-25.048 Submission of the Certified Audit Report.

The qualified practitioner will submit the certified audit report and required attachments to the Department for review and approval.

(1) The certified audit report must meet all the requirements established by Statements on Standards for Attestation Engagements #4.

(2) Required attachments to the certified audit report include a schedule listing any adjustments made to the subject tax accounts. The schedule will reflect the detail for any adjustments made, including:

(a) The amount of each individual adjustment;

(b) Any credits made against the adjustment;

(c) The tax years involved; and.

(d) The Florida Statute(s) and rule(s) support for each adjustment.

(3) The schedule will also include any other information determined by the Department to be necessary to review, approve, and process the certified audit report.

(4) Required attachments will also include the completed Agreed Upon Procedures, with each audit step signed and dated by the qualified practitioner and/or practitioner who performed the step.

(5) The Department is authorized to share any of the information discussed in this rule with any county which self-administers the tax imposed by Sections 125.0104 or 125.0108, F.S.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History—New.

12-25.049 Review of Certified Audit Reports.

(1) The Department will select certain approved certified audit reports for a post-approval comprehensive review of the supporting work papers and associated documentation.

(2) To facilitate the review process, the qualified audit firm is required to use the Department's audit software in performing the certified audit. The qualified audit firm is also required to retain comprehensive, detailed documentation of the certified audit work performed, and to make that documentation available to the Department upon request. The Department shall have unrestricted access to all information and documentation necessary for a comprehensive review.

(3) The criteria for selecting an approved certified audit report for review is:

(a) The taxpayer replaced the original qualified audit firm subsequent to the Department's approval of the Agreed Upon Procedures for such certified audit, but prior to submission of the certified audit report to the Department.

(b) The certified audit is the initial engagement performed by the qualified audit firm.

(c) The certified audit is the second of two consecutive audits submitted by a qualified audit firm which resulted in a "no change" or in a refund request.

(d) The certified audit is within a sample of five percent of completed certified audits performed within a 12-month period, which sample was randomly selected from the entire population of completed certified audits for such period.

(4) When a qualified practitioner completes a certified audit and the Department approves the certified audit report, the qualified audit firm must request that the certified audit engagement be included as a part of their next on-site peer review.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History—New.

12-25.050 Protests.

A taxpayer participating in the Certified Audit program has all the protest rights available to any taxpayer who is audited by the Department. If the taxpayer decides to file a protest, the taxpayer may elect to retain the qualified audit firm who performed the certified audit to represent them in the informal protest procedures governed by s. 213.21, F.S. In that circumstance, the qualified practitioner continues in the role as the auditor and remains responsible for providing the Department any additional information or performing any additional audit work the Department judges necessary to address the protested tax issues.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History—New.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4830

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 12, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Proposed New Part II of Rule Chapter 12-25, FAC, was noticed for a Rule Development Workshop in the Florida Administrative Weekly on April 9, 1999 (Vol. 25, No. 14, pp. 1425-1431). The workshop was held on April 26, 1999. Comments were received at the workshop on these proposed new rules, and all comments were incorporated into the proposed rule text. Subsequent to the Rule Development Workshop additional written comments were submitted by the Florida Institute of Certified Public Accountants, which have been incorporated into the proposed rule text

DEPARTMENT OF CORRECTIONS

RULE TITLES: Inmate Substance Abuse Testing Searches of Inmates
RULE NOS.: 33-3.0063 33-3.0065

PURPOSE AND EFFECT: The purpose of the proposed rules is to clarify and simplify the Department's inmate drug testing procedures. The effect of the proposed rules is to provide for easier reading by placing all provisions related to inmate drug testing in a separate inmate drug testing rule, and to provide detailed procedures for handling specific issues related to collection of urine samples.

SUMMARY: The proposed rule combines all provisions related to inmate drug testing into one inmate drug testing rule and provides detailed procedures for collection of urine samples.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: (If one has been prepared)

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

SPECIFIC AUTHORITY: 944.09, 944.472, 944.473 FS.

LAW IMPLEMENTED: 944.09, 944.472, 944.473 FS.

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

TIME AND DATE: 9:00 a.m. June 16, 1999

PLACE: Law Library Conference Room, Room B-404, 2601 Blair Stone Road, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULES IS:

33-3.0063 Inmate Substance Abuse Testing.

The Bureau of Security Operations shall be responsible for the development and implementation of the department's substance abuse testing program.

(1) Definitions.

(a) Random Selection - A computerized random selection model utilized to obtain a sample of inmates to be tested for drugs or alcohol. Every inmate in the custody of the department has an equal chance of being selected.

(b) Collector - a correctional officer who has been trained and certified by certified testing personnel or by other personnel who have been certified on the proper procedures for collecting, handling, and disposing of urine specimens, and on the procedures for completing the chain of evidence form.

(c) Tester - a correctional officer who has been trained and certified as competent by the contractor or a master trainer to operate the drug testing equipment, and to review and certify test results.

(d) Random List - the randomly selected sample of inmates to be tested for drugs or alcohol.

(e) Chain of evidence form - the form used to document the identity and integrity of an inmate's specimen from time of collection, through specimen transport, testing, and reporting of results. Form DC4-621 is used for this purpose.

(f) Test refusal - failure on the part of an inmate to fully comply with the department's substance abuse testing procedures, which includes failing to provide a valid urine specimen, attempting to alter his or her urine specimen with adulterants, and using substitute urine in makeshift devices or objects.

(2) The Department of Corrections conducts the following types of inmate substance abuse testing:

(a) For-Cause or Reasonable Suspicion Testing.

1. Inmates suspected of involvement with drugs or alcohol shall be subject to for-cause testing upon order of the superintendent, the major of the community facility, or their designees. An inmate can be tested for a minimum of three drugs on a for-cause basis.

2. For-cause drug testing means drug testing based on a belief that an inmate is using or has used drugs or alcohol based on specific facts and reasonable inferences drawn from those facts in light of experience. Such facts and inferences shall be based upon:

a. Observable phenomena such as direct observation of drug or alcohol use or of the physical symptoms or manifestations of being under the influence of drugs or alcohol (such as slurred or incoherent speech, erratic or violent behavior, uneven gait, or other behaviors or physical symptoms unusual for the inmate based on the staff member's knowledge of the inmate).

b. Evidence that the inmate has tampered with or attempted to tamper with a urine specimen.

c. Evidence or intelligence reports determined to be of a reliable basis that an inmate has used, possessed, sold, solicited or transferred drugs or alcohol.

3. When for-cause testing is ordered, an incident report shall be prepared including:

a. Dates and times of reported drug-related events;

b. Rationale leading to the request for testing; and

c. The drugs recommended for testing.

4. The senior correctional officer on duty shall be notified that the staff member has identified a suspicious inmate who meets the for-cause drug testing criteria. The senior correctional officer shall ensure that an incident report is

prepared. The incident report shall contain all pertinent information concerning the inmate which prompted the request for testing, to include any supporting evidence.

5. Upon approval of the superintendent or major or their designees, collection and testing procedures shall be conducted pursuant to this rule.

6. A copy of the incident report shall be attached to the chain of evidence form and both documents shall be immediately forwarded to the testing facility.

(b) Random Substance Abuse Testing. All correctional facilities shall receive on a weekly basis a list of the names and DC numbers of inmates generated through random selection for substance abuse testing. The list will be electronically transmitted from the Offender Base Information System to the secure printer of the superintendent of each major institution and to the major of each community correctional center. Each time an inmate's name appears on the random list, he or she shall be tested regardless of whether or not he or she has been previously tested.

(c) Substance Abuse Treatment Program Testing. Inmates participating in substance abuse treatment programs will be subject to substance abuse testing as a condition of the program.

(3) Procedures.

(a) Chain of evidence.

1. At a minimum, the chain of evidence form must include offender and collector identification, initials by both the inmate and the collector, date and time of collection, and type of test (i.e., random, for-cause or substance abuse treatment program).

2. The chain of evidence form allows for any comments by the collector regarding any unusual observations, any failure by the inmate to cooperate with the collection process, and the unusual nature (e.g., discolored urine or urine containing foreign objects) of any specimen provided.

3. The collector shall ensure that all collected urine specimens are properly labeled and sealed with a security evidence label. The collector shall also ensure that the chain of evidence form for all collected urine specimens is completed in accordance with procedures. One form can be used to accompany multiple urine specimens collected and transported together.

4. If an inmate is unable or unwilling to enter his or her initials on the chain of evidence form, the collector will make a notation in the comment section of the chain of evidence form and leave the space blank. The collector will not under any circumstances sign the chain of evidence form for an inmate.

5. An entry shall be made on the chain of evidence form, DC4-621, each time the urine specimens are transferred to the custody of another individual.

(b) Specimen Collection Procedures.

1. The collector shall ensure that all urine specimens are collected in accordance with procedures. All collections shall be performed under direct observation, where the collector

directly observes the voiding of urine into the specimen cup. Direct observation may also be accomplished through use of mirrors strategically mounted in the collection rest room.

2. Under no circumstances is direct observation by a collector of the opposite sex from the inmate allowed.

3. The collector shall ensure that there is positive inmate identification prior to collecting the inmate's urine specimen. Sight, name, DC number, and examination of picture identification card shall provide positive identification of the inmate selected for drug testing.

4. The collector shall search the inmate to ensure that the inmate is not concealing any substances or materials which could be used to alter or substitute his or her urine specimen. If any such substances or materials are found, the inmate will be charged with refusing to submit to a substance abuse test.

5. If an inmate attempts to alter his or her urine specimen during the collection process through the use of adulterants or substitute urine, the inmate will be charged with refusing to submit to substance abuse testing.

6. The collector shall give each inmate a closed specimen cup with an identification label containing the inmate's name and DC number prior to collecting the inmate's urine specimen. The collector shall ensure that the inmate acknowledges his or her correct identity information on the label of the specimen cup.

7. The inmate is expected to provide a minimum of 30 ml of urine. If the inmate provides less than this amount, the collector shall again attempt to collect an adequate specimen. If the inmate cannot immediately submit another urine specimen, then the procedure outlined in 8. below for a claimed inability to provide a urine specimen shall apply.

8. An inmate who indicates a claimed inability to provide an adequate urine specimen shall be detained in the presence of the collector or other designated person for a period not to exceed 1 hour to provide an adequate specimen. During that time, the inmate shall be allowed to consume one cup (8 oz.) of water or other beverage every 1/2 hour, not to exceed a total of 2 cups during this time period. If after the 1 hour period an inmate still fails to submit a valid adequate urine specimen, the inmate shall be considered to have refused to provide a urine specimen and a disciplinary report shall be prepared in accordance with chapter 33-22. The collector shall note such failure to provide a specimen on the chain of evidence form, DC4-621. If an inmate claims an inability to urinate due to a "bashful bladder" condition, procedures set forth in (3)(c) shall apply.

9. After the inmate has voided a urine specimen into the cup, the collector shall direct the inmate to close the cup tightly before placing the cup into the collector's custody.

10. The collector shall visually inspect all urine specimens placed in his or her custody to ensure that a valid, fresh, unadulterated urine specimen was provided. Urine specimens which are discovered to be obviously altered (e.g., discolored

or containing foreign objects), will not be accepted as valid specimens. A suspect urine specimen will be discarded and the inmate will be required to submit another urine specimen. If the inmate cannot submit a urine specimen, then the procedure outlined above for a claimed inability to provide a urine specimen shall apply.

11. If a urine specimen contains blood or appears to contain blood, the inmate who produced the specimen shall be referred immediately to medical for evaluation. If no valid reason exists for having blood in the specimen, the inmate will be required to provide another urine specimen. If the inmate cannot submit a urine specimen, then the procedure outlined above for a claimed inability to provide a urine specimen shall apply.

12. Once the urine specimen has been securely closed by the inmate, the collector shall attach a security evidence label across the lid of the sample cup under the inmate's observation. The collector shall instruct the inmate to place his or her initials on the chain of evidence form verifying that the urine specimen was collected and sealed under the inmate's observation and that the specimen cup identification is correct.

(c) "Bashful bladder" procedure. Upon notification from an inmate that he is unable to urinate due to "bashful bladder", the officer shall verify with medical staff that the inmate possesses a specific medical condition or is taking medication which inhibits the inmate from urinating within the designated time frame. Upon receiving such verification, the inmate shall be given the opportunity to provide a urine specimen under the following conditions:

1. The inmate shall be informed that he or she will be placed in a holding cell until he or she can provide a valid urine specimen. The inmate shall be issued a hospital or other type privacy gown during the time that he or she is housed in the holding cell.

2. The inmate shall remove the contents of his or her pockets, and his or her shirt, shoes, pants and hat. The inmate shall be thoroughly searched prior to entering the holding cell to prevent him or her from using any adulterants such as bleach or cleanser to alter his or her urine specimen.

3. The collector shall give the inmate a closed specimen cup with an identification label containing the inmate's name and DC number. The collecting officer shall ensure that the inmate acknowledges his or her correct identity information on the label of the specimen cup.

4. The inmate shall be allowed to consume one cup (8 oz.) of water or other beverage every 1/2 hour, not to exceed a total of two cups during the time spent in the holding cell.

5. A physical check shall be made on the inmate once every 30 minutes to see if he or she has provided a valid urine specimen.

6. Upon receipt of the urine specimen that has been securely closed by the inmate, the collector shall attach a security evidence label across the lid of the sample cup under

the inmate's observation. The inmate shall be instructed to place his or her initials on the chain of evidence form verifying that the urine specimen was collected and that the specimen cup identification is correct.

(d) Testing of urine specimens.

1. Only certified testing personnel are authorized to operate the drug testing equipment.

2. Certified testers shall examine each specimen prior to testing to ensure that the security evidence label is intact and that the specimen labeling and the chain of evidence form, DC4-621, is in proper order. In the event that the tamper-evident seal is damaged or the chain of evidence form is incomplete, the tester shall not test those urine specimens.

3. Any specimens found to be positive upon initial testing shall be re-tested at the department testing facility that day with a fresh sample of the specimen prior to reporting test results. Specimens testing negative on the retest shall be reported as negative.

4. When a urine specimen's initial test results are positive, the tester shall follow the following procedures:

a. After double-checking the positive specimen's identity, the tester shall pipette a second urine sample from the original urine specimen cup and conduct the urinalysis testing procedure again, testing each positive specimen only for those drugs found positive on the initial test. Batch runs of several initial positive specimens are authorized.

b. If a specimen's results are negative on repeat testing, the tester shall document the test results on the random sample list and chain of custody form and dispose of the urine specimen and specimen cup.

c. If the urine specimen's test results are again positive on repeat testing, the tester shall document the test results as positive on the random list and substance abuse list and chain of custody form.

(e) On-site testing of urine specimens. Community correctional centers are authorized to conduct on-site testing of urine specimens in lieu of transporting specimens to testing facilities for initial testing.

1. Specimen collection procedures. Collectors shall follow collection procedures in (3)(b), with the exception that a security evidence label shall not be placed on the lid of the cup unless the specimen is found to be positive.

2. Testing procedures. All on-site testing procedures shall be conducted in the presence of the inmate in accordance with the manufacturer's protocols.

a. After the collector has taken a sample of urine from the specimen cup for the test, the inmate shall be directed to close the cup tightly.

b. After the collector has followed the steps specified in the manufacturer's protocols, the collector shall record the test results on the chain of evidence form.

3. Negative test results. The collector shall inform the inmate of the negative test results of the on-site test. The collector shall record all negative test results on the chain of evidence form and dispose of the remaining specimen, specimen cup and test device. All chain of custody forms shall be retained in accordance with state law and rules governing the retention of records.

4. Positive test results. The collector shall inform the inmate of the positive test results of the on-site test. The collector shall record the positive test results on the chain of custody form and prepare the urine specimen for transfer to the designated testing facility in accordance with (3)(b) for a verification urine drug test. Inmates with positive test results on the initial test shall immediately be placed in administrative confinement pending investigation until a second test is conducted pursuant to (3)(d) and results are obtained.

(f) Record keeping. Each testing facility shall keep all records pertaining to the testing program. This includes chain of evidence documentation, hard copy instrument printouts of calibration and testing, results of performance on proficiency test specimens, results of performance on inspections, and instrument and other equipment maintenance records. All records shall be kept in accordance with state law and rules regarding retention of records.

(g) Forms. Form DC4-621 is hereby incorporated by reference. Copies of this form may be obtained from any institution or from the Office of Security and Institutional Management, 2601 Blair Stone Road, Tallahassee, Florida, 32399-2500. If forms are to be mailed, the request must be accompanied by a self-addressed, stamped envelope. The effective date of this form is March 24, 1997.

Specific Authority 944.09, 944.472, 944.473 FS. Law Implemented 944.09, 944.472, 944.473 FS. History—New

### 33-3.0065 Searches of Inmates.

Searches of inmates will be conducted to control the introduction and movement of contraband as well as to prevent escapes. These searches are to be made with discretion.

(1) through (3) No change.

#### ~~(4) Random Substance Abuse Testing.~~

~~(a) Random substance abuse testing of inmates through urinalysis is authorized pursuant to s. 944.473, FS.~~

#### ~~(b) Definitions:~~

~~1. Random Selection — a process of selection which utilizes a computerized random selection model to obtain a sample of inmates to be tested for drugs and alcohol. Every inmate in the custody of the department has an equal chance of being selected.~~

~~2. Collector — a correctional officer designated by the superintendent or officer in charge to collect urine samples and who has been trained in the proper procedures for collection and maintenance of the chain of evidence.~~

~~3. Tester — a correctional officer who has been designated by the superintendent or officer in charge of the facility to test urine samples and who has been trained and certified by the contractor as competent to operate the urinalysis testing equipment.~~

~~4. Contractor — the vendor responsible, by contract, for provision and maintenance of testing equipment, and training regarding operation of testing equipment.~~

~~5. Random List — the randomly selected sample of inmates to be tested for drugs and alcohol.~~

~~(c) Institutions and facilities shall, on no less than a monthly basis, receive a list of the names and numbers of inmates generated through random selection for substance abuse testing. The Office of Security and Institutional Management shall generate the random list and electronically transmit the random list to the superintendent of each major institution or the Major of each regional community facility. Each time an inmate's name appears on the random list, he or she shall be tested regardless of whether or not he or she has been previously tested.~~

#### ~~(d) Procedure:~~

~~1. Responsibility. The Office of Security and Institutional Management shall be responsible for generating the random sample list of inmates to be tested and providing for the transmission of the list to the superintendents of major institutions and the majors of regional community facilities. The superintendents and majors shall be responsible for the development of local procedures to ensure the security of the list and the ensuing collection, transport of samples for testing, documentation, and, at designated testing sites, the testing process.~~

#### ~~2. Chain of evidence:~~

~~a. At a minimum, the chain of evidence documentation of the collection process must include collector identification, initials by both the inmate and the collector, and date and time of collection.~~

~~b. The collector must document any unusual observations regarding the behavior of the inmate and the nature of any specimen on the chain of evidence form, DC4-621, during the collection process.~~

~~c. All urine specimens collected must be properly labeled and sealed with tamper-evident tape upon collection and must be accompanied by a properly completed chain of evidence form. One form can be used to accompany multiple urine specimens collected and transported together.~~

~~d. The collector, upon receiving an inmate's urine specimen, will enter the inmate's DC number and collection date and time in the designated spaces. The collector will instruct each inmate to place his or her initials on the chain of evidence form to verify that his or her specimen was collected, that the specimen labeling information was correct, and that the specimen was securely sealed in the inmate's presence.~~

e. If an inmate is unable or unwilling to enter his or her initials on the chain of evidence form, the collector will make a notation in the comment section of the chain of evidence form and leave the space blank. The collector will not under any circumstances sign the chain of evidence form for an inmate.

f. The collector will total the number of urine specimens collected during the collection procedure and place this number in the designated space which is located at the bottom of the chain of evidence form.

g. The collector will enter his or her name on the "to" line and fill in the spaces for the date and time the collection process was completed.

h. If the collector transfers the custody of the urine specimens to another person, the collector will sign his or her name on the "from" line and the person who is receiving the urine samples will sign on the "to" line and fill in the spaces for the date and time the transfer was completed. This procedure will continue until the tester enters his or her name on the "to" line.

i. If the collector transfers the custody of urine specimens to temporary refrigerated storage, the collector will sign his or her name on the "from" line and enter "refrigerated storage" on the "to" line and fill in the spaces for the date and time the transfer was completed. When the specimens are removed from refrigerated storage the person receiving the specimens will enter "refrigerated storage" on the "from" line, and enter the date and time of removal.

j. The name on the "from" line will always be the person who is relinquishing control of the urine specimens, while the name on the "to" space will always be the person who is receiving the urine specimens, or refrigerated storage.

k. An entry shall be made on the chain of evidence form, DC4-621, each time the urine specimens are transferred to the custody of another individual.

### 3. Collection of urine specimens.

a. All collections shall be performed under direct observation, where the collector directly observes the voiding of urine into the specimen cup. Direct observation may also be accomplished through use of mirrors strategically mounted in the collection rest room.

b. Under no circumstances is direct observation by a collector of the opposite sex from the inmate allowed.

c. Collector must ensure that there is a positive inmate identification. The collector shall identify the inmate who has been selected for testing by sight, name, and DC number prior to collecting a urine specimen.

d. The collector shall search the inmate to ensure that the inmate is not concealing any substances or materials which could be used to alter or substitute the inmate's urine specimen. If any such substances or materials are found, a disciplinary report will be issued.

e. The collector shall instruct the inmate to wash his or her hands thoroughly with soap and water prior to collecting the inmate's urine specimen.

f. The collector shall give each inmate a closed specimen cup with an identification label containing the inmate's name and DC number prior to collecting the inmate's urine specimen. The collector shall ensure that the inmate acknowledges his or her correct identity information on the label of the specimen cup.

g. Any unusual behavior of the inmate or unusual appearance of the specimen provided shall be noted in the comment section of the chain of evidence form, DC4-621.

h. An inmate who indicates a claimed inability to provide an adequate urine specimen shall be detained in the presence of the collector or other designated person for a period not to exceed 1 hour to provide an adequate specimen. During that time, the inmate shall be allowed to consume one cup (8 oz.) of water or other beverage every 1/2 hour, not to exceed a total of 2 cups during this time period. If after the 1 hour period an inmate still fails to submit a valid adequate urine specimen, the inmate shall be considered to have refused to provide a urine specimen and a disciplinary report shall be prepared in accordance with chapter 33-22. The collector shall note such failure to provide a specimen on the chain of evidence form, DC4-621.

i. Any attempt by an inmate to provide other than a fresh, unsubstituted, unadulterated or undiluted specimen will be viewed as a test refusal in violation of department rules and a disciplinary report will be issued.

j. After the inmate has voided a urine specimen into the cup, the collector shall direct the inmate to close the cup tightly before placing the cup into the collector's custody.

k. The collector shall visually inspect all urine specimens placed in his or her custody to ensure that it is a valid, fresh, unadulterated, undiluted urine specimen. Urine specimens which are discovered to be obviously altered (i.e., cold, having an unusual color, containing foreign objects), will not be accepted as valid specimens. A suspect urine specimen will be discarded and the inmate will be required to submit another urine specimen. If the inmate cannot submit a urine specimen, then the procedure outlined in i. above for a claimed inability to provide a urine specimen shall apply.

l. If a urine specimen contains blood or appears to contain blood, the inmate who produced the specimen shall be referred immediately to medical for evaluation. If no valid reason exists for having blood in the specimen, the inmate will be required to provide another urine specimen. If the inmate cannot submit a urine specimen, then the procedure outlined in i. above for a claimed inability to provide a urine specimen shall apply.

m. Upon receipt of the urine specimen which has been securely closed by the inmate, the collector shall attach a tamper-evident security label across the lid of the sample cup under the inmate's observation and shall instruct the inmate to



place his or her initials on the chain of evidence form verifying that the urine specimen was collected and sealed under the inmate's observation and that the specimen cup identification is correct.

n. The urine specimens should be transferred on the day of collection. If extraordinary circumstances prevent the transfer of the urine specimens, then all specimens shall be refrigerated in a secure location pending transfer. If refrigeration is not available, then an ice pack shall be stored in the container with the urine specimens pending transfer to the testing facility.

#### 4. Testing of urine specimens.

a. Only testing personnel who have successfully completed training as provided by the contractor regarding proper procedures in operating and maintaining the testing instrument and ensuring the accuracy of test results are authorized to test urine specimens.

b. Testing personnel shall examine each specimen prior to testing to ensure that the tamper-evident seal is intact and that the specimen labeling and the chain of evidence form, DC4-621, is in proper order. Any discrepancies shall be recorded. In the event that the tamper-evident seal is damaged or the chain of evidence form is not accurate or complete, the tester shall not test those urine specimens.

e. Any specimens found to be positive upon initial testing shall be retested at the department testing facility that day with a fresh sample of the specimen prior to reporting test results. Specimens testing negative on the retest shall be reported as negative.

d. When a urine specimen's initial test results are positive, the tester shall follow the following procedures:

i. After double-checking the positive specimen's identity, the tester shall pipette a second urine sample from the original urine specimen cup and conduct the urinalysis testing procedure again, testing each positive specimen only for those drugs found positive on the initial test. Batch runs of several initial positive specimens are authorized.

ii. If a specimen's results are negative on repeat testing, the tester shall document the test results on the random sample list and chain of custody form and dispose of the urine specimen and specimen cup.

iii. If the urine specimen's test results are again positive on repeat testing, the tester shall document the test results as positive on the random list and substance abuse list and chain of custody form.

5. On site testing of urine specimens. Community correctional centers are authorized to conduct on-site testing of urine specimens in lieu of transporting specimens to testing facilities for initial testing.

a. Collection procedures. Collectors shall follow collection procedures in (4)(d)3.a. through 1.

b. Testing procedures. All on-site testing procedures shall be conducted in the presence of the inmate in accordance with the manufacturer's protocols.

i. After the collector has taken a sample of urine from the specimen cup for the test, the inmate shall be directed to close the cup tightly.

ii. After the collector has followed the steps specified in the manufacturer's protocols, the collector shall record the test results on the chain of evidence form.

e. Negative test results. The collector shall inform the inmate of the negative test results of the on-site test. The collector shall record all negative test results on the chain of evidence form and dispose of the remaining specimen, specimen cup and test device. All chain of custody forms shall be retained in accordance with state law and rules governing the retention of records.

d. Positive test results. The collector shall inform the inmate of the positive test results of the on-site test. The collector shall record the positive test results on the chain of custody form and prepare the urine specimen for transfer to the designated testing facility in accordance with (4)(d)3.m. and n. for a verification urine drug test. Inmates with positive test results on the initial test shall immediately be placed in administrative confinement until a second test is conducted pursuant to (4)(d)4. and results are obtained.

(e) Forms. Form DC4-621 is hereby incorporated by reference. Copies of this form may be obtained from any institution or from the Office of Security and Institutional Management, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. If forms are to be mailed, the request must be accompanied by a self-addressed, stamped envelope. The effective date of this form is March 24, 1997.

#### (5) For Cause Testing.

(a) Inmates suspected of involvement with drugs or alcohol shall be subject to for cause testing upon order of the superintendent, the major of the community facility, or their designees. An inmate can be tested for a minimum of two drugs on a for cause basis.

(b) For cause drug testing means drug testing based on a belief that an inmate is using or has used drugs or alcohol based on specific facts and reasonable inferences drawn from those facts in light of experience. Such facts and inferences shall be based upon:

1. Observable phenomena such as direct observation of drug or alcohol use or of the physical symptoms or manifestations of being under the influence of drugs or alcohol (such as slurred or incoherent speech, erratic or violent behavior, uneven gait, or other behaviors or physical symptoms unusual for the inmate based on the staff member's knowledge of the inmate).

2. Evidence that the inmate has tampered with or attempted to tamper with a drug test.

3. Evidence or intelligence reports determined to be of a reliable basis that an inmate has used, possessed, sold, solicited or transferred drugs or alcohol.

~~(c) When for cause testing is ordered, an incident report shall be prepared including:~~

- ~~1. Dates and times of reported drug-related events;~~
- ~~2. Rationale leading to the request for testing; and~~
- ~~3. The two drugs or more recommended for testing.~~

~~(d) The senior correctional officer on duty shall be notified that the staff member has a suspicious inmate who meets the for cause drug testing criteria. The senior correctional officer shall ensure that an incident report is prepared. The incident report shall contain all pertinent information concerning the inmate which prompted the request for testing, to include any supporting evidence.~~

~~(e) A copy of the incident report shall be attached to the chain of evidence form and both documents shall be immediately forwarded to the testing facility.~~

~~(f) The collector shall denote "C" for "for cause" testing on the lid of the urine specimen cup for identification purposes.~~

~~(g) Record keeping. Each testing facility shall keep all records pertaining to the testing program. This includes chain of evidence documentation, hard copy instrument printouts of calibration and testing, results of performance on proficiency test specimens, results of performance on inspections, and instrument and other equipment maintenance records. All records shall be kept in accordance with state law and rules regarding retention of records.~~

Specific Authority 944.09, 944.473 FS. Law Implemented 944.09, 944.472, 944.473, 944.47 FS. History—New 4-8-81, Formerly 33-3.065, Amended 7-3-85, 11-2-86, 6-2-94, 1-25-96, 3-24-97, 9-9-97, 12-15-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Stan Czerniak  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 4, 1999  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 16, 1999

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Disciplinary Team, Hearing Officer and Action  
 RULE NO.: 33-22.008  
 PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify procedures related to inmates being required to pay for lost or damaged property and to resolve inconsistencies in the current rule.

SUMMARY: The proposed rule clarifies procedures related to reimbursement for lost or damaged property and allocation of responsibility for reimbursement. In situations in which two or more inmates are found to be responsible for loss or

destruction of property, the proposed amendments provide that each will be held liable for an equal portion of the total amount.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: (If one has been prepared).

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

TIME AND DATE: 9:00 a.m., June 15, 1999

PLACE: Law Library Conference Room, Room B-404, 2601 Blair Stone Road, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-22.008 Disciplinary Team, Hearing Officer and Action.

(1) through (2) No change.

(3) If the inmate is found guilty the disciplinary team shall impose any one or a combination of the below actions. The hearing officer's authority is limited to subparagraphs (3)(a) through (3)(i) below:

(a) through (h) No change.

(i) Require inmates to pay for damaged, destroyed or misappropriated property or goods, whether state or personal;

1. If two or more inmates are each found to be responsible for the loss or destruction of an item they each shall be liable for an equal portion of the full amount. For example, if the total loss is \$75 and three inmates are found to be responsible for the loss, each inmate will be required to pay \$25. However, the total amount collected shall not exceed the amount of the loss.

2. Payment for damaged, destroyed or misappropriated property shall be at the replacement value and inmate or staff labor costs shall not be included. However, outside labor costs may be charged when the damage is the result of a deliberate destructive act. In such cases, documentation shall be placed in the inmate file at the local institution detailing the cost involved. The total cost shall be reflected in the disciplinary report in section IV.

3. If an inmate does not have sufficient funds to cover the repair or replacement costs, a notation shall be made on the inmate's bank account for possible future payment. Should the inmate ever receive money at a facility during the current commitment or during service of continuing consecutive commitments, excepting the release gratuity, the department will be paid prior to issuing funds to the inmate.

4. Costs for medical services resulting from injury may not be imposed.

(j) through (n) No change.

(4) through (5) No change.

Specific Authority 944.09, 945.091 FS. Law Implemented 20.315, 944.09, ~~944.34~~, 945.04, 945.091 FS. History--New 3-12-84, Formerly 33-22.08, Amended 11-13-84, 12-30-86, 6-25-89, 7-17-90, 10-1-95, 11-25-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Stan Czerniak  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 4, 1999  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 16, 1999

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE CHAPTER TITLE: Procedural  
RULE CHAPTER NO.: 40D-1  
RULE TITLE: Forms and Instructions  
RULE NO.: 40D-1.659  
PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to adopt by reference various well construction and water use permitting forms. The Water Use Permitting forms are currently referenced in Rule 40D-2.101, Content of Application; and the Well Construction Forms are currently referenced in Rule 40D-3.037, Rules and Publications Incorporated by Reference.

SUMMARY: The proposed rule amendment will adopt by reference various well construction and water use permitting forms. The District has developed and previously adopted by rule various forms for use with each of its regulatory programs. Once the forms are adopted by rule any revisions or amendments to the forms require that they be readopted by reference pursuant to Section 120.54(1)(i), F.S. Staff has recently completed minor revisions to update several water use and well construction permitting forms, and this rulemaking is necessary to incorporate the changes. The District is concurrently moving the location of the Water Use Permitting forms from Rule 40D-2.101, FAC., to Rule 40D-1.659, FAC., and the Well Construction Permitting forms from Rule

40D-3.037, FAC., to Rule 40D-1.659, FAC. This change will provide a single location in the District's rules for the incorporation of all of the District's regulatory forms.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District's determination that the proposed revisions to Rules 40D-1.659, F.A.C., will not result in a substantial increase in costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.113, 373.413, 373.414, 373.416, 373.419, 373.421 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen E. West, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, Florida 34609-6899, (352)796-7211, Extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-1.659 Forms and Instructions.

The following forms and instructions which have been approved by the Governing Board are incorporated by reference into this Chapter and can ~~may~~ be obtained from the District.

**GROUND WATER**

- 1. APPLICATION FOR WATER WELL CONTRACTOR'S LICENSE  
FORM NO. WWCL( /99)
- 2. PROPOSED WELL CONSTRUCTION LOCATION AND DESIGN FORM  
FORM NO. 41.10-003 2/94/MH
- 3. STATE OF FLORIDA PERMIT APPLICATION TO CONSTRUCT, REPAIR, MODIFY, OR ABANDON A WELL  
FORM NO. 41.10-410(1)REV.4/95
- 4. WELL COMPLETION REPORT  
FORM NO. 41.10-410(2)(8/96)
- 5. WELL GROUTING/ABANDONMENT FORM  
FORM NO. 41.10-410(8/96)

6. WELL VERIFICATION FOR ALL NON-DOMESTIC WELLS LOCATED IN THE MOST IMPACTED AREA OR THE EASTERN TAMPA BAY WATER USE CAUTION AREA

FORM NO. 42-10-005(10/95)

~~Well Location Verification  
Application for Registration as Well Driller  
Bond for Drilling Contractors  
Supplemental Bond for Test and Foundation Hole Contractors,  
Engineering Testing Laboratories~~

~~Application for a Permit to Construct a Well Under a Special Certification of Registration~~

~~Application for Firm Identification Number~~

~~Confirmation of Firm Identification Number~~

~~Sworn Written Complaint Form~~

~~Well Abandonment Report~~

~~Warning Notice~~

~~Application for a Permit to Construct a Well and Used along with Department of Environmental Regulation Water Well Contractor's Well Completion Report~~

1. GENERAL WATER USE PERMIT APPLICATION USE FOR QUANTITIES LESS THAN 100,000 GALLONS PER DAY

FORM NO. WUP-1 FORM 46.20-001(12/98)

2. GENERAL WATER USE PERMIT APPLICATION USE FOR QUANTITIES OF 100,000 TO 499,999 GALLONS PER DAY

FORM NO. WUP-2 FORM 46.20-002 (12/98)

3. INDIVIDUAL WATER USE PERMIT APPLICATION USE FOR QUANTITIES OF 500,000 GALLONS PER DAY OR GREATER

FORM NO. WUP-3 FORM 46.20-003 (12/98)

4. WATER USE APPLICATION SUPPLEMENTAL FORM – AGRICULTURE

FORM NO. WUP-4 FORM 46.20-004 (12/98)

5. WATER USE APPLICATION SUPPLEMENTAL FORM – INDUSTRIAL OR COMMERCIAL

FORM NO. WUP-5 FORM 46-20.005 (12/98)

6. WATER USE APPLICATION SUPPLEMENTAL FORM – MINING AND DEWATERING

FORM NO. WUP-6 FORM 46.20-006 (12/98)

7. WATER USE APPLICATION SUPPLEMENTAL FORM – PUBLIC SUPPLY

FORM NO. WUP-7 FORM 46.20-007 (12/98)

8. WATER USE APPLICATION SUPPLEMENTAL FORM – RECREATION OR AESTHETIC

FORM NO. WUP-8 FORM 46.20-008 (12/98)

~~Instructions and Forms for Completing the Consumptive Use Permit (CUP) Application Form~~

~~Southwest Florida Water Management District Consumptive Use Permit Application~~

~~Southwest Florida Water Management District (SWFWMD) Consumptive Use Permit~~

**SURFACE WATER**

Application for Permit – Used for Docks or Piers and Bulkheads

(1) through (11) No change.

Specific Authority 373.044, 373.113 FS. Law Implemented ~~420.53~~, 373.113, 373.413, 373.414, 373.416, 373.419, 373.421 FS. History–New 12-31-74, Amended 10-24-76, Formerly 16J-0.40, 40D-1.901, 40D-1.1901, Amended 12-22-94, 5-10-95, 10-19-95, 5-26-96, 7-23-96, 2-16-99, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen E. West, Senior Attorney, Office of General Counsel, Southwest Florida Water Management District, 2379 Broad Street, Brooksville, Florida 34609-6899, (352)796-7211, Extension 4651

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 30, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 7, 1999

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE CHAPTER TITLE: Consumptive Use of Water RULE CHAPTER NO.: 40D-2

RULE TITLE: Content of Application RULE NO.: 40D-2.101

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to eliminate the incorporation by reference of water use permitting forms in 40D-2.101, FAC, and provide a reference to Rule 40D-1.659, FAC, where these forms will be incorporated.

SUMMARY: The proposed rule amendment will adopt by reference various well construction and water use permitting forms. The District has developed and previously adopted by rule various forms for use with each of its regulatory programs. Once the forms are adopted by rule any revisions or amendments to the forms require that they be readopted by

reference pursuant to Section 120.54(1)(i), F.S. Staff has recently completed minor revisions to update several water use permitting forms, and this rulemaking is necessary to incorporate the changes. The District is concurrently moving the location of the Water Use Permitting forms from Rule 40D-2.101, FAC, to Rule 40D-1.659, FAC. This change will provide a single location in the District's rules for the incorporation of all of the District's regulatory forms.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** A Statement of Estimated Regulatory Cost is not being prepared based on the District's determination that the proposed revisions to Rule 40D-2.101, FAC, will not result in a substantial increase in costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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

**SPECIFIC AUTHORITY:** 373.044, 373.113, 373.149, 373.171, 373.216, 373.249 FS.

**LAW IMPLEMENTED:** 373.229 FS.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Karen E. West, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, Florida 34609-6899, (352)796-7211, Extension 4651

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

40D-2.101 Content of Application.

In order to obtain a Water Use Permit, an applicant shall file with the District the appropriate form entitled "Water Use Permit Application" including the appropriate supplemental forms. The Water Use Permit application forms ~~numbered WUP-1 through WUP-8~~ are hereby incorporated by reference into Rule 40D-1.659, F.A.C., this chapter and are available from the District upon request. These forms shall become effective on October 23, 1989. The Application shall include the following information:

- (1) through (7) No change.

Specific Authority 373.044, 373.113, 373.149, 373.171, 373.216, 373.249 FS. Law Implemented 373.229 FS. History--Readopted 10-5-74, Amended 10-24-76, 1-6-82, 2-14-82, Formerly 16J-2.06, Amended 10-1-89, 10-23-89, 2-10-93, \_\_\_\_\_.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Karen E. West, Senior Attorney, Office of General Counsel, Southwest Florida Water Management District, 2379 Broad Street, Brooksville, Florida 34609-6899, (352)796-7211, Extension 4651

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

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** March 30, 1999

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** May 7, 1999

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

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

**RULE TITLE:** Rules and Publications Incorporated **RULE NO.:**

by Reference 40D-3.037

**PURPOSE AND EFFECT:** The purpose of the proposed rule amendment is to eliminate the incorporation by reference of various well construction forms in 40D-3.037, FAC, and provide a reference to Rule 40D-1.659, FAC, where these forms will be incorporated.

**SUMMARY:** The proposed rule amendment will adopt by reference various well construction permitting forms. The District has developed and previously adopted by rule various forms for use with each of its regulatory programs. Once the forms are adopted by rule any revisions or amendments to the forms require that they be readopted by reference pursuant to Section 120.54(1)(i), F.S. Staff has recently completed minor revisions to update several well construction permitting forms, and this rulemaking is necessary to incorporate the changes. The District is concurrently moving the location of the Well Construction Permitting forms from Rule 40D-3.037, FAC, to Rule 40D-1.659, FAC. This change will provide a single location in the District's rules for the incorporation of all of the District's regulatory forms.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** A Statement of Estimated Regulatory Cost is not being prepared based on the District's determination that the proposed revisions to Rules 40D-3.037, FAC, will not result in a substantial increase in costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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

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

LAW IMPLEMENTED: 373.309, 373.323, 373.342 FS.  
IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.  
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen E. West, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, Florida 34609-6899, (352)796-7211, Extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-3.037 Rules and Publications Incorporated by Reference.

(1) through (2) No change.

(3) ~~Well Construction Forms "State of Florida Permit Application to Construct, Repair, Modify or Abandon Well," form number 41.10-410(1), REV. 4/95; "Public Supply Well Information and Classification Form," form number 42.10-001, revised August 1992; "Well Completion Report," form number 41.10-410(2) REV. 6/95; and "Well Verification," form number 42.10-005(2/94);~~ are hereby incorporated by reference into Rule 40D-1.659, F.A.C., and made a part of this rule and are available from the District upon request.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.309, 373.323, 373.342 FS. History--New 7-1-90, Amended 12-31-92, 4-11-94, 6-27-94, 9-22-94, 7-5-95, 10-19-95.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen E. West, Senior Attorney, Office of General Counsel, Southwest Florida Water Management District, 2379 Broad Street, Brooksville, Florida 34609-6899, (352)796-7211, Extension 4651

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 30, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 7, 1999

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Health Facility and Agency Licensing**

RULE CHAPTER TITLE: Hospital Licensure  
RULE CHAPTER NO.: 59A-3

RULE TITLE: Physical Plant Requirements for General, Rehabilitation and Psychiatric Hospitals  
RULE NO.: 59A-3.081

PURPOSE AND EFFECT: The purpose of the proposed rule amendment to Chapter 59A-3, F.A.C., is to fulfill the requirements of the 1998 Legislative Session, which amended the Hospital Licensing and Regulation Statutes 395, F.S., and directed the Agency to adopt by rule licensure requirements for mobile surgical facilities providing surgical services to inmates of the Department of Corrections facility established after July 1, 1998. The proposed rule will not compromise public safety, human health, the environment, or any other protection afforded by law.

SUMMARY: The proposed rule amendment provides for physical plant requirements for mobile surgical facilities providing elective surgical services only to inmates patients of the Department of Corrections facilities or private correctional facilities operating pursuant to Chapter 957, F.S., established after July 1, 1998, and not to the general public. In addition, these provisions have been incorporated into subsection 59A-3.081(54), F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 395.1055, 395.0163, 408.036 FS.

LAW IMPLEMENTED: 395.001, 395.1055, 395.1065, 408.036, 957.05 FS.

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

TIME AND DATE: 9:00 a.m. DST, June 18, 1999

PLACE: Agency for Health Care Administration, Building #1, 2nd Floor Conference Room 208, 2727 Mahan Drive, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James (Skip) Gregory, Chief, Office of Plans and Construction, Agency for Health Care Administration, Building 1, Room 140, 2727 Mahan Drive, Tallahassee, Florida, (850)487-0713

THE FULL TEXT OF THE PROPOSED RULE IS:

59A-3.081 Physical Plant Requirements for General, Rehabilitation and Psychiatric Hospitals

(54) Physical Plant Requirements for Mobile Surgical Facility. The following are additional special requirements for Mobile Surgical Facilities established after July 1, 1998.

(a) Mobile Surgical Facility. A mobile surgical facility is a mobile facility as defined in section 395.002, F.S., and which provides elective surgical care under contract with the Department of Corrections or a private correctional facility operating pursuant to Chapter 957, F.S.

(b) General Requirements: In addition to the codes and standards referenced in this rule, the mobile surgical facility shall comply with the requirements of Ambulatory Health Care Centers, Chapter 12-6 of the National Fire Protection Association (NFPA), 101 Life Safety Code.

1. Site Requirements:

a. There shall be a level concrete pad designed for the structural loads of the facility in accordance with the Florida Building Code.

b. There shall be sturdy walls, fences or concrete-filled steel bollards around the immediate site to prevent collisions with the unit by other vehicles.

c. The facility shall have a tie-down anchoring system designed by a Florida registered professional engineer or architect based on the criteria set forth in Federal Manufactured Home Construction and Safety Standards, Section 3280.306.

d. The facility shall be sited so that it does not diminish egress from the hospital and so that the exhaust from the tractor and/or generator does not enter the fresh air intakes of the hospital.

e. There shall be a rain-free covered passage from the hospital to the entrance of the mobile facility.

2. Architectural Design Requirements:

a. There shall be an operating room with a minimum area of 170 square feet. The minimum room dimension shall be 12 feet. There shall be sufficient ceiling height to allow the installation of an operating room light.

b. There shall be an operating room service area containing sterilizing facilities, medication preparation and storage areas, scrub facilities, soiled work room with work counter, clean work room with storage for clean and sterile supplies, and janitor's closet with floor receptor or service sink.

c. There shall be a recovery room/Post-Anesthetic Care Unit (PACU) adjacent to the operating room, which shall accommodate a minimum of two recovery beds. The size of this room shall be based on 80 square feet per recovery bed.

d. There shall be a nurse station for charting, communications, and storage.

e. There shall be a recovery service area containing a nourishment station, a hand washing facility, medication preparation area with refrigerator and double locked storage, clean linen storage, soiled linen area with soiled linen receptacles, and clean work area with work counter and sink.

f. There shall be an accessible patient/staff toilet room and hand wash facility adjacent to the recovery room.

g. There shall be a clothing change area for doctors, nurses and other personnel with secured storage and access to toilet room.

3. Mechanical System Requirements:

a. The Heating, Ventilating and Air Conditioning systems shall comply with NFPA 90A and 59A-3.081(39), F.A.C., as applicable.

b. The patient gas medical systems shall be Type I as defined by NFPA 99. Medical gas, vacuum, and oxygen supply systems shall comply with Chapter 13, Ambulatory Health Care Center Requirements of NFPA 99.

c. The facility shall provide, as a minimum, the quantity of station outlets per bed position indicated in the following table:

<u>Area</u>	<u>Oxygen</u>	<u>Vacuum</u>
<u>Recovery room/(PACU)</u>	<u>1</u>	<u>3</u>
<u>Operating Room</u>	<u>2</u>	<u>3</u>

An additional vacuum station outlet shall be provided in the operating room dedicated for connection of an anesthesia machine.

d. The plumbing systems shall comply with the Florida Building Code and 59A-3.081(44), F.A.C., as applicable.

e. The facility shall be equipped with fire extinguishers.

4. Electrical System Requirements:

a. The essential electrical system shall comply with a Type I system as defined in Chapter 3 of NFPA 99.

b. The electrical system shall comply with Article 517 of the National Electric Code, NPFA 70 and with 59A-3.081(46),(47),(48),(50),(51), F.A.C., as applicable.

c. There shall be an automatic fire alarm system in the facility. An alarm initiated in the mobile facility shall activate the hospital fire alarm system and an alarm in the hospital shall initiate an alarm in the mobile facility.

d. There shall be a telephone connected to the hospital communication system.

e. Electrical connections to the hospital shall not degrade in any way the electrical system of the hospital.

f. There shall be a lightning protection system for the rain-free covered connection and the mobile facility unless the mobile facility is shown to be within the cone of protection of the hospital and bonded to the lightning protection systems of the hospital.

5. Details and Finishes: The mobile facility shall comply with 59A-3.081(31), F.A.C., sections (i),(j),(k),(l),(m) and (p).

Specific Authority 395.0163, 395.1055, 408.036 FS. Law Implemented 395.001, 395.1055, 395.1065, 408.036, 957.05 FS History-New 1-1-77, Formerly 10D-28.81, Amended 1-16-87, 11-23-88, Formerly 10D-28.081, Amended 9-3-92, 6-29-97, 3-18-98,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: James (Skip) Gregory, Chief, Office of Plans and Construction  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ruben King-shaw, Director  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 7, 1999  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN THE FAW: March 19, 1999

**AGENCY FOR HEALTH CARE ADMINISTRATION  
Health Facility and Agency Licensing**

RULE CHAPTER TITLE: Hospital Licensure  
RULE CHAPTER NO.: 59A-3  
RULE TITLE: Department and Services  
RULE NO.: 59A-3.2085

PURPOSE AND EFFECT: The purpose of the proposed rule amendment to Chapter 59A-3, F.A.C., is to fulfill the requirements of the 1998 Legislative Session, which amended the Hospital Licensing and Regulation Statutes 395, F.S., and directed the Agency to adopt by rule licensure requirements for mobile surgical facilities providing surgical services to inmates of the Department of Corrections facilities established after July 1, 1998. The proposed rule will not compromise public safety, human health, the environment, or any other protection afforded by law.

SUMMARY: The proposed rule amendment provides for licensure requirements for mobile surgical facilities providing elective surgical services only to inmates patients of the Department of Corrections facilities or private correctional facility operating pursuant to Chapter 957, F.S., established after July 1, 1998, and not to the general public. In addition, these provisions have been incorporated into subsection 59A-3.2085(14), F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 395.1055, 395.401, 408.036 FS.  
LAW IMPLEMENTED: 395.001, 395.1055, 395.1065, 395.401, 408.036, 957.05 FS.

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

TIME AND DATE: 9:00 a.m. DST, June 18, 1999

PLACE: Agency for Health Care Administration, Building #1, 2nd Floor Conference Room, Room 208, 2727 Mahan Drive, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Amance R. (Si) Simas, Health Services and Facilities Consultant, Health Facility Compliance, Agency for Health Care Administration, Building 1, Room 259, 2727 Mahan Drive, Tallahassee, Florida, (850)487-2717

THE FULL TEXT OF THE PROPOSED RULE IS:

59A-3.2085 Department and Services.

(14) Mobile Surgical Facility. A mobile surgical facility as defined in section 395.002(21), F.S., provides elective surgical care under contract with the Department of Corrections or a private correctional facility operating pursuant to Chapter 957, F.S., and not to the general public. The mobile surgical facility shall comply with the provisions of this chapter, except as modified herein.

(a) Licensure Procedure. Each application for a mobile surgical facility license, or renewal thereof, shall be accompanied by a license fee of \$1500.00. The agency shall issue a single license, which identifies the mobile surgical facility. This license is not transferable.

(b) Licensure Inspection. The agency shall inspect a mobile surgical facility at initial licensure pursuant to section 395.0161(1)(f), F.S. This subsection shall only apply to mobile surgical facilities operating under contracts entered into on or after July 1, 1998.

(c) Governing Body. Each mobile surgical facility shall have its own governing body that assumes full responsibility for the legal and ethical conduct of the facility consistent with its contract with the Department of Corrections. The governing body is organized under approved written bylaws, rules and regulations, which are reviewed annually and updated as required.

(d) Organized Medical Staff. Each mobile surgical facility shall have an organized medical staff approved by the governing body in accordance with its contract with the Department of Corrections, with the delegated responsibility to provide for the quality of all medical care and other appropriate health care provided to patients, for planning for the improvement of that care, and for the ethical conduct and professional practices of its members.

(e) Services Provided. Each mobile surgical facility shall have written policies and procedures describing the scope of services provided to the inmate patients of the correctional facility. Services provided by the mobile surgical facility include but not limited to:

1. Surgical Services. The surgical service shall be organized under written policies and procedures relating to surgical staff privileges, anesthesia, function standards, staffing patterns and quality maintenance of the mobile surgical facility.



2. Anesthesia Services. The mobile surgical facility anesthesia services shall be organized under written policies and procedures relating to anesthesia staff privileges, the administration of anesthesia, and the maintenance of strict safety controls.

3. Nursing Services. The mobile surgical facility shall have written policies and procedures relating to patient care, establishment of standards for nursing care, and mechanisms for evaluating such care, and nursing services.

4. Laboratories. The mobile surgical facility shall provide on the premises or through arrangement with a laboratory licensed under Chapter 483, F.S., and Chapter 59A-7, F.A.C., a clinical laboratory to provide those services commensurate with the mobile surgical facility's needs.

5. Radiological Services. The mobile surgical facility shall provide within the facility, or through arrangement, diagnostic radiological services commensurate with its needs.

6. Housekeeping Service. The mobile surgical facility housekeeping service shall be organized under effective written policies and procedures relating to personnel, equipment, materials, maintenance, and cleaning of all areas of the mobile surgical facility.

7. Surveillance, Prevention, and Control of Infection. Each mobile surgical facility shall establish an infection control program involving members of its medical staff, nursing staff, other professional and administrative staff as appropriate.

8. Patient Rights. The mobile surgical facility shall develop and adopt policies and procedures for the protection of patients rights pursuant to ss. 381.026, F.S.

9. Medical Records. Each mobile surgical facility shall use a problem oriented medical record for each patient, which shall be initiated at the time of intake or admission and which shall contain all pertinent information pursuant to 59A-3.217, F.A.C.

10. Coordination of Care. Each mobile surgical facility shall develop and implement policies and procedures on discharge planning pursuant to 59A-3.2055, F.A.C. Documentation of the discharge plan in the patient's medical record shall include an assessment of appropriate services to meet the patient needs following surgery.

11. Quality Assessment and Improvement. The mobile surgical facility shall have an ongoing quality improvement system designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care and opportunities to improve the quality of care provided pursuant to 59A-3.216, F.A.C.

12. Comprehensive Emergency Management Plan. The mobile surgical facility shall have a comprehensive emergency management plan for internal or external disasters. The comprehensive emergency management Plan shall be reviewed and approved by the county office of emergency management and updated annually as required.

Specific Authority 395.1055, 395.401, 408.036 FS. Law Implemented 395.001, 395.1055, 395.1065, 395.401, 408.036, 957.05 FS. History--New 4-17-97, Amended 3-29-98.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Amance R. (Si) Simas, Health Services and Facilities Consultant

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ruben King-shaw, Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 7, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN THE FAW: March 19, 1999

#### **AGENCY FOR HEALTH CARE ADMINISTRATION**

##### **Division of Health Quality Assurance**

RULE TITLES: RULE NOS.:  
Statewide Subscriber Assistance Program 59A-12.014  
Practices and Procedures of the Statewide

Subscriber Assistance Program 59A-12.015

PURPOSE AND EFFECT: The purpose of this rule amendment is to repeal the Statewide Subscriber Assistance Program rule, 59A-12.014 and the Practices and Procedures of the Statewide Subscriber Assistance Program rule, 59A-12.015. These rules became obsolete due to changes in Section 408.7056, Florida Statutes, which now require different practices and procedures. The effect will be that the program follows statutory authority.

SUMMARY: This rule amendment will repeal the Statewide Subscriber Assistance Program rule, 59A-12.014 and the Practices and Procedures of the Statewide Subscriber Assistance Program rule, 59A-12.015 that were superseded by an amendment to Section 408.7056, Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 408.7056 FS.

LAW IMPLEMENTED: 120.74 FS.

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

TIME AND DATE: 10:00 a.m., June 15, 1999

PLACE: Conference Room C, 2727 Fort Knox Boulevard, Building 3, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Melanie Kelley, Agency for Health Care Administration, Managed Health Care, 2727 Mahan Drive, Ft. Knox #1, Room 339, Tallahassee, Florida, (850)921-5458

THE FULL TEXT OF THE PROPOSED RULES IS:

59A-12.014 Statewide Subscriber Assistance Program.

Specific Authority 408.7056 FS. Law Implemented 120.74 FS. History--New 7-08-87, Amended 2-22-88, Formerly 4-31.081, Amended 5-28-92, Formerly 4-191.081, Repealed.

59A-12.015 Practices and Procedures of the Statewide Subscriber Assistance Program.

Specific Authority 408.7056 FS. Law Implemented 120.74 FS. History--New 2-22-88, Amended 10-25-89, Formerly 4-31.082, Amended 5-28-92, Formerly 4-191.082, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rebecca Knapp, Statewide Provider and Subscriber Assistance Program

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Ruben King-Shaw, AHCA Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 7, 1999

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Payment Methodology for Inpatient Hospital Services  
RULE NO.: 59G-6.020

PURPOSE AND EFFECT: The purpose of the proposed amendment is to delete the existing plan language that provides for an adjustment to a hospital's prospective rate for new or expanded services, for which a certificate of need is required. The effect of the proposed amendment is to remove the existing requirements, which are no longer valid and allow the agency to establish new criteria for adjusting a hospital's prospective rate.

SUMMARY: The proposed amendment to rule 59G-6.020 incorporates revisions to the Medicaid Inpatient Hospital Reimbursement Plan. The amendment deletes existing plan language allowing an adjustment to the hospital's prospective rate for new or expanded services, for which a certificate of need is required.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED 409.908 FS.

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

TIME AND DATE: 10:00 a.m., June 14, 1999

PLACE: Room 2118, 2727 Fort Knox Boulevard, Building 3, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Owens, Medicaid Cost Reimbursement, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2106C, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.020 Payment Methodology for Inpatient Hospital Services.

Reimbursement to participating inpatient hospitals for services provided shall be in accord with the Florida Title XIX Inpatient Hospital Reimbursement Plan, Version ~~XVIII~~ ~~XVII~~, Effective Date: ~~September 16, 1998~~, and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Office of the Medicaid Director, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Tallahassee, Florida 32308 P. O. Box 1300, Tallahassee, Florida 32317-3000.

Specific Authority 409.919 FS. Law Implemented 409.908 FS. History--New 10-31-85, Formerly 10C-7.391, Amended 10-1-86, 1-10-89, 11-19-89, 3-26-90, 8-14-90, 9-30-90, 9-16-91, 4-6-92, 11-30-92, 6-30-93, Formerly 10C-7.0391, Amended 4-10-94, 8-15-94, 1-11-95, 5-13-96, 7-1-96, 12-2-96, 11-30-97, 9-16-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. John Owens

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Gary Crayton

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 12, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 14, 1999

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Payment Methodology for Outpatient Hospital Services  
RULE NO.: 59G-6.030

PURPOSE AND EFFECT: The purpose of the proposed amendment is to delete existing plan language that provides for an adjustment to a hospital's prospective rate for new or expanded services, for which a certificate of need is required.

The effect of the proposed amendment is to remove the existing requirements and allow the agency to establish new criteria for adjusting a hospital's prospective rate.

SUMMARY: The proposed amendment to rule 59G-6.030 incorporates revisions to the Medicaid Outpatient Hospital Reimbursement Plan. The amendment deletes existing plan language allowing for an adjustment to a hospital's prospective rate for new or expanded services, for which a certificate of need is required.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED 409.908 FS.

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

TIME AND DATE: 10:00 a.m., June 14, 1999

PLACE: Room 2118, 2727 Fort Knox Boulevard, Building 3, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Owens, Medicaid Cost Reimbursement, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2106C, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.030 Payment Methodology for Outpatient Hospital Services.

Reimbursement to participating outpatient hospitals for services provided shall be in accordance with the Florida Title XIX Outpatient Hospital Reimbursement Plan, Version VII ~~VI~~, Effective date: \_\_\_\_\_ ~~September 18, 1996~~, and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Office of the Medicaid Director, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Tallahassee, Florida 32308 ~~P. O. Box 13000, Tallahassee, Florida 32317-3000~~.

Specific Authority ~~409.919, 408.15(8)~~ FS. Law Implemented 409.908 FS. History—New 10-31-85, Amended 12-31-85, Formerly 10C-7.401, Amended 10-1-86, 3-26-90, 9-30-90, 10-13-91, 7-1-93, Formerly 10C-7.0401, Amended 4-10-94, 9-18-96, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. John Owens

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Gary Crayton

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 12, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 14, 1999

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

DOCKET NO.: 98-77R

RULE CHAPTER TITLE: Operation Permits for Major Sources

RULE CHAPTER NO.:

of Air Pollution 62-213

RULE TITLES: Permit Applications 62-213.420

Permit Content 62-213.440

PURPOSE AND EFFECT: The proposed amendments will update the Title V Operating Permit Program with respect to the periodic monitoring requirements codified at title 40 of the Code of Federal Regulations, part 70.

SUMMARY: The Department has developed amendments to Chapter 62-213, F.A.C., to incorporate periodic monitoring into the Title V permitting process. Periodic monitoring will be used in evaluating whether sufficient monitoring is contained in each facility's Title V air operating permit to assure compliance with regulations developed to meet Clean Air Act requirements.

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

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

SPECIFIC AUTHORITY: 403.061, 403.087 FS.

LAW IMPLEMENTED: 403.061, 403.087, 403.0872 FS.

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

TIME AND DATE: 2:00 p.m., Wednesday, June 16, 1999

PLACE: Douglas Building, First Floor Conference Room A, 3900 Commonwealth Blvd., Tallahassee, Florida

If accommodation for a disability is needed to participate in this activity, please notify the Personnel Services Specialist in the Bureau of Personnel at (850)488-2996 or (800)955-8771 (TDD), at least seven days before the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mr. Michael Hewett, Department of Environmental Protection, Division of Air Resource Management, 2600 Blair Stone Road, Mail Station 5500, Tallahassee, Florida 32399-2400, (850)921-9590

THE FULL TEXT OF THE PROPOSED RULES IS:

62-213.420 Permit Applications.

(3) Standard Application Form and Required Information. Applications shall be submitted under this chapter on forms provided by the Department and adopted by reference in Rule 62-210.900(1), F.A.C. The information as described in Rule 62-210.900(1), F.A.C., shall be included for the Title V source and each emissions unit. An application must include information sufficient to determine all applicable requirements for the Title V source and each emissions unit and to evaluate a fee amount pursuant to Rule 62-213.205, F.A.C. The application shall specifically include the following information, as detailed in the application form number 62-210.900(1); provided, however, that the information required by paragraphs (g)(f) through (m)(f), below, shall not be required for any emissions unit which is not subject to any unit-specific applicable requirements, except as needed to determine that no applicable requirements exist:

(a) through (e) No change.

(f) If requested by the Department, information concerning operations and methodology for the development of periodic monitoring in accordance with Rule 62-213.440(4), F.A.C. For applications submitted in accordance with Rule 62-213.420(1)(a)2., F.A.C., such request must be made within 60 days of the date the application was submitted, except as required by Rule 62-213.420(1)(b)4.:

(f) through (m) renumbered (g) through (n) No change.

Specific Authority 403.061, 403.087 FS. Law Implemented 403.061, 403.087 FS. History—New 11-28-93, Amended 4-17-94, Formerly 17-213.420, Amended 11-23-94, 4-2-95, 10-11-95, 3-13-96, 3-20-96, 6-25-96, 10-7-96, 11-13-97, \_\_\_\_\_.

62-213.440 Permit Content.

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

(b) Monitoring and Related Recordkeeping and Reporting Requirements.

1. Each permit shall specify the following requirements with respect to monitoring:

a. Emissions monitoring and analysis procedures or test methods specified by applicable requirements including 40 CFR 64, Compliance Assurance Monitoring, adopted and incorporated by reference at Rule 62-204.800, F.A.C.;

~~b. Where the applicable requirement does not specify a method for periodic testing or instrumental or noninstrumental monitoring, p~~Periodic monitoring sufficient to yield reliable data from the relevant time period and that are representative of the source's demonstrate compliance with the permit, as required by 40 CFR 70.6(a)(3)(i)(B), adopted and incorporated by reference at Rule 62-204.800, F.A.C. Periodic monitoring ~~Such monitoring requirements~~ shall assure use of recordkeeping terms, test methods, units, averaging periods, ~~or~~ and other statistical conventions consistent with the applicable requirement, as specified in Rule 62-213.440(4), F.A.C.; and

c. Requirements concerning the use, maintenance, and installation of monitoring equipment or methods.

2. The permit shall incorporate all applicable recordkeeping requirements including:

a. Records of monitoring information that specify the date, place, and time of sampling or measurement and the operating conditions at the time of sampling or measurement, the date(s) analyses were performed, the company or entity that performed the analyses, the analytical techniques or methods used, and the results of such analyses;

b. Retention of records of all monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

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

(4) Periodic Monitoring.

(a) Periodic monitoring sufficient to satisfy the requirements of Rule 62-213.440(1)(b)1.b., F.A.C., shall assure the use of recordkeeping terms, test methods, units, averaging periods, or other statistical conventions which yield reliable data and are consistent with the applicable requirement, representative of the emissions unit's actual performance, and sufficient to indicate whether the unit remains in compliance. All periodic monitoring data must be retained in accordance with Rule 62-213.440(1)(b)2.b., F.A.C. When existing reporting, recordkeeping and testing requirements yield reliable data that are both representative of the unit's actual performance and sufficient to indicate whether the unit remains in compliance with an applicable requirement, additional periodic monitoring shall not be required for that applicable requirement.

(b) Monitoring performed pursuant to any of the following satisfies periodic monitoring for that applicable requirement:

1. Emission limitations or standards proposed and promulgated by the U.S. Environmental Protection Agency after November 15, 1990, pursuant to section 111 or 112 of the Clean Air Act. The emission limitations or standards include:

a. 40 CFR 60 (New Source Performance Standards and Emission Guidelines for Existing Sources);

b. 40 CFR 61 (National Emission Standards for Hazardous Air Pollutants); and

c. 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants);

2. Acid Rain Program requirements pursuant to sections 404, 405, 406, 407(a), 407(b), or 410 of the Clean Air Act. The requirements include continuous monitoring system requirements established pursuant to 40 CFR 75;

3. Emission limits or standards for which monitoring requirements are established pursuant to 40 CFR 64 (Compliance Assurance Monitoring); and

4. Emission limitations or standards for which a Title V permit specifies a continuous compliance determination method, as defined in 40 CFR 64.1, adopted and incorporated by reference at Rule 62-204.800, F.A.C., unless such compliance method includes an assumed control device emission reduction factor that could be affected by the actual operation and maintenance of the control device.

Specific Authority 403.061, 403.087 FS. Law Implemented 403.087, 403.0872 FS. History—New 11-28-93, Amended 4-17-94, Formerly 17-213.440, Amended 11-23-94, 4-18-95, 3-13-96, 3-20-96, 11-13-97, 4-7-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Larry George, Manager, Office of Policy Analysis and Program Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Howard L. Rhodes, Director, Division of Air Resource Management

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 5, 1998

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 11, 1998 and February 5, 1999

**DEPARTMENT OF HEALTH  
Board of Hearing Aid Specialists**

RULE TITLES: RULE NOS.:

Continuing Education as a Condition for Renewal 64B6-5.001  
Continuing Education Programs 64B6-5.002

PURPOSE AND EFFECT: The Board has determined that is necessary to amend Rule 64B6-5.001 relating to continuing education to include the Florida laws and rules and to let licensees know how the Board handles hardship cases. Rule 64B6-5.002 is being amended to change the word in Subsection (1) from “National” to “International” and to amend Subsection (7) to require two hours of AIDS education. SUMMARY: Rule 64B6-5.001 is being amended by the Board to further clarify continuing education. Rule 64B6-5.002 is being amended by updating the continuing education requirements.

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

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

SPECIFIC AUTHORITY: 484.044, 484.047(4) FS.

LAW IMPLEMENTED: 484.047(4) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE ADMINISTRATIVE WEEKLY. (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sue Foster, Executive Director, Board of Hearing Aid Specialists/MQA, 2020 Capital Circle, S. E., Bin #C09, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULES IS:

64B6-5.001 Continuing Education as a Condition for Renewal.

(1) As a condition of the biennial renewal of an active license, each hearing aid specialist shall attend and certify attending 20 credit hours (per biennium) of Board approved continuing education which are relevant to, and which enhance, the licensee's ability to dispense hearing aids. The biennium period begins March 1 and ends February 28 of each odd-numbered year. Board-approved means approved by a chairman-appointed committee of one, or as specified by Rule 64B6-5.002(1), F.A.C. Continuing education courses, or portions thereof, which are devoted to content areas other than those identified in Rule 64B6-2.003, or risk management, shall not be approved for continuing education credit. These certified hours shall include two hours per biennium relating to hearing aid laws and rules.

(2) If prior to biennial renewal, a hearing aid specialist notifies the Board that the conditions for renewal can not be met due to extenuating circumstances such as catastrophic illness or extreme situations beyond the control of the licensee, the Board shall consider the situation on an individual basis.

~~(3)~~ ~~(2)~~ Notwithstanding ~~the requirements paragraph (1) of this chapter, rule,~~ no person who was initially licensed in the biennium prior to renewal shall be required to attend continuing education programs as a condition of renewing the initial license.

Specific Authority 484.044, 484.047(4) FS. Law Implemented 484.047(4) FS. History—New 4-1-85, Formerly 21JJ-15.001, Amended 8-5-87, 4-8-90, 8-21-90, 8-19-91, Formerly 21JJ-5.005, Amended 11-20-95, Formerly 61G9-5.005, Amended \_\_\_\_\_.

64B6-5.002 Continuing Education Programs.

(1) Programs approved by the ~~International National~~ Institute of Hearing Instrument Studies shall automatically be approved for continuing education credit.

(2) through (6) No change.

(7) Each Hearing Aid Specialist shall attend and certify attending two hours and may take up to four (4) hours per biennium of continuing education which includes the topics of Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome; modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome. Such continuing education shall be accepted by the Board toward the continuing education requirement prescribed in Rule 64B6-5.001, F.A.C.

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

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Hearing Aid Specialists  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Hearing Aid Specialists  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 30, 1999  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 16, 1999

**DEPARTMENT OF HEALTH**  
**Board of Hearing Aid Specialists**

RULE TITLE: Mediation  
RULE NO.: 64B6-7.008  
PURPOSE AND EFFECT: The Board has determined that is necessary to amend this rule by updating the rule text.  
SUMMARY: The Board has approved to add additional language which will expand the instances where mediation is appropriate for first time violations of the practice act.  
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.  
Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.  
SPECIFIC AUTHORITY: 455.614 FS.  
LAW IMPLEMENTED: 455.614 FS.  
IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE ADMINISTRATIVE WEEKLY. (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD).  
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Hearing Aid Specialists/MQA, 2020 Capital Circle, S. E., Bin #C09, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B6-7.008 Mediation.

(1) No change.

(2) For purposes of section 455.614, F.S., the Board designates as being appropriate for mediation first time violations of the following provisions of subsection 484.056(1), F.S.:

(a) through (b) No change.

(c) failure to the licensee to timely refund monies as set forth in Rule 64B6-6.001.

(d) failure of the licensee to include information on the receipt as set forth in Rule 64B6-6.010.

(3) No change.

Specific Authority 455.614 FS. Law Implemented 455.614 FS. History--New 1-11-95, Formerly 61G9-7.011, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Hearing Aid Specialists  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Hearing Aid Specialists  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 30, 1999  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 23, 1999

**DEPARTMENT OF HEALTH**  
**Board of Podiatric Medicine**

RULE TITLES: Reexamination  
RULE NOS.: 64B18-11.003  
Examination Inspection and Review Procedure 64B18-11.004  
PURPOSE AND EFFECT: The proposed rule repeals are necessary since the Department has the authority for examination review and reexamination.  
SUMMARY: The rules are being repealed since the Department has the authority for examination review and reexamination.  
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.  
Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.  
SPECIFIC AUTHORITY: 455.574, 461.005 FS.  
LAW IMPLEMENTED: 455.574, 461.006 FS.  
IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 1:00 p.m., or as soon thereafter as can be heard, June 18, 1999

PLACE: The Registry Resort, 475 Seagate Drive, Naples, Florida 34103

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Baker, Jr., Executive Director, Board of Podiatric Medicine/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULES IS:

**64B18-11.003 Reexamination.**

Specific Authority 455.574, 461.005 FS. Law Implemented 455.574, 461.006 FS. History—New 1-29-80, Formerly 21T-11.03, Amended 6-7-87, 6-24-92, Formerly 21T-11.003, 61F12-11.003, Amended 3-20-95, 1-1-96, 7-15-96, 6-17-97, Formerly 59Z-11.003, Repealed.

**64B18-11.004 Examination Inspection and Review Procedure.**

Specific Authority 455.574, 461.005 FS. Law Implemented 455.574 FS. History—New 12-27-81, Formerly 21T-11.041, Amended 12-11-89, Formerly 21T-11.0041, 61F12-11.0041, Amended 1-1-96, 7-9-96, Formerly 59Z-11.004, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Podiatric Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 19, 1999

**DEPARTMENT OF HEALTH**

**Board of Podiatric Medicine**

RULE TITLE: RULE NO.:

Minor Violations; Notices of Noncompliance 64B18-14.009

PURPOSE AND EFFECT: The proposed rule amendment is intended to set forth violations which are considered minor violations, and appropriate for issuance of notices of noncompliance.

SUMMARY: The Board has determined that the violations outlined in the rule are minor violations, which do not pose a danger to the public health and safety. These violations are appropriate for notices of noncompliance.

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

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

SPECIFIC AUTHORITY: 455.621, 461.005 FS.

LAW IMPLEMENTED: 455.621 FS.

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

TIME AND DATE: 1:00 p.m., or as soon thereafter as can be heard, June 18, 1999

PLACE: The Registry Resort, 475 Seagate Drive, Naples, Florida 34103

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Podiatric Medicine/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

**64B18-14.009 Minor Violations; Notices of Noncompliance.**

(1) Section 455.621(3), F.S., authorizes the Board, when enforcing rules and statutes, to permit the Department to issue a notice of noncompliance for any initial offense which is a minor violation as defined by Board rule. A minor violation under this statute is defined as one which does not endanger public health, safety, or welfare and does not demonstrate a serious inability to practice.

(2) Section 120.695, F.S., authorizes the Board, when enforcing rules, to permit the Department to issue a notice of noncompliance when there is a first time offense that is a minor violation as defined by Board rule. A minor violation is defined as one in which there is no economic or physical harm; no adverse effect to the public health, safety, or welfare; and no significant threat of such harm.

(3) A notice of noncompliance in lieu of other actions is authorized only if the violation is not a repeat violation and only if there is only one violation. If there are multiple violations, then the Department may not issue a notice of noncompliance, but must prosecute the violation under the other provisions of Section 455.621, F.S. There is only one exception to the prohibition against use of a notice of noncompliance when there is more than one violation. A notice of noncompliance may be issued to a registered dispensing practitioner for a first time violation of one or more of the violations listed in subsection (4), paragraphs (f),(g),(l),(m),(n),(o), and (p), if there is not evidence of diversion.

(4) The Board hereby establishes the following as minor violations which the Department may act upon by issuing notices of noncompliance for an initial offense:

(a)~~(1)~~ No change.

(b)~~(2)~~ No change.

(c)~~(3)~~ No change.

(d) Section 893.02, Florida Statutes, which provides that a prescription order for a controlled substance shall not be issued on the same prescription blank with another prescription order

for a controlled substance which is named or described in a different schedule, nor shall any prescription order for a controlled substance be issued on the same prescription blank as a prescription order for a medicinal drug, as defined in Section 465.003(7), Florida Statutes, which does not fall within the definition of a controlled substance as defined in Chapter 893, Florida Statutes.

(e) Failing to maintain records relating to the receipt and disposition of controlled substances, and the required biennial inventory, as provided for in Section 893.07, Florida Statutes. This violation may be resolved by a notice of noncompliance only if the whereabouts of the drugs can be accounted for by other means and there is no evidence of diversion.

(f) Failing to, before dispensing any drug, give the patient a written prescription and orally or in writing advise the patient that the prescription may be filled in the practitioner's office or at any pharmacy, in violation of Section 465.0276(2)(c), Florida Statutes. This applies to dispensing practitioners only.

(g) Dispensing medication without proper labeling, contrary to the provisions of Section 893.05(2), Florida Statutes, and Rule 64B16-28.108, Florida Administrative Code. This applies to dispensing practitioners only.

(h) For a practitioner who is not required to register as a dispensing practitioner, failing to dispense drugs in the manufacturer's labeled package with the practitioner's name, patient's name, and the date dispensed or, if such drugs are not dispensed in the manufacturer's labeled package, failing to dispense the medication in a container which bears the following information: practitioner's name; patient's name; date dispensed; name and strength of the drug; and directions for use, contrary to Section 465.0276, Florida Statutes.

(i) Failing to properly store medications which require refrigeration, contrary to Rule 64B16-28.104, Florida Administrative Code.

(j) Failing to remove outdated medications from stock, contrary to Rule 64B16-28.110, Florida Administrative Code.

(k) Failing to have proper labeling on all stock medications, contrary to Section 499.007(2), Florida Statutes.

(l) Failing to post the generic drug sign, contrary to Section 465.025(7), Florida Statutes. This applies to dispensing practitioners only.

(m) Failing to initial and date all controlled substances dispensed and all refills thereof, contrary to Section 893.04(1)(c)6., Florida Statutes. This applies to dispensing practitioners only.

(n) Filling controlled substance prescriptions which do not have the patient's address on them, contrary to Section 893.04(1)(c)1., Florida Statutes. This applies to dispensing practitioners only.

(o) Filling controlled substance prescriptions which do not have the practitioner's DEA number on them, contrary to Section 893.04(1)(c)2., Florida Statutes. This applies to dispensing practitioners only.

(p) Using a computer system, but failing to maintain a daily hard copy printout of controlled substances initialed and dated by the practitioner and failing to assure that the computer information is readily retrievable, contrary to Rule 64B16-28.119(5), Florida Administrative Code. This applies to dispensing practitioners only.

(q) Failing to maintain records relating to controlled substances in a readily retrievable form, contrary to Section 893.07(4), Florida Statutes, and 21 CFR 1304.04.

(r) Failing to dispense medication in a childproof container, contrary to 16 CFR 1700.14a(10).

(s) Failure to obtain an education course on human immunodeficiency virus and acquired immune deficiency syndrome within six (6) months of licensure as required by 455.604, F.S.

(5) Failure of the licensee to take action in correcting the violation within 15 days after notice shall result in the institution of regular disciplinary proceedings. Failure of the licensee to comply with the notice of noncompliance within the time allowed or subsequent violations of a same or similar offense shall result in the issuance of a citation pursuant to 64B18-14.010 or, if the citation is declined or if there is no citation available for the specific violation, shall result in the institution of the regular disciplinary process set forth in s. 455.621, F.S.

~~(4) failure to provide the Board office with a change of address.~~

Specific Authority ~~455.621~~ ~~455.627~~, 461.005 FS. Law Implemented ~~455.621~~ ~~455.627~~ FS. History--New 4-1-91, Formerly 21T-14.009, 61F12-14.009, Amended 2-25-96, 6-17-97, Formerly 59Z-14.009, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Podiatric Medicine  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Podiatric Medicine  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 19, 1999  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 12, 1999

**DEPARTMENT OF HEALTH**

**Board of Podiatric Medicine**

RULE TITLE: Continuing Education Programs Not  
RULE NO.: 64B18-17.003

Requiring Pre-Approval from the Board  
PURPOSE AND EFFECT: The proposed rule amendment brings the rule into compliance with section 455.604(1), F.S., with regard to course content.

SUMMARY: The proposed rule amendment clarifies the course content for HIV/AIDS continuing education courses.

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



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

SPECIFIC AUTHORITY: 461.005, 461.007, 455.654(7) FS.

LAW IMPLEMENTED: 461.007, 455.654(1) FS.

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

TIME AND DATE: 1:00 p.m., or as soon thereafter as can be heard, June 18, 1999

PLACE: The Registry Resort, 475 Seagate Drive, Naples, Florida 34103

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Podiatric Medicine/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B18-17.003 Continuing Education Programs Not Requiring Pre-Approval from the Board.

(1) through (3) No change.

(4) HIV/AIDS Educational Course. A podiatric physician podiatrist who attends an HIV/AIDS course that consists of education on the modes of transmission, infection control procedures, treatment, clinical management and prevention of Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome, with emphasis on appropriate behavior and attitude change, shall be credited with one (1) hour of continuing education credit for each hour of the program up to a maximum of three (3) hours during the biennium. Such course shall also include information on current Florida law and its impact on testing, confidentiality of test results, treatment of patients, and any protocols and procedures applicable to human immunodeficiency virus counseling and testing, reporting, the offering of HIV testing to pregnant women, and partner notification issues pursuant to ss. 381.004 and 384.25, F.S. A podiatric physician podiatrist who takes advantage of this provision and whose continuing education is audited must provide certification from the provider of the program which specifies the areas covered by the program and which demonstrates that the podiatric physician podiatrist has attended the requisite number of hours thereof.

Specific Authority 461.005, 461.007, 455.654(7) FS. Law Implemented 461.007, 455.654(1) FS. History--New 11-24-80, Formerly 21T-17.03, Amended 10-14-86, 2-22-87, 5-16-89, 6-19-90, Formerly 21T-17.003, Amended 7-6-94, Formerly 61F12-17.003, Amended 12-19-94, 1-1-96, 6-12-96, Formerly 59Z-17.003, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Podiatric Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 19, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 12, 1999

**NAVIGATION DISTRICTS**

**Florida Inland Navigation District**

RULE TITLE: Funds Allocation RULE NO.: 66B-2.005

PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to revise Form No. 91-25B, Waterways Assistance Program Application Evaluation and Rating Form. The effect of the rule development is to implement changes in the administration of the District's Waterways Assistance Program that will assist the District and program applicants in the review and evaluation of applications submitted pursuant to the rule.

SUMMARY: The proposed amendment will revise Form No. 91-25B, Waterways Assistance Program Application Evaluation and Rating Form that is utilized by the District to evaluate the applications. The proposed amendments will clarify the form so that applicants are more informed about the District's evaluation criteria.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 374.976(2) FS.

LAW IMPLEMENTED: 374.976(1) FS.

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

TIME AND DATE: 1:00 p.m., June 15, 1999

PLACE: The District Office, 1314 Marcinski Road, Jupiter, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: David K. Roach, Assistant Executive Director, Florida Inland Navigation District, 1314 Marcinski Road, Jupiter, Florida 33477, Telephone Number (561)627-3386

THE FULL TEXT OF THE PROPOSED RULE IS:

66B-2.005 Funds Allocation.

The Board will allocate funding for this program based upon the District's overall goals, management policies, fiscal responsibilities and operational needs for the upcoming year. If funds are determined to be available for the program, the District will notify potential eligible governmental agencies of the availability of program funding. Applications will be

reviewed by the Board utilizing District Forms No. 91-25 Waterways Assistance Program Application Evaluation and Rating Form, and 91-25A Waterways Assistance Program Navigation Districts Application Evaluation and Rating Form, (effective date \_\_\_\_\_ ~~2-6-97~~) hereby incorporated by reference and available from the District office.

(1) through (5) No change.

Specific Authority 374.976(2) FS. Law Implemented 374.976(1),(3) FS. History—New 12-17-90, Amended 6-24-93, 9-5-96, 2-6-97, Formerly 16T-2.005, Amended 5-17-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: David K. Roach Assistant Executive Director, Florida Inland Navigation District, 1314 Marcinski Road, Jupiter, Florida 33477, Telephone Number (561)627-3386

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Commissioners of the Florida Inland Navigation District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 24, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN THE FAW: March 12, 1999

### Section III Notices of Changes, Corrections and Withdrawals

**DEPARTMENT OF HEALTH**

**Council of Medical Physicians**

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
64B-1	Examinations
RULE NO.:	RULE TITLE:
64B-1.015	Physician Assistant Examination for Graduates of Foreign Medical Schools

**NOTICE OF CHANGE**

The Department of Health, Division of Medical Quality Assurance, announces changes to proposed rule 64B-1.015, F.A.C., published in the March 26, 1999, issue of the Florida Administrative Weekly, Vol. 25, No. 12. The changes are in response to written comments received from the Joint Administrative Procedures Committee. The proposed rule 64B-1.015, F.A.C., was changed to read as follows:

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

64B-1.015 Physician Assistant Examination for Graduates of Foreign Medical Schools.

~~(1) The physician assistant examination for graduates of foreign medical schools shall consist of the following parts:~~

~~(a) a general written examination containing 325 questions; and,~~

~~(b) a specialty primary care multiple-choice written examination containing 150 questions; and/or,~~

~~(c) a specialty surgery multiple-choice written examination containing 150 questions.~~

~~(2) In order to be eligible for licensure, the candidate must pass:~~

~~(a) the general written examination; and,~~

~~(b) either the specialty surgery or primary care written examination.~~

~~(3) The minimum passing scores for the physician assistant examination for graduates of foreign medical schools examination shall be:~~

~~(a) a standardized score of 600 for the general written examination;~~

~~(b) a standardized score of 600 for the specialty surgery written examination; and,~~

~~(c) a standardized score of 600 for the specialty primary care written examination.~~

~~(4) The general written examination shall assess candidate knowledge, and skill in applying knowledge, related to health care functions that physician assistants should be skilled in performing. The examination questions may be drawn from the entire range of physician assistant activities, including, but not limited to, the content area listed below:~~

~~(a) Endocrine System~~

- |               |                            |                 |
|---------------|----------------------------|-----------------|
| <del>1.</del> | <del>General Skills</del>  | <del>2-4%</del> |
| <del>2.</del> | <del>Primary Care</del>    | <del>3-5%</del> |
| <del>3.</del> | <del>Surgical Skills</del> | <del>1-3%</del> |

~~(b) Pediatric~~

- |               |                            |                  |
|---------------|----------------------------|------------------|
| <del>1.</del> | <del>General Skills</del>  | <del>6-8%</del>  |
| <del>2.</del> | <del>Primary Care</del>    | <del>5-10%</del> |
| <del>3.</del> | <del>Surgical Skills</del> | <del>1-3%</del>  |

~~(c) Nutritional/Metabolism~~

- |               |                            |                 |
|---------------|----------------------------|-----------------|
| <del>1.</del> | <del>General Skills</del>  | <del>1-3%</del> |
| <del>2.</del> | <del>Primary Care</del>    | <del>2-4%</del> |
| <del>3.</del> | <del>Surgical Skills</del> | <del>1-2%</del> |

~~(d) Blood and Blood-forming Hematology~~

- |               |                            |                 |
|---------------|----------------------------|-----------------|
| <del>1.</del> | <del>General Skills</del>  | <del>2-4%</del> |
| <del>2.</del> | <del>Primary Care</del>    | <del>3-5%</del> |
| <del>3.</del> | <del>Surgical Skills</del> | <del>1-3%</del> |

~~(e) Head and Neck~~

- |               |                            |                 |
|---------------|----------------------------|-----------------|
| <del>1.</del> | <del>General Skills</del>  | <del>1-3%</del> |
| <del>2.</del> | <del>Primary Care</del>    | <del>2-4%</del> |
| <del>3.</del> | <del>Surgical Skills</del> | <del>2-4%</del> |

~~(f) Eyes~~

- |               |                            |                 |
|---------------|----------------------------|-----------------|
| <del>1.</del> | <del>General Skills</del>  | <del>1-3%</del> |
| <del>2.</del> | <del>Primary Care</del>    | <del>2-3%</del> |
| <del>3.</del> | <del>Surgical Skills</del> | <del>1-3%</del> |

~~(g) Ears~~

- |               |                           |                 |
|---------------|---------------------------|-----------------|
| <del>1.</del> | <del>General Skills</del> | <del>1-3%</del> |
| <del>2.</del> | <del>Primary Care</del>   | <del>1-3%</del> |