

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Kathleen Dunkley Stephens, Senior Management Analyst, Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042, Telephone Number: (904)359-6990

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Division of Freshwater Fish and Wildlife

RULE TITLE: _____ RULE NO.:

Designation of Candidate Species; Prohibitions, Permits 68A-27.0021

PURPOSE AND EFFECT: The purpose is to notify interested parties that at its March 2000 meeting, the Fish and Wildlife Conservation Commission (FWC) will: (1) hold a workshop to discuss the results of the FWC’s biological status reviews for the flatwoods salamander (*Ambystoma cingulatum*) and peregrine falcon (*Falco peregrinus*); (2) solicit additional public input on these species’s status; and (3) render decisions on the staff recommendations relative to the petitions to add the flatwoods salamander to Florida’s threatened species list and remove the peregrine falcon from Florida’s endangered species list. The biological status report developed for the flatwoods salamander indicates that it meets the criteria in Rule 68A-1.004 for listing as a species of special concern, but not for listing as threatened. The biological status report developed for the peregrine falcon indicates that it does not meet the criteria in Rule 68A-1.004 for listing as an endangered species, threatened species or species of special concern. Following the process outlined in Rule 68A-27.0012, staff intend to recommend that the flatwoods salamander be added to the state’s candidate species list until a management plan is adopted through subsequent Commission action, at which point it would be added to the state’s list of species of special concern. The peregrine falcon does not need to be added to the candidate species list because it is currently on the endangered species list. It would be removed from the state’s endangered species list after a management plan is adopted through subsequent Commission action.

SUBJECT AREA TO BE ADDRESSED: These considerations continue the procedures for listing, delisting and reclassifying endangered, threatened and species of special concern (Rule 68A-27.0012) initiated upon receipt of petitions to list the flatwoods salamander as a threatened species and delist the peregrine falcon from the endangered species list. Biological status reports for these species have been completed and the Commission must evaluate them and render decisions on staff recommendations.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.

LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

WORKSHOPS ON THE PROPOSED RULES WILL BE HELD IN CONJUNCTION WITH THE COMMISSION’S WORKSHOPS AND PUBLIC MEETINGS AT THE TIMES, DATES AND PLACES SHOWN BELOW:

TIME AND DATES: 9:00 a.m., each day, March 29-31, 2000

PLACE: To be announced in a future FAW publication

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Dr. Bradley J. Gruver

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT WILL BE AVAILABLE AND CAN BE OBTAINED FROM: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764.

**Section II
Proposed Rules**

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Aquaculture

RULE CHAPTER TITLE: _____ RULE CHAPTER NO.:

Comprehensive Shellfish Control Code 5L-1

RULE TITLES: _____ RULE NOS.:

Shellfish Harvesting Area Standards 5L-1.004
Container Identification, Terminal Sale Date; Prohibitions 5L-1.010

PURPOSE AND EFFECT: This amendment proposes to reclassify the Body F shellfish harvesting area, Brevard County. A sanitary survey has been conducted that evaluates current information on pollution sources and bacteriological water quality, and recommends reclassification of the shellfish harvesting area.

The four-digit harvest area codes are proposed to be updated to reflect the proposed classifications. These codes or the name of the harvest area must be recorded on harvester tags. This information provides for tracing shellfish that are implicated in illness outbreaks back to the harvest area.

SUMMARY: The proposed reclassification of the Body F shellfish harvesting area will decrease the size of conditionally approved area by 344 acres, from 6,381 acres (2,189 acres in conditionally approved zone 1 + 4,192 acres in conditionally approved zone 2) to 6,725 acres, increase the size of conditionally restricted area by 1,491 acres, from 2,834 acres (1,150 acres in conditionally restricted zone 3 + 1,684 acres in conditionally restricted zone 4) to 4,325 acres, and decrease the size of the prohibited area by 710 acres, from 3,056 acres to 2,346 acres.

The average expected number of days per month closed will decrease for conditionally approved zone 1 by 9.8 days per month, from 11.1 days per month to 1.3 days per month, decrease for conditionally approved zone 2 by 3.3 days per month, from 4.6 days per month to 1.3 days per month, decrease for conditionally restricted zone 3 by 3.8 days per month, from 4.4 to 0.6 days per month, and decrease for conditionally restricted zone 4 by 0.6 days per month, from 1.2 days per month to 0.6 days per month.

These amendments place descriptions, references to shellfish harvesting area map numbers, and operating criteria for the Body F shellfish harvesting area (#74) in the document Shellfish Harvesting Area Classification Boundaries and Management Plans. This document is hereby incorporated by reference in 5L-1.004(1). Additionally, these amendments provide an illustration of the Body F shellfish harvesting area classification boundaries in shellfish harvesting area map #74. This map is hereby incorporated by reference in 5L-1.004(1).

Additionally, these amendments propose updating the four-digit harvest area codes defined in 5L-1.010(3)(e) for Body F. These codes will be used on harvester tags to identify the locations where shellfish are harvested.

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

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

SPECIFIC AUTHORITY: 370.021(1), 370.071(1) FS.

LAW IMPLEMENTED: 370.071 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: 1:00 p.m., Monday, February 21, 2000

PLACE: 1203 Governors Square Boulevard, 5th Floor, 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 Management, (850)921-6262, at least seven days before the meeting.

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

THE FULL TEXT OF THE PROPOSED RULES IS:

5L-1.004 Shellfish Harvesting Area Standards.

(1) The Department shall describe and/or illustrate harvesting areas and provide harvesting area classifications as approved, conditionally approved, restricted, conditionally restricted, prohibited, or unclassified as defined herein, including criteria for opening and closing shellfish harvesting areas in accordance with Section C of the National Shellfish Sanitation Program Manual of Operations, Part I. Copies of individual shellfish harvesting area maps, revised January 4, 2000 ~~April 14, 1999~~, and the document Shellfish Harvesting Area Classification Boundaries and Management Plans, revised January 4, 2000 ~~April 14, 1999~~, containing shellfish harvesting area descriptions, references to shellfish harvesting area map numbers, and operating criteria herein incorporated by reference may be obtained by writing to the Department at 1203 Governors Square Boulevard, Fifth Floor, Tallahassee, Florida 32301.

(2) through (10) No change.

Specific Authority 370.021(1), 370.071(1) FS. Law Implemented 370.071 FS. History—New 1-4-87, Amended 8-10-88, 7-9-89, 12-23-91, Formerly 16R-7.004, Amended 7-3-95, 6-18-97, 7-1-97, 7-22-97, 10-12-97, 12-16-97, 12-28-97, 2-12-98, 2-25-98, 7-1-98, 7-20-98, 11-3-98, 12-28-98, 3-18-99, 7-1-99, Formerly 62R-7, Amended.

5L-1.010 Container Identification, Terminal Sale Date; Prohibitions.

(1) through (2) No change.

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

(a) The harvester's saltwater product license number as assigned by the Department;

(b) The date of harvesting;

(c) The time of harvest;

(d) The time of refrigeration, if applicable;

(e) The identification of the harvest area using the four digit area code or name of the harvest area listed in Table 2, which is incorporated herein and appears at the end of this Chapter, as well as the most precise identification within that area as practicable;

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

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

(4) through (12) No change.

Specific Authority 370.071(1) FS. Law Implemented 370.071 FS. History—New 1-4-87, Amended 5-21-87, 8-10-88, 7-9-89, 8-30-89, 5-6-93, 9-14-93, 8-21-94, Formerly 16R-7.010, Amended 9-1-95, 5-8-96, 2-6-97, 10-12-97, 2-12-98, 2-25-98, 7-1-98, 11-3-98, 12-28-98, Formerly 62R-7, Amended.

AREA CODE	HARVEST AREA NAME
0222	Pensacola Bay: Conditionally Approved (Escambia Bay, Winter, November 1 through March 30)
0232	Pensacola Bay: Conditionally Approved (East Bay, Winter, November 1 through March 30)
0242	Pensacola Bay: Conditionally Approved (Escambia Bay, Spring/Fall, April 1 through June 30 and October 1 through October 31)
0252	Pensacola Bay: Conditionally Approved (East Bay, Spring/Fall, April 1 through June 30 and October 1 through October 31)
0215	Pensacola Bay: Restricted (Escambia Bay Spring/Fall, April 1 through June 30 and October 1 through October 31)
0216	Pensacola Bay: Conditionally Restricted (Escambia Bay Winter, November 1 through March 30)
0226	Pensacola Bay: Conditionally Restricted (East Bay, Winter, November 1 through March 30)
0622	Choctawhatchee: Conditionally Approved (Central)
0632	Choctawhatchee: Conditionally Approved (Eastern)
0802	West Bay: Conditionally Approved
1012	North Bay: Conditionally Approved (Western)
1022	North Bay: Conditionally Approved (Eastern)
1206	East Bay: Conditionally Restricted
1212	East Bay: Conditionally Approved (Section 1)
1222	East Bay: Conditionally Approved (Section 2)
1401	St. Joe Bay: Approved
1506	Indian Lagoon: Conditionally Restricted
1512	Indian Lagoon: Conditionally Approved Zone X (April 1 – June 30 & October 1 – December 31)
1522	Indian Lagoon: Conditionally Approved Zone Y (April 1 – June 30 & October 1 – December 31)
1532	Indian Lagoon: Conditionally Approved Zone Z (April 1 – June 30 & October 1 – December 31)
1542	Indian Lagoon: Conditionally Approved Zone A (January 1 – March 31)
1552	Indian Lagoon: Conditionally Approved Zone B (January 1 – March 31)
1611	Apalachicola Bay: Approved (Winter)
1621	Apalachicola Bay: Approved (Summer)
1631	Apalachicola Bay: Approved, Shellfish lease numbers 525, 551, 551B, 580, 582, 609, 672, and 981 (Summer)
1612	Apalachicola Bay: Conditionally Approved West 1 (Winter)
1622	Apalachicola Bay: Conditionally Approved West 2 (Winter)
1632	Apalachicola Bay: Conditionally Approved West 3 (Winter)
1642	Apalachicola Bay: Conditionally Approved East (Winter)
1652	Apalachicola Bay: Conditionally Approved North (Summer)
1662	Apalachicola Bay: Conditionally Approved South (Summer)
1606	Apalachicola Bay: Conditionally Restricted
2002	Ochlockonee Bay: Conditionally Approved
2206	Wakulla: Conditionally Restricted

2212	Wakulla: Conditionally Approved (Zone 1)
2222	Wakulla: Conditionally Approved (Zone 2)
2502	Horseshoe: Conditionally Approved
2506	Horseshoe: Conditionally Restricted
2802	Suwannee Sound: Conditionally Approved
2806	Suwannee Sound: Conditionally Restricted
3012	Cedar Key: Conditionally Approved (Zone A)
3022	Cedar Key: Conditionally Approved (Zone B)
3006	Cedar Key: Conditionally Restricted
3202	Waccasassa Bay: Conditionally Approved
3206	Waccasassa Bay: Conditionally Restricted
3402	Withlacoochee Bay: Conditionally Approved
3406	Withlacoochee Bay: Conditionally Restricted
3702	Citrus County: Conditionally Approved
3706	Citrus County: Conditionally Restricted
4202	Boca Ciega Bay: Conditionally Approved
4802	Lower Tampa Bay: Conditionally Approved
4806	Lower Tampa Bay: Conditionally Restricted
5402	Sarasota Bay: Conditionally Approved
5406	Sarasota Bay: Conditionally Restricted
5602	Lemon Bay: Conditionally Approved
5802	Gasparilla: Conditionally Approved
6002	Myakka River: Conditionally Approved
6201	Pine Island Sound: Approved
6602	Ten Thousand Islands: Conditionally Approved
7001	Indian River/St. Lucie: Approved
7006	Indian River/St. Lucie: Restricted
7202	North Indian River: Conditionally Approved
7206	North Indian River: Conditionally Restricted
7402	Body F: Conditionally Approved (Zone 1)
7412	Body F: Conditionally Approved (Zone 1)
7422	Body F: Conditionally Approved (Zone 2)
7406	Body F: Conditionally Restricted
7416	Body F: Conditionally Restricted (Zone 3)
7426	Body F: Conditionally Restricted (Zone 4)
7506	Body E: Conditionally Restricted
7602	Body D: Conditionally Approved
7606	Body D: Conditionally Restricted
7712	Body C: Conditionally Approved (Zone 1, March 1 through November 30)
7722	Body C: Conditionally Approved (Zone 2, March 1 through November 30)
7732	Body C: Conditionally Approved (December 1 through February 28 (or February 29 during a leap year))

7716	Body C: Conditionally Restricted (December 1 through February 28 (or February 29 during a leap year))
7726	Body C: Conditionally Restricted (March 1 through November 30)
7802	Body B: Conditionally Approved
7805	Body B: Restricted
7902	South Banana River: Conditionally Approved
7906	South Banana River: Conditionally Restricted
8001	Body A: Approved
8005	Body A: Restricted
8201	Volusia: Approved
8212	Volusia: Conditionally Approved (Zone 1)
8222	Volusia: Conditionally Approved (Zone 2)
8206	Volusia: Conditionally Restricted
8802	St. Johns South: Conditionally Approved
8806	St. Johns South: Conditionally Restricted
9202	St. Johns North: Conditionally Approved
9206	St. Johns North: Conditionally Restricted

INDEX OF SHELLFISH HARVESTING AREA MAPS

Revised ~~January 4, 2000~~ ~~April 14, 1999~~

Shellfish Harvesting Area			
Name	Area Number	Map Number(s)	Revised date
Apalachicola Bay System	16	16	April 14, 1999
Boca Ciega Bay	42	42	April 15, 1997
Body A	80	80	October 10, 1997
Body B	78	78	April 15, 1997
Body C	77	77A, 77B	April 15, 1997
Body D	76	76	April 15, 1997
Body E	75	75	April 15, 1997
Body F	74	74	January 4, 2000 April 15, 1997
Cedar Key	30	30	April 15, 1997
Choctawhatchee Bay	06	06	April 15, 1997
Citrus County	37	37	April 15, 1997
Duval County	96	96	April 15, 1997
East Bay	12	12	April 15, 1997
Gasparilla Sound	58	58	April 15, 1997
Horseshoe Beach	25	25A, 25B	January 6, 1999
Indian Lagoon	15	15A, 15B	April 15, 1997
Indian River/St. Lucie Counties	70	70	April 15, 1997
Lemon Bay	56	56	May 20, 1998
Lower Tampa Bay	48	48	April 15, 1997
Myakka River	60	60	October 28, 1998
North Bay	10	10	April 15, 1997
North Indian River	72	72	April 15, 1997
North St. Johns	92	92	April 15, 1997
Ochlockonee Bay	20	20	August 26, 1998
Pensacola Bay System	02	02A, 02B	April 15, 1997
Pine Island Sound	62	62	October 28, 1998
Sarasota Bay	54	54	April 15, 1997
South Banana River	79	79	May 21, 1997
South St. Johns	88	88	April 15, 1997
South Volusia	82	82A, 82B	December 10, 1997
St. Joseph Bay	14	14	April 15, 1997
Suwannee Sound	28	28	December 17, 1997
Ten Thousand Islands	66	66	April 15, 1997
Waccasassa Bay	32	32	April 15, 1997
Wakulla County	22	22	April 15, 1997
West Bay	08	08A, 08B	October 28, 1998
Withlacoochee Bay	34	34	April 15, 1997

INDEX OF SHELLFISH HARVESTING AREA
CLASSIFICATION BOUNDARIES AND MANAGEMENT PLANS

Revised ~~April 14, 1999~~ January 4, 2000

Shellfish Harvesting Area			
Name	Area Number	Map Number(s)	Revised date
Apalachicola Bay System	16	16	April 14, 1999
Boca Ciega Bay	42	42	April 15, 1997
Body A	80	80	October 10, 1997
Body B	78	78	April 15, 1997
Body C	77	77A, 77B	April 15, 1997
Body D	76	76	April 15, 1997
Body E	75	75	April 15, 1997
Body F	74	74	<u>January 4, 2000</u> April 15, 1997
Cedar Key	30	30	April 15, 1997
Choctawhatchee Bay	06	06	April 15, 1997
Citrus County	37	37	April 15, 1997
Duval County	96	96	April 15, 1997
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Wakulla County	22	22	April 15, 1997
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Withlacoochee Bay	34	34	April 15, 1997

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert Thompson
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Sherman Wilhelm, Director, Division of Aquaculture
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 5, 2000
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 1996 as 62R-7

DEPARTMENT OF COMMUNITY AFFAIRS
Division of Housing and Community Development

RULE CHAPTER TITLE: Institutional Conservation Program
RULE CHAPTER NO.: 9B-63

RULE TITLE: State Plan
RULE NO.: 9B-63.001
Institutional Conservation Program State Plan

PURPOSE AND EFFECT: This will repeal the rule within Chapter 9B-63, Fla. Admin. Code. There is no longer a need for this rule.

SUMMARY: The specific law implementing this rule is 377.703(3)(g), Fla Stat. The Institutional Conservation Program has been consolidated with the State Energy Conservation Program. Therefore, there is no longer a need for this rule and it is being repealed.

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 21 days of this notice.

SPECIFIC AUTHORITY: 377.703(3)(g) FS.

LAW IMPLEMENTED: 377.703(3)(g) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT A DATE, TIME AND PLACE TO BE DETERMINED.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alexander Mack, Community Program Administrator, Division of Housing and Community Development, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)488-2475

Any person requiring special accommodation at the hearing because of a disability or physical impairment should contact Alexander Mack, Community Program Administrator, Division of Housing and Community Development, Bureau of Community Assistance, State Energy Program, 2555 Shumard Oak Boulevard, (850)488-2475, (Suncom 278-2475) at least seven days before the date of the hearing. If you are hearing or speech impaired contact the Department of Community Affairs using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE FULL TEXT OF THE PROPOSED RULE IS:

9B-63.001 Institutional Conservation Program State Plan.

Specific Authority 377.703(3)(g) FS. Law Implemented 377.703(3)(g) FS. History--New 8-3-94, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Alexander Mack, Community Program Administrator, Division of Housing and Community Development, Department of Community Affairs, Tallahassee, Florida 32399-2100

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Thomas A. Pierce, Division Director, Division of Housing and Community Development, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 13, 2000

DEPARTMENT OF COMMUNITY AFFAIRS
Division of Housing and Community Development

RULE CHAPTER TITLE: Technical Assistance Report Guidelines
RULE CHAPTER NO.: 9B-64

RULE TITLES: Applicability
RULE NOS.: 9B-64.001
Technical Assistance Report Guidelines 9B-64.002

PURPOSE AND EFFECT: This will repeal the rules within Chapter 9B-64, Fla. Admin. Code. There is no longer a need for these rules.

SUMMARY: The specific law implementing these rules is 377.703(3)(g), Fla. Stat. The Institutional Conservation Program has been consolidated with the State Energy Program. Therefore, there is no longer a need for these rules and they are being repealed.

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 377.703(3)(g) FS.

LAW IMPLEMENTED 377.703(3)(g) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Alexander Mack, Community Program Administrator, Division of Housing and Community Development, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)488-2475

Any person requiring special accommodation at the hearing because of a disability or physical impairment should contact Alexander Mack, Community Program Administrator, Division of Housing and Community Development, Bureau of Community Assistance, State Energy Program, 2555 Shumard Oak Boulevard, (850)488-2475, (Suncom 278-2475) at least seven days before the date of the hearing. If you are hearing or speech impaired contact the Department of Community Affairs using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE FULL TEXT OF THE PROPOSED RULES IS:

9B-64.001 Applicability.

Specific Authority 377.703(3)(g) FS. Law Implemented 377.703(3)(g) FS. History—New 8-8-94, Repealed.

9B-64.002 Technical Assistance Report Guidelines.

Specific Authority 377.703(3)(g) FS. Law Implemented 377.703(3)(g) FS. History—New 8-8-94, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Alexander Mack, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Thomas A. Pierce, Division Director, Division of Housing and Community Development, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 13, 2000

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Development

RULE CHAPTER TITLE: Energy Auditor and Technical Assistance Analyst Certification and Decertification Procedures

RULE CHAPTER NO.: 9B-66

RULE TITLES:	RULE NOS.:
Applicability	9B-66.001
Technical Assistance Analyst Certification	9B-66.002
Technical Assistance Analyst Decertification	9B-66.003
Energy Auditor Certification	9B-66.004
Energy Auditor Decertification	9B-66.005

PURPOSE AND EFFECT: This will repeal the rules within Chapter 9B-66, Fla. Admin. Code. There is no longer a need for these rules.

SUMMARY: The specific law implementing these rules is 377.703(3)(g), Fla. Stat. The Institutional Conservation Program has been consolidated with the State Energy Conservation Program. Therefore, there is no longer a need for these rules and they are being repealed.

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: 377.703(3)(g) FS.

LAW IMPLEMENTED: 377.703(3)(g) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT A DATE, TIME AND PLACE TO BE DETERMINED.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Alexander Mack, Community Program Administrator, Division of Housing and Community Development, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)488-2475

Any person requiring special accommodation at the hearing because of a disability or physical impairment should contact Alexander Mack, Community Program Administrator, Division of Housing and Community Development, Bureau of Community Assistance, State Energy Program, 2555 Shumard Oak Boulevard, (850)488-2475, (Suncom 278-2475) at least seven days before the date of the hearing. If you are hearing or speech impaired contact the Department of Community Affairs using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE FULL TEXT OF THE PROPOSED RULES IS:

9B-66.001 Applicability.

Specific Authority 377.703(3)(g) FS. Law Implemented 377.703(3)(g) FS. History—New 8-19-92, Amended 5-15-94, Repealed.

9B-66.002 Technical Assistance Analyst Certification.

Specific Authority 377.703(3)(g) FS. Law Implemented 377.703(3)(g) FS. History—New 8-19-92, Amended 5-15-94, Repealed.

9B-66.003 Technical Assistance Analyst Decertification.

Specific Authority 377.703(3)(g) FS. Law Implemented 377.703(3)(g) FS. History—New 8-19-92, Amended 5-15-94, Repealed.

9B-66.004 Energy Auditor Certification.

Specific Authority 377.703(3)(g) FS. Law Implemented 377.703(3)(g) FS. History—New 8-19-92, Amended 5-15-94, Repealed.

9B-66.005 Energy Auditor Decertification.

Specific Authority 377.703(3)(g) FS. Law Implemented 377.703(3)(g) FS. History—New 8-19-92, Amended 5-15-94, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Alexander Mack, Community Program Administrator, Department of Community Affairs, Tallahassee, Florida 32399-2100

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Thomas A. Pierce, Division Director, Division of Housing and Community Development, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 13, 2000

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Toll Enforcement
RULE CHAPTER NO.: 14-100
RULE TITLES: Training and Qualification Standards for Toll Enforcement Officers
PROSECUTION OF UNPAID TOLL VIOLATIONS

PURPOSE AND EFFECT: The rule chapter is being expanded in scope from "Training and Qualification Standards for Toll Enforcement Officers" to "Toll Enforcement" to include a new rule on the prosecution of unpaid toll violations.

SUMMARY: This is an amendment of Rule Chapter 14-100, which includes expanding the scope of the chapter, amending the chapter title, and adding a new rule on the prosecution of unpaid toll violations.

SPECIFIC AUTHORITY: 334.044(2) FS.

LAW IMPLEMENTED: 316.1001, 334.044(28), 334.187, 338.155, 338.165, 338.231 FS.

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 in writing within 21 days of this notice.

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., February 22, 2000
PLACE: Florida's Turnpike Operations Center, Conference, Room B, Mile Post 65, Pompano Service Plaza, Pompano Beach, Florida 33069

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James C. Myers, Administrative and Management Support Level IV, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULES IS:

~~TRAINING AND QUALIFICATION STANDARDS FOR TOLL ENFORCEMENT OFFICERS~~

14-100.001 Training and Qualification Standards for Toll Enforcement Officers.

(1) Application and Scope. The purpose of this rule is to establish minimum training and qualification standards for toll enforcement officers. These standards shall be the minimum requirements necessary for eligibility to be a toll enforcement officer, who is authorized to issue uniform traffic citations for a failure to pay tolls on a toll facility owned or operated by a governmental entity, as defined in Section 334.03(12), Florida Statutes. The governmental entity operating a toll facility may establish more stringent requirements ~~in addition to these requirements~~, for its toll enforcement officers.

(2) Compliance. Compliance with the rule standards shall be the responsibility of the respective governmental entity which operates the toll facility.

(3) Minimum Training. Toll enforcement officers shall successfully complete the following:

(a) A training course with the Department of Highway Safety and Motor Vehicles on the procedures for issuance of uniform traffic citations.

(b) A minimum of 40 hours of technical instruction on how to access, operate, and maintain the violation enforcement system. The components of the training shall include, at a minimum, equipment configuration and operation.

(4) Minimum Qualifications. The following minimum qualifications shall be applicable to toll enforcement officers:

(a) ~~Applicants for positions as toll enforcement officers~~ shall, through their education and work experience record, demonstrate to the satisfaction of the hiring governmental entity that ~~they the applicant~~ possesses the following abilities:

- 1. The ability to collect and evaluate data related to a violation enforcement system; and
- 2. The ability to understand and apply applicable agency, evidentiary, and violation enforcement system rules, regulations, policies, and procedures.

(b) Toll enforcement officers shall have visual acuity correctable to 20/20.

(c) Toll enforcement officers must:

1. Be certified pursuant to Section 943.13, Florida Statutes, and Chapter 11B-27, ~~F.A.C. Florida Administrative Code~~; or

2. Meet the requirements of Sections 943.13(1)-(4), Florida Statutes; and

3. Have a good moral character, ~~as described in under~~ Section 943.13(7), Florida Statutes, and Rule 11B-27.0011(2),(4)(a),(b), and (c)1.-6., and (d), ~~F.A.C. Florida Administrative Code~~ (Amended 1-2-97), as determined by a background investigation meeting the requirements of Rule 11B-27.0022(1) and (2), ~~F.A.C. Florida Administrative Code~~ (Amended 1-2-97). The foregoing rules are incorporated herein by reference.

Specific Authority 334.044(2) FS. Law Implemented 316.1001, 316.640(1)(b) FS. History--New 10-21-97, Amended _____.

14-100.002 Prosecution of Unpaid Toll Violations.

(1) Application and Scope. The purpose of this rule is to deter violations of Section 316.1001, Florida Statutes, and to provide guidance to the Department for the issuance of a Toll Violation Warning (TVW) and Uniform Traffic Citation (UTC).

(a) It is in the public interest, fair to users who pay posted tolls, and necessary for toll collection and bond accountability, to enforce the payment of tolls and reduce the number of toll violations which occur when prescribed tolls are not paid by users of toll facilities. Failure to pay a prescribed toll is a violation of Section 316.1001, Florida Statutes. Violators are subject to issuance of a UTC by the Department. However, the Department shall attempt to deter violations by issuing a TVW prior to the issuance of the first UTC.

(b) The Department shall attempt to deter violations of Section 316.1001, Florida Statutes, and collect tolls for all toll facilities which the Department owns or operates. However, the Department reserves the right to suspend enforcement at one or more facilities without impact on the remaining facilities for reasons which may include, but are not limited to, a new facility becoming a part of the system.

(c) A violations of Section 316.1001, Florida Statutes, is punishable as a noncriminal moving traffic infraction under Section 318.18, Florida Statutes.

(d) After exhausting all internal Department Sunpass™ database records, the license plate number of the motor vehicle alleged to have committed a toll violation shall be forwarded to the Florida Department of Law Enforcement or the Department of Highway Safety and Motor Vehicles to obtain the name and address of the registered owner for use in prosecution of toll violations. In the case of joint ownership of the motor vehicle, the TVW or UTC shall be mailed to the first name appearing on the motor vehicle registration.

(2) Issuance of a TVW.

(a) In accordance with the *Violation Enforcement Procedures Manual*, (11/99), the first registered owner of a vehicle failing to pay a prescribed toll shall be issued a TVW, Form SP050-A-001, Rev. 11/99. The *Violation Enforcement Procedures Manual*, (11/99), is incorporated herein by reference. Copies of the manual may be obtained, at no more than cost, from the Department of Transportation, Toll Violation Enforcement, Post Office Box 880069, Boca Raton, Florida 33488-0069.

(b) A TVW for failure to pay a prescribed toll shall be issued based upon either:

1. The photographic image of the motor vehicle; or
2. A written report by a Toll Enforcement Officer of the facts and circumstances of the observed violation;

(c) A Department Toll Enforcement Officer shall issue a TVW by first class mail to the address of the registered owner of the motor vehicle alleged to be involved in the violation.

(d) Unless the TVW is based upon a written report of a visually observed occurrence, the TVW shall contain the photographic image of the violating vehicle captured by the Department's Violation Enforcement System's (VES) camera at the toll lane, and shall include the date and location of the violation, and any other pertinent information.

(3) Issuance of a UTC.

(a) In accordance with the *Violation Enforcement Procedures Manual*, (11/99), except when issued a TVW, as provided in Rule 14-100.002(2), the registered owner of a vehicle failing to pay a prescribed toll shall be subject to issuance of a UTC for a violation of Section 316.1001, Florida Statutes. The UTC shall be sent by certified U.S. mail to the address of the registered owner of the motor vehicle involved in the violation. The UTC shall be issued within 14 days of the alleged violation, in accordance with the *Florida Uniform Traffic Citation Procedures Manual* and Section 316.1001(1)(b), Florida Statutes. The *Florida Uniform Traffic Citation Procedures Manual* is hereby incorporated by reference. Copies of the manual are available at no more than cost from the Department of Highway Safety and Motor Vehicles, Room A325, Crash Records, 2900 Apalachee Parkway, Tallahassee, Florida 32399.

(b) A photographic image of a vehicle using a toll facility in violation of Section 316.1001, Florida Statutes, captured by the VES camera at the toll lane, shall be grounds for issuance of a UTC to the registered owner of the motor vehicle alleged to be involved in the violation.

(c) An Observed Violation Form, Form SP050-A-004, Rev. 11/99, from a Toll Enforcement Officer consisting of the written account of the Toll Enforcement Officer's observed facts and circumstances indicating that a prescribed toll was not paid shall be grounds for issuance of a UTC.

(d) The registered owner of the motor vehicle involved in the violation is responsible for payment of the amount provided for in Section 318.18, Florida Statutes, in addition to any amount that may be imposed as a result of pleading guilty or which may be otherwise imposed by the court, unless the owner establishes, to the court's satisfaction, that the motor vehicle was not in his or her care, custody, or control. Such fact must be established in accordance with Rule 14-100.002(5)(c).

(4) Validation of Digital Photographic Evidence.

(a) In accordance with the *Violation Enforcement Procedures Manual*, (11/99), the Department's Toll Enforcement Officer(s), or his or her designee, shall review captured photographic images of vehicle license plates to ensure accuracy and data integrity. The Toll Enforcement Officer(s), or designee, shall also verify that the toll collection and VES were performing properly, were functional, and were in operation at the time of the alleged toll violation. The Toll Enforcement Officer(s), or designee, shall review the transaction data to ensure that those transactions immediately prior and subsequent to the alleged toll violation transaction

were processed correctly. Such information shall be recorded on a Toll Transaction Report, Form SP050-A-005, Rev. 11/99, and shall be used in the processing of the UTC and in any judicial proceeding. The final decision of validation and the issuance of a UTC shall be made by the Toll Enforcement Officer(s).

(5) Response to a TVW or UTC.

(a) The TVW shall inform the registered owner that the vehicle registered in his or her name was observed failing to pay a required toll, and warn the registered owner that failure to pay prescribed tolls may result in the issuance of a Uniform Traffic Citation. There is no required response by the registered owner to a TVW.

(b) The UTC shall inform the registered owner that the vehicle registered in his or her name was observed failing to pay a required toll, and provide the registered owner of the options to pay a fine, in the event of noncontest of the UTC, and instruction on how to contest the UTC.

(c) Upon receipt of a UTC, the registered owner of the motor vehicle involved in the violation is responsible for payment of the amount provided for in Section 318.18, Florida Statutes, in addition to any amount that may be imposed as a result of pleading guilty or which may be otherwise imposed by the court, unless the owner can establish the motor vehicle was, at the time of violation, in the care, custody, or control of another person. In order to establish such facts, the registered owner of the motor vehicle is required to appear before the court and complete a sworn affidavit.

1. The Department will make the affidavit, Form SP050-A-03, Rev. 11/99, available to the court. Should the court choose not to use the affidavit, Form SP050-A-03, Rev. 11/99, the court will provide an appropriate affidavit form.

2. Should the court accept the affidavit, the UTC will be dismissed against the owner. In accordance with the court's policies and procedures, as appropriate, the UTC may be amended for issuance to the individual who was in the care, custody, or control of the vehicle.

(6) Forms. The following forms are incorporated by reference and made a part of this rule:

<u>Form Number</u>	<u>Date</u>	<u>Title</u>
<u>SP050-A-001</u>	<u>11/99</u>	<u>Toll Violation Warning</u>
<u>SP050-A-002</u>	<u>11/99</u>	<u>Uniform Traffic Citation</u>
<u>SP050-A-003</u>	<u>11/99</u>	<u>Affidavit</u>
<u>SP050-A-004</u>	<u>11/99</u>	<u>Toll Enforcement Officer Observed Violation Form</u>
<u>SP050-A-005</u>	<u>11/99</u>	<u>Toll Transaction Report</u>

Copies of these forms may be obtained from the Florida Department of Transportation, Toll Violation Enforcement, Post Office Box 880069, Boca Raton, Florida 33488-0069.

Specific Authority 334.044(2) FS. Law Implemented 316.1001, 334.044(28), 338.155, 338.165, 338.231 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Deborah Stemle, Director, Office of Toll Operations
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Thomas F. Barry, Jr. P.E., Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 14, 2000
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 10, 1999

REGIONAL TRANSPORTATION AUTHORITIES

Tri-County Committee Rail Authority

RULE TITLES:	RULE NOS.:
General Provisions	30C-2.001
Organization	30C-2.002
Definitions	30C-2.0021
Source Selection and Contract Formation and Administration	30C-2.003
Open Competition	30C-2.004
Procurement of Construction Services	30C-2.005
Procurement of Services	30C-2.006
Cost Principles for TCRA Contracts	30C-2.007
Supply Management	30C-2.008
Debarment and Suspension Procedures	30C-2.009
Vendor Protest Procedures	30C-2.010
Solicitation or Awards in Violation of Law or Rules and Regulations	30C-2.011
Intergovernmental Relations	30C-2.012
Small Disadvantaged Business Enterprises	30C-2.013
Risk Management in Procurement	30C-2.014

PURPOSE AND EFFECT: Tri-Rail's existing Procurement Code has been updated, simplified, and clarified in order to make the Code consistent with the requirements of the Federal Transit Administration ("FTA") Circular 4220.1D, the FTA Master Agreement, the FTA's Best Practices Manual and appropriate Florida Statutes.

SUMMARY: Rules 30C-2.001, 30C-2.002, 30C-2.003, 30C-2.010, and 30C-2.011 have been amended; Rules 30C-2.0021 and 30C-2.009 are new rules; and Rules 30C-2.004, 30C-2.005, 30C-2.006, 30C-2.007, 30C-2.008, 30C-2.012, 30C-2.013, and 30C-2.014 have been repealed.

Rule 30C-2.001 sets forth general requirements governing procurement by Tri-Rail. Changes include incorporation of provisions concerning open competition to meet federal requirements, inclusion of provisions from other existing rules which set forth requirements of general applicability, incorporation of standards of conduct and conflict of interest policies to meet federal requirements, and incorporation of former Rule 30C-2.004 and 30C-2.012.

Rule 30C-2.002 sets forth revised approval authority for contract actions for the board, the executive director, and the director of contract administration and procurement. It sets forth the authority of the executive director, the director of contract administration and procurement, and the general

counsel. It also sets forth general requirements concerning contract administration, and incorporates former rule 30C-2.008.

Rule 30C-2.0021 defines certain terms as used in the code.

Rule 30C-2.003 sets forth permissible types of contracts that may be entered into by Tri-Rail. It sets forth time limits on contracts, as well as the requirements on amendments, change orders, and details of all authorized methods of source selection. It consolidates former rules 30C-2.003, 30C-2.005, and 30C-2.006.

Rule 30C-2.009 is a new rule setting forth specific requirements concerning debarment and suspension of potential bidders including causes, administration procedures and reinstatement.

Rule 30C-2.010 sets forth more detailed procedures than the existing rule to be followed for all vendor protests.

Rule 30C-2.011 is revised to include remedies to be followed after an award which is determined to be in violation of the code.

Rule 30C-2.007 repeals the provision that sets for the principles which govern the allowability of costs incurred by the contractor in all contracts which explicitly provide for payment based on incurred costs.

Rule 30C-2.013 repeals the provision setting forth the general policy regarding the utilization of small and disadvantaged businesses in Tri-Rail contracts.

Rule 30C-2.014 repeals the provision which sets forth requirements concerning insurance and bonding with regard to Tri-Rail contracts.

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.

FEDERAL STANDARDS STATEMENT: The rules are either no more restrictive than the federal standards or there are no federal rules on the same subject matter.

SPECIFIC AUTHORITY: 343.54(1)(b) FS.

LAW IMPLEMENTED: 343.54 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Richard A. Wolfe, Director of Contract Administration and Procurement, Tri-county Commuter Rail Authority, 800 N.W. 33rd Street, Suite 100, Pompano Beach, Florida 33064

THE FULL TEXT OF THE PROPOSED RULES IS:

30C-2.001 General Provisions.

(1)(a) Promulgation: Pursuant to the authority granted by the Legislature which enacted Chapter 343, F.S. (1989) creating the Tri-County Commuter Rail Authority, an agency of the State of Florida, the procurement rules and regulations set forth herein have been promulgated and approved by the Board of the Tri-County Commuter Rail Authority (hereinafter the "TCRA").

(b) Short Title: These rules and regulations shall be known and may be cited as the "Procurement Code of the Tri-County Commuter Rail Authority."

(2) Purposes, Rules of Construction:

(a) Interpretation: This Code shall be construed and applied to promote its underlying purposes and policies.

(b) Purposes and Policies: The underlying purposes of this Code are to provide the TCRA a unified purchasing system, with centralized responsibility allowing for the processing of some work by delegation. This Code simplifies, clarifies, and modernizes the rules and regulations governing the procurement of the TCRA while allowing the continued development of procurement policies and practices. This Code provides for increased economy in procurement activities, and enables the TCRA to maximize to the fullest extent practicable, the purchasing value of public funds by fostering effective broad based competition within the free enterprise system, while ensuring fair and equitable treatment of all persons who deal with TCRA. This Code provide safeguards for the maintenance of the quality and integrity of procurement by the TCRA. It is also intended to provide for increased public confidence in the procedures followed by public procurement.

(3) Supplementary General Principles of Law Applicable: The principles of law and equity, including ~~the Uniform Commercial Code of this State, the law merchant,~~ laws relative to ethics, and laws relative to capacity to contract, agency, fraud, misrepresentation, duress, coercion, mistake, or bankruptcy shall supplement the provisions of this Code.

(4) Requirement of Good Faith: This Code requires all parties involved in the negotiation, development, performance, or administration of TCRA contracts to act in good faith.

(5) Open Competition Required: All procurement transactions will be conducted in a manner providing full and open competition. Some of the situations considered to be restrictive of competition include, but are not limited to.

(a) Unreasonable requirements placed on firms in order for them to qualify to do business;

(b) Unnecessary experience and excessive bonding requirements;

(c) Noncompetitive pricing practices between firms or between affiliated companies;

(d) Noncompetitive award to any person or firm on retainer contracts;

(e) Organizational conflicts of interest: An organizational conflict of interest means that because of other activities, relationships, or contracts, a contractor is unable, or potentially unable, to render impartial assistance or advice to TCRA; a contractor's objectivity in performing the contract work is or might be otherwise impaired; or a contractor has an unfair competitive advantage;

(f) The specification of only a brand name product without listing its salient characteristics and not allowing an equal product to be offered; and

(g) Any arbitrary action in the procurement process.

(6)(5) Application of This Code.

(a) General Application: This Code applies only to contracts solicited or entered into after the effective date of this Code unless the parties agree to its application to a contract solicited or entered into prior to the effective date.

(b) Application to Procurement: This Code shall apply to every procurement of the TCRA irrespective of the source of the funds, including federal assistance monies, except as otherwise specified in Section 8 of this Rule Section 30C-2.002(3); except that this Code shall not apply to either grants or contracts between the TCRA and other governments. It shall also apply to the disposal of TCRA supplies. Nothing in this Code shall prevent any governmental body or political subdivision from complying with the terms and conditions of any grant, gift, bequest, or cooperative agreement.

(c) Revenue Contracts: This Code applies to any revenue contract whose primary purpose is to either generate revenues in connection with a transit-related activity, or to create business opportunities utilizing a Federal Transit Administration-funded asset.

~~A waiver of the code shall require an affirmative vote by seven members of the Board and may be declared only under extraordinary circumstances as specified herein;~~

~~1. An extraordinary circumstance shall be defined to mean the existence of an emergency involving danger to life, safety or property which requires immediate action and cannot await competitive bidding; or where the item or service to be purchased is essential to the efficient operation of or the adequate provision of service and, as a consequence of an unforeseen circumstance, such purchase cannot await competitive bidding.~~

~~2. Competitive bids are solicited and no responsive bid is received.~~

~~3. With respect to a product or technology, TCRA wishes to:~~

- ~~a. experiment with or test it;~~
- ~~b. experiment or test a new source for it; or~~
- ~~c. evaluate its service or reliability.~~

~~(7)(6) Determinations. Written determinations required by this Code shall be retained in the appropriate official contract file of the Contracts Administration and Procurement Department Executive Director of the TCRA.~~

~~(8) Exemptions: The procurement of the following supplies and services are exempted from this Code:~~

~~(a) Real property, abstract of titles for real property, title insurance for real property, and other related costs of acquisition of real property. The acquisition of real property utilizing Federal Transit Administration funds must comply with all Federal requirements governing such acquisition.~~

~~(b) Purchase between governments and/or nonprofit organizations.~~

~~(c) Dues and memberships.~~

~~(d) Subscriptions.~~

~~(e) Legal services.~~

~~(9) Joint Participation Agreements with the Florida Department of Transportation (the "Department").~~

~~(a) Except as otherwise authorized in writing by the Florida Department of Transportation, the TCRA shall not execute any contract or obligate itself in any manner requiring the disbursement of Department joint participation funds, including consultant or construction contracts or amendments thereto, with any third party with respect to a TCRA project without the written concurrence of the Department. Failure to obtain such concurrence shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same.~~

~~(b) Any purchases of capital equipment or expenditure for the construction and equipping of facilities which require the disbursement of the Department's funds, shall be submitted for written approval by the Department all appropriate plans and specifications covering the project.~~

~~(c) A TCRA contract requiring the disbursement of Department funds is considered approved if:~~

~~1. The Department's representative on the TCRA Board is present when the contract is approved and votes for contract approval or does not vote.~~

~~2. The Department's representative on the TCRA Board is not present when the contract is approved, and does not object to the approval of the agenda item of the Board by submitting a written objection.~~

~~(10) Interlocal Financing Agreements: All contracts entered into by the TCRA shall conform to the specific requirements mandated by Interlocal Financing Agreements entered into by the TCRA, the Florida Department of Transportation, and Dade, Broward and Palm Beach Counties.~~

~~(11) Law and Grant Requirements: In any situation where compliance with this Code will place the TCRA in conflict with state or federal law or the terms of any grant, the TCRA shall comply with such federal or state law, grant requirements,~~

or authorized regulations which are mandatorily applicable and which are either not reflected in this Code or are contrary to provisions of this Code.

(12) Standards of Conduct and Conflict of Interest Policies.

(a) TCRA Board members and staff of TCRA shall be governed by the policy of the State of Florida set forth in Section 112.311 of the Florida Statutes.

(b) TCRA Board members and staff of TCRA shall be governed by the appropriate standards of conduct set forth in Section 112.313 of the Florida Statutes.

(c) TCRA Board members shall be governed by the appropriate provisions of Section 112.3143 of the Florida Statutes governing voting conflicts.

(d) TCRA Board members and staff of TCRA shall be governed by the appropriate provisions of Section 112.3144 of the Florida Statutes governing full and public disclosure of financial interests.

(e) TCRA Board members and staff of TCRA shall be governed by the appropriate provisions of Section 112.3148 governing reporting and prohibited receipt of certain gifts by procurement employees.

(f) Staff of TCRA shall be governed by the appropriate provisions of Section 112.3185 concerning contractual services.

(g) TCRA Board members and staff of TCRA shall be governed by the penalty provisions of Section 112.317 of the Florida Statutes for any violation of the statutory provisions listed above.

Specific Authority 120.53(1)(b), 343.54(1)(b), (3)(i) FS. Law Implemented 343.54(3)(d),(e),(i),(k),(m),(n),(p) FS. History--New 7-5-95, Amended _____.

(Substantial rewording of Rule 30C-2.002 follows. See Florida Administrative Code for present text.)

30C-2.002 Organization.

(1) Authority of TCRA Board. Except as otherwise provided in this Code, all rights, powers, duties and authorities relating to the procurement of supplies, services and construction are vested in or exercised by the Board of the Tri-County Commuter Rail Agency.

(2) Approval Authority for Procurement Actions and Contracts

(a) The TCRA Board must approve the following:

1. All engineering or construction services contracts, task orders and work orders of over \$100,000.

2. All other contracts, task orders and work orders of over \$25,000.

3. Single change orders to engineering or construction services contracts approved by the Board with a value of more than \$100,000 or over 10% of the value of the contract, whichever is less.

4. Single change orders to all other contracts approved by the Board with a value of more than \$25,000 or over 10% of the value of the contract, whichever is less.

5. All additional change orders to engineering or construction services contracts approved by the Board after the accumulation of change orders with a total value of more than \$100,000 or over 10% of the value of the contract, whichever is less.

6. All additional change orders to all other contracts approved by the Board after the accumulation of change orders with a total value of more than \$25,000 or over 10% of the value of the contract, whichever is less.

7. Single change orders to engineering or construction services contracts approved by the Executive Director with a value of more than \$10,000; and all additional change orders to engineering or construction services contracts approved by the Executive Director after the accumulation of change orders with a total value of more than \$10,000.

8. Single change orders to all other contracts approved by the Executive Director with a value of more than \$2,500; and all additional change orders to contracts approved by the Executive Director after the accumulation of change orders with a total value of more than \$2,500.

(b) The Executive Director must approve the following:

1. All engineering or construction services contracts, task orders and work orders of less than or equal to \$100,000.

2. All other contracts, task orders and work orders of over \$10,000 and less than or equal to \$25,000.

3. Single change orders to engineering or construction services contracts approved by the Board with a value of up to \$100,000 or up to 10% of the value of the contract, whichever is less.

4. Single change orders to all other contracts approved by the Board with a value of up to \$25,000 or up to 10% of the value of the contract, whichever is less.

5. Cumulative change orders to engineering or construction services contracts approved by the Board with a value of up to \$100,000 or up to 10% of the value of the contract, whichever is less.

6. Cumulative change orders to all other contracts approved by the Board with a value of up to \$25,000 or up to 10% of the value of the contract, whichever is less.

7. Single change orders to engineering or construction services contracts approved by the Executive Director with a value of up to \$10,000; and all additional change orders to engineering or construction services contracts approved by the Executive Director after the accumulation of change orders with a total value of up to \$10,000.

8. Single change orders to all other contracts approved by the Executive Director with a value of up to \$2,500; and all additional change orders to contracts approved by the Executive Director after the accumulation of change orders with a total value of up to \$2,500.

9. Single change orders to contracts approved by the Director of Contract Administration and Procurement of over 10% of the value of the contract; and all additional change orders to contracts approved by the Director of Contract Administration and Procurement after the accumulation of change orders with a total value of more than 10% of the value of the contract.

10. All contracts for professional services and for the purchase of computer, communications and electronic equipment of \$25,000 or less.

(c) Except as provided in subsection (b) (10), the Director of Contracts Administration and Procurement must approve the following:

1. All contracts, work orders and task orders of \$10,000 or less, and all Micro-Purchases.

2. Change orders to contracts approved by the Director of Contract Administration and Procurement with a value of 10% or less of the contract.

(3) Delegation of Authority to Executive Director: Except as otherwise provided in this Code, all rights, powers, duties and authorities relating to the procurement of supplies, services and construction vested in the TCRA Board are hereby delegated to the Executive Director of the TCRA. The Executive Director is specifically authorized to delegate the approval authority set forth in subsection (2)(b) of this Rule to the Deputy Executive Director.

(4) Specific Authority of the Executive Director.

(a) The Executive Director shall promulgate and issue Procurement Procedures to implement and augment the provisions of this Code subject to approval by the Board.

(b) The Executive Director shall promulgate and issue a Quality Assurance/Quality Control (QA/QC) Handbook.

(c) The Executive Director may either participate in, sponsor, conduct, or administer agreements with one or more public procurement units for the procurement of any supplies, services, or construction with one or more public procurement units (i.e., any City, Town, and any other subdivision of the state located within Dade, Broward and Palm Beach counties or a public agency of any such subdivision, public authority, educational, health, or any other institution, and any other entity which expends public funds for the procurement of supplies, services, and construction). Such may include, but is not limited to, joint or multiple party contracts between public procurement units and open-end contracts which are made available to public procurement units. The actual award shall be made by the TCRA through a contract entered into by TCRA and the contractor.

(d) The Executive Director is expressly authorized to purchase from contracts generated by the State of Florida as well as units of the Federal Government as permitted by Federal law and regulation. Such purchases are to be in accordance with the terms and conditions of the contract between TCRA and the contractor.

(e) The Executive Director may sell to, acquire from, or use any supplies or services belonging to a local public procurement unit or external procurement activity with the award made by the TCRA through a contract between TCRA and the local public procurement unit or an external contractor. Where a local public procurement unit or external procurement activity administer a cooperative purchase activity complying with the general requirements of this Code, TCRA's participation in such a purchase shall be deemed to have complied with this Code. Any controversies concerning the award or procession of a contract which has been entered into on a cooperative basis shall be remedied under the rules and regulations of the entity advertising the contract.

(f) The Executive Director shall have the authority to enter into a contract awarded by a public procurement unit if both the vendor and the public procurement unit agree to such an award of their contract and the procurement was accomplished under an open and free competitive bid system. The actual award of such a contract shall be made under the provisions contained in this Procurement Code for the award of contracts by the TCRA, and TCRA shall enter into a contract with the vendor.

(5) Delegation of Authority to Director of Contract Administration and Procurement.

Except as other wise provided in this Code, all rights, powers, duties and authorities relating to the procurement of supplies, services and construction vested in the Executive Director of the TCRA are hereby delegated to the Director of Contract Administration and Procurement as more fully set out in Section 6 below.

(6) Specific Authority of the Director of Contract Administration and Procurement.

(a) Contracting Officer. The Director of Contract Administration and Procurement (hereinafter "Director) serves as the Principal Contracting Officer of the TCRA. The Director may delegate this authority only with the written approval of the Executive Director.

(b) Operational Procedures. The Director may adopt operational procedures covering the internal function of Purchasing Activities and, as provided above, delegate rights, powers, and authority to subordinate contract and procurement specialists.

(c) Duties. Except as otherwise specifically provided in this Code, the Director shall:

1. Procure or supervise the procurement of all supplies, services and construction for the Board of the TCRA.

2. The Director may purchase directly, without bid or quotations, from State, county or local contracts when the contract expressly permits, or if the awarding jurisdiction and the vendor agree to allow the TCRA to purchase therefrom. If Federal funds are used for such purchases, the requirements and standards of the current version of Federal Transit Administration Circular 4220.1 apply to such purchases.

3. Transfer or sell surplus supplies or property (i.e., those supplies no longer having any use to TCRA, including, but not limited to, obsolete or scrap material and nonexpendable supplies that have completed their useful life cycle) in accordance with the provisions of Sections 274.05 and 388.323 of the Florida Statutes to other governmental agencies or to the public by sealed bids, public auction, trade equipment on new purchases, or dispose of property in any other method consistent with the laws of Florida and other applicable laws and regulations. No employee of the Department having direct control of the supplies or handling the disposition of the supplies shall be entitled to purchase any such supplies.

4. Follow programs for the inspection, testing and acceptance of supplies or services in accordance with TCRA QA/QC procedures as set forth in TCRA's Quality Assurance Handbook.

5. Relocate excess supplies within the TCRA.

6. Cooperate with all public agencies and the auditors in the preparation of statistical data concerning the procurement usage and disposition of all supplies, services, and construction. All using divisions shall furnish such reports as the Director may require concerning user needs and stock on hand.

7. Establish a Contractor performance rating system for use in eliminating those vendors who fail to perform or perform unsatisfactorily in accordance with TCRA's Suspension and Debarment Procedures set out in TCRA's Procurement Procedures. Such rating system may also be used for Contractor evaluation and awarding of contracts in accordance with Rule 30C-2.003, subsection (9)(g).

(7) Duties of General Counsel. – The General Counsel shall serve as legal counsel and provide legal services as requested. General Counsel shall review all contracts to be approved by the Board or Executive Director before such documents are executed.

(8) Contract Administration.

(a) Review of Contracts. The Director of Contracts Administration and Procurement shall review all contracts prior to execution.

(b) Contract Administrator. After the award of any contract, the Contract Administrator will ensure that both the TCRA and the Contractor are in compliance with all terms and conditions of the contract, including maintaining current insurance certificates. The TCRA will maintain a written record of performance for each contract, including adherence to delivery requirements and specifications. Performance of the contractor will be evaluated by the Project Manager utilizing TCRA's QA/QC procedures as set forth in TCRA's Quality Assurance Handbook.

(c) Contract Performance. In cases where the Contractor does not adhere to delivery and specifications, or is in technical breach of a contract, the TCRA must attempt to rectify the situation with the Contractor and maintain written records of these attempts.

(d) Breach of Contract. In cases where the Contract Administrator is unable to rectify a breach of contract with the Contractor, the matter shall be turned over to the Director along with all the documents for resolution. Resolution may include, but is not limited to: cancellation of the contract; suspension or debarment; and institution, through General Counsel, of appropriate legal action.

Specific Authority 120.52(1)(b), 343.54(1)(b), (3)(i) FS. Law Implemented 343.54(1)(b),(3)(i) FS. History–New 7-5-95, Amended _____.

30C-2.0021 Definitions.

(1) The words defined in this Rule shall apply to both this Code and the TCRA's Procurement Procedures and shall have the meanings set forth below whenever they appear in this Code and/or the Procedures, unless:

(a) Context Determines Definition. The context in which they are used clearly requires a different meaning; or

(b) Definition Prescribed. A different definition is prescribed for a particular provision.

(2) Definitions.

(a) Business means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

(b) Contract means all types of binding agreements, regardless of what they may be called, for the procurement or disposal of supplies, services or construction.

(c) Contractor means any person having a contract with the TCRA.

(d) Contract Administrator means the individual in the Contracts Administration & Procurement Department who has the responsibility to ensure that the provisions of each contract are complied with by both the TCRA and the Contractor.

(e) Construction means the process of building, altering, repairing, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property owned or under the control of the TCRA. It does not include the routine operation, repair, or maintenance of existing structures, buildings, or other real property.

(f) Mandatory Bid Amount means the dollar amount at which the formal bid process is required. The Mandatory Bid Amount is \$25,000.

(g) May denotes the permissive.

(h) Must denotes the imperative.

(i) Person means any business, corporation, partnership, individual, union, committee, club, organization, or group of individuals.

(j) Procurement means buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contracts and all phases of contract administration.

(k) Project Manager means the individual having the responsibility to oversee and manage the day to day activities of a contract.

(l) Regulation means a governmental body's statement, having general or particular applicability and future effect, designed to implement, interpret, or prescribe law or policy, or describe organization, procedure, practice or requirements.

(m) Services means the furnishing of labor, time, and effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements but shall include both professional and general services.

(n) Shall denotes the imperative.

(o) Should denotes the permissive.

(p) Specifications means any description of the physical or functional characteristics or of the nature of a supply, service or construction item. It may include a description of any requirement for inspecting, testing or preparing a supply, service or construction item for delivery. Specifications may also contain provisions for inclusion of factors which will lead to the ultimate calculation of lowest total cost.

(q) Supplies means all property, including but not limited to equipment, materials, printing, and insurance, excluding real property.

Specific Authority 343.54(1)(b) FS. Law Implemented 343.54 FS. History--New _____.

30C-2.003 Source Selection and Contract Formation and Administration.

(1) Types of Contracts Allowable

(a) Except as provided in this section, any type of contract which will promote the best interest of the TCRA may be used. A type of contract other than firm, fixed price may be used only when a determination is made by the Director that such contract is likely to be less costly than the firm, fixed price contract or that it is impractical to obtain the supplies, services or construction required by the firm, fixed price contracting method.

(b) A firm-fixed price contract establishes a price that is not subject to any adjustment on the basis of the contractor's cost experience in performing the contract.

(c) A cost-reimbursement contract is one in which the contractor is paid its reasonable, allocable and allowable costs of performance regardless of whether the work is completed.

(d) A time and material contract can be used only:

1. After a determination by the Director that no other type of contract is suitable; and

2. If the contract specifies a ceiling price that the contractor shall not exceed except at its own risk.

(e) Cost plus percentage of cost contracts are prohibited.

(f) Task Order contracts are used for similar type work. The contract is a competitively bid, firm fixed price indefinite quantity contract, against which TCRA issues Task Orders as specific needs arise.

(g) Work Order contracts are used for professional services procured under the procedures set forth in Section (11) of this Rule; and are cost plus fixed fee contracts against which TCRA issues Works Orders as specific needs arise.

(2) Specific Period: A contract for supplies or services may be entered into for any time period not to exceed five (5) years including options. Options are permitted provided the extensions, if any, are included in the solicitation.

(3) Methods of Source Selection: All contracts shall be solicited in accordance with the provisions of this Rule.

(4) Amendments and Change Orders

(a) An amendment is any change to a contract, task order, or work order for any professional services including all architectural and engineering services that alters the terms and conditions of the original document; or provides for a change in the scope or requirements of the original document beyond what is specifically allowed by the original document. Amendments are formal changes that must be approved at the same signature authority level as the original document.

(b) The TCRA shall have the right, based on a clause contained in each contract for construction or the delivery of goods and services other than those listed in subsection (a) above, to issue a change order to correct errors, omissions, or discrepancies; to cover acceptable overruns; to expand or reduce the scope of the contract; or to direct other changes in contract execution to meet unforeseen field, regulatory or market conditions. All change orders must be approved in advance in accordance with the value of the change order or the calculated value of the time extension. In addition, TCRA shall have the unilateral right, based on a clause contained in each contract, to issue an immediate change order and negotiate cost and price for time and materials after the issuance of the change order.

(c) All amendments and change orders shall be submitted to the Director complete with explanations and back up information and, when applicable, a detailed breakdown of charges for review and/or recommendation of approval.

(d) Emergency Amendments and Change Orders

1. Types of Emergency Amendments Change Orders: Any situation that necessitates immediate action on the part of the Project Manager and the Contractor to eliminate danger to public safety, to prevent unnecessary or incorrect work, to authorize work that must be done in a logical sequence, or to

eliminate a delay that may significantly increase the cost of the project shall be authorized by an emergency amendment or change order as appropriate.

2. Approval of Emergency Amendments and Change Orders: All emergency amendments and change orders shall be approved by the Director and must be reported to the Board if the amount of the emergency amendment or change order exceeds the amount of change order authority delegated to the Executive Director, as soon after the authorization is given as practical.

3. Audit Trail: All emergency amendments and change orders must contain the reason for the emergency; and provide an audit trail sufficient to verify the reasonableness of the prices charged in the amendment or change order.

(e) Verification of Amendments and Change Orders: The Director will verify all non-emergency amendments and change orders as to the:

(a) Appropriateness of the modification of the contract and unreasonableness of a separate bid for the item under consideration.

(b) The methods of calculating the amount of the amendment or change order are in conformance with the terms of the contract.

(5) Blanket Purchase Orders

(a) The Director may issue a blanket purchase order based, if possible, on competitive quotations to procure items on an as-needed basis provided the aggregate amount is below the Mandatory Bid Amount and the order is not issued for over a twelve month period of time.

(b) The Director may issue a purchase order for any amount to encumber funds from which the TCRA may order items covered by blanket purchase orders.

(6) Procurement by Micro-Purchases

(a) Procurement by micro-purchases are those purchases which do not exceed \$2,500.

(b) TCRA will attempt to distribute micro-purchases equitably among qualified suppliers in the Dade, Palm Beach, and Broward County area.

(7) Small Purchases

Small Purchase procedures can be used for procurement of goods or services, excluding architectural and engineering services, valued at less than the Mandatory Bid Amount and of public works/construction projects valued at less than the Mandatory Bid Amount.

(8) Formal Competitive Procurement Process

Formal competitive procurement procedures are used for procurement of goods or services valued at greater than the Mandatory Bid Amount and all public works/construction projects valued at greater than the Mandatory Bid Amount. The three types of competitive procurement are the Invitation to Bid, the Request for Proposals, and the Letter of Interest process.

(9) Competitive Sealed Bidding

(a) Conditions for Use

1. The Invitation to Bid (ITB) competitive procurement process is used for all public works/construction projects (except as provided in Section (15) of this Rule), and, if appropriate, purchases of goods and services whose cumulative value will exceed the Mandatory Bid Amount. The ITB process is coordinated by the Director.

2. The ITB method of procurement is employed when all of the following apply:

a. A complete, adequate and realistic specification or purchase description is available;

b. Two or more responsible suppliers are willing and able to compete effectively for the contract;

c. The procurement lends itself to a firm-fixed price contract, and selection of the successful bidder can be made on the basis of price; and

d. No discussion with bidders is needed.

(b) Public Notice

A notice of an Invitation for Bid (ITB) will be prepared by the Director, and will be advertised as a public notice and must be published in a newspaper of general circulation; and in the Florida Administrative Weekly or in the Florida on-line Vendor Bid System in sufficient time prior to the date set for bid closing. The notice must include the following minimum information:

1. A general description of the services or goods to be purchased.

2. Where to acquire an ITB and associated documents.

3. The location, day and time of the Pre-Bid Conference.

4. The location, last day and hour bids will be accepted (deadline.)

5. Bid Acceptance Period.

6. Whether Federal funds are being used for the procurement.

(c) Receipt of Bids

Bids shall be submitted so as to be received at the location and manner designated in the invitation for bids not later than the exact time set for the receipt of bids. Except as provided in this subsection, bids received after this time for any reason shall not be considered and returned to the bidder. A bid will not be considered late if a bid is submitted via U.S. Postal Service Express Mail Next Day Service or a commercial express mail service and the bidder provides written documentation showing that the bid package was dispatched at the place of mailing two working days prior to the date set for bid opening. The timeliness of bids is the sole responsibility of the bidder.

(d) Withdrawal of Bids

Any bidder may withdraw their bid, either personally or by written request, received by TCRA, at any time prior to the time fixed for the receipt of the bids. Negligence on the part of bidders in preparing their bid confers no right of withdrawal of

their bid after such bid has been opened. No bid may be withdrawn for a period of at least 180 days following bid opening.

(e) Bid Opening

1. The Director shall decide when the time set for bid opening has arrived and shall so declare to those present.

2. All bids received in accordance with the time set for receipt shall be publicly opened and when practical, read aloud by the Director to the persons present. The bids received shall be recorded. If it is impractical to read the entire bid, as where many items are involved, the total amount of the bid shall be read.

(f) Determination of Responsiveness

1. Any bid which fails to conform to the essential requirements of the invitation for bids, such as specifications, delivery schedule, warranty, or the required bid documents, shall be rejected as non-responsive.

2. A bid shall be rejected when the bidder imposes conditions which modify requirements of the invitation for bids. Bids may be rejected in cases, including but not limited to, in which the bidder:

a. Attempts to protect himself against future changes in conditions such as increased costs, if a total price to TCRA cannot be determined for bid evaluation.

b. Fails to state a price and in lieu thereof states that price shall be "price in effect at time of delivery."

c. States a price but qualifies such price as being subject to "price in effect at time of delivery."

d. Where not authorized by the invitation for bid, conditions or qualifies the bid by stipulating that the bid is to be considered only if, prior to date of award, bidder received (or does not receive) award under a separate procurement.

e. Limits rights of TCRA under any contract clause.

f. Fails to comply with all of the requirements of the ITB.

3. A bid may be rejected if a bid bond is required and a bidder fails to furnish it in accordance with the requirement of the invitation for bids.

4. The originals of all rejected bids, and any written findings with respect to such rejections, shall be preserved in the file relating to the procurement.

5. After submitting a bid, if a bidder transfers all of his assets or that part of his assets related to the bid during the period between the bid opening and the award, the TCRA may accept or reject the bid at its sole discretion.

(g) Determination of Responsibility

1. Bidders may be asked to provide the Director with any information required to determine the responsibility of the bidder.

2. Before awarding the contract, TCRA shall determine that a prospective contractor is responsible and that prices are reasonable. A responsible prospective contractor is one who meets the standards set forth below:

a. Has adequate financial resources, or the ability to obtain such resources as required during performance of the contract.

b. Is able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments.

c. Has a satisfactory record of performance. Contractors who are, or have been seriously deficient in current or recent contract performance, when the number of contracts and the extent of deficiency of each are considered. Documented past unsatisfactory performance will ordinarily be sufficient to justify a finding of non-responsibility.

d. Is otherwise qualified and eligible to receive an award under applicable laws and regulations.

e. Has the necessary organization, experience, operational controls, and technical skills, or the ability to obtain them.

f. Has the necessary production, construction, and technical equipment and facilities, or the ability to obtain them.

3. Evaluation of the responsibility of prospective contractors may be made based upon the following sources:

a. A list of debarred, suspended or ineligible firms or individuals.

b. The prospective contractor's bids and proposals, replies to questionnaires, financial data such as balance sheets, profits and loss statements, cash forecasts, and financial histories of the contractor and affiliated concerns, current and past production records, lists of tools, equipment, and facilities, written statements or commitments concerning financial assistance and subcontracting arrangements.

c. Publications, including credit ratings, trade and financial journals, and business directories and registers may also be used.

d. References such as suppliers, subcontractors, customers of the prospective contractor, banks and financial institutions, commercial credit agencies, other government agencies, purchasing and trade associations, and better business bureaus and chamber of commerce.

e. Documented past performance on contracts with TCRA.

(h) Award of the Contract

1. Unless all bids are rejected, award shall be by written notice, within the time for acceptance specified in the bid or extension thereof, to the responsible and responsive bidder whose bid, conforming with all the material terms and conditions of the ITB, is the lowest price.

2. Prior to an award being made to other than the lowest bidder, the lowest bidder will be notified in writing by TCRA of any evidence reflecting upon the responsibility of the bidder and affording the bidder the opportunity to rebut such evidence and present evidence of qualifications to perform the contract.

3. Award shall be made by mail or personal delivery to the successful bidder of a notice of award and the proper contract documents. TCRA will finalize the execution of the contract and send a copy to the successful bidder.

4. A contract may be awarded with a provision for upward or downward price adjustment provided that this allowance was part of the original bid solicitation, and the adjustments are based on a nationally recognized or published index or other criterion acceptable to the Director.

(10) Invitation for Revised Bids After Unsatisfactory Initial ITB

(a) Conditions for Use: An invitation for revised bids may be used if, after initial bids have been opened, all bids are rejected; if all initial bids submitted result in bid prices in excess of the funds available for the purchase; or if the Director determines that all prices received in response to the initial ITB are unreasonable as to one or more of the requirements and that:

1. There are no additional funds available to permit an award to the responsible bidder submitting the most favorable bid; or

2. Any delay resulting from a resolicitation under revised specifications or quantities under competitive sealed bidding would be fiscally disadvantageous or would not otherwise be in the best interest of TCRA.

(b) Discussions: Discussions will be held with all responsive and responsible bidders who submitted bids in response to the initial ITB. These discussions will address revised specifications and/or revised quantities. All bidders shall be accorded fair and equal treatment with respect to any discussions.

(c) Invitation for Revised Bids

An invitation for revised bids based on revised specifications or quantities shall be issued as promptly as possible to only those bidders submitting responsive and responsible bids in the initial ITB process. The invitation for revised bids shall provide for a prompt response to the revised requirements.

(d) Award

An award shall be made upon the basis of the lowest bid price submitted by a responsive and responsible bidder.

(11) Request for Proposal (RFP) Process

(a) Conditions for Use

1. The Request for Proposals (RFP) competitive procurement process is used in procurement when, as determined by the Director, conditions are not practical, advantageous nor appropriate for the use of an ITB. The RFP process is coordinated by the Director.

2. The RFP process is a competitive negotiated procurement process that requires evaluation of offeror's proposed costs and understanding of the contract performance requirements in accordance with established evaluation criteria. The competitive negotiated procurement process does not require award to the lowest offeror. An RFP generally includes:

- a. Project and agency background.
- b. Purpose of the engagement.

c. General firm qualifications desired.

d. Scope of work or description of the goods to be procured.

e. Project schedule.

f. Proposal requirements.

g. Criteria for selection.

h. Payment terms.

(b) Public Notice: A notice of an RFP will be prepared by the Director, will be advertised as a public notice, and must be published in a newspaper of general circulation; and in the Florida Administrative Weekly or in the Florida on-line Vendor Bid System in sufficient time prior to the date set for proposal receipt. The notice must include the following minimum information:

1. A general description of the services or goods to be purchased.

2. Where to acquire an RFP and associated documents.

3. The location, day and time of the Pre-Proposal Conference.

4. The location, last day and hour proposals will be accepted (deadline).

5. Whether Federal funds are being used for the procurement.

(c) Receipt of Proposals: Proposals shall be submitted so as to be received at the location and manner designated in the RFP not later than the exact time set for the receipt of proposals. Except as provided in this subsection, proposals received after this time for any reason shall not be considered and returned to the proposer. A proposal will not be considered late if it is received at the location for receipt of proposals after the time set if the proposal is submitted via U.S. Postal Service Express Mail Next Day Service or a commercial express mail services and the proposer provides written documentation showing that the proposal package was dispatched at the place of mailing two working days prior to the date set for receipt of proposals. The only acceptable evidence to establish the time of receipt at TCRA's offices is the time/date stamp of TCRA which shall be placed on the proposal wrapper immediately upon receipt. A TCRA staff person receiving the proposal shall sign the exterior of the proposal package to verify the date and time received and person receiving the proposal. The timeliness of proposals is the sole responsibility of the proposer.

(d) Evaluation of Proposals: All proposals received shall be evaluated by an Evaluation and Selection Committee in accordance with the procedures set forth in Chapter III of TCRA's Procurement Procedures.

(e) Discussions.

1. Discussions are not required to be conducted with any offeror provided:

a. The solicitation did not commit in advance to discussions or notified all offerors that award might be made without discussion; and the award is in fact made without any written or oral discussion with any proposer;

b. The procurement is for supplies for which prices or rates are fixed by law and regulation;

c. The time for delivery will not permit discussions; or

d. The procurement is for a product and, due to the existence of adequate competition or accurate prior cost experience, it can be clearly demonstrated that acceptance of an initial proposal would result in a fair and reasonable price.

(2) If discussions are conducted with one offeror, discussions must be conducted with all offerors within the competitive range.

(f) Award After Discussions

Upon completion of discussions, TCRA may make a selection for contract award in according with subsection (11)(h) without requesting Best and Final Offers.

(g) Request for Best and Final Offer

1. If, upon completion of discussions, TCRA does not make a selection for contract award, TCRA will issue to all proposers within the competitive range a request for a final supplement denominated the "Best and Final Offer" (BAFO). Oral requests for BAFOs shall be confirmed in writing. Best and Final Offers must be submitted in accordance with written procedures received from TCRA.

2. Such requests shall advise proposers:

a. That negotiations are being concluded;

b. That proposers are being asked for their "best and final" offer, not merely to confirm or reconfirm prior offers; and

c. That any revision or modification of proposals must be submitted by the date specified.

3. Following the review of the BAFOs by the Evaluation and Selection Committee, the Director shall consolidate the cost and technical evaluations and all score sheets along with their comments and recommendations. After reviewing the evaluations and recommendation made by the Evaluation and Selection Committee, the Director shall make a determination of the recommendation for contract award.

(h) Award of the Contract

After evaluation of proposals in accordance with the criteria set forth in the RFP, the contract shall be awarded to the offeror of the proposal most advantageous to the TCRA, price and other factors considered.

(12) Procurement of Professional, Architectural, Engineering, Testing, Landscape Architectural, and Land Surveying Services

(a) Conditions for Use: Each time TCRA procures professional services for architecture, professional engineering, landscaping architecture or registered land surveyor services for a project where the basic construction cost of which is estimated by the TCRA to be in excess of the

threshold amount of Category FIVE articulated in Florida Statutes 287.017 or for a planning or study activity when the fee for professional services is in excess of the Category TWO amount articulated in Florida Statutes 287.017, ("CCNA Project") TCRA shall comply with the rules for solicitation of services procedures contained herein except that geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(b) Letters of Interest Solicitation: Each time TCRA is to procure professional services on a CCNA Project, a request for Letters of Interest will be sent to all appropriate firms in TCRA's Vendor Database. This method, where price cannot be used as an evaluation factor and negotiations are conducted with only the most qualified, can only be used in procurement of the above services. This method of procurement cannot be used to obtain other types of services even though a firm that provides the above types of services are also potential sources to perform other services. If sufficient qualified firms are available, Letters of Interest should be sent to a minimum of three (3) firms. Such request for Letters of Interest will request them to:

1. Express their interest in obtaining the particular job.

2. State the staff and background proposed for the particular project including, if applicable, joint ventures, minority participation and whether the firm is a certified minority business enterprise as defined in the Florida Small and Minority Business Assistance Act.

3. Express the fee structure including a breakdown of estimated amounts for the completion of each section of the project. This fee structure is to be submitted in a separate envelope marked as containing the fee structure. If inadequate information is available for the firms to provide a breakdown of estimated cost, the salary structure, multiplier, and a not to exceed amount will be provided in the fee portion of the response. This fee proposal may be required to be submitted with the submission of the Letter of Interest for an individual job or may be required at short listing if Letters of Interest are requested for multiple jobs.

(c) Advertisement for CCNA: The TCRA shall advertise at least once in a paper of general circulation within Dade, Broward and Palm Beach Counties advising all interested firms of the CCNA Project and requesting Letters of Interest to be submitted. The public notice shall include a general description of the CCNA project and shall indicate how interested consultants may apply for consideration.

(d) Review of Qualifications: All qualifications and submittals of those firms responding with a Letter of Interest shall be reviewed and evaluated by an Evaluation and Selection Committee in accordance with the procedures set forth in Chapter III of TCRA's Procurement Procedures.

(e) Short List: The Evaluation and Selection Committee shall reduce the number of firms (short list) to at least three for further discussions. In short listing the firms, the Committee shall attempt to select the best qualified firms to render the solicited service for the particular project without considering price or opening the fee submitted by each firm with their letter of interest. A determination should be made that each firm is fully qualified to render the required service. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record, and experience of the firm. Such firm must be certified by TCRA to be qualified pursuant to law and the regulation of TCRA.

(f) Discussions: The Evaluation and Selection Committee may request presentations from the firms and discuss the proposals with the firms. The requirements of presentations or discussion will be the same for each firm short listed.

(g) Ranking of Firms: The voting members of the Evaluation and Selection Committee, after discussions and/or presentations by each short listed firm, will vote on the final ranking. The ranking of firms shall indicate the Committee's view of the firm that will best serve the interest of the TCRA with factors considered such as the ability of professional personnel; whether a firm is a certified minority business enterprise, litigation history, past performance; willingness to meet time and budget requirements; location; recent, current, and a projected workload of the firm; and the volume of work previously awarded to each firm by the TCRA.

(h) Ranking Reported to the Board: On completion of the selection process, the Committee shall report the ranking of the firms to the Director who shall immediately advise the members of the Board in writing of the three or more firms selected and their ranking in order of preference.

(i) Negotiations: Upon approval by the Board of the three highest rated firms, the Director shall open the fee proposal of the highest ranked firm and attempt to negotiate a contract with the highest ranked firm to perform services at a compensation which is determined to be fair, competitive and reasonable. If the Director is unable to negotiate a satisfactory contract with the firm obtaining the highest ranking, negotiations with that firm shall be formally terminated. The Director then shall undertake negotiations with the second ranked firm. If these negotiations also prove unsatisfactory, negotiations shall again be terminated and the Director will negotiate, in turn, with each firm in accordance with their ranking by the committee, until an agreement is reached or the short list is exhausted. When a short list is exhausted, a new solicitation for Letters of Interest in accordance with the provision of this subsection must be initiated.

(j) Compensation: TCRA shall negotiate a contract with the most qualified firm for professional services at compensation which TCRA determines is fair, competitive, and reasonable. In making such determination, TCRA shall

conduct a detailed analysis of the cost of the professional services required in addition to considering their scope and complexity.

(k) Truth in Negotiation Certificate: On any lump-sum or cost-plus-a-fixed-fee professional service contract over the threshold amount of Category FOUR articulated at Florida Statute 287.017, TCRA shall require the firm receiving the award to execute a truth-in-negotiation certificate stating that wage rates and other factual costs supporting the compensation are accurate, complete, and current at the time of contracting. Any professional contract under which such a certificate is required shall contain a provision that the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the TCRA determines the contract price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. Any such contract adjustments can only be made within one year following the end of the contract.

(l) Award of Contract: At the successful conclusion of negotiations, a contract will be presented to the Board for award. The Board may review the selection process and reject all proposals if it determines such rejection is in the best interest of TCRA.

(m) Contractor Responsibility: The contractor is responsible for the professional quality, technical accuracy and coordination of all services under the contract. The contractor may be liable to TCRA for costs resulting from errors or deficiencies in design furnished under the terms of the A/E contract.

(n) Contingent Fee Disclosure.

1. Each contract entered into by the TCRA for professional services shall contain the following prohibition against contingent fees:

"The architect (or registered surveyor and mapper or professional engineer, as applicable) warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the architect (or registered surveyor and mapper or professional engineer, as applicable) to solicit or secure this agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the architect (or registered surveyor and mapper, or professional engineer, as applicable) any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this agreement."

2. For the breach or violation of this provision, TCRA shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

(o) Testing Services: Professional Testing Services covered under CCNA may be purchased by the establishment of a Rotating List for purchases above or below the Mandatory Bid Amount. The award must be made by the Board and the contracts signed by the Chair, the Executive Director, General Counsel, Director, and the Contractor.

(13) Sole Source Procurement

(a) A sole source procurement is a purchase accomplished through solicitation or acceptance of a proposal or bid from only one source; or, if after solicitation of a number of sources competition is determined inadequate. A sole source purchase must be documented as to the reasons why only one supplier is acceptable. This documentation is normally furnished by the originating department and verified by the Director. The Executive Director is responsible for making the final determination on sole source procurements.

(b) A contract amendment or change order that is not within the scope of the original contract is considered a sole source procurement.

(c) Sole source procurement may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies:

1. The item is available only from a single source;

2. The public exigency or emergency (i.e., a threat to public health, welfare, safety, property or other substantial loss to the TCRA, or a situation requiring immediate action by the TCRA, as determined by the TCRA) for the requirement will not permit a delay resulting from competitive solicitation;

3. FTA authorizes noncompetitive negotiations;

4. After solicitation of a number of sources, competition is determined inadequate; or

5. The item is an associated capital maintenance item as defined in 49 U.S.C. § 5307(a)(1) that is procured directly from the original manufacturer or supplier of the item to be replaced. The grantee must first certify in writing to FTA: (i) that such manufacturer or supplier is the only source for such item; and (ii) that the price of such item is no higher than the price paid for such item by like customers.

(d) A cost analysis, i.e., verifying the proposed cost data, the projections of the date, and the evaluation of the specific elements of costs and profit, is required.

(e) The Director shall conduct negotiations, as appropriate, as to price, delivery, and terms.

(14) Two Step Procurement Process

(a) Two step procurement combines elements of sealed bidding and competitive negotiation.

(b) Step One is the issuance of a Request for Technical Proposals (RFTP). Proposers are required to submit technical proposals, unpriced, specifying their capability of meeting TCRA's requirements for the procurement in question. Proposals will be evaluated, in accordance with the criteria published in the RFTP to determine whether they are

technically acceptable. The determination of technical acceptability may be made by TCRA on the basis of the proposals as submitted, or pursuant to discussions with any or all proposers for purposes of clarifying technical requirements and submittals.

(c) Step Two is the issuance of an Invitation to Bid (ITB) to those proposers determined under Step One to have submitted technically acceptable proposals. Award will be made to the lowest responsible and responsive bidder, selected from among those proposers requested to submit bids.

(15) Design Build Procurement

(a) A design-build contract is a single contract with a single contractor for the design and construction of a public construction project.

(b) The design criteria package must be prepared. The purpose of the design criterion package is to furnish sufficient information so as to permit potential contractors to prepare a bid or a response. The package must include performance-based criteria for the project. The design criteria package must be prepared and sealed by a design criteria professional employed by or retained by TCRA.

(c) Design-build contracts will be solicited by the use of a competitive proposal selection process as described in Section (11) of this Rule; or by the use of a qualifications-based selection process pursuant to the provisions of Section (12) of this Rule only if the majority of the work contemplated is to be conducted by an architect, professional engineer, landscaping architect or registered land surveyor.

(d) The selected firm must establish a guaranteed maximum price and a guaranteed completion date.

(e) If the qualifications-based selection process is utilized, during the selection of the design-build firm, a licensed design professional appropriate to the project will serve as the TCRA's representative.

(f) Procedures for the use of a competitive proposal selection process must include the following:

1. The preparation of a design criteria package for the design and construction of the project.

2. The qualification and selection of no fewer than three design-build firms as the most qualified, based on the qualifications, availability, and past work of the firms, including the partners or members thereof.

3. The criteria, procedures, and standards for the evaluation of design-build contract proposals, based on price, technical, and design aspects of the project, weighted for each specific project.

4. The solicitation of competitive proposals, pursuant to a design criteria package, from those qualified design-build firms and the evaluation of the responses submitted by those firms based on the evaluation criteria and procedures established prior to the solicitation of competitive proposals.

(g) The employed or retained design-criteria professional will assist in:

1. The evaluation of the responses submitted by the design-build firm.

2. The supervision or approval of the detailed working drawings of the project.

3. The evaluation of the compliance of the project construction with design criteria package prepared by the design-criteria professional.

~~Methods of Source Selection: All contracts shall be solicited by formal competitive sealed bidding pursuant to this section and shall result in a purchase order for a firm, fixed price, except with regard to competitive sealed proposals, small purchases, sole source procurement, sole brand procurement, emergency procurement, certain types of contracts allowable, and other competitive processes approved in advance by the Board. Definitions and guidelines for this section are set forth in the TCRA Procurement Code incorporated by reference in 30C-2.002(4).~~

Specific Authority 120.53(1)(b), 343.54(1)(b), (3)(i) FS. Law Implemented 343.54(1)(b), (3)(i) FS. History—New 7-5-95, Amended _____.

30C-2.004 Open Competition.

Specific Authority 120.53(1)(b), 343.54(1)(b), (3)(i) FS. Law Implemented 343.54(1)(b), (3)(i) FS. History—New 7-5-95, Repealed _____.

30C-2.005 Procurement of Construction Services.

Specific Authority 120.53(1)(b), 343.54(1)(b), (3)(i) FS. Law Implemented 343.54(1)(b), (3)(i) FS. History—New 7-5-95, Repealed _____.

30C-2.006 Procurement of Services.

Specific Authority 120.53(1)(b), 343.54(1)(b), (3)(i) FS. Law Implemented 343.54(1)(b), (3)(i) FS. History—New 7-5-95, Repealed _____.

30C-2.007 Cost Principles for TCRA Contracts.

Specific Authority 120.53(1)(b), 343.54(1)(b), (3)(i) FS. Law Implemented 343.54(1)(b), (3)(i) FS. History—New 7-5-95, Repealed _____.

30C-2.008 Supply Management.

Specific Authority 120.53(1)(b), 343.54(1)(b), (3)(i) FS. Law Implemented 343.54(1)(b), (3)(i) FS. History—New 7-5-95, Repealed _____.

30C-2.009 Debarment and Suspension Procedures.

(1) Authority: After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Director, after consultation with the Office of General Counsel, shall have authority to debar a person for cause from consideration for award of future contracts. The debarment shall for a period commensurate with the seriousness of the cause(s), generally not to exceed three (3) years. If suspension precedes a debarment, the suspension period shall be considered in determining the debarment period. Where the offense is wilful or egregious, a longer term of debarment may be imposed, up to an indefinite period. The Director shall also have the authority to suspend a person from consideration for award of contracts if there is probable cause for debarment. The suspension shall not be for a period exceeding three (3) months.

(2) Cause for Debarment. The causes for debarment include the following:

(a) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.

(b) Conviction under state or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a contractor.

(c) Conviction under state or Federal antitrust statutes arising out of the submission of bids or proposals.

(d) Violation of contract provisions, as set forth below, of a character which is regarded by the Director to be so serious as to justify debarment action:

1. Deliberate failure without good cause to perform in accordance with specifications or within the time limit provided in the contract; or

2. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts: provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment.

(e) Refutation of an offer by failure to provide bonds, insurance or other required certificates within a reasonable time period.

(f) Refusal to accept a purchase order, agreement, or contract, or to perform thereon provided such order was issued timely and in conformance with the offer received.

(g) Presence of principals or corporate officers in the business of concern, who were principals within another business at the time when the other business was suspended within the last three years under the provisions of this subsection.

(h) Violation of the ethical standards set forth in state law.

(i) Unilateral withdrawal of a bid before one hundred eighty (180) days have elapsed from the date of bid opening or a time specified in the ITB.

(j) Any other cause the Director determines to be so serious and compelling as to affect responsibility as a TCRA contractor including debarment by another governmental entity for any cause listed in this Code.

(3) Decision: The Director shall issue a written decision to debar or suspend. The decision shall:

(a) State the reason for the action taken; and

(b) Inform the debarred or suspended person of his rights to appear before the Board of the TCRA.

(4) Notice of Decision: A copy of the decision for the debarment or suspension shall be mailed or otherwise furnished immediately to the debarred or suspended person and any other party intervening.

(5) Hearing Procedure for Debarment, Suspension of Vendors, and Determination of the Director.

(a) Right of Appeal: Any person dissatisfied or aggrieved with the notification of the Director's determination regarding the resolution of a protested solicitation or proposed award or a determination to debar or suspend must, within ten (10) calendar days of such notification, appeal said determination to the TCRA in accordance with the procedures contained in this subsection.

(b) Hearing Date: With ten (10) calendar days from the receipt of the notice of appeal, the TCRA shall schedule a hearing at the next regularly scheduled meeting of the Board, at which time the person shall be given the opportunity to demonstrate why the decision of the Director should be overturned.

(c) Hearing Procedure: The procedure for any hearing required by this article shall be:

1. The TCRA shall cause to be served upon the person a notice of hearing, stating the time and place of the hearing. The notice of hearing shall be sent by certified mail, return receipt requested, to the mailing address of the vendor.

2. The person shall have the right to be represented by counsel, to call and examine witnesses, to introduce exhibits, to examine opposing witnesses on any relevant matter, even though the matter was covered under direct examination, and to impeach any witness regardless of which party first called him to testify.

3. In any hearing before the Board, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. All other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible whether or not such evidence would be admissible in a trial in the courts of Florida.

4. Within thirty (30) calendar days from the hearing, the Board shall complete and submit to the Director and the person requesting said hearing a final order consisting of the findings of fact and conclusions of law as to the granting or denial of the appeal.

5. All persons must comply with this procedure before challenging the decision pursuant to any other procedure.

(6) Reinstatement.

(a) Grounds: Request for reinstatement shall be made in writing based upon the following:

1. Discovery of new and material evidence not previously available;

2. Dismissal of the indictment or reversal of the conviction;

3. Bona fide change in ownership or management sufficient to justify a finding of present responsibility.

(b) Procedures: The request for reinstatement shall be forwarded by the Director to the TCRA Board for a determination on reinstatement. The determination whether to reinstate shall be based on the written submission of evidence, without further hearing. Upon consideration of the written submission and any response from the Director, the TCRA Board shall make a determination whether or not reinstatement is warranted under the standards set forth above.

Specific Authority 343.54(1)(b) FS. Law Implemented 343.54 FS History—New _____.

(Substantial rewording of Rule 30C-2.010 follows. See Florida Administrative Code for present text.)

30C-2.010 ~~Vendor Bid~~ Protest Procedures.

(1) Notice: The TCRA shall provide notice of its decision or intended decision concerning solicitations or contract awards by certified United States mail, return receipt requested. The notice shall contain the following statement: "Failure to file a protest within the time prescribed in § 120.57(3), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

(2) Filing of Protest.

(a) Protests must be filed with:

Tri-County Commuter Rail Authority

800 NW 33rd Street

Suite 100

Pompano Beach, Florida 33064

All protests must be received at the TCRA address listed above during normal office hours of 8:00 a.m. to 5:00 p.m., Eastern Standard or Daylight Time. Failure to file a notice of protest or failure to file a formal written protest as provided in subsections (b) and (c) shall constitute a waiver of proceedings. The formal written protest shall state with particularity the facts and law upon which the protest is based.

(b) With respect to a protest of the specifications contained in an ITB or in an RFP, the notice of protest shall be filed in writing within 72 hours after the receipt of notice of the project plans and specifications or intended project plans and specifications in an ITB or RFP, and the formal written protest shall be filed within 10 days after the date the notice of protest is filed.

(c) Any person who is affected adversely by TCRA's decision or intended decision concerning a solicitation or contract award shall file with the TCRA a notice of protest in writing within 72 hours after receipt of TCRA's written notice of TRAY's decision or intended decision, and shall file a formal written protest within 10 days after the date the notice of protest is filed.

(3) Receipt of Protest: Upon receipt of the formal written protest which has been timely filed, TCRA shall stop the solicitation process or the contract award process until the subject of the protest is resolved by TCRA final action, unless the Director sets forth in writing particular fact and

circumstances which require the continuance of the solicitation process or the contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare.

(4) Resolved Protest: The TCRA on its own initiative or upon the request of a protestor, shall provide an opportunity to resolve the protest by mutual agreement between the parties within seven days, excluding Saturdays, Sundays, and legal holidays, of receipt of a formal written protest.

(5) Unresolved Protest: If the subject of a protest is not resolved by mutual agreement within seven days, excluding Saturdays, Sundays, and legal holidays, of receipt of the formal written protest, and if there is not a disputed issue of material fact, an informal proceeding shall be conducted pursuant to Florida Statutes § 120.57(2), F.S. Such informal proceeding shall be conducted whenever the substantial interests of a party is determined by a TCRA decision and there exists no disputed issue of material fact. It is not necessary that such party's affected interest relate to a solicitation or contract award decision by TCRA. The Director shall conduct the informal hearing as follows:

TCRA shall give reasonable notice to:

(a) Affected parties of the action by TCRA of its decision or refusal to take action together with a summary of the factual, legal and policy grounds therefore;

(b) Provide the affected persons or their counsel an opportunity at a convenient time and place to present to TCRA or a TCRA representative designated as a hearing officer, written or oral evidence in opposition to the TCRA's action or the refusal to act, or a written statement challenging the grounds upon which the TCRA has chosen to justify its action or inaction;

(c) If the objections of the persons or parties are overruled, a written record should be provided within seven days consisting of:

1. The notice and summary of grounds;
2. Evidence received or considered;
3. All written statements by persons and parties;
4. Any decisions overruling objections;
5. All matters placed on the record after an *ex parte* communication; and
6. The official transcript.

(6) Referral of Protest: If the subject of a protest is not resolved by a mutual agreement within seven days, excluding Saturdays, Sundays, and legal holidays, of receipt of the formal written protest, and if there is a disputed issue of material fact, TCRA shall refer the protest to the Florida Division of Administrative Hearings for proceedings consistent with §120.57(1), Florida Statutes. TCRA shall refer any protest where the substantial interest of party is determined by TCRA action and there is a disputed issue of material fact to the Division of Administrative Hearings for proceedings consistent with 120.57(1), Florida Statutes.

(7) Protest to Federal Transit Administration.

(a) A protestor adversely affected by a final protest decision of TCRA may submit a protest to the Federal Transit Administration (FTA) in accordance with the provisions of FTA Circular 4220.1, as currently in effect as of the date of TRAY's decision on the protest.

(b) Under the provision of the FTA Circular, FTA will only review protests regarding the alleged failure of TCRA to have written protest procedures or the alleged failure to have followed such protest procedures or the alleged failure to review a complaint or protest.

(c) In accordance with the FTA Circular, such protest must be filed no later than 5 days after the protestor knew or should have known of TCRA's alleged failure listed above.

(d) Under the following conditions, TCRA may proceed with the procurement in spite of a pending protest to the FTA:

1. The items to be procured are urgently required;
2. Delivery or performance will be unduly delayed by failure to make the award promptly; or
3. Failure to make prompt award will otherwise cause undue harm to TCRA or the Federal Government.

Specific Authority 120.53(1)(b), 343.54(1)(b),(3)(i) FS. Law Implemented 343.54(1)(b),(3)(i) FS. History—New 7-5-95, Amended _____.

30C-2.011 Solicitation or Awards in Violation of Law or Rules and Regulations.

(1) Applicability of this Rule: The provisions of this Rule apply where it is determined administratively or upon administrative or judicial review that a solicitation, proposed award, or award of a contract is in violation of law or rules and regulations. If the violation occurs prior to the award, the award shall be cancelled or revised to comply with the law. Additional provisions regarding solicitations or awards in violation of law or rules and regulations are contained elsewhere in this Procurement Code which is incorporated by reference in 30C-2.002(4).

(2) Remedies After an Award: If after an award it is determined that a solicitation of award of a contract was in violation of this Code or procedures of the TCRA, then:

(a) Good Faith of Vendor: If the person awarded the contract has not acted fraudulently or in bad faith:

1. The contract may be ratified and affirmed, provided it is determined that doing so is in the best interest of the TCRA; or
2. The contract may be terminated in a manner designed to eliminate any damages to the contractor.

(b) Bad Faith of Vendor: If the person awarded the contract has acted fraudulently or in bad faith:

1. The contract may be declared null and void; or
2. The contract may be ratified and affirmed if such action is in the best interest of the TCRA. Such action does not prejudice the TCRA's rights to such damages as may be appropriate.

Specific Authority 120.53(1)(b), 343.54(1)(b),(3)(i) FS. Law Implemented 343.54(1)(b), (3)(i) FS. History--New 7-5-95, Amended.

30C-2.012 Intergovernmental Relations.

Specific Authority 120.53(1)(b), 343.54(1)(b),(3)(i) FS. Law Implemented 343.54(1)(b), (3)(i) FS. History--New 7-5-95, Repealed.

30C-2.013 Small Disadvantaged Business Enterprises.

Specific Authority 120.53(1)(b), 343.54(1)(b),(3)(i) FS. Law Implemented 343.54(1)(b), (3)(i) FS. History--New 7-5-95, Repealed.

30C-2.014 Risk Management in Procurement.

Specific Authority 120.53(1)(b), 343.54(1)(b), (3)(i) FS. Law Implemented 343.54(1)(b), (3)(i) FS. History--New 7-5-95, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard A. Wolfe, Director Of Contract Administration And Procurement, Tri-county Commuter Rail Authority
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Linda Bohlinger, Executive Director, Tri-county Commuter Rail Authority
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October, 1999
 DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 14 and 21, 2000

**AGENCY FOR HEALTH CARE ADMINISTRATION
 Medicaid**

RULE TITLE: Advanced Registered Nurse Practitioner Services RULE NO.: 59G-4.010

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Advanced Registered Nurse Practitioner Coverage and Limitations Handbook, January 2000. The handbook includes the updated fee schedule. The effect will be to incorporate by reference in the rule the current Florida Medicaid Advanced Registered Nurse Practitioner Coverage and Limitations Handbook, January 2000.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Advanced Registered Nurse Practitioner Coverage and Limitations Handbook, January 2000.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of 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: 409.919 FS.
 LAW IMPLEMENTED: 409.905, 409.908, 409.9081 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. – 12:00 p.m., February 21, 2000

PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building #3, Conference Room A, Tallahassee, Florida
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Belinda McClellan, Agency for Health Care Administration, Medicaid Program Development, P. O. Box 12600, Mail Stop 20, Tallahassee, Florida 32317-2600, (850)922-7324

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.010 Advanced Registered Nurse Practitioner Services.

(2) All advanced registered nurse practitioner services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Advanced Registered Nurse Practitioner Coverage and Limitations Handbook, January 2000 ~~January 1999~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up EPSDT 221, which is incorporated in 59G-5.020. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.905, 409.908, 409.9081 FS. History--New 12-21-80, Formerly 10C-7.52, Amended 8-18-92, Formerly 10C-7.052, Amended 8-22-96, 3-11-98, 10-13-98, 6-8-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Belinda McClellan
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ruben King-Shaw, Jr.
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 18, 2000
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 3, 1999

**AGENCY FOR HEALTH CARE ADMINISTRATION
 Medicaid**

RULE TITLE: Birth Center Services RULE NO.: 59G-4.030

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Birth Center and Licensed Midwife Services Coverage and Limitations Handbook, January 2000. The effect will be to incorporate by reference in the rule the current Florida Medicaid Birth Center and Licensed Midwife Services Coverage and Limitations Handbook, January 2000.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Birth Center and Licensed Midwife Services Coverage and Limitations Handbook, January 2000.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of 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: 409.919 FS.

LAW IMPLEMENTED: 383.335, 409.906, 409.908, 409.9081 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. – 12:00 p.m., February 21, 2000

PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building #3, Conference Room A, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Belinda McClellan, Agency for Health Care Administration, Medicaid Program Development, P. O. Box 12600, Mail Stop 20, Tallahassee, Florida 32317-2600, (850)922-7324

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.030 Birth Center Services.

(2) All birth center services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Birth Center and Licensed Midwife Services Coverage and Limitations Handbook, January 2000 ~~January 1999~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up ~~EPSDT~~ 221, which is incorporated in 59G-5.020. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 383.335, 409.906, 409.908, 409.9081 FS. History—New 4-18-85, Formerly 10C-7.0532, Amended 8-18-92, Formerly 10C-7.0532, Amended 4-22-96, 3-11-98, 10-13-98, 5-24-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Belinda McClellan

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 18, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 3, 1999

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Chiropractic Services RULE NO.: 59G-4.040

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Chiropractic Services Coverage and Limitations

Handbook, January 2000. The effect will be to incorporate by reference in the rule the current Florida Medicaid Chiropractic Services Coverage and Limitations Handbook.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Chiropractic Services Coverage and Limitations Handbook, January 2000.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of 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: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908, 409.9081 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. – 12:00 p.m., February 21, 2000

PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building #3, Conference Room A, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Jackson, Medicaid Program Development, P. O. Box 12600, Mail Stop 20, Tallahassee, Florida 32317-2600, (850)922-7314

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.040 Chiropractic Services.

(2) All chiropractic services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Chiropractic Services Coverage and Limitations Handbook, January 2000 ~~January 1999~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA-1500 and Child Health Check-Up ~~EPSDT~~ 221, which is incorporated in 59G-5.020. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908, 409.9081 FS. History—New 6-1-89, Amended 7-1-91, 12-31-91, 3-17-92, 4-21-92, 11-9-92, 7-5-93, 1-19-94, Formerly 10C-7.066, Amended 10-10-94, 5-25-95, 1-9-96, 10-21-97, 5-24-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen Jackson

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 18, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 3, 1999

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Dental Services
RULE NO.: 59G-4.060

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Dental Coverage and Limitations Handbook, January 2000, and the Florida Medicaid Provider Reimbursement Handbook, Dental 111, October 1999. The effect will be to incorporate by reference in the rule the current Florida Medicaid Dental Coverage and Limitations Handbook, January 2000, and the Florida Medicaid Provider Reimbursement Handbook, Dental 111, October 1999.

SUMMARY: The purpose of this rule amendment is to incorporate by reference the revised Florida Medicaid Dental Coverage and Limitations Handbook, January 2000, and the Florida Medicaid Provider Reimbursement Handbook, Dental 111, October 1999.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of 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: 409.919 FS.

LAW IMPLEMENTED: 409.906, 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:

TIME AND DATE: 9:00 a.m. – 12:00 p.m., February 21, 2000

PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building #3, Conference Room A, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Millard Howard, Agency for Health Care Administration, Medicaid Program Development, P. O. Box 12600, Mail Stop 20, Tallahassee, Florida 32317-2600, (850)922-7328

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.060 Dental Services.

(2) All dental services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Dental Coverage and Limitations Handbook, January 2000 ~~January 1999~~, and Florida Medicaid Provider Reimbursement Handbook, Dental 111, October 1999 ~~July 1996~~, which are incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up EPSDT 221, which is incorporated in 59G-5.020. All three handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908 FS. History—New 7-10-80, Amended 2-19-81, 10-27-81, 7-21-83, Formerly 10C-7.523, Amended 9-11-90, 11-3-92, Formerly 10C-7.0523, Amended 6-29-93, Formerly 10P-4.060, Amended 7-19-94, 7-16-96, 3-11-98, 10-13-98, 12-28-98, 6-10-99.

NAME OF PERSON ORIGINATING PROPOSED RULE: Millard Howard

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 18, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 3, 1999

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Optometric Services
RULE NO.: 59G-4.210

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Optometric Services Coverage and Limitations Handbook, January 2000. The effect will be to incorporate by reference in the rule the current Florida Medicaid Optometric Services Coverage and Limitations Handbook, January 2000.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Optometric Services Coverage and Limitations Handbook, January 2000.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of 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: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908, 409.9081 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. – 12:00 p.m., February 21, 2000

PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building #3, Conference Room A, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Debra H. Marshall, Agency for Health Care Administration, Medicaid Program Development, P. O. Box 12600, Mail Stop 20, Tallahassee, Florida 32317-2600, (850)922-7354

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.210 Optometric Services.

(2) All optometry practitioners enrolled in the Medicaid program must be in compliance with the provisions of the Florida Medicaid Optometric Services Coverage and Limitations Handbook, January 2000 ~~January 1999~~, which is

incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up EPSDT 221, which is incorporated by reference in Chapter 59G-5.020, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908, 409.9081 FS. History—New, 4-13-93, Amended 7-1-93, Formerly 10C-7.069, Amended 12-21-97, 10-13-98, 5-24-99,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Debra H. Marshall

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 18, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 3, 1999

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Podiatry Services

RULE NO.: 59G-4.220

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Podiatry Services Coverage and Limitations Handbook, January 2000. The effect will be to incorporate by reference in the rule the current Florida Medicaid Podiatry Services Coverage and Limitations Handbook, January 2000.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Podiatry Services Coverage and Limitations Handbook, January 2000.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of 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: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908, 409.9081 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. – 12:00 p.m., February 21, 2000

PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building #3, Conference Room A, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Jackson, Agency for Health Care Administration, Medicaid Program Development, P. O. Box 12600, Mail Stop 20, Tallahassee, Florida 32317-2600, (850)922-7314

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.220 Podiatry Services.

(2) All podiatry providers enrolled in the Medicaid program must be in compliance with the provisions of the Florida Medicaid Podiatry Services Coverage and Limitations Handbook, January 2000 ~~January 1999~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up EPSDT 221, which is incorporated in 59G-5.020. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908, 409.9081 FS. History—New 1-23-84, Amended 10-25-84, Formerly 10C-7.529, Amended 4-21-92, 11-9-92, 7-1-93, Formerly 10C-7.0529, 10P-4.220, Amended 1-7-96, 3-11-98 10-13-98, 5-24-99,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Karen Jackson

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 18, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 3, 1999

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Physician Services

RULE NO.: 59G-4.230

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Physician Coverage and Limitations Handbook, January 2000. The effect will be to incorporate by reference in the rule the current Florida Medicaid Physician Coverage and Limitations Handbook, January 2000.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Physician Coverage and Limitations Handbook, January 2000.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of 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: 409.919 FS.

LAW IMPLEMENTED: 409.905, 409.908, 409.9081 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. – 12:00 p.m., February 21, 2000

PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building #3, Conference Room A, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lynne Metz, Agency for Health Care Administration, Medicaid Program Development, P. O. Box 12600, Mail Stop 20, Tallahassee, Florida 32317-2600, (850)922-7325

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.230 Physician Services.

(2) All physician providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Physician Coverage and Limitations Handbook, January 2000 ~~January 1999~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up EPSDT 221, which is incorporated in 59G-5.020. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.905, 409.908, 409.9081 FS. History—New 1-1-77, Revised 2-1-78, 4-1-78, 1-2-79, 1-1-80, Amended 2-8-82, 3-11-84, Formerly 10C-7.38, Amended 1-10-91, 11-5-92, 1-7-93, Formerly 10C-7.38, Amended 6-29-93, 9-6-93, Formerly 10P-4.230, Amended 6-13-94, 2-9-95, 3-10-96, 5-28-96, 3-18-98, 9-22-98, 8-25-99.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lynne Metz

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 18, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 3, 1999

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Physician Assistant Services RULE NO.: 59G-4.231

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Physician Assistant Coverage and Limitations Handbook, January 2000. The effect will be to incorporate by reference in the rule the current Florida Medicaid Physician Assistant Coverage and Limitations Handbook, January 2000.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Physician Assistant Coverage and Limitations Handbook, January 2000.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of 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: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908, 409.9081 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. – 12:00 p.m., February 21, 2000
PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building #3, Conference Room A, Tallahassee, Florida
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Belinda McClellan, Agency for Health Care Administration, Medicaid Program Development, P. O. Box 12600, Mail Stop 20, Tallahassee, Florida 32317-2600, (850)922-7324

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.231 Physician Assistant Services.

(2) All physician assistant providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Physician Assistant Coverage and Limitations Handbook, January 2000 ~~January 1999~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up EPSDT 221, which is incorporated in 59G-5.020. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908, 409.9081 FS. History—New 8-21-95, Amended 5-28-96, 3-11-98, 10-13-98, 8-9-99.

NAME OF PERSON ORIGINATING PROPOSED RULE: Belinda McClellan

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 18, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 3, 1999

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Registered Nurse First Assistant Services RULE NO.: 59G-4.270

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Registered Nurse First Assistant Coverage and Limitations Handbook, January 2000. The effect will be to incorporate by reference in the rule the current Florida Medicaid Registered Nurse First Assistant Coverage and Limitations Handbook, January 2000.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Registered Nurse First Assistant Coverage and Limitations Handbook, January 2000.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of 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: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908, 409.9081 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. – 12:00 p.m., February 21, 2000

PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building #3, Conference Room A, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Madeleine Obernier, Agency for Health Care Administration, Medicaid Program Development, P. O. Box 12600, Mail Stop 20, Tallahassee, Florida 32317-2600, (850)487-3270

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.270 Registered Nurse First Assistant Services.

(2) All registered nurse first assistant services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Registered Nurse First Assistant Coverage and Limitations Handbook, January 2000 ~~January 1999~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up ~~EPSDT~~ 221, which is incorporated in 59G-5.020. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908, 409.9081 FS. History—New 3-11-98, Amended 10-13-98, 5-24-99,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Madeleine Obernier

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 18, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 3, 1999

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Visual Services

RULE NO.: 59G-4.340

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Visual Services Coverage and Limitations Handbook, January 2000. The effect will be to incorporate by reference in the rule the current Florida Medicaid Visual Services Coverage and Limitations Handbook, January 2000.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Visual Services Coverage and Limitations Handbook, January 2000.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of 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: 409.919 FS.

LAW IMPLEMENTED: 409.906, 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:

TIME AND DATE: 9:00 a.m. – 12:00 p.m., February 21, 2000

PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building #3, Conference Room A, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Debra Marshall, Agency for Health Care Administration, Medicaid Program Development, P. O. Box 12600, Mail Stop 20, Tallahassee, Florida 32317-2600, (850)922-7354

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.340 Visual Services.

(2) All visual services practitioners enrolled in the Medicaid program must be in compliance with the provisions of the Florida Medicaid Visual Services Coverage and Limitations Handbook, January 2000 ~~January 1999~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up ~~EPSDT~~ 221, which is incorporated in Chapter 59G-5.020, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908 FS. History—New 7-30-80, Formerly 10C-7.521, Amended 4-20-93, 8-25-93, Formerly 10C-7.0521, Amended 12-21-97, 10-13-98, 6-10-99,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Debra H. Marshall

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 18, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 3, 1999

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Veterinary Medicine

RULE TITLE: Investigators; Criteria for Selection; Training

RULE NO.:

61G18-10.020

PURPOSE AND EFFECT: The Board has determined that this rule should be repealed because there is no statutory authority.

SUMMARY: Repeal of Rule 61G18-10.020.

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: 455.203(6),(8) FS.

LAW IMPLEMENTED: 455.203(6),(8) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Madeline Smith, Executive Director, Board of Veterinary Medicine, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G18-10.020 Investigators; Criteria for Selection; Training.

Specific Authority 455.203(6),(8) FS. Law Implemented 455.203(6),(8) FS. History--New 5-15-83, Formerly 21X-10.20, 21X-10.020, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Veterinary Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 1, 1999

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Veterinary Medicine

RULE TITLE: Continuing Education Credit for Board Meetings
RULE NO.: 61G18-16.004

PURPOSE AND EFFECT: The Board has determined that this rule should be repealed because there is no specific authority for this rule.

SUMMARY: Repeal of Rule 61G18-16.004.

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: 474.206, 474.211(5) FS.

LAW IMPLEMENTED: 474.211(5) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Madeline Smith, Executive Director, Board of Veterinary Medicine, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G18-16.004 Continuing Education Credit for Board Meetings.

Specific Authority 474.206, 474.211(5) FS. Law Implemented 474.211(5) FS. History--New 8-18-94, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Veterinary Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 1, 1999

DEPARTMENT OF HEALTH

Division of Medical Quality Assurance

RULE TITLE: Physician Office Incident Reporting
RULE NO.: 64B-3.004

PURPOSE AND EFFECT: The proposed rule is intended to implement the provisions of sections 458.351 and 459.026, F.S., with regard to reporting adverse incidents occurring in physicians' offices.

SUMMARY: The proposed rule sets forth the criteria for reporting adverse incidents which occur in physicians' offices.

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

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

SPECIFIC AUTHORITY: 458.309(1), 458.351(6), 459.005 FS.

LAW IMPLEMENTED: 458.351, 459.026(6) 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: 8:30 a.m., February 21, 2000

PLACE: Department of Health, Office of General Counsel, Conference Room, Room 110P, 2585 Merchants Row Blvd., Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 2020 Capital Circle, S. E., Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B-3.004 Physician Office Incident Reporting.

(1) Definitions.

(a) "Adverse incident" for purposes of reporting to the department, is defined in Section 458.351 and Section 459.026 as an event over which the physician or other licensee could exercise control and which is associated in whole or in part with a medical intervention, rather than the condition for which such intervention occurred, and which results in the following patient injuries:

1. The death of a patient.
2. Brain or spinal damage to a patient.
3. The performance of a surgical procedure on the wrong patient.
4. The performance of a wrong-site surgical procedure; the performance of a wrong surgical procedure; or the surgical repair of damage to a patient resulting from a planned surgical procedure where the damage is not a recognized specific risk as disclosed to the patient and documented through the informed-consent process and if one of the listed procedures in this paragraph results in: death; brain or spinal damage; permanent disfigurement not to include the incision scar; fracture or dislocation of bones or joints; a limitation of neurological, physical or sensory function; or any condition that required transfer of the patient.
5. A procedure to remove unplanned foreign objects remaining from a surgical procedure.
6. Any condition that required the transfer of a patient to a hospital licensed under chapter 395, Florida Statutes, from any facility or any office maintained by a physician for the practice of medicine which is not licensed under chapter 395, Florida Statutes.

(b) "Licensee" for purposes of this rule, includes a physician or physician assistant issued a license, registration, or certificate, for any period of time, pursuant to Chapter 458 and Chapter 459, Florida Statutes.

(c) "Office maintained by a physician" as that term is used in section 458.351(1) and section 459.026(1) is defined as a business location where the physician delivers medical services regardless of whether other physicians are practicing at the same location or the business is non-physician owned.

(2) Incident Reporting System. An incident reporting system shall be established for each physician office.

(a) Incident Reports. The incident reporting system shall include the prompt, postmarked and sent by certified mail within 15 calendar days after the occurrence of the adverse incident, reporting of incidents to the Department at 2020

Capital Circle SE, Bin #C03, Tallahassee, Florida 32399-3253. The report shall be made on the Physician Office Adverse Incident Report. The report must be submitted by every licensee who was involved in the adverse incident. If multiple licensees are involved in the adverse incident, they may meet this requirement by signing off on one report; however, each signee is responsible for the accuracy of the report. This report shall contain the following information:

1. The patient's name, locating information, gender, age, diagnosis, date of office visit, and purpose of office visit.
2. A clear and concise description of the incident including time, date, and exact location within the office.
3. A listing of all persons then known to be involved directly in the incident, including license numbers and locating information, and a description of the person's exact involvement and actions.
4. A listing of any witnesses not previously identified in 3.
5. The name, license number, locating information, and signature of the physician or licensee submitting the report, along with date and time that the report was completed.

(b) Incident Report Review and Analysis. Evidence of compliance with this paragraph will be considered in mitigation in the event the Board takes disciplinary action.

1. The physician shall be responsible for the regular and systematic reviewing of all incident reports filed by the physician or physician assistant under the physician's supervision, for the purpose of identifying factors that contributed to the adverse incident and identifying trends or patterns as to time, place, or persons. The physician shall implement corrective actions and incident prevention education and training indicated by the review of each adverse incident and upon emergence of any trend or pattern in incident occurrence.

2. Copies of incident reports shall be maintained in the physician office.

(3) Death reports. Notwithstanding the provisions of this rule and Sections 458.351, 459.026, Florida Statutes, an adverse incident which results in death shall be reported immediately to the medical examiner pursuant to Section 406.12, Florida Statutes.

Specific Authority 458.309(1), 458.351(6), 459.005 FS. Law Implemented 458.351, 459.026 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 4, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 24, 1999

DEPARTMENT OF HEALTH

Division of Medical Quality Assurance

RULE TITLE: Requirement for Physician Office Registration; Inspection or Accreditation

RULE NO.: 64B-3.005

PURPOSE AND EFFECT: The proposed rule is intended to clarify the requirements for registration and inspection or accreditation of office surgery settings pursuant to sections 458.309(3) and 459.005, Florida Statutes.

SUMMARY: The proposed rule requires every physician performing Level II surgical procedures with a planned duration of five minutes or longer or any Level III office surgery to register with the Board. In addition, the proposed rule requires inspection of the office facility if the facility is not accredited by a recognized accrediting agency or an accrediting agency approved by the Board.

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

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

SPECIFIC AUTHORITY: 458.309(1)(3), 459.005 FS.

LAW IMPLEMENTED: 455.681, 458.309(3), 459.005(2) 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: 8:30 a.m., February 21, 2000

PLACE: Department of Health, Office of General Counsel, Conference Room, Room 110P, 2585 Merchants Row Blvd., Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 2020 Capital Circle, S. E., Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B-3.005 Requirement for Physician Office Registration; Inspection or Accreditation.

(1) Registration.

(a) Every Florida licensed physician who holds an active Florida license and performs level II surgical procedures in Florida with a maximum planned duration of five (5) minutes or longer or any level III office surgery, as fully defined in 64B8-9.009, shall register with the Board of Medicine. It is the physician's responsibility to ensure that every office in which he or she performs levels II or III surgical procedures as described above is registered, regardless of whether other physicians are practicing in the same office or whether the office is non-physician owned.

(b) In order to register an office for surgical procedures, the physician must provide to the Board of Medicine, his or her name, mailing address, Florida license number, and a list of each office where the covered surgical procedures are going to be performed by the physician. The list shall also include each office name, address, telephone number, and level of surgery being performed at that location by the physician; if more than one physician is practicing at that location, a list of all physicians and levels of surgery being performed must be provided. Additionally, the physician shall submit a statement of compliance with Chapter 64B8-9.009, F.A.C., when registering with the Department.

(c) The physician must immediately notify the Board Office, in writing, of any changes to the registration information.

(d) The registration shall be posted in the office.

(2) Inspection.

(a) Unless the physician has previously provided written notification of current accreditation by a nationally recognized accrediting agency or an accrediting organization approved by the Board the physician shall submit to an annual inspection by the Department. Nationally recognized accrediting agencies are the American Association of Ambulatory Surgery Facilities (AAAASF), Accreditation Association for Ambulatory Health Care (AAAHC) and Joint Commission on Accreditation for Ambulatory Healthcare Organizations (JCAHO).

(b) The initial inspection conducted pursuant to this rule shall be announced at least one week in advance of the arrival of the inspector(s).

(c) The Department shall determine compliance with the requirements of 64B8-9.009, F.A.C.

(d) If the office is determined to be in noncompliance, the physician shall be notified and shall be given a written statement at the time of inspection. Such written notice shall specify the deficiencies. Unless the deficiencies constitute an immediate and imminent danger to the public, the physician shall be given 30 days from the date of inspection to correct any documented deficiencies and notify the Department of corrective action. Upon written notification from the physician that all deficiencies have been corrected, the Department is authorized to reinspect for compliance.

(e) The deficiency notice and subsequent documentation shall be reviewed for consideration of disciplinary action. Documentation of corrective action shall be considered in mitigation of any offense.

(f) Nothing herein shall limit the authority of the Department to investigate a complaint without prior notice.

(3) Accreditation.

(a) The physician shall submit written notification of the current accreditation survey of his or her office(s) from a nationally recognized accrediting agency or an accrediting organization approved by the Board in lieu of undergoing an inspection by the Department.

(b) A physician shall submit, within thirty (30) days of accreditation, a copy of the current accreditation survey of his or her office(s) and shall immediately notify the Board of Medicine of any accreditation changes that occur. For purposes of initial registration, a physician shall submit a copy of the most recent accreditation survey of his or her office(s) in lieu of undergoing an inspection by the Department.

(c) If a provisional or conditional accreditation is received, the physician shall notify the Board of Medicine in writing and shall include a plan of correction.

THIS RULE SHALL TAKE EFFECT 60 days after it is filed for adoption.

Specific Authority 458.309(1),(3), 459.005 FS. Law Implemented 458.309(3), 455.681 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 4, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 24, 1999

**DEPARTMENT OF HEALTH
Board of Chiropractic Medicine**

RULE TITLE: Qualifications of Investigators Assigned to Board by Agency

RULE NO.: 64B2-10.012

PURPOSE AND EFFECT: The Board proposes to repeal this rule because there is no specific statutory authority.

SUMMARY: Repeal of Rule 64B2-10.012.

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: 455.521(8) FS.

LAW IMPLEMENTED: 455.521(8) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B2-10.012 Qualifications of Investigators Assigned to Board by Agency.

Specific Authority 455.521(8) FS. Law Implemented 455.521(8) FS. History--New 4-4-82, Formerly 21D-10.12, 21D-10.012, 61F2-10.012, 59N-10.012, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Chiropractic Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Chiropractic Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 1, 1999

**DEPARTMENT OF HEALTH
Board of Chiropractic Medicine**

RULE TITLE: Application for Licensure Examination

RULE NO.: 64B2-11.001

PURPOSE AND EFFECT: The Board is amending this rule by deleting certain rule text for which the Board is without statutory authority.

SUMMARY: The Board has determined that subsection (2)(d) and part of subsection (3) should be deleted because the Board does not have the authority.

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: 460.405, 460.406 FS.

LAW IMPLEMENTED: 460.406 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B2-11.001 Application for Licensure Examination.

(1) No change.

(2) The board shall certify to the Department as eligible to take the licensure examination only those applicants who have completed the application form, remitted the application and examination fee required by Chapter 64B2-12, to the Department and who have demonstrated to the Board that they:

(a) through (c) No change.

~~(d) Shall have completed a three-month training program in this state of not less than 300 hours with a chiropractic physician licensed in this state as defined in Section 64B2-17.0045, F.A.C. Trainee will submit proof of completion, on a form approved by the Board, upon application for licensure examination.~~

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

~~(3) In order that the Board may timely certify to the Department of Health those applicants eligible to take the examination, all applications, fees and all supporting documents with the exception of the Certification of Completion Form for the Chiropractic Physician Candidate Training Program must be on file with the Board no later than March 1st of each year for those candidates applying for the May Examination. The Certification of Completion Form must be on file with the Board no later than April 1st of each year for those candidates applying for the May Examination. All applications, fees and all supporting documents with the exception of the Certification of Completion Form for the Chiropractic Physician Candidate Training Program must be on file with the Board no later than September 1st of each year for those candidates applying for the November Examination. The Certification of Completion Form must be on file with the Board no later than October 1st of each year for those candidates applying for the November Examination.~~

Specific Authority 460.405, 460.406 FS. Law Implemented 460.406 FS. History—New 1-10-80, Amended 3-15-81, 10-10-85, Formerly 21D-11.01, Amended 2-19-86, 10-6-86, 1-28-87, 2-1-88, 4-19-89, 12-31-89, 5-7-90, 7-8-90, 7-15-91, 2-2-93, Formerly 21D-11.001, Amended 4-18-94, Formerly 61F2-11.001, Amended 2-20-95, Formerly 59N-11.001, Amended 11-4-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Chiropractic Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Chiropractic Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 25, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 3, 1999

**DEPARTMENT OF HEALTH
Board of Chiropractic Medicine**

RULE TITLE: Trust Accounting Procedures
PURPOSE AND EFFECT: The Board is amending this rule to further clarify the trust accounting procedures.
SUMMARY: The Board has determined that amendments are necessary to this rule to change the words “is” to “are” and to further clarify the trust fund accounting procedures with regard to a separate bank account.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

RULE NO.:
64B2-14.001

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: 460.4413(1)(z), 460.405 FS.

LAW IMPLEMENTED: 460.413(1)(z) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B2-14.001 Trust Accounting Procedures.

(1) The provisions of this rule apply to all trust funds received or disbursed by chiropractors in the course of their professional practice. "Trust funds" are is defined as unearned fees in the form of cash or property other than cash, which are is received by a chiropractor prior to the chiropractor rendering his services or his selling of goods and appliances.

(2) The minimum trust accounting records which shall be maintained by all chiropractors practicing in Florida who receive or disburse trust money in the course of their professional practice are:

(a) A separate bank account other than the chiropractor's regular business or personal account clearly labeled and designated for the deposit of such funds a trust account.

(b) through (e) No change.

(3) through (4) No change.

Specific Authority 460.413(1)(z), 460.405 FS. Law Implemented 460.413(1)(z) FS. History—New 1-10-80, Formerly 21D-14.01, 21D-14.001, 61F2-14.001, 59N-14.001, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Chiropractic Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Chiropractic Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 23, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 13, 1999

**DEPARTMENT OF HEALTH
Board of Nursing**

RULE TITLE: Remedial Courses for Reexamination
PURPOSE AND EFFECT: The proposed rule is intended to implement the new statutory provisions in Laws of Florida Chapter 99-397, Section 116, requiring that persons who fail

RULE NO.:
64B9-3.0025

the licensing examination three consecutive times must complete a board-approved remedial course before the applicant may be approved for reexamination.

SUMMARY: The proposed rule amendment requires that persons failing the licensing examination three consecutive times must complete a board-approved remedial course before the applicant may be approved for 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: 464.008(3) FS.

LAW IMPLEMENTED: 464.008(3) 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., February 23, 2000

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. Ruth R. Steihl, Executive Director, Board of Nursing, 4080 Woodcock Drive, Suite 202, Jacksonville, Florida 32207

THE FULL TEXT OF THE PROPOSED RULE IS:

64B9-3.0025 Remedial Courses for Reexamination.

To meet the requirements of s. 464.008(3), F.S., remedial courses must be approved by the board, and must meet the following requirements:

(1) The education objectives, faculty qualifications, administrative procedures and clinical training shall comply with the standards in Rules 64B9-2.004, 2.005, 2.007 and 2.008.

(2) The curriculum shall:

(a) comply with the guidelines in Rule 64B9-2.006(1)(a)(b)(c)(d) and (e).;

(b) meet the content requirements in Rule 64B9-2.006(2)(b)3. and Rule 64B9-2.006(3)3.;

(c) include a minimum of 80 hours didactic education and 96 hours clinical experience in a medical-surgical setting:

1. Content for professional nurse remedial course must include medical, surgical, obstetric, pediatric, geriatric and psychiatric nursing.

2. Content of practical nurse remedial course must include medical, surgical, obstetric, pediatric and geriatric nursing.

Specific Authority 464.008(3) FS. Law Implemented 464.008(3) FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 8, 1999

DEPARTMENT OF HEALTH

Board of Nursing

RULE TITLES:	RULE NOS.:
Definitions	64B9-4.001
Requirements for Certification	64B9-4.002
Provisional Certification	64B9-4.0025
Program Guidelines	64B9-4.003
Requirements for Documentation	64B9-4.004
Certification in More Than One Category	64B9-4.006
Recertification; Inactive Status	64B9-4.013
Reactivation of ARNP Certificate	64B9-4.014

PURPOSE AND EFFECT: The proposed rule amendments are intended to clarify requirements for ARNP certification, clarify that ARNP students in Florida must be licensed as RNs in Florida, correct the name of the national certifying body for nurse midwives, clarify that provisional ARNP certification expires if qualification requirements are not met, establish a minimum number of hours of clinical experience in ARNP program, clarify the circumstances under which an ARNP does not require proof of financial responsibility and establish the requirement for reactivation of an inactive ARNP certification.

SUMMARY: The proposed amendments clarify requirements for ARNP certification, clarify that ARNP students in Florida must be licensed as RNs in Florida, correct the name of the national certifying body for nurse midwives, clarify that provisional ARNP certification expires if qualification requirements are not met, establish a minimum number of hours of clinical experience in ARNP program, clarify the circumstances under which an ARNP does not require proof of financial responsibility and establish the requirement for reactivation of an inactive ARNP certification.

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: 464.006, 464.012, 455.694, 464.014 FS.

LAW IMPLEMENTED: 464.006, 464.012, 455.694, 464.014 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., February 23, 2000

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Dr. Ruth R. Stiehl, Executive Director, Board of Nursing, 4080 Woodcock Drive, Suite 202, Jacksonville, FL 32207

THE FULL TEXT OF THE PROPOSED RULES IS:

64B9-4.001 Definitions.

(1) Advanced Registered Nurse Practitioner ("ARNP") – a Registered Nurse licensed under s. 464.008 or 464.009, F.S. and duly certified by the Board pursuant to Section 464.012, F.S.

(2) No change.

(3) Appropriate Specialty Board – a professional or national organization recognized by the Board which certifies or issues credentials to an advanced practice nurse in a specialty area.

(4) through (5) No change.

(6) Category – one of the three statutorily defined types of ARNP certification, which are nurse practitioner, certified nurse midwife, and certified nurse anesthetist.

(7)(6) Clinical Experience – practice under the supervision of a qualified preceptor in the actual care of a consumer of health services.

~~(7) Clinical Nurse Specialist/Psychology-Mental Health – a registered nurse who holds a minimum of a master's degree in a nursing clinical specialty area.~~

(8) through (11) No change.

(12) Preceptorship/supervised clinical experience – clinical experience and practice under the supervision of a qualified preceptor for a specified length of time in the actual care and management of a consumer of health care services.

(13) Qualified Preceptor – a certified practicing advanced registered nurse practitioner, ~~clinical nurse specialist/psychology-mental health~~, or a duly licensed medical doctor or, doctor of osteopathy, or doctor of dental medicine who is responsible for the supervision, teaching and evaluation in the clinical setting of a student enrolled in a nurse practitioner formal post-basic educational program. If the clinical setting is in Florida, the qualified preceptor must be licensed in this state under Chapter 458, 459, 464, or 466, F.S., and the student must be a Registered Nurse licensed under Chapter 464, F.S.

(14) through (15) No change.

Specific Authority 464.006, 464.012 FS. Law Implemented 464.012 FS. History–New 8-31-80, Amended 3-16-81, 6-18-85, Formerly 21O-11.20, 21O-11.020, 61F7-4.001, Amended 5-29-96, Formerly 59S-4.001, Amended

64B9-4.002 Requirements for Certification.

(1) In accordance with the provisions of Section 464.012, F.S., any person who wishes to be certified as an Advanced Registered Nurse Practitioner shall submit an application to the Agency, on forms prescribed by it, demonstrating that the applicant ~~she~~ holds a current unencumbered license to practice professional nursing in Florida.

(2) Applicant shall submit proof of national advanced practice certification from a nursing specialty board as required.

(3)(2) Professional or national nursing specialty boards recognized by the Board include, but are not limited to:

(a) through (c) No change.

(d) National Certification Corporation for OB/GYN, Neonatal Nursing Specialties (nurse practitioner level examination only), Nurses Association of the American College of Obstetricians and Gynecologists (Nurse Practitioner level examinations only).

(e) No change.

(4)(3) Those nursing specialty boards seeking recognition by the Board shall meet the following standard:

(a) through (e) No change.

(5)(4) Pursuant to Section ~~455.694~~ 455.2456, Florida Statutes, all ARNPs shall carry malpractice insurance or demonstrate proof of financial responsibility. Any applicant for certification shall submit proof of compliance with Section ~~455.694 or exemption 455.2456~~ to the Board office within sixty days of certification or be in violation of this rule. All certificateholders shall submit such proof as a condition of biennial renewal or reactivation. Acceptable coverage shall include:

(a) through (b) No change.

(c) Any person claiming exemption from the financial responsibility law pursuant to Section 455.694(2) must timely document such exemption at initial certification, biennial renewal, and reactivation.

Specific Authority 455.694, 464.006, 464.012 FS. Law Implemented 455.694, 464.012 FS. History–New 8-31-80, Amended 3-16-81, 10-6-82, 6-18-85, Formerly 21O-11.23, Amended 3-19-87, 4-6-92, Formerly 21O-11.023, Amended 3-7-94, 7-4-94, Formerly 61F7-4.002, Amended 5-1-95, 5-29-96, Formerly 59S-4.002, Amended 2-18-98, 11-12-98, _____.

64B9-4.0025 Provisional Certification.

(1) through (2) No change.

(3) The provisional ARNP certification ~~license~~ shall be valid for a period of 12 ~~24~~ months.

(4) The provisional ARNP certification will expire if no specialty board certification is submitted within 12 months of the date granting provisional ARNP certification.

Specific Authority 464.006, 464.012(1)(b) FS. Law Implemented 464.012(1)(b) FS. History—New 2-12-97, Formerly 59S-4.0025, Amended.

64B9-4.003 Program Guidelines.

(1) The nurse practitioner certificate formal post-basic educational program which prepares the registered nurse for advanced or specialized nursing practice as an Advanced Registered Nurse Practitioner shall meet the following criteria:

(a) through (c) No change.

(d) The program shall reflect the following administrative policies:

1. Admission criteria shall be clearly stated and available in written form. In Florida, admission criteria shall include that the student holds a current unencumbered Registered Nurse license under s. 464.008, or 464.009, F.S.

2. through 5. No change.

(e) through (f) No change.

(g) The program shall provide a minimum of 500 hours of supervised clinical experience in the performance of the specialized diagnostic procedures that are essential to practice in that specialty area.

(h) through (i) No change.

(2) Graduation from a program leading to a master's or a post-Masters degree in a nursing clinical specialty area which prepares the nurse for advanced or specialized nursing practice as an Advanced Registered Nurse Practitioner shall meet the following criteria:

(a) The program shall prepare nurses as nurse practitioners, certified registered nurse anesthetists or nurse midwives clinical nurse specialists/psychology mental health.

(b) through (c) No change.

(d) The curriculum shall include, but not be limited to the following practitioner skills:

1. through 7. No change.

8. Management of selected diseases and illnesses.

~~9.8.~~ No change.

~~10.9.~~ No change.

~~11.10.~~ No change.

~~12.11.~~ No change.

13. A minimum of 500 hours of preceptorship/supervised clinical experience in the performance of the specialized diagnostic procedures that are essential to practice in that specialty area.

(e) through (f) No change.

(3) ~~A master's degree program required for initial certification as a nurse practitioner for applicants graduating on or after October 1, 1998 shall meet the requirements of this rule.~~

~~(4) A master's degree program required for initial certification as a certified registered nurse anesthetist for applicants graduating on or after October 1, 2001 shall meet the requirements of this rule.~~

Specific Authority 464.006, 464.012 FS. Law Implemented 464.012 FS. History—New 8-31-80, Amended 3-16-81, 2-28-82, 6-18-85, Formerly 21O-11.24, 21O-11.024, 61F7-4.003, Amended 5-29-96, 2-12-97, Formerly 59S-4.003, Amended.

64B9-4.004 Requirements for Documentation.

(1) A Registered Nurse applying for initial certification as an Advanced Registered Nurse Practitioner ~~in the categories of certified registered nurse anesthetist or nurse practitioner~~ shall file with the Department an Initial Application for Certification As An Advanced Registered Nurse Practitioner, effective 9/97, incorporated herein by reference, and available from the Board office, the appropriate application form with the Department and provide the Board with the following:

(a) No change.

(b) Proof acceptable to the Board of satisfactory completion of the educational program which shall consist of ~~one of the following:~~

1. through 3. No change.

(c) If the applicant is required to be nationally certified, one of the following shall also be submitted:

1. A notarized true and correct copy of the original or recertification specialty board certificate.

2. Such other documentary proof which evidences certification by an appropriate specialty board.

3. Verification from the specialty association of certification.

(2) No change.

Specific Authority 464.006, 464.012 FS. Law Implemented 464.012 FS. History—New 8-31-80, Amended 10-6-82, Formerly 21O-11.25, Amended 3-19-87, Formerly 21O-11.025, 61F7-4.004, Amended 5-29-96, 2-12-97, Formerly 59S-4.004, Amended.

64B9-4.006 Certification in More Than One Category.

(1) No change.

(2) An applicant who wishes to be certified in a second category must be able to document eligibility for certification in that category. Such eligibility may be determined by meeting at least one of the following criteria:

(a) Content appropriate to the second category was addressed in the initial ARNP educational program and the applicant has passed a national certification examination in the second category, if required.

(b) Content appropriate to the second category was addressed in a formal educational program undertaken after completion of initial ARNP education and the applicant has passed a national certification examination in the second category, if required.

~~(c) The applicant has passed a national certification examination in the second category.~~

(3) No change.

Specific Authority 464.006, 464.012 FS. Law Implemented 464.012 FS. History—New 8-31-80, Amended 6-18-85, Formerly 21O-11.29, Amended 3-19-87, Formerly 21O-11.029, 61F7-4.006, 59S-4.006, Amended.

64B9-4.013 Recertification ~~Renewal of Certification~~; Inactive Status.

(1) Upon initial certification, an ARNP shall be issued a certificate in the appropriate category. At the next ~~first renewal~~ and subsequent recertifications ~~renewals~~ thereafter, the licensee shall, upon payment of the renewal fee provided in Rule 64B9-7.001(6), receive a dual RN/ARNP license/certificate.

(2) For each recertification cycle, the ARNP shall submit all of the following to the Board:

- (a) Proof of malpractice insurance or exemption.
- (b) Protocols or exemption.
- (c) Proof of current national certification if required.

~~(3)(2)~~ Failure to recertify ~~renew certification~~ as an Advanced Registered Nurse Practitioner within the time period prescribed by the Department will result in the certificate being placed on delinquent status.

- ~~(4)(3)~~ No change.
- ~~(5)(4)~~ No change.

Specific Authority 464.006, 464.014 FS. Law Implemented 464.012, 464.014, 455.711(5) FS. History--New 8-31-80, Formerly 21O-11.27, Amended 3-19-87, Formerly 21O-11.027, 61F7-4.013, 59S-4.013, Amended 2-18-98,

64B9-4.014 Reactivation of ARNP Certificate.

(1) No inactive certificate may be reactivated ~~renewed~~ unless the applicant holds a current, active license to practice as a Registered Nurse in this State, and meets the requirements of 64B9-4.002(7), if applicable.

(2) No change.

(3) Documentation of active practice as a nurse practitioner within the past 5 years or documentation of an ARNP refresher course to include both theoretical and clinical components must be submitted. A current Registered Nurse license under s. 464.008, 464.009, F.S. is required for the clinical component of a refresher course.

Specific Authority 464.006, 464.012, 464.014 FS. Law Implemented 464.012, 464.014 FS. History--New 8-31-80, Amended 3-16-81, 6-18-85, Formerly 21O-11.28, Amended 3-19-87, 10-21-87, Formerly 21O-11.028, Amended 12-27-93, Formerly 61F7-4.014, 59S-4.014, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 8, 1999

DEPARTMENT OF HEALTH

Board of Nursing

RULE TITLE: Procedure Relating to the Provider
RULE NO.: 64B9-5.005

PURPOSE AND EFFECT: The proposed rule amendment is intended to set a time limit for continuing education providers to notify the Board office of changes.

SUMMARY: The proposed rule amendment requires CE providers to notify the Board within 30 days of any significant changes to the program.

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: 464.013(3), 464.014 FS.

LAW IMPLEMENTED: 464.013(3) 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., February 23, 2000

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. Ruth R. Stiehl, Executive Director, Board of Nursing, 4080 Woodcock Drive, Suite 202, Jacksonville, Florida 32207

THE FULL TEXT OF THE PROPOSED RULE IS:

64B9-5.005 Procedure Relating to the Provider.

Provider seeking approval shall:

- (1) through (3) No change.
- (4) Notify the Board of change of contact person and any significant alterations or changes which may affect the maintenance of standards within 30 days.
- (5) through (9) No change.

Specific Authority 464.013(3), 464.014 FS. Law Implemented 464.013(3) FS. History--New 9-12-79, Amended 10-6-82, Formerly 21O-13.11, 21O-13.011, Amended 9-28-93, Formerly 61F7-5.005, 59S-5.005, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 8, 1999

DEPARTMENT OF HEALTH

Board of Nursing

RULE TITLES: RULE NOS.:
 Citations 64B9-8.003
 Disciplinary Proceedings 64B9-8.005
 Disciplinary Guidelines; Range of Penalties;
 Aggravating and Mitigating Circumstances 64B9-8.006

PURPOSE AND EFFECT: The proposed rule amendments are intended to add citation violations and penalties for violations of disciplinary guidelines.

SUMMARY: The proposed rule amendments implement changes to the citation rule and the disciplinary guidelines rule with regard to recent statutory changes.

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: 464.006, 455.617, 455.627 FS.

LAW IMPLEMENTED: 455.617, 455.624, 464.018 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., February 23, 2000

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. Ruth R. Stiehl, Executive Director, Board of Nursing/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B9-8.003 Citations.

(1) through (2) No change.

(3) The Board designates the following as citation violations, which shall result in a penalty of ~~one hundred dollars~~ (\$100.00):

(a) through (g) No change.

(4) The Board designates the following a citation violation, which shall result in a penalty of \$250.00: First-time failure to complete continuing education hours within the biennium. In addition to the fine, the licensee will be required to complete the number of hours necessary to meet the biennial requirements not completed within 6 months of the issuance of the citation.

Specific Authority 464.006, 455.617 ~~455.224~~ FS. Law Implemented 455.617 ~~455.224~~ FS. History--New 1-1-92, Amended 7-6-92, Formerly 21O-10.015, Amended 12-5-93, 5-24-94, Formerly 61F7-8.003, 59S-8.003, Amended 2-18-98,_____.

64B9-8.005 Disciplinary Proceedings.

Unprofessional conduct shall include:

(1) through (17) No change.

(18) Testing positive for any drugs under Chapter 893 on any ~~pre-employment or employer ordered~~ drug screen when the nurse does not have a prescription and legitimate medical reason for using such drug.

(19) through (20) No change.

Specific Authority 464.006 FS. Law Implemented 464.018 FS. History--New 11-28-79, Amended 3-16-81, 10-8-81, 9-11-83, Formerly 21O-10.05, Amended 4-21-86, 2-5-87, 8-2-90, 3-12-91, 9-16-91, 4-18-92, 9-29-92, Formerly 21O-10.005, Amended 9-7-93, Formerly 61F7-8.005, Amended 11-6-94, 5-1-95, 11-16-95, Formerly 59S-8.005, Amended 2-18-98,_____.

64B9-8.006 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) through (2) No change.

(3)(a) through (3)(t) No change.

(3)(u) Failing to report to the Board in writing Within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction (455.624(1)(w), F.S.)

Reprimand and a fine of \$250.00

(v) Failing to report to the Board in writing on or before October 1, 1999 any conviction, finding of guilt or plea of nolo contendere that occurred prior to July 1, 1999 (455.624(1)(w), F.S.)

Reprimand and a fine of \$250.00

(4) No change.

Specific Authority 455.624 ~~455.627~~ FS. Law Implemented 455.624 ~~455.627~~, 464.018 FS. History--New 2-5-87, Amended 8-12-87, 12-8-87, 11-23-89, 7-28-92, Formerly 21O-10.011, Amended 12-5-93, Formerly 61F7-8.006, Amended 5-1-95, Formerly 59S-8.006, Amended 8-18-98, 7-1-99,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 8, 1999

DEPARTMENT OF HEALTH

Board of Optometry

RULE TITLES: RULE NOS.:
 Patient Records; Transfer or Death of Licensed Practitioner 64B13-3.003
 Minimum Procedures for Vision Analysis 64B13-3.007

PURPOSE AND EFFECT: The proposed rule amendments are intended to clarify the rules with regard to patient record retention.

SUMMARY: The proposed rule amendments clarify the requirement for retention of patient records.

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: 455.677, 463.005 FS.

LAW IMPLEMENTED: 455.667, 455.677, 463.005, 463.0135, 463.016(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: 10:00 a.m., February 23, 2000

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

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

THE FULL TEXT OF THE PROPOSED RULES IS:

64B13-3.003 Patient Records; Transfer or Death of Licensed Practitioner.

(1) through (4) No change.

(5) A licensed practitioner shall keep patient records for a period of at least ~~five two~~ years after the last entry. Upon the discontinuance of his or her practice, the licensed practitioner shall either transfer all patient records which are less than ~~five two~~ years old to an eye care practitioner licensed pursuant to Chapter 463, 458, or 459, Florida Statutes, where they may be obtained by patients, or he or she shall keep them in his or her possession for at least five years and make them available to be obtained by patients.

(6) No change.

(7)(a) The executor, administrator, personal representative, or survivor of a deceased licensed practitioner shall retain patient records concerning any patient of the deceased licensed practitioner for at least ~~five two (2)~~ years from the date of the death of the licensed practitioner.

(b) No change.

~~(c) At the conclusion of ten (10) months from the date of the licensed practitioner's death, the executor, administrator, personal representative, or survivor of the deceased licensed practitioner shall cause to be published in the newspaper of greatest general circulation in each county where the licensed practitioner practiced, a notice indicating to the patients of the deceased licensed practitioner that the deceased licensed practitioner's patient records will be disposed of or destroyed~~

~~one (1) month or later from the last day of publication of the notice. The notice shall be published once during each week for four (4) consecutive weeks. A copy of the published notice shall be delivered to the Board office for filing.~~

Specific Authority 455.677, 463.005(1)(a),(d) FS. Law Implemented 455.667, 455.677, 463.005(1)(a),(d) FS. History--New 11-13-79, Amended 12-19-84, 4-8-85, Formerly 21Q-3.03, Amended 12-16-86, 7-11-88, Formerly 21Q-3.003, 61F8-3.003, Amended 2-14-96, Formerly 59V-3.003, Amended 3-29-98, _____.

64B13-3.007 Minimum Procedures for Vision Analysis.

(1) through (5) No change.

(6) The minimum procedures set forth in paragraph (2) above shall not be required in the following circumstances:

(a) When a licensed practitioner or certified optometrist is providing specific optometric services on a secondary or tertiary basis in patient co-management with one or more health care practitioners skilled in the diagnosis and treatment of diseases of the human eye and licensed pursuant to Chapter 458, 459, ~~460~~ or 463, Florida Statutes;

(b) through (c) No change.

(7) No change.

Specific Authority 463.005(1) FS. Law Implemented 463.005(1), 463.0135, ~~463.016(1)(g),(k)~~ FS. History--New 11-13-79, Amended 4-17-80, 7-29-85, Formerly 21Q-3.07, Amended 7-18-90, Formerly 21Q-3.007, 61F8-3.007, 59V-3.007, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Optometry

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 10, 1999

DEPARTMENT OF HEALTH

Board of Optmetry

RULE TITLE: Notification and Evidence of Licensure

RULE NO.: 64B13-4.008

PURPOSE AND EFFECT: The proposed rule amendment is intended to address practice pending receipt of an active license upon notification of passage of the examinations for licensure.

SUMMARY: The proposed rule amendment clarifies practice pending receipt of an active license upon notification of passage of the examinations for licensure.

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

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

SPECIFIC AUTHORITY: 455.574(1), 463.006(2) FS.

LAW IMPLEMENTED: 455.564, 455.574(1), 463.006(2) 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., February 23, 2000
 PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Optometry/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-4.008 Notification and Evidence of Licensure.
 The Board shall submit written notification within five (5) working days to applicants who have successfully passed the state examination and the certification examination. An applicant who is notified in writing by the Board of successful passage of the examinations may lawfully practice optometry pending receipt of the active license, and the written notification shall act as evidence of licensure entitling the Optometrist to practice for a maximum period of forty-five (45) days ~~or until the initial licensing fee is received by the Department, whichever is sooner.~~

Specific Authority 455.574(1), 463.006(2) FS. Law Implemented 455.564, 455.574(1), 463.006(2) FS. History--New 6-18-92, Formerly 21Q-4.008, 61F8-4.008, Amended 11-21-94, Formerly 59V-4.008, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Board of Optometry
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Optometry
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 11, 1999
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 10, 1999

DEPARTMENT OF HEALTH

Board of Optometry

RULE TITLES:	RULE NOS.:
Hours Requirement	64B13-5.001
Criteria for Approval	64B13-5.002

PURPOSE AND EFFECT: The proposed rule amendments are intended to address continuing education hours and transcript quality courses.

SUMMARY: The proposed rule amendments clarify hours with regard to continuing education and specify transcript quality 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: 463.005(1), 463.007(3) FS.

LAW IMPLEMENTED: 463.007 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., February 23, 2000
 PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Optometry/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-5.001 Hours Requirement.

(1) As a condition to the renewal of a biennial license, each licensed practitioner shall be required to maintain professional competency by completing 30 clock hours of continuing education ~~by December 31 of every even year~~ in subjects relating to optometry that have been approved by the Board. Licensed practitioners shall not be required to complete the continuing education requirements during the biennium in which they receive initial licensure. Credit will be allowed on the basis of an hour for hour. To receive one hour credit, a licensed practitioner must attend not less than 50 minutes. There will be no fractional hour credits. At least 6 of those 30 hours must be of "transcript quality". For purpose of this rule, the phrase "transcript quality" refers to a course which is in conjunction with or sponsored by a school or college of optometry or equivalent educational entity as approved by the Board and which requires a test and passing grade. Attendance at a continuing education program must be certified by the lecturer or someone in charge of the program. An instructor of a course may credit the hours taught towards completion of the required continuing education; provided, however, that an instructor may only credit a course once, regardless of the number of times the course is taught. In addition, the instructor of a course may not credit the hours taught towards completion of the "transcript quality" portion of the continuing education requirement. However, for the biennium ending at the end of February 2001, each licensed practitioner may count hours of continuing education obtained between January 1, 1999, and the end of February, 2001.

- (a) through (e) No change.
- (2) through (7) No change.

Specific Authority 463.005(1), 463.007(3),(4) FS. Law Implemented 463.007 FS. History--New 11-13-79, Amended 5-28-80, 9-16-80, 1-13-81, 2-14-82, Formerly 21Q-5.01, Amended 12-16-86, 12-11-88, 4-19-89, 12-20-89, 9-22-92, 10-28-92, Formerly 21Q-5.001, Amended 8-31-93, Formerly 61F8-5.001, Amended 11-29-94, 7-5-95, 8-18-96, Formerly 59V-5.001, Amended.

64B13-5.002 Criteria for Approval.

(1) through (2) No change.

(3) Transcript quality courses must meet the following requirements:

(a) through (f) No change.

(g) In order for a course to be considered transcript quality, it must be approved by the Board as transcript quality prior to the time it is taken.

(4) All courses approved by the American Board of Optometric Practitioners are approved by the Board.

Specific Authority 463.005(1) FS. Law Implemented 463.007(4) FS. History--New 11-13-79, Formerly 21Q-5.02, Amended 12-16-86, 12-11-88, 7-10-91, 10-28-92, Formerly 21Q-5.002, 61F8-5.002, Amended 11-29-94, 7-5-95, 8-18-96, Formerly 59V-5.002, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Optometry

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 10, 1999

DEPARTMENT OF HEALTH

Board of Optometry

RULE TITLE: Fees
RULE NO.: 64B13-6.001

PURPOSE AND EFFECT: The proposed rule amendment is intended to address the fee for obtaining a duplicate wall certificate.

SUMMARY: The proposed rule amendment sets forth a fee of \$25 for obtaining a duplicate wall certificate.

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: 455.564(2), 455.711, 463.005, 463.0057, 463.006, 463.007, 463.008 FS.

LAW IMPLEMENTED: 455.564(2), 455.711, 463.0057, 463.006, 463.007, 463.008 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., February 23, 2000

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, Florida

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-6.001 Fees.

The following fees are prescribed by the Board:

(1) through (18) No change.

(19) The fee for obtaining a duplicate wall certificate shall be \$25.00.

Specific Authority 455.564(2), 455.711, 463.005, 463.0057, 463.006, 463.007, 463.008 FS. Law Implemented 455.564(2), 455.711, 463.0057, 463.006, 463.007, 463.008 FS. History--New 12-13-79, Amended 2-14-82, 8-18-82, 12-2-82, 5-6-84, 7-29-85, Formerly 21Q-6.01, Amended 11-20-86, 7-21-88, 2-5-90, 5-29-90, 7-10-91, 4-14-92, 7-1-93, Formerly 21Q-6.001, Amended 1-24-94, Formerly 61F8-6.001, Amended 12-22-94, 2-13-95, 4-5-95, 5-29-95, 12-31-95, Formerly 59V-6.001, Amended 12-24-97, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Optometry

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 10, 1999

DEPARTMENT OF HEALTH

Board of Optometry

RULE TITLE: Certified Optometrist Examination
RULE NO.: 64B13-10.0015

PURPOSE AND EFFECT: The proposed rule amendment is intended to address examination security and monitoring.

SUMMARY: The proposed rule amendment clarifies examination security and monitoring.

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: 463.005(1), 455.574(1),(2) FS.

LAW IMPLEMENTED: 463.0055, 455.574(1),(2) 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., February 23, 2000

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-10.0015 Certified Optometrist Examination.

The Certified Optometrist Examination shall be the Board approved examination developed and administered by the Department of Health Office of Examination Services.

(1) through (3) No change.

~~(4) Certified Optometrist Examination review shall be conducted in accordance with the following procedure:~~

~~(a) An applicant or licensed practitioner is entitled to review his examination questions, answers, papers, grades and certification grading key used in the examination; however, no applicant or licensed practitioner may copy any materials provided for his review. Such review shall be conducted during regular business hours, in the presence of a representative of the Board at the Board's official headquarters.~~

~~(b) If, following the review of his examination an applicant or licensed practitioner believes that an error was made in the grading of his examination or in the evaluation of his answers, he may request the Board to review his examination. Requests for review must be in writing, state with specificity the reasons why review is requested, and be submitted to the Board within sixty (60) days after the applicant or licensed practitioner received notice that he failed the Certified Optometrist Examination.~~

~~(c) Upon the receipt of a request for review, the Board shall review the applicant's or licensed practitioner's examination at the next regularly scheduled Board meeting. If it is found that an error was made, the grade received by the applicant or licensed practitioner may be adjusted to reflected the correction. The applicant or licensed practitioner shall be notified of the final decision.~~

~~(4)(5) The Board adopts by reference Rule 64B-1.010 61-11.014, Florida Administrative Code, of the Department of Health as its rule governing examination security and monitoring for the Certified Optometrist Examination.~~

Specific Authority 463.005(1), 455.574(1),(2) FS. Law Implemented 463.0055, 455.574(1),(2) FS. History--New 3-16-89, Amended 5-29-90, 7-10-91, Formerly 21Q-10.0015, 61F8-10.0015, Amended 10-4-94, Formerly 59V-10.0015, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Optometry

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 10, 1999

DEPARTMENT OF HEALTH

Board of Optometry

RULE TITLE: Citations RULE NO.: 64B13-15.009

PURPOSE AND EFFECT: The proposed rule amendment is intended to address the citation violation for failure to document continuing education requirements.

SUMMARY: The proposed rule amendment clarifies the penalty for failure to comply with 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: 463.005, 455.617 FS.

LAW IMPLEMENTED: 455.621 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., February 23, 2000

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-15.009 Citations.

(1) through (3) No change.

(4) Pursuant to Section 455.617, Florida Statutes, the Board sets forth below those violations for which there is no substantial threat to the public health, safety, and welfare; or, if there is a substantial threat to the public health, safety, and welfare, such potential for harm has been removed prior to the issuance of the citation. The Board hereby designates the following as citation violations which shall result in a penalty of two hundred fifty dollars (\$250.00).

(a) through (c) No change.

(d) Failure to document having obtained the continuing education required by Section 463.007, and Rule Chapter 64B13-5, F.A.C. In addition to paying the fine, the licensee must complete continuing education hours not documented, plus an additional hour for each hour missed.

(5) through (7) No change.

Specific Authority 463.005, 455.617 FS. Law Implemented 455.621 FS. History—New 1-1-92, Formerly 21Q-15.009, 61F8-15.009, 59V-15.009, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Optometry
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Optometry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 11, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 10, 1999

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLE: Relocation Assistance
RULE NO.: 65A-4.100

PURPOSE AND EFFECT: This rule meets the Section 414.155, F.S., amendments placed into effect by the 1999 Florida Legislature.

SUMMARY: This proposed rule establishes: that receipt of relocation assistance bars participation in temporary cash assistance for six months (this provision had been in statute, but is now a State WAGES Board policy); procedures for calculating the amount of relocation assistance; changes the amount of lost income that causes an emergency situation; procedures for calculating amounts of relocation assistance that must be repaid; clarifies relocation assistance's impact on time limits; and, that relocation assistance will not be paid to relocate outside the State of Florida. Additionally, forms are amended as necessary to reflect policy changes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory costs was not prepared for this proposed rule.

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: 414.45, 414.155 FS.

LAW IMPLEMENTED: 414.155 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: 3:00 p.m., February 22, 2000

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND ECONOMIC STATEMENT IS: Audrey Mitchell, Program Administrator, Public Assistance Policy, Legal Base/SSI Related Unit, 1317 Winewood Boulevard, Building 3, Room 412B, Tallahassee, Florida 32399-0700, telephone (850)488-3090

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-4.100 Relocation Assistance.

(1) The WAGES coalition contract provider will determine the individual's level of financial need for relocation assistance and will advise the department of this level of need. The amount is based on the estimated relocation budget plus two months of temporary cash assistance based on income and family size. Individuals not relocating for immediate employment, but whose goal is employment also may receive this amount of relocation assistance. The department will then approve the issuance of the relocation assistance check. Before the check is issued the individual must agree not to apply for temporary cash assistance for six months. The determination of the level of need and ~~an~~ the agreement not to apply for temporary cash assistance for six months will be documented on form CF-ES 2279, ~~Nov Feb~~ 99 (incorporated by reference). A copy of this form will be provided to the individual.

(2) If the individual demonstrates an emergency to the department, the individual is not bound by the agreement not to apply for temporary cash assistance for six months following the receipt of relocation assistance. The following are considered acceptable emergencies: domestic violence, hospitalization or illness documented by a physician licensed under Ch. 458 or 459, F.S., resulting in the loss of at least two week's one-month's income or loss of employment; loss of housing; natural disaster resulting in destruction of an assistance group's major property; or other similar situations affecting the individual's employment potential.

(3) through (4) No change.

(5) An assistance group may apply for relocation assistance payments any number of times; however, any subsequent applications will be evaluated to determine why the previous relocation was not successful. Non-emergency Relocation assistance does not count toward temporary cash assistance time limitations. Relocation assistance is limited to relocation within the State of Florida. Should an individual move to a different service area during a period of prohibition from applying for temporary cash assistance because of the receipt of relocation assistance, the individual should provide, upon relocation, a copy of form CF-ES 2278, ~~Nov 99 Dec 98~~ (incorporated by reference) to both the originating and receiving WAGES coalition contract providers.

(6) A portion or all of the relocation assistance must be repaid if the assistance group reapplies and is approved for temporary cash assistance within six months due to an emergency, except in cases involving domestic violence. In cases of fraud, benefit recovery will be undertaken and the relocation assistance will be recouped according to the amount of the established claim. In both the reapplication within six months and fraud situations, excluding situations of domestic violence, the months of receipt will count against the time limits of the family.

The amount to be repaid will be determined based on the number of months of relocation assistance the individual used up to the full six months. The number of months used will be multiplied times the payment standard for the assistance group size with a shelter obligation of more than \$50 per month. This calculated amount will be subtracted from the amount of the relocation assistance and the difference will be the repayment amount.

(6) through (7) renumbered (7) through (8) No change.

Specific Authority 414.45, 414.155 FS. Law Implemented 414.155 FS. History—New 5-30-99, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Lonna Cichon, Operations and Management Consultant II
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Audrey Mitchell, Program Administrator, Public Assistance Policy
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 11, 2000
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 15, 1999

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF STATE

Division of Historical Resources

RULE NO.: RULE TITLE:
1P-1.009 Florida Folklife Apprenticeship Program

NOTICE OF CHANGE

Notice is hereby given that the Florida Folklife Apprenticeship Guidelines and Application incorporated by reference into proposed Rule 1P-1.009, F.A.C., published in the Florida Administrative Weekly, Vol. 25, No. 43, on October 29, 1999, have been substantially changed to reflect comments received from the Joint Administrative Procedures Committee.

When changed, the full text of proposed Rule 1P-1.009, F.A.C. shall read:

1P-1.009 Florida Folklife Apprenticeship Program.

(1) Florida Folklife Apprenticeship Program. The purpose of the Florida Folklife Apprenticeship Program of the Department of State is to preserve and promote Florida’s cultural heritage by providing an opportunity for master folk artists to share their technical skills and cultural knowledge with apprentices who will carry forward these traditions. General information, application instructions, deadlines, application forms and methods of selection are set forth in the Florida Folklife Apprenticeship Guidelines and Application, which is herein incorporated by reference. (Form #HR3E23 effective March 20, 2000).

Specific Authority 267.16(2), 267.16(5) FS. Law Implemented 267.16(1), 267.161(2) FS. History—New _____.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Aquaculture

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
5L-1	Comprehensive Shellfish Control Code
RULE NOS.:	RULE TITLES:
5L-1.004	Shellfish Harvesting Area Standards
5L-1.010	Container Identification, Terminal Sale Date; Prohibitions

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 26, No. 3, January 21, 2000, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF THE LOTTERY

RULE NO.:	RULE TITLE:
53-20.003	Recruitment

NOTICE OF CHANGE

Notice of Change is hereby given that the following changes have been made to the proposed rule based upon comments received from the Joint Administrative Procedures Committee. The rule was originally published in the November 24, 1999, issue of the Florida Administrative Weekly. The rule shall now read as follows:

Recruitment. Recruiting efforts to fill current or anticipated vacancies in the Executive Management Service shall be conducted as directed by the Secretary. Before publicizing a vacancy or anticipated vacancy, the Secretary shall first determine whether there is an acceptable, qualified candidate for the position. If such a candidate is available, the vacancy will not be advertised. If no such candidate is available, the Secretary shall advertise the vacancy in a manner that identifies the position, the requirements of the position, and procedure for applying. The Secretary shall have sole discretion to determine whether a need exists to advertise the vacancy and, if so, the nature and extent of such advertisement. The Secretary shall assure that agency recruiting efforts are carried out so as to attract qualified minority and female applicants.

DEPARTMENT OF MANAGEMENT SERVICES

Career Service System

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
60K-3	Recruitment and Selection

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 25, No. 44, November 5, 1999, issue of the Florida Administrative Weekly. The

following changes to the proposed amendments to the rules are in response to comments incorporated into the record of the public hearing held on November 30, 1999.

Paragraph (f) of subsection (1) of Rule 60K-3.0071, F.A.C., has been revised, so that, when adopted, that paragraph will read:

(f) Appointments ~~as defined in Chapter 60K-4, F.A.C.~~ within and between agencies that are a demotions, or reassignments as defined in sections 60K-4.007 and 60K-4.008, F.A.C., or promotions of employees with a request on file;

Subsection (4) of Rule 60K-3.009, F.A.C., has been revised, so that, when adopted, that paragraph will read:

(4) Confirm that the selected applicant met the MQs and required KSAs at the time the application was signed by verifying the education, experience, certification, licensure and any other requirements necessary to meet the minimum qualifications and any required entry-level KSAs not confirmed during the selection process. Verification of eligibility of the selected applicant should be conducted at the time of eligibility determination or at the time of the reference check but no later than 120 days following the employment date of the applicant.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Barbers' Board

RULE NO.: 61G3-19.011
 RULE TITLE: Barbershop Requirements
 NOTICE OF CHANGE

The Barbers' Board gives Notice of Change to the above-referenced rule in response to comments received from the public. The rule was originally published in Vol. 25, No. 31, August 6, 1999, issue of the Florida Administrative Weekly. Corrected, subsection (10) shall read as follows:

(10) All barbershops shall be equipped with and shall utilize wet sanitizers sufficient to allow for sanitizing practices. A wet set sanitizer is any clear plastic or glass receptacle with a lid containing a disinfectant solution as specified below, and large enough to allow for immersion of the barbering tools, or those surfaces of said tools which come in contact with patrons.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ed Broyles, Executive Director, Barbers' Board, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self Sufficiency Program

RULE NO.: 65A-1.900
 RULE TITLE: Overpayment and Benefit Recovery

NOTICE OF CHANGE

Notice is hereby given that changes are being made to the rule identified above and the full text as published by notice of change in Vol. 25, No. 37, Florida Administrative Weekly, on September 17, 1999, and as amended by a subsequent notice of change published in Vol. 25, No. 44, Florida Administrative Weekly, on November 5, 1999. These changes are the result of decisions made at a noticed public hearing on January 5, 2000. Paragraph (10), as published in the last notice of change, is amended as follows:

(10) The following notices, hereby incorporated by reference, can be used by the department in the process of establishing and recovering overpayment: CF-ES Form 3042, Dec 96, Notice of Overissuance; CF-ES Form 3057, Mar 98, Information Concerning Administrative Disqualification Hearings; CF-ES Form 3400, Aug. 83, Request for Additional Information; CF-ES Form 3402, Oct 98, Overpayment, Overissuance, Fraud and Recoupment AFDC Repayment Agreement; CF-ES Form 3410, Mar 98, Waiver of Administrative Disqualification Hearing; CF-ES Form 3410A, Mar 98, Waiver of Administrative Disqualification Hearing; and CF-ES Form 3414, Aug. 98, Disqualification Consent Agreement; and two demand letters used in food stamp collection due to inadvertent household error and intentional program violation. Form CF-ES 3057 is used in all food stamp collection actions referred to the Office of Appeal Hearings for an Administrative Disqualification Hearing. Each of these forms listed as incorporated by reference may be obtained without cost from any Benefit Recovery office or by written request to the Economic Self-Sufficiency Program Office, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700.

**Section IV
 Emergency Rules**

DEPARTMENT OF THE LOTTERY

RULE TITLE: Instant Game 93 Specifics
 RULE NO.: 53ER00-1
 SUMMARY OF THE RULE: This emergency rule relates to the Instant Game 93, "PUTT FOR DOUGH" for which the Department of the Lottery will start selling tickets on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game, determination of prize winners, and the number and size of prizes in the game.
 THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, Capitol Complex, Tallahassee, Florida 32399-4011