

Section I

Notices of Development of Proposed Rules
and Negotiated Rulemaking**DEPARTMENT OF STATE****Division of Library and Information Services****RULE TITLE:**

Library Grant Programs

RULE NO.:

1B-2.011

PURPOSE AND EFFECT: The purpose of this amendment is to modify application and administrative guidelines for the Library Construction, Library Cooperative Grant, State Aid to Libraries, Library Services and Technology Act, and Library Literacy grant programs and to add a Community and Library Technology Access Grant program. Guidelines for these grant programs are outlined in application packets that contain information on eligibility requirements, application review procedures, evaluation and funding criteria, grant administration procedures and application forms.

SUBJECT AREA TO BE ADDRESSED: Guidelines for library grant programs administered by the Division of Library and Information Services.

SPECIFIC AUTHORITY: 257.14, 257.191, 257.192, 257.24, 240.5186 FS.

LAW IMPLEMENTED: 257.12, 257.15, 257.191, 257.192, 257.195, 257.21, 257.23 FS.

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

TIME AND DATE: 9:00 a.m., July 31, 2000

PLACE: Board Room, State Library of Florida, R. A. Gray Building, 500 S. Bronough Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Barratt Wilkins, Director, Division of Library and Information Services, R. A. Gray Building, 500 South Bronough Street, Tallahassee, FL 32399-0250, (850)487-2651, Suncom 277-2651

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

DEPARTMENT OF INSURANCE**RULE TITLE:**Foreign Insurers Filing for a Certificate
of Authority**RULE NO.:**

4-136.002

PURPOSE AND EFFECT: To adopt the NAIC Uniform Certificate of Authority Expansion Application for use by states when licensing foreign insurers.

SUBJECT AREA TO BE ADDRESSED: The UCAA expansion application captures substantially the same information as the Department existing foreign COA application package, and will have the added benefit of being consistent with other states.

SPECIFIC AUTHORITY: 624.308 FS.

LAW IMPLEMENTED: 624.307(3), 624.318 FS.

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

TIME AND DATE: 9:00 p.m., August 8, 2000

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Joan Hendrix, Senior Management Analyst I, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0326, (850)413-2570

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Joan Hendrix at (850)413-2570.

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

DEPARTMENT OF COMMUNITY AFFAIRS**Division of Emergency Management****RULE CHAPTER TITLE:****RULE CHAPTER NO.:**

Base Funding for County Emergency

Management Agencies, Emergency

Management Competitive Grant

Program and Municipal Competitive

Grant Program Rule

9G-19

RULE TITLES:**RULE NOS.:**

Definitions

9G-19.002

Base Grant Eligibility

9G-19.004

Competitive Awards Eligibility

9G-19.007

Procedures for Awarding Competitive Grants

9G-19.008

Selection Criteria for Competitive Grants

9G-19-009

PURPOSE AND EFFECT: The purpose of the amendments of the above listed rules is to make the grant submission and awarding process less cumbersome to all parties involved.

SUBJECT AREA TO BE ADDRESSED: Redefinition of certain rules and requirements to allow the entire grant process to become less imposing.

SPECIFIC AUTHORITY: 252.373, 252.35 FS.

LAW IMPLEMENTED: 252.373, 252.35, 252.38 FS.

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

TIME AND DATE: 9:00 a.m., Monday, July 24, 2000

PLACE: Randall Kelley Training Room, Sadowski Building, Room 305, 2555 Shumard Oak Boulevard, Tallahassee, FL 32399

Any person requiring special accommodation at the hearing because of a disability or physical impairment should contact the Administrative Secretary, Division of Emergency Management, Bureau of Compliance Planning, 2555 Shumard Oak Boulevard, Tallahassee, FL 32399 or (850)413-9821 Suncom 293-9821 at least seven days before the date of the hearing. If you are hearing or speech impaired, please 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 PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Edgar Gonesh, Planning Manager, Finance and Logistic Section, 2555 Shumard Oak Blvd., Tallahassee, FL 32399, (850)413-9894 or Suncom 293-9894

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

9G-19.002 Definitions.

(1) through (9) No change.

(10) "Match" means, for purposes of the competitive grant programs only, contributions, both cash and in-kind, which meet ~~all of~~ the following requirements:

(a) are verifiable from the applicant's official records;

(b) are not ~~used~~ ~~included~~ as required local contributions for any other state or federally assisted programs;

(c) are necessary and reasonable for proper and efficient accomplishment of the emergency management project objectives, as specified in the application;

(d) are allowable under OMB Circular A-87, and conform to OMB Circular A-102;

(e) are provided for in the approved project budget; ~~are not provided by the State or Federal government under another assistance agreement unless authorized under that other agreement and the applicable laws, rules and regulations; and~~

~~(f)(g)~~ if indirect costs, have been approved ~~are pre-approved~~ by the Division and are directly attributable to the project;

~~(g)(h)~~ all costs submitted by the applicant as project match ~~must~~ represent an unconditional ~~a firm~~ commitment of currently available funds, i.e., ~~an obligation of currently available capital~~ contingent only upon ~~nothing other than~~ the award of a grant from the Program. ~~Conditional commitments will not be recognized as "match."~~

~~All appropriate records supporting the applicant's claim for project match must be created, retained and available for public inspection, and supplied with the application;~~

(h) if the contributions are in-kind, the contributions are directly related to the project; and

(i) if the contributions are in-kind and consist of property, the contributions are based upon the actual value of the property, with allowance for depreciation. The value of employment time or equipment rental claimed as project match shall be identified specifically to the proposed project. All records supporting the treatment of a contribution as project match must be maintained and made available for public inspection, and must be furnished with the proposal.

(11) through (20) No change.

(21) "State agency" means each separate agency or unit of Florida state government, as opposed to local government, created or established by law, and includes the Fish and Wildlife Conservation Commission ~~Game and Fresh Water Fish Commission~~, Water Management Districts and the Department of Military Affairs.

(22) No change.

(23) "Application", means the original 15 page summary that will be submitted at or before the published application deadline, and will consist of the transmittal letter, table of contents, criteria narrative, and proposed budget only.

(24) "Proposal", means the full presentation that will be completed by all awarded applicants in a specific time frame, to be sent to the Division of Emergency Management with complete documentation.

Specific Authority 252.373, 252.35 FS. Law Implemented 252.373, 252.35, 252.38 FS. History—New 1-12-94, Amended 6-21-95, 11-13-96, 11-10-97, _____.

9G-19.004 Base Grant Eligibility.

(1) No change.

(2) Counties with population in excess of 75,000 ~~50,000~~ shall have a Full-time Director in order to qualify for an allocation.

(3) Counties with a population less than 75,000, ~~50,000~~ or which are parties to an inter-jurisdictional emergency management agreement entered into pursuant to Section 252.38(3)(b), Florida Statutes, shall have an emergency management coordinator or a full-time director in order to qualify for an allocation.

(4) No change.

Specific Authority 252.373, 252.35 FS. Law Implemented 252.373, 252.35, 252.38 FS. History—New 1-12-94, Amended 6-21-95, 11-13-96, _____.

9G-19.007 Competitive Awards Eligibility.

(1) Non-recurring Competitive Awards may be made to state, regional and local governments and nonprofit organizations under the Emergency Management Competitive Grant Program and to Municipal Emergency Management Programs under the Municipal Competitive Grant Program. "Municipal Emergency Management Program" means an emergency management program authorized, established and maintained by a legally constituted municipality in Florida, which has signed the current Statewide Mutual Aid Agreement

and supplied all required information and documentation such that it is ready to be signed by the Division as of the date of the application deadline.

(2) through (4) No change.

(5) The Division shall administer the competitive grants once awarded. All applicants awarded funding must submit to the Division a proposal as defined in Rule 9G-19.002(24). All awards shall be embodied in a written grant agreement. All awards shall be contingent upon commitment to and performance of a scope of work identified by the Division. The scope of work shall be based upon the project(s) identified in the grant application. The agreement shall provide for reimbursement of costs up to the fixed amount of the award. Failure to agree to, execute or comply with the terms of the grant agreement shall constitute noncompliance.

(6) through (7) No change.

Specific Authority 252.373, 252.35 FS. Law Implemented 252.373, 252.35, 252.38 FS. History—New 1-12-94, Amended 6-21-95, 11-13-96, _____.

9G-19.008 Procedures for Awarding Competitive Grants.

(1) through (2) No change.

(3) The Department hereby adopts by reference the Emergency Management, Preparedness, and Assistance Trust Fund Competitive Grant Program Application Packet, Form No. 006, May 2000, June 1998 version, Form 005 which provides forms, instructions, and other information necessary for submission of an application for Competitive Grant funds submitted pursuant to Rule 9G-19.008.

(4) Application packets may be obtained on-line at www.dca.state.fl.us/cps from the Division of Emergency Management, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, Attention: EMPATF Program. Requests should specify the Competitive Grant Program Application Packet.

(5) All applications shall conform to the following requirements, and shall be reviewed for technical conformity in accordance with the following procedures: All applications shall be complete, accurate, and legible when submitted or they shall be rejected and shall not be scored. Applicants submitting proposals prior to the application deadline will receive a preliminary technical review. Application proposals submitted for preliminary technical review must be received a minimum of 21 days prior to the noticed application deadline. The submitted proposal must be complete. No draft documents will be accepted. Such reviews will not be conducted on the substantive or factual aspects of the submitted proposal but rather will deal with eligibility, category selection, format, completeness, signature authority, budget and matching fund calculations, and other technical information. No preliminary scoring will be conducted during the preliminary technical review process. Applicant will receive feedback from the Division regarding any determinations made during the preliminary technical review process. If the preliminary technical review results in recommendations for revision or

additional information, it is the Applicants responsibility for making such changes and for resubmitting the appropriate number of copies of a new, corrected and complete application prior to the noticed deadline for submission. No application may be revised, supplemented, or otherwise modified after 4:00 p.m., Local Time, on the noticed application deadline date, except upon the request of the Division, when necessary to clarify or explain information submitted prior to the deadline, or when necessary to meet the effects of the Department's offer to provide less than the requested amount of funding.

(a) All applications shall adhere to the format specified in the Application Packet, Form No. 006, May 2000 Version.

(b) All applications shall be complete, accurate and legible when submitted.

(c) Any applicant may receive a preliminary technical review of its application by submitting the application not later than twenty-one (21) days before the published application deadline. Preliminary technical review shall be limited to signature authority, technical conformity to the instructions in the Application Packet, and other technical requirements. No application will be scored or otherwise evaluated for content during preliminary technical review. The Division will inform the applicant of any technical deficiencies in the application by telephone or telecopier not later than ten (10) days in advance of the published application deadline to give the applicant an opportunity to cure them before the deadline.

(d) All applications shall be submitted not later than 4:00 p.m. Eastern time on the date of the published application deadline. With the exception in paragraph (e) of this rule, no application may be amended, added to, or otherwise modified after 4:00 p.m. Eastern time on the date of the published application deadline, other than to provide clarifying information as requested by the Division.

(e) The Division shall inform the applicant by telephone or telecopier not later than five (5) days after the date of the published application deadline if it intends to reject the application for failure to provide evidence of signature authority with the application, for technical noncompliance with the instructions in the Application Packet, or for noncompliance with other technical requirements. Notwithstanding any provision to the contrary elsewhere in this rule chapter, the applicant shall then have up to fifteen (15) days from the date of the published application deadline or to the close of the next business day thereafter to supplement its application with adequate written evidence of signature authority or to cure any other technical deficiencies.

(6) An original and five (5) copies of the application shall be submitted, unless submitting on-line and then one copy in a format and software as prescribed in the application packet shall be submitted.

(7) Applications submitted shall be executed by the chief elected official or the chairman of the governing board unless this authority has been delegated to the chief executive officer or other government official, who shall then endorse the application. Evidence of the delegation of authority shall be supplied with the application. If the governmental entity does not have a governing board or chief elected official, then the application shall be executed by the chief administrative officer and evidence of his or her authority to bind the governmental entity shall be supplied with the application. If the Applicant is not a governmental entity, then the application shall be executed by the governing board, or, if there is no governing board, then the application shall be executed by the chief executive officer. If the application is transmitted on-line, then a hard copy of the title page containing the original authorized signature must be submitted by mail, and must be received by the Division by the published application deadline date.

(8) Applications shall be rejected if:

(a) The Applicant has been found to have engaged in fraudulent actions or misrepresented facts in connection with the application;

(b) The Applicant had previously been found to have engaged in fraudulent actions or misrepresentations within three years of the Notice of Fund Availability;

(c) The application has not been submitted in accordance with the Application Packet and the accompanying instructions provided by the Division, or achieved the required threshold, or does not otherwise comply with this rule chapter;

(d) The project is inconsistent with the purposes of the Program or does not conform to the application requirements specified in this rule chapter;

~~(e) The Applicant fails to achieve the threshold requirements as detailed in the Application Packet and this rule chapter;~~

~~(e)(f)~~ The application is not received before 4:00 p.m., Local Time, on the noticed application deadline date; or

~~(f)(g)~~ The Applicant has been notified that it is not in compliance with the terms and conditions of any open contractual agreement from any a prior award funding administered by the Division.

~~(g)(h)~~ The applicant is ineligible.

Specific Authority 252.373, 252.35 FS. Law Implemented 252.373, 252.35, 252.38 FS. History—New 1-12-94, Amended 6-21-95, 11-13-96, 11-10-97,

9G-19.009 Selection Criteria for Competitive Grants.

(1) The review committee shall review all applications that are received by the noticed application deadline and that comply with the application procedures and requirements set forth in this rule. Applications that are either not received by the noticed application deadline or that do not comply with the application procedures and requirements set forth in this rule shall be rejected. Received means delivery by hand, certified

mail, electronically transmitted (disk or on-line) or courier to the location designated in the Notice of Fund Availability no later than 4:00 p.m., Local Time, on the final day of the application period. Facsimile transmissions ~~and electronic transmissions~~ shall not be accepted.

(2) through (3) No change.

(4) In the event of a tie, the review committee shall give first priority to the application which provides the largest amount of cash match of other funds for the project, and, if a tie still results, then preference shall be given in accordance with Section 18, Chapter 92-132, Laws of Florida, to the project exclusively located or to be performed in a county or municipality which has been adversely affected by an environmental cleanup initiative conducted by the state, or is located in a Front Porch Community or is designated as an Area of Critical State Concern by the Florida Legislature.

(5) No change.

(6) Applications shall be awarded points and ranked using the following criteria:

(a) Extent to which the proposed project is consistent with and furthers the State Comprehensive Emergency Management Plan and the applicable local comprehensive emergency management plan or plans. [Maximum score 100 points]

~~(b) For projects enhancing emergency management capabilities of state, local or private non-profit organizations in Florida, the number of emergency management personnel whose emergency management needs will be directly benefitted by the project; for all others, the number of persons in the target population in Florida directly benefitting from the project. [Maximum score 50 points]~~

~~(b)(c)~~ Proposed project method and approach. [Maximum score ~~100~~ 50 points]

~~(c)(d)~~ Amount of eligible match supplied by the applicant for the proposed project. [Maximum score 50 points]

~~(d)(e)~~ Experience and ability applied to the project. [Maximum score 25 points]

~~(e)(f)~~ Immediacy of tangible emergency management benefits (short term projects, i.e. – less than 12 months in duration), or, long term emergency management benefits coupled with the availability of resources to continue implementation of the project past the term of the award (long term projects, i.e. duration of 12 months or longer). [Maximum score ~~75~~ 50 points]

~~(f)(g)~~ Extent to which the proposed project addresses a demonstrated emergency management need. [Maximum score 50 points]

~~(g)(h)~~ Extent to which the proposed project addresses an emergency management priority, as identified in the Notice of Fund Availability. [Maximum score 100 points]

~~(i) Extent to which the proposed project meets a demonstrated emergency management need/or priority within a jurisdiction included within a presidential disaster/emergency declaration within the 24 months prior to the date of the Notice of Fund Availability. [Maximum score 25 points]~~

(7) through (8) No change.

Specific Authority 252.373, 252.35 FS. Law Implemented 252.373, 252.35, 252.38 FS. History—New 1-12-94, Amended 6-21-95, 11-13-96,_____.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Individual Environmental

Resource Permits

40D-4

RULE TITLE:

RULE NO.:

Publications and Agreements Incorporated

by Reference

40D-4.091

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to adopt by reference the Memorandum of Understanding Between the Southwest Florida Water Management District (District) and the Florida Department of Agriculture and Consumer Services (FDACS) for the Non-Binding Review of Disputed Environmental Resource Permitting Exemption Claims Under Sections 373.406(2), Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: The proposed amendment will adopt the Memorandum of Understanding Between the Southwest Florida Water Management District (District) and the Florida Department of Agriculture and Consumer Services (FDACS) for the Non-Binding Review of Disputed Environmental Resource Permitting Exemption Claims Under Sections 373.406(2), Florida Statutes by reference into District rules. The Memorandum of Understanding (MOU) provides a process whereby the District will refer disputed claims under Section 373.406(2), F.S. to the FDACS for a non-binding review. The MOU also specifies timeframes within which the FDACS and the District must act upon such a claim.

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

LAW IMPLEMENTED: 373.046, 373.103(8), 373.114, 373.403, 373.413, 373.414, 373.416, 373.429, 373.441 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IS: Karen E. West, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34609-6899, (352)796-7211, Extension 4651

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40D-4.091 Publications and Agreements Incorporated by Reference.

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

(1) "Basis of Review for Environmental Resource Permit Applications within the Southwest Florida Water Management District, July 28, 1999." This document is available from the District upon request.

(2) Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., And Aquaculture General Permits Under Section 403.814, F.S., Between Southwest Florida Water Management District and Department of Environmental Protection, dated October 27, 1998. This document is available from the District upon request.

(3) Chapter 62-344, Florida Administrative Code, Delegation of Environmental Resource Program to Local Governments.

Specific Authority 373.044, 373.046, 373.113, 373.171, 373.414 FS. Law Implemented 373.046, 373.103(8), 373.114, 373.403, 373.413, 373.414, 373.416, 373.429, 373.441 FS. History—New 4-2-87, Amended 3-1-88, 9-11-88, 10-1-88, 4-1-91, 11-16-92, 1-30-94, 10-3-95, 12-26-95, 5-26-96, 7-23-96, 4-17-97, 4-12-98, 7-2-98, 12-3-98, 7-28-99,_____.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Works of the District Basins

40E-61

PURPOSE AND EFFECT: The purpose is to develop rules to implement the Everglades Forever Act ("EFA"), Section 373.4592(4)(a)8., Florida Statutes (F.S.), which specifies that certain 298 Districts, "shall divert the discharges within the Everglades Construction Project" from Lake Okeechobee so that the primary discharge plan will divert flow south through the Everglades Agricultural Area (EAA). These lake discharges are currently permitted under Chapter 40E-61, FAC. Chapters 40E-61 and 40E-63, FAC., will require amendments to effectuate the diversion. The effect of the proposed rule amendments is timely compliance with the EFA. SUBJECT AREA TO BE ADDRESSED: Rule development for amendments to Chapters 40E-61 and 40E-63, Florida Administrative Code (FAC.), to modify EAA Basin load calculations and EAA permitting provisions to account for the Chapter 298 District diversion project.

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.4592 FS.

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

TIME AND DATE: 10:00 a.m. – 12:00 Noon, July 21, 2000

PLACE: Commission Chambers, Belle Glade City Hall Complex, 110 S. W. Avenue E, Belle Glade, FL 33430

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: For technical questions, Pam Smith, Sr. Supervising Engineer, Everglades Regulation Department, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6901 or (561)682-6901 (e-mail: psmith@sfwmd.gov); or for legal/administrative questions, Julie Jennison, Senior Legal Research Asst., 1(800)432-2045, Extension 6294 or (561)682-6294 (e-mail: jjenniso@sfwmd.gov)

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

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

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE CHAPTER TITLE: Everglades Program RULE CHAPTER NO.: 40E-63

PURPOSE AND EFFECT: The purpose is to develop rules to implement the Everglades Forever Act ("EFA"), Section 373.4592(4)(f)5., Florida Statutes (F.S.), which specifies, "effective immediately, landowners within the C-139 Basin shall not collectively exceed an annual average loading of phosphorus..." The proposed rules will establish the compliance methodology and compliance actions required by C-139 landowners if the phosphorus load limitation for the C-139 Basin is exceeded. The effect of the proposed rule will be potential enhancement of the downstream receiving water quality in accordance with the intent of the EFA.

SUBJECT AREA TO BE ADDRESSED: Rule development to establish a compliance methodology for phosphorus load limitations for the C-139 Basin.

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.4592 FS.

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

TIME AND DATE: 1:30 p.m. – 3:30 p.m., July 21, 2000

PLACE: Conference Room, Clewiston Field Station of the South Florida Water Management District, S.R. 832, Rt. 1, Clewiston, FL 33440

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: For technical questions, Pam Smith, Sr. Supervising Engineer, Everglades Regulation Department, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6901 or

(561)682-6901 (e-mail: psmith@sfwmd.gov); or for legal/administrative questions, Julie Jennison, Senior Legal Research Asst., 1(800)432-2045, Extension 6294 or (561)682-6294 (e-mail: jjenniso@sfwmd.gov).

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, at (561)682-6206, at least two business days in advance to make appropriate arrangements.

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

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE CHAPTER TITLE: Everglades Program RULE CHAPTER NO.: 40E-63

PURPOSE AND EFFECT: The purpose is to develop rules to implement the Everglades Forever Act ("EFA"), Section 373.4592(4)(a)8., Florida Statutes (F.S.), which specifies that certain 298 Districts, "shall divert the discharges within the Everglades Construction Project" from Lake Okeechobee so that the primary discharge plan will divert flow south through the Everglades Agricultural Area (EAA). These lake discharges are currently permitted under Chapter 40E-61, FAC. Chapters 40E-61 and 40E-63, FAC., will require amendments to effectuate the diversion. The effect of the proposed rule amendments is timely compliance with the EFA.

SUBJECT AREA TO BE ADDRESSED: Rule development for amendments to Chapters 40E-61 and 40E-63, Florida Administrative Code (FAC.), to modify EAA Basin load calculations and EAA permitting provisions to account for the Chapter 298 District diversion project.

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.4592 FS.

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

TIME AND DATE: 10:00 a.m. – 12:00 Noon, July 21, 2000

PLACE: Commission Chambers, Belle Glade City Hall Complex, 110 S. W. Avenue E., Belle Glade, FL 33430

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: For technical questions, Pam Smith, Sr. Supervising Engineer, Everglades Regulation Department, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6901 or (561)682-6901 (e-mail: psmith@sfwmd.gov); or for legal/administrative questions, Julie Jennison, Senior Legal Research Asst., 1(800)432-2045, Extension 6294 or (561)682-6294 (e-mail: jjenniso@sfwmd.gov).

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

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

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE CHAPTER TITLE: Everglades Program RULE CHAPTER NO.: 40E-63

PURPOSE AND EFFECT: The purpose is to develop rules to implement the Everglades Forever Act ("EFA"), Section 373.4592(4), Florida Statutes (F.S.). A component of the EFA Everglades Program is Everglades water supply and hydroperiod improvement and restoration. The Best Management Practice (BMP) replacement water model is being reviewed to determine if updates are necessary to the model based on current data. Updates could affect Rule 40E-63, Part II, FAC.

Additionally, the EFA mandates a 25 percent reduction in the total phosphorus load discharged from the Everglades Agricultural Area (EAA). The District is required to calculate the EAA Basin compliance annually. Chapter 40E-63, FAC., established a formal procedure to calculate phosphorus loads. Amendments to the rule are necessary to modify the basin load calculation procedures to account for the construction of Stormwater Treatment Areas (STAs) and the 298 District Diversion Project. The proposed amendments will reflect adjusted land areas and new monitoring locations associated with the projects.

Other proposed amendments are to clarify the review process for minor modifications to permits and to correct typographical errors in the current rule.

The effect of the proposed rule amendments is timely compliance with the EFA.

SUBJECT AREA TO BE ADDRESSED: Rule development for amendments to Chapter 40E-63, Florida Administrative Code (FAC.), to:

(1) Modify EAA Basin load calculations to reflect adjusted land areas and new monitoring locations associated with the construction of STAs and the Chapter 298 District Diversion Project;

(2) Update the BMP replacement water model; and

(3) Modify typographical errors in the current BMP rule and authorize minor or letter modifications to permits.

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.4592 FS.

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

TIME AND DATE: 10:00 a.m. – 12:00 Noon, July 21, 2000

PLACE: Commission Chambers, Belle Glade City Hall Complex, 110 S. W. Avenue E., Belle Glade, FL 33430

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: For technical questions, Pam Smith, Sr. Supervising Engineer, Everglades Regulation Department, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6901 or (561)682-6901 (e-mail: psmith@sfwmd.gov); or for legal/administrative questions, Julie Jennison, Senior Legal Research Asst., 1(800)432-2045, Extension 6294 or (561)682-6294 (e-mail: jjenniso@sfwmd.gov)

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, at (561)682-6206, at least two business days in advance to make appropriate arrangements.

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE TITLE: Nursing Home Consumer Guide RULE NO.: 59A-4

PURPOSE AND EFFECT: The Agency proposes to develop rules consistent with provisions of s. 400.191, F.S., that became effective June 21, 2000. The legislation requires the Agency to produce a consumer friendly printed guide and internet site to assist consumers and their family members in comparing and evaluating nursing home facilities.

SUBJECT AREA TO BE ADDRESSED: Information to be presented in the printed guide and internet site and the format of such information.

SPECIFIC AUTHORITY: 400.191(6) FS.

LAW IMPLEMENTED: 400.191 FS.

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

TIME AND DATE: 10:00 a.m., July 27, 2000

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Shawn Phelps, Managed Care and Health Quality, 2727 Mahan Drive, Mailstop #9, Tallahassee, Florida

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE TITLE: Nursing Home Consumer Satisfaction Survey

RULE NO.: 59A-4

PURPOSE AND EFFECT: The Agency proposes to develop rules consistent with provisions of s. 400.0225, F.S., that became effective June 21, 2000. The legislation requires the Agency to conduct annual satisfaction surveys of nursing home residents and their family members or guardians. Nursing homes, including skilled nursing units of hospitals, are required to participate in the annual satisfaction surveys as a condition of licensure.

SUBJECT AREA TO BE ADDRESSED: Questions to be asked of residents and their family members and guardians. Protocol for selecting residents and conducting interviews.

SPECIFIC AUTHORITY: 400.0225 FS.

LAW IMPLEMENTED: 400.0225 FS.

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

TIME AND DATE: 10:00 a.m., July 28, 2000

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Shawn Phelps, Managed Care and Health Quality, 2727 Mahan Drive, Mailstop #9, Tallahassee, Florida

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE TITLE: Gold Seal Award

RULE NO.: 59A-4.200

PURPOSE AND EFFECT: The Agency proposes to establish a rule consistent with provisions of s. 400.235(9), Florida Statutes, which became effective June 21, 2000. The legislation provides for development of rules regarding specific criteria involving the quality of care, turnover ratio, and substantiated findings by the State Long Term Care Ombudsman Council that relates to the Gold Seal Award.

SUBJECT AREA TO BE ADDRESSED: Specific criteria pertaining to quality of care, turnover ratio, and substantiated findings by the State Long Term Care Ombudsman Council.

SPECIFIC AUTHORITY: 400.235 FS.

LAW IMPLEMENTED: 400.235(9) FS.

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

TIME AND DATE: 1:00 p.m., August 3, 2000

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room E, Tallahassee, FL 32303

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Richard F. Kelly, Long-Term Care Unit, 2727 Mahan Drive, Tallahassee, Florida, or call (850)488-5861

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE TITLE: Definitions

RULE NO.: 59A-10.032

PURPOSE AND EFFECT: The purpose of this rule amendment is to include all nurses licensed under Chapter 464, Florida Statutes within the definition of "Health Care Professional" for the purposes of licensure as Health Care Risk Manager under Sections 395.10971 through 395.10975, Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: Definitions – "Health Care Professional".

SPECIFIC AUTHORITY: 395.10973 FS.

LAW IMPLEMENTED: 395.10974 FS.

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

TIME AND DATE: 9:00 a.m., July 31, 2000

PLACE: The Agency for Health Care Administration, Fort Knox Complex, 2727 Mahan Drive, Building #3, Conference Room "C", Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Anna Polk, Program Administrator, Office of Risk Management, 2727 Mahan Drive, Room 244, Tallahassee, Florida 32308, (850)487-1709

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59A-10.032 Definitions.

When used in these rules, the following words and terms shall have the meaning as described in this section.

(1) through (14) No change.

(15) The term "Health Care Professional" means a physician licensed pursuant to Chapter 458, F.S., an osteopath licensed pursuant to Chapter 459, F.S., a chiropractor licensed pursuant to Chapter 460, F.S., a podiatrist licensed pursuant to chapter 461, F.S., a pharmacist licensed pursuant to Chapter 465, F.S., a ~~registered~~ nurse licensed pursuant to Chapter 464, F.S., a radiologic technologist certified pursuant to Chapter 468, F.S., a respiratory therapist registered pursuant to Chapter 468, F.S., and an emergency medical technician certified pursuant to Chapter 401, F.S.

(16) through (17) No change.

Specific Authority 395.10973 FS. Law Implemented 395.10974 FS. History—New 7-8-86, Formerly 4-65.002, 4-217.015, Amended.

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE TITLE: RULE NO.:

Intermediate Care Facilities for the

Developmentally Disabled (ICF/DD) 59A-26

PURPOSE AND EFFECT: The Agency proposes to establish a rule consistent with provisions of s. 400.967(2), Florida Statutes, which became effective May 7, 1999. The legislation provides for development of rules regarding specific criteria involving the construction of Intermediate Care Facilities for the Developmentally Disabled as well as care and services given to residents of Intermediate Care Facilities for the Developmentally Disabled.

SUBJECT AREA TO BE ADDRESSED: Specific criteria pertaining to construction of Intermediate Care Facilities for the Developmentally Disabled as well as the care and services given to residents of Intermediate Care Facilities for the Developmentally Disabled.

SPECIFIC AUTHORITY: 400.967 FS.

LAW IMPLEMENTED: 400.967(2) FS.

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

TIME AND DATE: 10:00 a.m., August 3, 2000

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room E, Tallahassee, FL 32303

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Max Stafford, Long-Term Care Unit, 2727 Mahan Drive, Tallahassee, Florida, or call (850)488-5861

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Certificate of Need

RULE TITLES:	RULE NOS:
Definitions	59C-1.002
Projects Subject to Review	59C-1.004
Exemptions	59C-1.005
Certificate of Need Application Procedures	59C-1.008
Project Specific Certificate of Need Application Procedures	59C-1.0085
Certificate of Need Application Review Procedures	59C-1.010
Monitoring Procedures	59C-1.013
Termination of Certificate of Need	59C-1.018
Modification of Certificate of Need	59C-1.019
Effect on Licensure	59C-1.020

PURPOSE AND EFFECT: The agency is proposing to amend several certificate of need (CON) rules to reflect statutory changes that will be effective July 1, 2000. Other proposed changes add policy in response to agency experience with recent reviews. There are also technical or editorial changes with no effect on current promulgated policies.

The principal rule changes are as follows:

Medicare certified home health agencies: Elimination of Medicare certified home health agencies from CON review and exemptions.

Exemptions: Addition of project-specific requirements for termination of an inpatient service, delicensure of beds, combination of nursing home CONs, division of a nursing home CON, addition of hospital beds, temporary addition of acute care beds, and addition of nursing home beds. There is also an amendment to the current requirements for exemption of adult inpatient diagnostic cardiac catheterization, to conform the reporting requirements to those in hospital licensure rules.

Expedited reviews: Addition of a new section for conversion of hospital beds; consolidation of various current requirements for transfer of a CON; deletion of projects that became exempt under the amended statutes.

In a separate action, the agency will repeal rule 59C-1.023, Acquisition of Health Care Facilities, and rule 59C-1.031, Medicare certified home health agencies.

In the following list, which summarizes the basis for the preliminary rule amendments that follow this notice, "Statutory change" refers to underlined rule sections that are proposed in direct response to the statutory changes; and "Other policy" refers to other proposed policies, not explicit in current rules, that are not directly related to statutory change.

Definitions		
59C-1.002(17)	"Exemption"	Statutory change
59C-1.002(29)	"Mental health services"	Statutory change
Projects Subject to Review		
59C-1.004(2)(f)	Hospital bed conversion	Statutory change
Exemptions		
59C-1.005(2)(a)	Exemption request	Other policy
59C-1.005(2)(e)	Exemption request	Other policy
59C-1.005(2)(g)	Exemption request	Statutory change
59C-1.005(6)(a)1.	Termination of service	Other policy
59C-1.005(6)(a)2.	Termination of service	Other policy
59C-1.005(6)(b)2.	Delicensure	Other policy
59C-1.005(6)(b)3.	Delicensure	Other policy
59C-1.005(6)(c)	Combinations	Statutory change
59C-1.005(6)(d)	Divisions	Statutory change
59C-1.005(6)(e)	Hospital bed addition	Statutory change
59C-1.005(6)(f)	Temporary addition	Statutory change
59C-1.005(6)(g)	Nursing home addition	Statutory change
Project Specific Certificate of Need Application Procedures		
59C-1.0085(1)	Transfer of CON	Other policy
59C-1.0085(1)(b)	Transfer of CON	Other policy
59C-1.0085(1)(g)	Transfer of CON	Other policy
59C-1.0085(1)(h)	Transfer of CON	Other policy
59C-1.0085(2)	Hospital bed conversion	Statutory change
59C-1.0085(3)part	Shared service	Other policy

Certificate of Need Application Review Procedures

59C-1.010(4)(a)part	Transfer of CON	Other policy
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Monitoring Procedures

59C-1.013(4)(b)	Condition compliance	Other policy
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Termination of a Certificate of Need

59C-1.018(3)(c)	Termination of CON	Other policy
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The remaining underlined sections of the preliminary rule amendments reflect a relocation or repetition of existing rule language currently found elsewhere within Rules 59C-1.002 through 59C-1.020. Other changes are editorial, including deletions of sections or parts of sections that are relocated, or are no longer valid or necessary because of the proposed new language cited above.

Additional information about these and other statutory changes is available from the certificate of need office.

SUBJECT AREA TO BE ADDRESSED: The agency proposes to revise certain rules pertaining to the certificate of need program, reflecting changes in the CON statutes and other necessary actions.

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

LAW IMPLEMENTED: 408.035, 408.036, 408.037, 408.039, 408.040 FS.

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

TIME AND DATE: 2:00 p.m., July 24, 2000

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59C-1.002 Definitions.

~~(1) "Acquisition" means the act of possessing or controlling, in any manner or by any means, a health care facility or an institutional health service as one's own.~~

(2) through (7) renumbered (1) through (6) No change.

~~(7)(8) "Capital project" means a project, whether subject to or not subject to certificate of need review, which involves a capital expenditure as defined in subsection 408.032(2)(4), Florida Statutes, and which the applicant has approved via authorization to execute. For projects subject to certificate of need review, a capital project approved by the applicant also means:~~

(a) through (b) No change.

(9) through (14) renumbered (8) through (13) No change.

~~(14)(15) "Conversion of beds" means the reclassification of licensed beds from one category to another including, for facilities licensed under Chapter 395, F.S., including conversion to or from acute care beds, neonatal intensive care beds, hospital inpatient psychiatric beds, comprehensive medical rehabilitation beds, hospital inpatient substance abuse beds, distinct part skilled nursing facility beds, or beds in a long term care hospital; and, for facilities licensed under Chapter 400, Part I, F.S., conversion to or from skilled beds and intermediate care beds in a facility that is not certified for both skilled and intermediate nursing care if such conversion effects a change in the level of care of 10 beds or 10 percent of the total bed capacity of the facility within a 2-year period, or conversion to or from sheltered beds and community beds.~~

~~(16) "Cost overrun" means the actual or anticipated project cost, incurred while implementing a certificate of need, which exceeds the approved project cost as stated in the certificate of need. The anticipated project costs are determined prior to commencing construction when the applicant determines that the approved project cost will be exceeded, applying wage and price level indices. The actual project costs are determined when the applicant submits the final architectural certification of payment or a suitable substitute and a final project cost report to the agency.~~

(17) through (18) renumbered (15) through (16) No change.

(17) "Exemption" means the process by which a proposal that would otherwise require a certificate of need may proceed without a certificate of need.

(19) through (22) renumbered (18) through (21) No change.

(22) "Hospital inpatient psychiatric beds" means beds designated for the exclusive use of hospital inpatient psychiatric services regulated under Rule 59C-1.040, F.A.C.

(23) "Hospital inpatient substance abuse beds" means beds designated for the exclusive use of hospital inpatient substance abuse services regulated under Rule 59C-1.041, F.A.C. "Home health agency" means an agency that is certified or seeks certification as a Medicare home health service provider as defined in part IV of Chapter 400, F.S.

(24) "Hospital outpatient service" means a service which is provided to a patient who is not a hospital inpatient when receiving health services.

(25) through (27) renumbered (24) through (26) No change.

(27)(28) "Local Health Council" means a public or private nonprofit health planning agency established consistent with s. 408.033, F.S., under contract with the agency, which serves the counties of a district "service district" of the agency as defined set forth in 408.032(5), F.S.

(29)(28) No change.

(29) "Mental health services" means inpatient services provided in a hospital licensed under Chapter 395, F.S., and listed on the hospital license as psychiatric beds for adults; psychiatric beds for children and adolescents; intensive residential treatment beds for children and adolescents; substance abuse beds for adults; or substance abuse beds for children and adolescents.

(30) "Mobile unit" means an object with the ability by structure, function or design to move or be moved from one health care facility location to another, such that upon arriving at a facility location the object is not permanently fixed but is temporarily secured for the purpose of providing a health service to inpatients provided that such an object is limited to equipment or major medical equipment.

(31) "Nongovernmental health care consumer" means an individual who is not a health care provider or a health care purchaser as defined in Subsections (20)(22) and (21)(23) of this section. Nongovernmental health care consumers include but are not limited to elected government officials, members of the general public and representatives of consumer organizations.

(32) No change

(33) "Operate" means to have the legal responsibility, pursuant to the appropriate licensure statute where licensure is required, for the proper functioning of all aspects of a health care facility; or service, major medical equipment or equipment.

(34) through (36) No change.

(37) "Hospital inpatient psychiatric beds" mean beds designated for the exclusive use of hospital inpatient psychiatric services regulated under Rule 59C-1.040, F.A.C.

(38) "Hospital inpatient substance abuse beds" mean beds designated for the exclusive use of hospital inpatient substance abuse services regulated under Rule 59C-1.041, F.A.C.

(39) through (41) renumbered (37) through (39) No change.

(40)(42) "Termination of an inpatient a health service" means the cessation of a health service, excluding emergency services in a hospital, which currently requires a certificate of need and results in no change in the type or number of licensed beds of a health care facility. It does not include the temporary cessation of a service lasting 6 months or less.

(43) through (45) renumbered (41) through (43) No change.

Specific Authority 408.15(8), 408.034(5) FS. Law Implemented ~~408.031, 408.032, 408.033(1)(a), 408.033(2), 408.036(1), (2)(d), 408.036(1)(h), 408.037(1)(2)(a), 408.039(1)(2), 400.6015, 651.118(2), (3)~~ FS. History—New 1-1-77, Joint Administrative Procedures Committee Objection Filed See FAW Vol. 3, No. 10, March 11, 1977, Amended 11-1-77, 9-1-78, 6-5-79, 4-25-80, 2-1-81, 3-31-82, 7-29-82, 12-23-82, Formerly 10-5.02, Amended 11-17-87, 12-5-90, 1-31-91, 1-1-92, Formerly 10-5.002, Amended 12-14-92, 2-27-94, 6-23-94, 10-18-95, 10-8-97, _____.

59C-1.004 Projects Subject to Review.

(1) Projects Subject to a Comparative Batched Review. Unless subject to expedited review under subsection 408.036(2), F.S., and subsection (2) of this rule, or exempted under subsection 408.036(3), F.S., and Rule 59C-1.005, F.A.C., the following pProjects are subject to comparative review pursuant to section 408.036(1), F.S., and are subject to and the batching cycle procedures specified in Rule 59C-1.008, F.A.C., and will be reviewed in accordance with procedures set forth in subsection 59C-1.010(3), F.A.C.; unless exempted under subsection 408.036(3), F.S., or expedited under subsection 408.036(2), F.S. and subsection (2) of this rule.

(a) The addition of beds by new construction or alteration.

(b) The new construction or establishment of additional health care facilities, including a replacement health care facility when the proposed project site is not located on the same site as the existing health care facility.

(c) The conversion from one type of health care facility to another.

(d) An increase in the total licensed bed capacity of a health care facility.

(e) The establishment of a hospice or hospice inpatient facility.

(f) The establishment of inpatient health services by a health care facility, or a substantial change in such services.

(g) An increase in the number of beds for acute care, specialty burn units, neonatal intensive care units, comprehensive rehabilitation, mental health services, hospital-based distinct part skilled nursing units, nursing home care, or at a long term care hospital.

(h) The establishment of tertiary health services.

(2) Projects Subject to Expedited Review. The following projects are types of projects shall be subject to expedited review, and will be reviewed which shall be conducted in accordance with procedures set forth in subsection 59C-1.010(4)(3) F.A.C.:

(a) Sheltered nursing home beds.

~~(b) Combination within one nursing home facility of the beds or services authorized by two or more certificates of need issued in the same planning subdistrict.~~

~~(c) Division into two or more nursing facilities of beds or services authorized by one certificate of need issued in the same planning subdistrict. Such division shall not be approved if it would adversely affect the original certificate's approved cost.~~

~~(d) Cost overruns which exceed the limits set forth in s. 408.036(1)(i), except that no cost overrun review is necessary when the cost overrun is less than \$20,000. Anticipated cost overruns may be filed at the applicant's discretion.~~

~~(b)(e) Replacement of a health care facility at a site different from the existing facility, provided the site is located in the same district and within a 1-mile radius of the existing facility.~~

~~(c)(f) Research, education and training programs.~~

~~(d)(g) Shared services contracts or projects.~~

~~(e)(h) Transfer of a certificate of need.~~

(f) Conversion of hospital beds licensed for mental health services, a distinct part skilled nursing unit, or general acute care, as described in s. 408.036(2)(f), F.S.

Specific Authority 408.15(8), 408.034(5) FS. Law Implemented 408.036(1)(2) FS. History--New 1-1-77, Amended 11-1-77, 9-1-78, 6-5-79, 4-25-80, 2-1-81. Formerly 10-5.04, Amended 11-24-86, 11-17-87, 1-31-91, 1-1-92, Formerly 10-5.004, Amended 9-9-92, 1-9-95, 11-4-97, _____.

59C-1.005 Exemptions.

(1) Request for Exemption. Certain projects are subject to exemption ~~exempted~~ from certificate of need review pursuant to subsections 408.036(3) and 408.036(4), F.S., provided the following conditions specified in this rule are met. To receive an exemption, the applicant shall file a request for exemption with the agency and provide documentation to justify the request. A request for exemption is ~~not subject to the batching requirements specified under Rule 59C-1.008, F.A.C., and may be submitted at any time, and must be submitted to:-~~

Agency for Health Care Administration

Certificate of Need/Financial Analysis

2727 Mahan Drive, Building 3

Tallahassee, Florida 32308

(2) General Requirements. In the case of any applicant applying for an exemption from certificate of need review, ~~the following actions shall be accomplished:-~~

~~(a) the~~ The applicant's request shall include:

(a) The type of exemption requested, with reference to the authorizing paragraph in s. 408.036(3), F.S. Except as provided in paragraphs (6)(a) or (b) of this rule, an exemption request must be limited to a single type of exemption.

(b) The name of the health care facility, ~~home health agency~~ or hospice involved, and the name of the licensee. A request for exemption affecting an existing licensed health care

facility or hospice must be submitted by the current licensee, the legal name of the license holder, a statement of the services to be provided,

(c) The location of the project,;

(d) The costs of the project,;

(e) The gross square footage of the project, if applicable.

(f) The proposed licensed bed capacity of the health care facility, if applicable,;

(g) A check for two hundred and fifty dollars (\$250) payable to the Agency for Health Care Administration in accordance with s. 408.036(4), F.S. Exemption requests shall not be accepted by the agency at the time of receipt unless accompanied by the \$250 fee. Checks that are returned by the bank for insufficient funds will be processed consistent with the procedures for expedited review applications specified in s. 59C-1.008(3)(c)1., F.A.C.

(h) The applicable project specific information required by subsection (6) of this rule.

(3) Agency Approval Required. No project shall be implemented until the agency's approval has been rendered.

(4) Agency Action. The agency shall determine if a proposed project is exempted from certificate of need review within 30 days of receipt of all documentation required by this rule. The agency shall forward its written decision to the applicant, and shall provide the applicant with specific reasons in the event that the request is denied. The agency shall publish its notice of exemptions in the F.A.W. within 30 days of the decision date.

(5) Limitation on Validity. An exemption, when granted, is valid only for the project for which it was issued and for the health care facility or hospice on whose behalf the exemption was granted.

(6) Project Specific Exemption Requests. In addition to meeting the requirements of subsections (1) and (2) of this rule, requests for exemption of certain projects must meet the additional requirements specified below:

(a) Termination of an inpatient health care service. A request for exemption of a proposed termination of an inpatient health care service is required only for the types of beds or services whose establishment would be subject to certificate of need review under s. 408.036(1) or (2), F.S. Temporary cessation of a service, lasting 6 months or less, does not require an exemption.

1. A request for termination of a service must acknowledge that the terminated service and any related beds cannot be reestablished at the facility unless authorized by a new certificate of need.

2. A request for termination may be combined with a hospital bed increase exemption requested under paragraph (6)(e), provided the termination will occur at the same facility.

(b) Delicensure of beds. A request for exemption of a proposed delicensure of beds must comply with the following:

1. The request must identify the facility where the delicensure will occur, the current licensed capacity of each category of beds licensed at the facility, the category of beds where delicensure will occur, and the exact number of beds being delicensed.

2. The request must acknowledge that the delicensed beds cannot be reactivated in any licensed bed category at the facility without a certificate of need or, if applicable, an exemption letter.

3. A request for delicensure of beds may be combined with a hospital bed increase exemption requested under paragraph (6)(e), provided the delicensed beds will occur at the same facility.

(c) Combination within one nursing home facility of the beds authorized by two or more certificates of need issued in the same planning subdistrict. A request for exemption of a proposed combination of authorized nursing home beds shall specify:

1. The number of beds authorized by each certificate of need that is being combined.

2. The current holder of each certificate of need that is being combined.

3. The financial impact of combining the certificates of need.

4. The intended licensee for the beds included in the combined certificates of need.

5. An exemption granted under this paragraph extends the validity period of the certificates to be combined by the length of the period starting with submission of the exemption request and ending with issuance of the exemption.

6. The longest validity period among the certificates that are combined will be the validity period for the combined certificates.

7. An exemption granted under this paragraph does not authorize transfer of the combined certificates of need to another entity. Such transfer requires a certificate of need consistent with the provisions of ss. 408.036(2)(c) and 408.042, F.S., and rule 59C-1.0085, F.A.C.

(d) Division into two or more nursing home facilities of the beds authorized by one certificate of need issued in the same planning subdistrict. A request for exemption of a proposed division of authorized nursing home beds shall specify:

1. The number of beds to be included in each component of the divided certificate of need.

2. The financial impact of dividing the certificate of need.

3. The intended licensee for the beds included in each component of a divided certificate of need, if known.

4. An exemption granted under this paragraph extends the validity period of the certificate to be divided by the length of the period starting with submission of the exemption request and ending with issuance of the exemption. The extension is applicable to each component of the divided certificate of need.

5. An exemption granted under this paragraph does not authorize transfer of the component or components of a divided certificate of need to another entity. Such transfer requires a certificate of need consistent with the provisions of ss. 408.036(2)(c) and 408.042, F.S., and rule 59C-1.0085, F.A.C.

(e) Addition of hospital beds in a number not exceeding 10 beds or 10 percent of the licensed capacity of the bed category being expanded, whichever is greater, except for the tertiary services beds and long term care hospital beds excluded under s. 408.036(3)(n), F.S., and except for the exemption described in paragraph (f) of this subsection. A request for exemption of a proposed addition of hospital beds shall specify:

1. The current number of licensed beds in the category of beds proposed to be expanded.

2. The exact number of beds proposed to be added.

3. Any inpatient beds of another type proposed to be delicensed or terminated in conjunction with the proposed increase.

4. The request shall certify that:

a. The average occupancy rate for the 12-month period ending 1 month prior to the exemption request, in the category of licensed beds being expanded at the facility, meets or exceeds 80 percent; or, for a distinct part skilled nursing unit, the 12-month average occupancy rate meets or exceeds 96 percent. For the purpose of calculating average occupancy under this sub-subparagraph, the 12-month total of patient days shall be divided by 365 to determine an average daily census, and the average daily census shall then be divided by the total of licensed and approved beds as of the end of the 12-month period. Approved beds are beds authorized for the facility consistent with the provisions of rule 59C-1.008(2)(b).

b. Any beds of the same type previously authorized for the facility by an exemption under this paragraph have been licensed and operational for at least 12 months.

5. An exemption granted under this paragraph is subject to the project monitoring requirements of s. 408.040(2)(a)-(c), F.S., and rule 59C-1.013(2) and (3), F.A.C., including project progress reports, an 18-month validity period for the exemption, and the circumstances for extension of the validity period.

6. Beds authorized under this paragraph shall be inventoried as approved beds until the beds are licensed.

(f) Temporary addition of acute care hospital beds in a number not exceeding 10 beds or 10 percent of the licensed acute care bed capacity, whichever is greater. A request for exemption of a proposed temporary addition of acute care beds shall:

1. Document that the applicant is not eligible for an exemption under the bed increase provisions of s. 408.036(3)(p), F.S., and paragraph (6)(e) of this rule.

2. Indicate the exact number of acute care beds to be added, the reason for the temporary addition, and the proposed beginning and ending dates of the temporary addition.

3. Certify that the applicant will comply with the provisions of s. 395.003(4), F.S., which requires approval from the hospital licensure unit within the agency's Bureau of Health Facility Regulation before operation of a number of beds that is greater than the number indicated on the hospital license.

(g) Addition of nursing home beds in a number not exceeding 10 beds or 10 percent of the licensed capacity of the nursing home being expanded, whichever is greater. A request for exemption of a proposed addition of nursing home beds shall specify:

1. The licensed bed capacity of the nursing home proposed to be expanded.

2. The current number of sheltered beds, if any, included within the licensed bed capacity.

3. The exact number of beds proposed to be added.

4. The number of sheltered beds, if any, proposed to be included within the total to be added.

5. The request shall certify that:

a. The facility has not had any class I or class II deficiencies within the 30 months preceding the request for an addition. Effective beginning July 1, 2001, the facility must be designated as a Gold Seal nursing home.

b. The average occupancy rate for the nursing home beds at the facility, for the 12-month period ending 1 month prior to the exemption request, meets or exceeds 96 percent. For the purpose of calculating average occupancy under this sub-subparagraph, the 12-month total of patient days shall be divided by 365 to determine an average daily census, and the average daily census shall then be divided by the total of licensed and approved beds as of the end of the 12-month period. Approved beds are beds authorized for the facility consistent with the provisions of rule 59C-1.008(2)(b).

c. Any beds previously authorized for the facility by an exemption under this paragraph have been licensed and operational for at least 12 months.

6. An exemption granted under this paragraph is subject to the project monitoring requirements of s. 408.040(2)(a)-(c), F.S., and rule 59C-1.013(2) and (3), F.A.C., including project progress reports, an 18-month validity period for the exemption, and the circumstances for extension of the validity period.

7. Beds authorized under this paragraph shall be inventoried as approved beds until the beds are licensed.

(h)(b) Provision of adult inpatient diagnostic cardiac catheterization services. In addition to meeting the requirements of paragraph (a);

1. A request for exemption of a proposed adult inpatient diagnostic cardiac catheterization program shall include certifications by the applicant that:

a.1. The applicant will not provide therapeutic cardiac catheterization pursuant to the grant of the exemption;

b.2. The applicant will meet and continuously maintain the minimum licensure requirements specified in rule 59A-3.2085(13), F.A.C.; and,

c.3. At least 2 percent of the applicant's annual adult diagnostic cardiac catheterization admissions will be charity and Medicaid patients.

(e) Within 30 days of receipt of all documentation required by this rule, the agency shall determine if the proposed project is exempted from certificate of need review. The agency shall forward its written decision to the applicant, and shall provide the applicant with specific reasons in the event that the request is denied. The agency shall publish its notice of exemptions in the F.A.W. within 30 days of the decision date.

(d) No project shall be implemented until the agency's approval has been rendered.

(e) An exemption, when granted, is valid only for the project for which it was issued and for the health care facility on whose behalf the exemption was granted.

2.(f)1. An exemption granted for provision of adult inpatient diagnostic catheterization services remains in effect while the requirements specified in s. 408.036(3)(i)(n), F.S., and rule 59A-3.2085(13), F.A.C., are met.

3.2. Annual reports of compliance with standards for minimum program volume and minimum services to charity and Medicaid patients, as specified in rule 59A-3.2085(13)(d) and (i), F.A.C., shall be forwarded to the agency's Certificate of Need Office. The total volume reported shall include both inpatient and outpatient admissions to the adult diagnostic cardiac catheterization program. A single admission is equal to one patient visit to the cardiac catheterization program. The first annual report for the exempted program shall be forwarded within 30 days of the end of by February 1 of the year following the first 12 month period calendar year completed subsequent to the 18th month of operation. Annual reports thereafter shall be forwarded within 30 days after the anniversary of the first annual report by February 1 of each subsequent calendar year. The reports should be submitted to the address shown in subsection (1) of this rule.

Agency for Health Care Administration
Certificate of Need/Financial Analysis
2727 Mahan Drive, Building 3
Tallahassee, Florida 32308

4.3. The agency shall provide written notification to the exempted hospital of a determination of non-compliance with the annual compliance requirements of subparagraph (h)3.(f)2. of this rule. Action upon a finding of non-compliance shall be consistent with the provisions of s. 408.036(3)(i)(n)3.b., F.S.

Specific Authority 408.15(8), 408.034(5) FS. Law Implemented 408.036(3), ~~408.036(4)~~ FS. History—New 1-1-77, Amended 6-5-79, 2-1-81, Formerly 10-5.05, Amended 11-17-87, 3-23-88, 1-31-91, Formerly 10-5.005, Amended 7-13-98, _____.

59C-1.008 Certificate of Need Application Procedures.

(1) Letters of Intent and applications subject to ~~comparative competitive~~ review shall be accepted in two batching cycles annually each for hospital projects, and for nursing facility projects, as specified in paragraph (g) of this subsection. All other projects subject to ~~comparative competitive~~ review shall be reviewed in the hospital batching cycle. "All other projects" include projects by or for ~~home health agencies~~, hospices, and intermediate care facilities for the developmentally disabled.

(a) through (b) No change.

(c) As to content, the letter of intent shall describe the proposal with specificity by indicating clearly and unequivocally the following information:

1. Identification of the applicant means the legal name, mailing address, and telephone number of the applicant.

a. If an existing health care facility, ~~home health agency, HMO~~ or hospice seeks to undertake a project subject to a ~~comparative batched~~ review, then the legal name of the license holder must be stated and the license holder must be the applicant except when the applicant has a pending application to become the new licensee for transfer of ownership of the existing health care facility or hospice filed with the applicable licensure unit within the agency's Bureau of Health Facility Regulation ~~agency's licensure and certification office~~. In addition, the license number and date of expiration must be stated. It is the responsibility of the person issued a license to keep licensure information current. If agency records indicate information different from that presented in the letter of intent with respect to the identification of the holder of the license and the licensure status, then the agency records create a rebuttable presumption as to the correctness of those records and therefore the letter of intent is not valid.

b. If the proposal is for a project which will result in ~~licensure of a new~~ a new license being issued, as for a health care facility, or hospice, or ~~Medicare certification for a home health agency~~, the applicant seeking the certificate of need must be in existence at the time the letter of intent is submitted.

2. The letter of intent must identify the type of project proposed and shall contain only one project type as described in Section 408.036(1), F.S.

3. The number of beds sought is indicated by the numerical representation of how many beds of a specific type will compose the proposed project.

4. Services is the type of health care service sought and shall be indicated by describing the specific service requested.

5. Location refers to the health planning subdistricts adopted in Chapter Rule 59C-2, F.A.C., or the services districts. The applicant must indicate the subdistrict by name or

number, as provided in Chapter Rule 59C-2, F.A.C., and give the name of the county where the proposed project will be located.

(d) through (g) No change.

(h) An applicant for a project subject to Certificate of Need review which affects an existing licensed health care facility, ~~an existing licensed home health agency~~, an existing licensed hospice, ~~an existing licensed health maintenance organization~~, or an existing licensed intermediate care facility for the mentally retarded must be the license holder. The legal name of the license holder must be stated. In addition, the license number and date of expiration must be stated. It is the responsibility of the person issued a license to keep licensure information current. If agency records indicate information different from that presented in the letter of intent with respect to the identification of the holder of the license and the licensure status, then the agency records create a rebuttable presumption as to the correctness of those records and therefore the application will be rejected.

(i) No change.

(j) Persons applying under a shared services joint venture agreement must each be named as an applicants for the Certificate of Need, with each separately meeting all requirements for application.

(2) No change.

(3) Filing Fees. Certificate of need applications shall not be accepted by the agency at the time of filing unless accompanied by the minimum base certificate of need application filing fee in accordance with s. 408.038, F.S. The minimum base fee shall be \$5,000. In addition to the base fee of \$5,000, the fee shall be 0.015 of each dollar of the proposed expenditure, except that no fee shall exceed \$22,000.

(a) For the sole purpose of calculating the application fee, the proposed expenditure includes only the items of cost contributing to the capital expenditures of the proposed project. An application filing fee is non-refundable, unless the application is not accepted by the agency; or unless an accepted application is deemed incomplete and withdrawn by the agency as a result of the omissions review, and the withdrawal is not challenged by the applicant, in which case all but the \$5,000 base fee shall be refunded. No fees shall be refunded for applications deemed complete by the agency but subsequently voluntarily withdrawn by the applicant, or for applications deemed incomplete as a result of a legal challenge. ~~The application fee for the transfer of a Certificate of Need is \$5,000 provided there is no increase in the project cost approved for the original Certificate of Need. The filing fee for a transfer of a Certificate of Need involving an increase in the project cost shall be calculated based upon the amount of increase in accordance with s. 408.038, F.S. and subsection (3) above.~~

(b) through (4) No change.

(5) Certificate of Need Application Contents. An application for a certificate of need shall contain the following items:

(a) through (c) No change.

(d) To comply with section 408.037(1)(b)1., F.S., which requires a listing of all capital projects, the applicant shall provide the total approximate amount of anticipated expenditures for capital projects which meet the definition in s. 59C-1.002(7)(8), F.A.C., at the time of initial application submission, or state that there are none. An itemized list or grouping of capital projects is not required, although an applicant may choose to itemize or group its capital projects. The applicant shall also indicate the actual or proposed financial commitment to those projects, and include an assessment of the impact of those projects on the applicant's ability to provide the proposed project; and

(e) through (6) No change.

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

59C-1.0085 Project Specific Certificate of Need Application Procedures.

In addition to the requirements set forth in Rule 59C-1.008, F.A.C., the following requirements apply to the projects described below:

(1) Transfer of a certificate of need. As provided in ss. 408.037(2) and 408.034(2), F.S., an applicant for a certificate of need must certify that it will license and operate the health care facility or service authorized by the certificate of need; and the agency will not issue a license to any health care facility, part of a health care facility, hospice, or health care service described in ss. 408.036(1) or (2), F.S., which fails to receive a required certificate of need. This subsection applies to circumstances where the certificate holder will not be the initial licensee or operator of the authorized project. Such circumstances include, for example, a change in the ownership or licensed operator of the certificate holder. Except as provided in this subsection, such changed circumstances require a certificate of need that transfers the authorized project to the intended initial licensee or operator. ~~Combinations.~~

(a) An application to transfer a certificate of need is subject to an expedited review, as specified in 408.036(2)(c), F.S. ~~An application to combine two or more Certificates of Need and the transfer of one or more such Certificate of Need to another legal entity may be submitted in a single application and must be submitted by the transferee if a single application is opted for.~~

(b) The proposed transferee is the applicant for the transfer. The transferor is subject to the limitations on transfer costs specified in s. 408.042, F.S., which must be identified in

the application for a transfer. All applications for combinations will be reviewed in accordance with the review criteria in Section 408.035, F.S.

(c) The application fee for transfer of a certificate of need is \$5,000 provided there is no increase in the project cost approved for the certificate of need that is being transferred. The filing fee for a transfer involving an increase in the project cost shall be calculated based on the amount of increase in accordance with s. 408.038, F.S., and rule 59C-1.008(3)(a), F.A.C. ~~If an application is filed to combine two or more certificates, the validity period of the Certificate or Certificates of Need to be consolidated will be extended for the time beginning upon submission of the application and ending when final agency action and any appeal from such action has been concluded. However, no such extension will be effected if the application is withdrawn by the applicant.~~

(d) A transfer application is required if the intended licensee or operator for approved nursing home beds in a combined certificate of need, as authorized by an exemption under s. 408.036(3)(l), F.S., will be an entity other than the holder of any of the uncombined certificates of need. ~~For any certificate of need issued pursuant to paragraph 408.036(2)(f), F.S., the validity period will be that of the certificate of need issued first plus the extension as described above in paragraph (e).~~

(e) A transfer application is required if the intended licensee or operator for the approved nursing home beds included in a component or components of a divided certificate of need, as authorized by an exemption under s. 408.036(3)(m), F.S., will be an entity other than the holder of the undivided certificate of need. ~~For any certificate of need issued pursuant to paragraph 408.036(2)(f), F.S., where any part of the certificate of need has commenced construction, all parts are deemed to have commenced construction upon issuance of the combined certificate of need.~~

(f) A transfer application will be reviewed in accordance with the review criteria in s. 408.035, F.S.

(g) Upon written request from the transferor received at least 15 days prior to the termination date of the certificate of need, and receipt of a transfer application, the agency will extend the validity period of the proposed transferred certificate of need for a period of 60 days, consistent with s. 59C-1.018(3)(c), F.A.C.

(h) No transfer application is required if a change in the intended initial licensee or operator of an authorized project occurs because of a corporate merger or a change in the corporate name.

(2) Conversion of licensed hospital beds. As provided in s. 408.036(2)(f), F.S., an expedited review is applicable for hospital projects proposing to increase the licensed capacity of acute care beds or the licensed capacity of a category of mental health services beds through conversion of other specified beds at the same hospital. ~~Divisions.~~

(a) Conversion under this subsection may not establish a new licensed bed category at the hospital. A separate application to divide each Certificate of Need must be filed. A transfer of one or both of the Certificates of Need which result from the division must be requested in a separate Certificate of Need application. Such applications will be reviewed simultaneously by the agency if submitted simultaneously and if a request is made to consider them simultaneously. A combination of one or both of the certificates which result from the division Certificate of Need application must be filed in a separate application, but may be filed concurrently.

(b) Licensed acute care bed capacity may be increased under this subsection through: All applications for divisions will be reviewed in accordance with the review criteria in Section 408.035, F.S.

1. Conversion of beds in one or more of the categories of licensed mental health services beds; or

2. Conversion of distinct-part skilled nursing unit (SNU) beds.

3. The applicant must document why the exemption provided under s. 408.036(3)(n), F.S., was not applicable for its proposal.

(c) Licensed bed capacity in a category of mental health services beds may be increased under this subsection through: If an application is filed to divide a certificate, the validity period of the Certificates of Need resulting from the division will be extended for the time beginning upon submission of the application and ending when final agency action and any appeal from such action has been concluded. However, no such extension will be effected if the application is withdrawn by the applicant.

1. Conversion of beds in one or more of the other categories of licensed mental health services beds; or

2. Conversion of acute care beds.

3. The applicant must document why the exemption provided under s. 408.036(3)(n), F.S., was not applicable for its proposal.

(d) Conversions under this subsection shall not increase the total licensed bed capacity of the hospital. For any certificate of need issued pursuant to paragraph 408.036(2)(g), F.S., the validity period will be that of the oldest Certificate of Need involved in the transaction plus the extension as described in paragraph (e) above.

(e) Beds added by conversion under this subsection must be licensed and operational for at least 12 months before the hospital may apply for additional conversion affecting beds of the same type.

(3) The addition of beds to a licensed nursing home by transfer of a valid certificate of need.

(a) All applications for a transfer or the addition of beds to a licensed nursing home by transfer will be reviewed in accordance with the review criteria in Section 408.035, F.S.

(b) The validity period of a Certificate of Need transferred directly to another holder or transferred to be added to an existing licensed nursing home facility does not change as a result of the transfer. A transfer does not extend the validity period of a Certificate of Need.

(3)(4) Shared service arrangement. Any application for a project involving a shared service arrangement is subject to a comparative batched review when where the health service being proposed is not currently provided by any of the applicants, or an expedited review when where the health service being proposed is currently provided by one of the applicants. Proposals for a shared service arrangement must be limited to hospitals located in the same service planning area, as defined by the agency and applicable for the service being proposed.

(a) through (b) No change.

(4)(5) Mobile Units.

(a) Any health care facility, health maintenance organization, or home health agency which intends to utilize a mobile unit must apply for a certificate of need prior to utilization of the mobile unit if the project has been determined subject to review by the agency.

(b) Only a health care facility, health maintenance organization, or home health agency which intends to utilize a mobile unit may apply for a certificate of need for a mobile unit.

(5)(6) Reestablishment of an inpatient health service Termination of a health service. A health care facility that has terminated an inpatient Any person who terminates a health service must be granted a certificate of need to reestablish reinstitute the health service at that facility. Reestablishment of a health service which was not offered continuously at the health care facility for the 12-month period prior to the proposed reestablishment is a substantial change in health services, and requires a certificate of need.

Specific Authority 408.15(8), 408.034(5) FS. Law Implemented 408.034(2), 408.036(2)(b)(c)(f), 408.037(2), 408.042 FS. History--New 1-31-91, Formerly 10-5.0085, Amended 10-18-95, 10-8-97, _____.

59C-1.010 Certificate of Need Application Review Procedures.

(1) The agency shall review all applications in the context of the review criteria specified in Section 408.035, F.S., Chapters Rules 59C-1 and 59C-2, F.A.C., which are in accordance with section 408.035, F.S., and all information relevant to the criteria contained therein.

(2) General Provisions.

(a) Applications subject to comparative or expedited review shall be submitted to the agency and the appropriate Local Health Council on AHCA Form CON-1, as referenced in Rule 59C-1.008(1)(f), F.A.C.

(b) Applications for projects involving an existing health care facility shall be filed by the current license holder as listed on the current agency license in effect at the time of the

applicant omission deadline specified in subparagraph (3)(a)3. or (4)(a)3. of this rule, or the application shall be withdrawn from consideration.

(c) An application shall not be deemed complete by the agency unless all information required by statute and rule has been submitted by the applicant.

(3)(2) Comparative Review. Applications subject to comparative review shall be reviewed according to the following timetable:

(a) Completeness Review.

1. Within 15 calendar days after the application submission deadline promulgated under rule 59C-1.008(1)(g), F.A.C., the agency shall determine whether the application is complete.

~~2. An application shall not be deemed complete by the agency unless all information required by statute and rule has been submitted by the applicant.~~

~~2.3.~~ If the application is deemed incomplete by the agency, the agency shall request in writing from the applicant specific information necessary for the application to be deemed complete.

~~3.4.~~ If an applicant does not provide the specific additional information required by statute and rule in writing ~~requested to~~ the agency and the appropriate ~~Local Health Council~~ within 21 calendar days of the receipt of the agency's request, the application shall be deemed withdrawn from consideration. The applicant's response must be received by the agency and the ~~Local Health Council~~ no later than 5 p.m. local time on or before the omissions due date promulgated under Rule 59C-1.008(1)(g)(~~4~~), F.A.C.

~~5. The applicant submitting an application involving an existing health care facility must be the current license holder as listed on the current agency license in effect at the time of the promulgated applicant omission deadline under Rule 59C-1.008(1)(l), or the application shall be withdrawn from consideration.~~

(b) The agency shall deem the application complete or withdrawn within 7 calendar days of the receipt of the requested information. Subsequent to an application being deemed complete by the agency, no further application information or amendment will be accepted by the agency.

(c) The agency shall conduct public hearings in accordance with the provisions in subsection 408.039(3)(b), F.S. The presiding officer at the hearing will be assigned by the agency, or the ~~Local Health Council~~. Unless otherwise ordered by the presiding officer, the applicant and those in support of the proposal will speak followed by those opposing the proposal, and the applicant may then present rebuttal information. The agency will preserve the proceedings at the hearing.

(d) The agency shall issue a State Agency Action Report within 60 calendar days from the ~~date~~ day the application is deemed complete unless the review period is extended pursuant to subsection ~~(6)(5)~~ of this rule.

~~(4)(3) Expedited Review Process.~~ Applications subject to for expedited review shall be reviewed according to the following timetable: ~~submitted to the agency and the appropriate Local Health Council on AHCA Form CON-1, as referenced in Rule 59C-1.008(1)(f), at least 90 days prior to the implementation of the project.~~

(a) Applications shall not be accepted for an expedited review unless they are if they are not submitted at least 90 days prior to the implementation of the project. Transfer applications shall be accepted consistent with the provisions of 59C-1.0085(1)(g), F.A.C. or, for a transfer, at least 90 days prior to the termination date of the Certificate of Need. Applications for projects involving an existing health care facility must be filed by the current license holder except where the applicant has a pending application for transfer of ownership filed with the agency and shall be processed in the following manner:

~~(b)(a)~~ All such applications shall be exempt from the batching requirements set forth in Rule 59C-1.008(1)(g).

~~(c)(b)~~ No letter of intent or letter of intent publication, as prescribed by subsection 59C-1.008(1), shall be required.

~~(d)(e)~~ Completeness Review.

1. Within 15 calendar days of receipt of an application by the agency, the agency shall determine whether the application is complete.

2. If the application is deemed incomplete by the agency, the agency shall request in writing from the applicant specific information necessary for the application to be deemed complete.

3. If an the applicant does not provide the specific additional information required by statute and rule in writing to the agency and the appropriate Local Health Council within 21 calendar days of the receipt of the agency's request, the application shall be ~~is~~ deemed withdrawn from consideration.

~~4. The applicant submitting an application involving an existing health care facility must be the current license holder as indicated on the current agency license in effect at the time of the applicant omission deadline or the application shall be withdrawn from consideration.~~

~~(e)(d)~~ The agency shall deem the application complete or withdrawn within 7 calendar days of the receipt of the requested information. Subsequent to an application being deemed complete by the agency, no further application information or amendment will be accepted by the agency, unless a statutorily required item was omitted and the agency failed to clearly ~~did not~~ request the specific item in its omissions request. In the later case, the application may be supplemented only with the omitted item.

~~(f)~~ A public hearing shall be held only if the agency determines there are issues of significant public interest related to the proposed project.

~~(g)(e)~~ If the application is deemed complete, the agency shall issue a its State Agency Action Report describing the agency's findings with regard to the proposed project within 45 calendar days from the date the application is deemed complete unless the review period is extended pursuant to subsection ~~(6)(5)~~ of this rule.

~~(f)~~ A public hearing shall be held only if the agency determines there are issues of significant public interest.

~~(5)(4)~~ Issuance of State Agency Action Report.

(a) The agency shall issue a its State Agency Action Report describing the agency's findings ~~for with regard to a comparative review of the applications in a the batch, or for an application with subject to expedited review.~~ The report shall state the agency's its intent to grant or deny certificates of need ~~for projects~~ in their entirety or ~~for valid~~ identifiable portions thereof, and state the conditions required of the certificate of need holder, if any. The agency Secretary Director or his designee shall sign State Agency Action Reports. The agency shall publish its notice of intent, as set forth in the State Agency Action Report, in the F.A.W. within 14 calendar days after the State Agency Action Report is issued. A notice of intent and State Agency Action Report shall be mailed to each applicant. The agency decision embodied in the State Agency Action Report to grant additional beds, services, or programs will be reflected in the agency's inventories.

(b) through (c) No change.

(d) The agency shall issue a certificate of need according to the timeframes specified in subsection ~~(3) or (4) (2)~~ of this rule, specifying the scope of the project, any conditions placed on the certificate of need, and an approved dollar amount for the project in its entirety or for identifiable portions of the total project; ~~or the agency shall deny a certificate of need for the project in its entirety. When the agency has determined that it is necessary to insure that the intent of the statute is carried out, conditions shall be placed upon the certificate of need.~~ The agency may impose conditions on shall condition a certificate of need predicated upon statements of intent expressed by an applicant in the certificate of need application, which the agency relied upon in its decision to issue the certificate of need, and which relate to the criteria set forth in section 408.035, F.S., and in ~~Chapters 59C-1 Rules 59C-1.030-.044 and Rule 59C-2, F.A.C.~~

~~(6)(5)~~ Review period extension. The agency shall issue a State Agency Action Report pursuant to the timeframes specified in subsections 408.039(4), F.S., and this rule unless an extension is granted by written mutual agreement of all applicants; which are subject to comparative competitive review in the applicable batching cycle, or an applicant subject to expedited review, and the agency.

~~(7)(6)~~ For purposes of the administration of the Health Facility and Services Development Act, any oral or written communication, regarding the merits of a specific application, between the applicant, any person acting on behalf of the applicant, or any person opposing the application and any person in the agency who exercises any responsibility respecting the application, subsequent to an application being deemed complete pursuant to paragraphs (3)(b) or (4)(e) of this rule the schedule in Rule 59C-1.008(1)(g), F.A.C., and prior to the time of the agency's determination pursuant to paragraphs ~~(3)(d) or (4)(g) of this rule the schedule in Rule 59C-1.008(1)(g), F.A.C.~~, is prohibited.

Specific Authority 408.15(8), 408.034(5) FS. Law Implemented ~~408.035, 408.036(2), 408.039(3), (4), (5), (6)~~ FS. History—New 1-1-77, Amended 11-1-77, 9-1-78, 6-5-79, 4-25-80, 2-1-81, 3-31-82, 12-23-82, Formerly 10-5.10, Amended 11-24-86, 11-17-87, 3-23-88, 8-28-88, 1-31-91, 7-1-92, 7-14-92, Formerly 10-5.010, Amended 10-8-97, _____.

59C-1.013 Monitoring Procedures.

(1) No change.

(2) Project Status Reports.

(a) No change.

(b) The status reports shall be submitted on AHCA Form CON-2, Revised July 1997, and incorporated by reference herein. A copy of Form CON-2 may be obtained from:

Agency for Health Care Administration
Certificate of Need/Financial Analysis
2727 Mahan Drive, Building 3
Tallahassee, Florida 32308

~~Agency for Health Care Administration, Certificate of Need Office, Fort Knox Executive Center, 2727 Mahan Drive, Building 3, Tallahassee, FL 32308.~~

~~(c)1. For a certificate of need other than one designated as a multifacility project, A~~ a status report covering the first 15 months from the date of issuance of ~~a the~~ certificate of need shall be received by the agency no later than 14 calendar days after the end of the reporting period.

2. ~~For a certificate of need designated as a multifacility project, as defined in subsection 408.032(16), F.S., a status report covering the first 20 months from the date of issuance of the certificate of need shall be received by the agency no later than 14 calendar days after the end of the reporting period.~~

(3) Documentation. The following is a listing of all reports required for monitoring compliance with this rule section 59C-1.013 and rule 59C-1.018, F.A.C.

(a) through (b) No change.

~~(4)(e)~~ Reporting Requirements Subsequent to Licensure or Commencement of Services. All holders of a certificate of need that was issued ~~have been granted a certificate of need~~ predicated upon conditions expressed on the face of the certificate of need shall provide annual to the agency a compliance reports to the agency. The reporting period shall be January 1 through December 31 of each year. The holder ~~All holders~~ of a certificate of need who began operation after

January 1 will report from the date operation began through December 31. The compliance report shall be submitted no later than will be due into the agency on April 1 of the subsequent year.

(a) The compliance report will contain ~~the~~ information necessary for an assessment of ~~to assess~~ compliance with conditions on the certificate of need, utilizing measures, such as a percentage of patient days, that are consistent with the stated condition. ~~This requires that a measure or set of measures be developed which can be used to assess compliance with conditions. "Measure" means the act of ascertaining extent, dimension, quality or quantity of something in by comparison with the condition. The certificate of need holder is responsible for identifying the measures to be used in assessing his or her compliance with the conditions. The following type of information shall be provided in the holder's annual compliance report assessment of compliance with the condition:~~

1. The time period covered by the measures;
2. The measure for assessing compliance with each of the conditions identified and described on the face of the certificate of need;
3. The way in which the conditions were evaluated by applying the measures;
4. The ~~actual~~ data sources used to generate ~~the~~ information about ~~on~~ the conditions that were measured;
5. ~~The source of the data for the measure;~~
6. ~~The reasonableness of the measures and the confidence in the measures;~~
- 5.7. The person and position responsible for ~~defining the measures and~~ supplying the compliance report;
- 6.8. Any other information necessary for the agency to determine compliance with conditions; and,
- 7.9. If applicable, the reason or reasons, with supporting data, why the certificate of need holder was unable to meet the conditions set forth on the face of the certificate of need.

(b) A change in the licensee for a facility or service does not affect the obligation for that facility or service to continue to meet conditions imposed on a certificate of need and to provide annual condition compliance reports.

(c) Conditions imposed on a certificate of need may be modified consistent with rule 59C-1.019, F.A.C.

(5)(4) Violation of Certificate of Need Conditions. Health care providers found by the agency to be in noncompliance with conditions set forth in their certificate of need shall be fined as defined in section 59C-1.021, F.A.C.

Specific Authority 408.15(8), 408.034(5) FS. Law Implemented 408.033(1)(b), 408.040(1),(2),(3), ~~408.032(16), 408.044~~ FS. History-New 1-1-77, Amended 11-1-77, 9-1-78, 6-5-79, 2-1-81, 3-31-82, Formerly 10-5.13, Amended 11-24-86, 7-25-89, Formerly 10-5.013, Amended 10-18-95, 11-4-97, _____.

59C-1.018 Termination of Certificate of Need.

(1) Validity Period of Certificate of Need. A certificate of need shall terminate 18 months from the date of issuance unless the holder meets the applicable conditions for an extension set forth in subsection 408.040(2), Florida Statutes, and this rule, ~~or 2 years from the date of issuance if the certificate of need has been designated by the agency as a multifacility project as defined in subsection 408.032(16), Florida Statutes.~~

(2) Undertaking a Project Authorized by a Certificate of Need. A certificate of need will terminate after the 18-month ~~or~~ 2-year time frame set forth in subsection (1) unless the applicant meets one of the minimum requirements described below:

(a) Certificates of Need for New Construction or Renovation Projects.

1. A holder of a certificate of need with a project for new construction must, by the date of termination of the certificate of need, be deemed to have commenced continuous construction as defined in subsection 408.032(4)(3), Florida Statutes. For purposes of compliance, site preparation must be completed as defined below:

a. through 3. No change.

(b) Certificates of Need for Non-construction Projects.

1. A holder of a certificate of need for a non-construction project including ~~home health agencies,~~ hospice, bed conversions and establishment of new health services, or a substantial change in such services, must provide proof of having made an enforceable capital expenditure greater than 10 percent of the total project cost, or have received appropriate licensure and certification by the date of termination of the certificate of need.

2. No change.

(3) Extension of Validity Period.

(a) through (b) No change.

(c) Upon written request from the holder of a certificate of need received at least 15 days prior to the termination date of the certificate of need, and upon submission of a transfer application by the proposed transferee, the agency will extend the validity period of the proposed transferred certificate of need for a period of 60 days to ensure that the certificate of need remains valid throughout the agency's timetable for review of the transfer application. Only one such request for a 60 day extension will be granted under the provisions of this subsection.

Specific Authority 408.15(8), 408.034(5) FS. Law Implemented 408.040(2)(a)(b)(c) FS.; ~~Section 14, Chapter 97-270, Laws of Florida.~~ History-New 11-24-86, Amended 7-25-89, Formerly 10-5.018, Amended 10-8-97, _____.

59C-1.019 Modification of Certificate of Need.

(1) through (2) No change.

(3) Good cause includes, for example:

(a) Changes in the adequacy of reimbursement; or

(b) Changes in the overall ability of the health care facility, ~~home health agency~~, or hospice for which the certificate of need was issued to cover its costs if such changes are of such a degree that the continued viability of the health care facility, ~~home health agency~~, or hospice is seriously threatened; or

(c) Changes in agency rules and regulations substantially affecting the project.

(4) No change.

Specific Authority 408.15(8), 408.034(5) FS. Law Implemented 408.040(1)(c)(~~a~~) FS. History—New 11-24-86, Amended 7-25-89, Formerly 10-5.019, Amended 2-5-98.

59C-1.020 Effect on Licensure.

In the exercise of its authority to issue licenses to health care facilities, ~~home health agencies~~ and hospices, as provided by Chapters 395 and 400, Florida Statutes, the agency shall duly consider the certificate of need required by the Health Facility and Services Development Act, and shall not issue a license to a health care facility, ~~home health agency~~, or hospice which fails to receive a certificate of need or an exemption where required. The agency will only issue a license to a holder of a certificate of need for a health care facility, ~~home health agency~~ or hospice in accordance with the certificate of need, and no license will be issued for a number of beds less than the total on a certificate of need.

Specific Authority 408.15(8), 408.034(5)(2), (4) FS. Law Implemented 408.034(2) ~~408.035, 408.036, 408.040~~ FS. History—New 11-24-86, Amended 7-25-89, 1-31-91, Formerly 10-5.020, Amended.

AGENCY FOR HEALTH CARE ADMINISTRATION**Division of Managed Care and Health Quality**

RULE TITLE: Medicaid Contracts for Prepaid Health Plans

RULE NO.: 59G-8.100

PURPOSE AND EFFECT: The proposed rule will revise the current rule by adding new provisions. The agency is developing proposed rules for the establishment of a uniform system of assigning Medicaid recipients preferentially to Medicaid prepaid health plans based on quality of service and performance.

SUBJECT AREA TO BE ADDRESSED: Preferential Assignment of Medicaid Recipients to Medicaid Prepaid Health Plans.

SPECIFIC AUTHORITY: 409.9122(2)(k)1.e. FS.

LAW IMPLEMENTED: 409.9122(2)(k)1.e. FS.

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

TIME AND DATE: 10:00 a.m. – 2:00 p.m., July 24, 2000

PLACE: Agency for Health Care Administration, Building 3, First Floor Conference Room A, 2727 Mahan Drive, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Pamela A. Thomas, Chief, Bureau of Managed Health Care, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308, (850)922-6830

THE PRELIMINARY TEXT OF THE PROPOSED RULE WILL BE AVAILABLE JULY 17 FROM THE AGENCY FOR HEALTH CARE ADMINISTRATION. PLEASE CONTACT KEN HEMMERLY AT 414-8957.

DEPARTMENT OF MANAGEMENT SERVICES**Personnel Management System**

RULE TITLE:

RULE NO.:

Adoption Benefits for State and Water

Management District Employees

60L-25

PURPOSE AND EFFECT: To develop rules to implement s. 110.152, Florida Statutes, created by the 2000 Legislature, which provides monetary benefit for state employee who adopts a “special-needs” child or a child not defined as “special-needs”.

SUBJECT AREA TO BE ADDRESSED: To develop the policies regarding adoption benefits for state and water management district employees.

SPECIFIC AUTHORITY: 110.152 FS.

LAW IMPLEMENTED: 110.152 FS.

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

TIME AND DATE: 9:00 a.m., July 24, 2000

PLACE: Room 301, 4040 Esplanade Way, Tallahassee, Florida 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Anna Gray, State Employee Benefits and Training Program Manager, 4050 Esplanade Way, Tallahassee, Florida 32399-0950

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

RULE CHAPTER TITLE:

RULE CHAPTER NO.:

Examinations

61-11

PURPOSE AND EFFECT: The Department is considering amending rules in the above referenced rule chapter for the purpose of making any changes necessary based on recent legislation, public comment, the implementation of computer-based testing, and the need to update and streamline procedures. The effect will be the incorporation of any revisions made to these rules.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development will possibly result in changes to the Department's examination rules.

SPECIFIC AUTHORITY: 455.203(5), 455.217(1)(e), 455.229(2) FS.

LAW IMPLEMENTED: 119.07(3)(a), 120.60, 455.213(1), 455.217, 455.229 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Tom Thomas, Assistant General Counsel, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

RULE TITLES:	RULE NOS.:
Licensing Procedure for Manager's License	61-20.001
Expiration and Renewal of Manager's License	61-20.002
Notices of Non-Compliance	61-20.004
Disciplinary Guidelines	61-20.005
Mediation Offenses	61-20.006
Citation Offenses	61-20.007
Unexcused Absences	61-20.008

PURPOSE AND EFFECT: The Department is considering amending rules 61-20.001 and 61-20.002, as well as creating new rules as listed above. The purpose is to update the existing rules and conform them to reflect the transfer of this regulatory program to the Division of Professions. The new rules are being created to implement requirements imposed by Chapter 455, Florida Statutes, relating to notices of non-compliance, disciplinary guidelines, mediation offenses, citation offenses, and unexcused absences for members of the Regulatory Council of Community Association Managers. The effect will be to implement the provisions and requirements of Chapter 455, Florida Statutes, to provide greater clarity, and to implement the statutory requirements of this program, especially as they relate to disciplinary matters.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development will affect the regulation of community association managers as it relates to the Departments powers and duties.

SPECIFIC AUTHORITY: 455.203(5), 455.207(3), 455.2235(1), 455.224, 455.225(3), 455.2273, 468.4315, 468.4336(2) FS.

LAW IMPLEMENTED: 455.207(3), 455.2235, 455.224, 455.225(3), 455.227, 455.2273, 468.432, 468.433, 468.4336, 468.436 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Tom Thomas, Assistant General Counsel, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

RULE TITLE:	RULE NO.:
Board of Employee Leasing Citations	61-32.002

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment is to add additional violations of the employee leasing practice act to those which a citation may be issued in lieu of other discipline.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed in this rule is employee leasing citation violations.

SPECIFIC AUTHORITY: 455.201, 455.203(5), 455.224, 455.225 FS.

LAW IMPLEMENTED: 455.224, 455.225, 468.530, 468.532 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Tom Thomas, Assistant General Counsel, Office of the General Counsel, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE TITLE: RULE NO.:

Penalty Guidelines for Class IV and V Drug Violations 61D-6.011

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to interpret Florida Statutes which grant the Division the authority to adopt rules establishing penalty guidelines for Class I, II and III drug violations.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed in this rule is the interpretation of Florida Statutes necessary to establish penalty guidelines for Class I, II and III drug violations.

SPECIFIC AUTHORITY: 550.0251(3), 550.2415(3),(13) FS.

LAW IMPLEMENTED: 550.0251, 550.235(2) FS.

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

TIME AND DATE: 10:00 a.m. – 4:00 p.m., July 24, 2000

PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Room 312, 1940 N. Monroe Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Mary Polombo at (850)413-0750. If you are hearing or speech impaired, please contact the agency using the Florida Dual Party Relay System by calling 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Employee Leasing Companies

RULE TITLE: RULE NO.:

Delinquent License Fees 61G7-5.006

PURPOSE AND EFFECT: The Board proposes to update this rule, remove redundant language, and change the title so that the rule conforms more to the Statute.

SUBJECT AREA TO BE ADDRESSED: Delinquent License Fees.

SPECIFIC AUTHORITY: 468.522, 468.528 FS.

LAW IMPLEMENTED: 468.528 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Board of Employee Leasing Companies, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0767

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G7-5.006 Delinquent ~~Inactive~~ License Fees ~~Renewal~~.

~~(1) In the event any licensee fails to renew the license, the license shall automatically become delinquent.~~ A license delinquent 30 or less days may be returned to active status by the payment of the biennial license renewal fee plus a delinquent fee of \$300.00.

~~(2) A license delinquent more than 30 days shall become void without further action by the Board.~~

Specific Authority 468.522, 468.528 FS. Law Implemented 468.528 FS. History—New 4-25-94, Amended 8-17-94,_____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Employee Leasing Companies

RULE TITLE: RULE NO.:

Definitions 61G7-6.001

PURPOSE AND EFFECT: The Board proposes to substantially reword rule 61G7-6.001 to include all definitions relevant to this Chapter in this rule.

SUBJECT AREA TO BE ADDRESSED: Definitions.

SPECIFIC AUTHORITY: 468.520, 468.522, 468.525(3)(b) FS.

LAW IMPLEMENTED: 468.520, 468.525(4),(5), 468.529(1) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Anthony Spivey, Executive Director, Board of Employee Leasing Companies, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0767

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

(Substantial rewording of Rule 61G7-6.001 follows. See Florida Administrative Code for present text.)

61G7-6.001 Definitions Employee Leasing.

(1) "Actively involved" means the actual exercise of duties on behalf of an employee leasing company. Any natural person who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of any employee leasing company, through direct or indirect control of 50 percent or more of the voting securities of an employee leasing company, is deemed actively involved.

(2) "Arrangement" means the aggregate of any contracts or agreements between an admitted carrier and the employee leasing company related to the issuance of a policy of insurance for a health plan.

(3) "Assumes responsibility for the payment of wages" as used in s. 468.525(4)(b), F.S., means the obligation of the employee leasing company to comply with the terms of employment established with an employee relating to the payment of wages of the employee. At a minimum, such an agreement shall require compliance with the Fair Labor Standards Act, 29 U.S.C.A. Sections 201, et seq., 29 C.F.R. Sections 500-899, by the employee leasing company.

(4) "Controlling person" means any individual owning (in accordance with attribution rules of section 1563 of the Internal Revenue Code) or otherwise controlling the vote of more than 50% of the stock of an employee leasing company, or any officer who is actively involved in the day-to-day operation of the business of an employee leasing company and authorized to act in behalf of such company, as well as any other persons authorized by an employee leasing company to enter into a contractual relationship with a client company on behalf of the employee leasing company. Commencing October 1, 1992, licensure as a controlling person will authorize a controlling person to engage in business from offices in this state and to enter into a contractual relationship with a client company on behalf of an employee leasing company, provided the employee leasing company, for which the controlling person is working or on whose behalf the controlling person is entering into a contractual relationship, is licensed as an employee leasing company. Licensure as a controlling person will not authorize such controlling person to act as an employee leasing company without an employee leasing company license.

(5) "Employment responsibilities" means all those responsibilities generally incumbent on an employer, including payment of wages and taxes and the right to hire, direct, control, discipline, and terminate employees.

(6) "Full Responsibility" means complete and total responsibility for the collection of and payment of all payroll taxes which are payable to the Internal Revenue Service and/or to the State of Florida for services performed by leased employees as leased employees.

(7) "Health benefits or health plan," as used in § 468.529, F.S., means provision of comprehensive major medical health benefits.

(8) "Intangible assets" means assets that lack physical substance. The value of intangible assets is generally based on the value of the rights inherent in them or results from allocation of costs incurred to future periods, in which case they have no realizable or recoverable value outside of their ability to benefit future earnings in the normal course of operations. Intangible assets are normally subject to amortization. Examples of intangible assets include goodwill, copyrights, trademarks, patents, organization costs, deferred costs, client enrollment costs, and excess of assets acquired over purchase price.

(9) "Long-term ongoing nature" means a situation where a client company and an employee leasing company arrange for leased employees to do more than supplement the client company's workforce in special work situations, such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects. This definition in no way is meant to alter the concept of at-will employment.

(10) "Primarily responsible" means that the admitted carrier is liable for all claims incurred under the plan of insurance during its effective period, regardless of any reimbursement or indemnification agreement between the licensed employee leasing company and the carrier. Any reimbursement or indemnification agreement between the employee leasing company and the admitted insurance carrier shall not limit or diminish the carrier's primary responsibility for its obligations under the health plan for the payment of claims incurred or the provision of benefits under the health plan.

(11) "Responsibility for performing safety inspections," as used in s. 468.525(4)(e)1., F.S., means that the responsibility for performing such inspections for leased workers' safety is shared by both the employee leasing company and the client company. It does not mean sole and unilateral responsibility on the part of the leasing company and should not relieve the client company from responsibilities for its own actions or inactions or responsibility as owner, lessor, or operator of equipment and premises being utilized by the leased employees.

(12) "Shared responsibility" means that the client company exercises such right of direction and control over the leased employee as is necessary to conduct its business and without which the client would be unable to conduct its business, discharge any fiduciary responsibility which it may have, or comply with any applicable licensure, regulatory, or other responsibilities the client company may have.

(13) "Tangible accounting net worth" means net worth presented in accordance with generally accepted accounting principles as defined in Rule 61H1-20.007, F.A.C., reduced by the aggregate amount of intangible assets.

(14) "Temporary" means a situation in which leased employees are not needed on a long-term, ongoing basis, but rather are only needed to support or supplement the client company's work force in special work situations, such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects, for a period not to exceed one year.

(15) "Worksite" means the location within the State of Florida where the leased employee performs the job or function for which the employee was leased to a client. In a situation where more than one employer works at a worksite, only the workforce under the direct supervision and control of the client company and the employee leasing company shall be considered in determining majority status at a client company worksite. In a situation where an employee travels to various locations, worksite will be that location within the State of Florida where the employee is based, receives supervisory direction, or receives remuneration.

Specific Authority 468.520, 468.522, 468.525(3)(b) FS. Law Implemented 468.520, 468.522, 468.525(4), 468.529(1) FS. History—New 7-20-92, Formerly 21EE-6.001, Amended 9-14-93, 10-24-94, 7-18-95.

FLORIDA HOUSING FINANCE CORPORATION

RULE TITLES:	RULE NOS.:
Definitions	67-44.001
Notice of Funds Availability ("NOFA")	67-44.002
General Program Restrictions	67-44.003
Application Procedures	67-44.004
Application and Selection Procedures	67-44.005
Administrative Appeal Procedures	67-44.006
Credit Underwriting Procedures and Loan Origination	67-44.007
Construction Disbursements and Loan Servicing	67-44.008
Terms and Conditions of Loans	67-44.009
Compliance and Monitoring Provisions	67-44.010
Fees	67-44.011

PURPOSE AND EFFECT: This rule establishes the procedures by which the Florida Housing Finance Corporation shall administer the HAP Construction Loan Program, which provides below market interest rate construction loans to eligible nonprofit developers and sponsors for the construction or substantial rehabilitation of very low- and low-income home ownership housing. Revisions to the Rule are required to implement technical and clarifying changes. The adoption of these revisions will increase the efficiency and effectiveness of program service and will provide greater clarification of the program.

SUBJECT AREA TO BE ADDRESSED: The Rule Development Workshop will be held to receive comments and suggestions from interested persons relative to program requirements as specified in Rule Chapter 67-44 Florida Administrative Code.

SPECIFIC AUTHORITY: 420.507(12),(23) FS.

LAW IMPLEMENTED: 420.5088 FS.

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

TIME AND DATE: 2:00 p.m., Tuesday, August 1, 2000

PLACE: Florida Housing Finance Corporation, Seltzer Room, 6th Floor, 227 North Bronough Street, Tallahassee, Florida 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Bridget E. Warring, HAP Construction Loan Program, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329

Any person requiring special accommodation at this hearing because of a disability or physical impairment should contact Bridget E. Warring at the above address. If you are hearing or speech impaired, please use the Florida Dual Party Relay system which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

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

FLORIDA HOUSING FINANCE CORPORATION

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Home Investment Partnership Program (HOME) Home Ownership Construction Loan Program	67-47
RULE TITLES:	RULE NOS.:
Definitions	67-47.010
Notice of Funds Availability	67-47.020
Match Contribution Requirement	67-47.030
Reallocation for Disaster Areas	67-47.035
Minimum Set-aside of Funds for Community Development Organizations (CHDO's)	67-47.040
Income Targeting: Home Ownership	67-47.050
Eligible Activities	67-47.060
Eligible Applicant's Responsibilities	67-47.070
Eligible and Ineligible Development Costs	67-47.080
General Project Restrictions:	
Affordability Requirements	67-47.090
Application and Selection Procedures for Home Ownership Developments	67-47.100
Administrative Procedures	67-47.110
Terms and Conditions of Loans Made to Housing Providers	67-47.120
Terms and Conditions of Permanent Loans Made to Eligible Home Buyers or Home Owners	67-47.130
Credit Underwriting Procedures and Origination	67-47.140
Disbursement of Funds	67-47.150
Fees	67-47.160
Compliance Procedures	67-47.170
PURPOSE AND EFFECT: The purpose of Rule Chapter 67-47, Florida Administrative Code (FAC.), is to establish the procedures by which the Florida Housing Finance Corporation	

shall administer the application process, to allow (HOME) Home Ownership funds to be used for acquisition with new construction and existing home owner rehabilitation of single family housing for low income home buyers.

SUBJECT AREA TO BE ADDRESSED: Prior to the opening of an Application Cycle, the Corporation (1) researches the market need for affordable housing throughout the state of Florida and (2) evaluates prior application cycles to determine what changes or additions should be made to the Rule or Application. The proposed amendments to the Rule and adopted reference material include changes relative to the development of the 2000 application and program requirements.

SPECIFIC AUTHORITY: 420.507(12),(14) FS.

LAW IMPLEMENTED: 420.5089 (2) FS.

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

TIME AND DATE: 2:00 p.m., August 1, 2000

PLACE: Florida Housing Finance Corporation, 227 North Bronough Street, 6th Floor Seltzer Room, Tallahassee, Florida 32301-1329

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Beverly B. Cliett, Deputy Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329, (850)488-4197

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: Introduction of Non-Native Aquatic Species in the Waters of the State; Provisions for Sale and Inspection of Fish for Bait or Propagation Purposes; Diseased Fish

RULE NO.:

68A-23.008

PURPOSE AND EFFECT: The purpose of the proposed rule is to prohibit the introduction of mitten crabs, specifically the Chinese mitten crab, into Florida. The deletion of the "freshwater" references in the rule title will allow both freshwater and marine species to be addressed within the rule.

SUBJECT AREA TO BE ADDRESSED: Introduction of Non-Native Aquatic Species in the Waters of the State.

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Fla. Const.

LAW IMPLEMENTED: Art. IV, Sec. 9, Fla. Const.

TIME AND DATE: 9:00 a.m., each day, September 6-8, 2000

PLACE: Holiday Inn DeLand Convention Center, 350 East International Speedway Boulevard, DeLand, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: The preliminary text of the proposed rule development will be available and can be obtained from James V. Antista, General Counsel, 620 South Meridian Street, Tallahassee, FL 32399-1600

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

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Elections

RULE TITLE: Placement of Races on Primary Ballots

RULE NO.: 1S-2.002

PURPOSE AND EFFECT: To establish standards for the order and appearance of races of ballots in elections held by all governing bodies, political subdivisions and municipalities of the State of Florida.

SUMMARY: Constitutional Revision No. 11, Article VI, section 5(b) of the Florida Constitution was created in 1998 (effective January 1999) to provide, "If all candidates for an office have the same party affiliation and the winner will have no opposition in the general election, all qualified electors, regardless of party affiliation may vote in the primary elections for that office." Proposed rule 1S-2.002 provides standards for the placement of a race on the ballot in a manner consistent with the requirements of Article VI, section 5(b), and section 101.181, Florida Statutes, relating to form of the primary ballot.

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: 101.015, 101.5609 FS.

LAW IMPLEMENTED: 101.181, 101.5609 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: 9:30 a.m., August 31, 2000

PLACE: Director's Conference Room, Room 1801, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Paul Craft, Division of Elections, (850)921-4110

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.002 Placement of Races on Primary Ballots.

(1) Purpose and applicability.