

SUBJECT AREAS TO BE ADDRESSED: Trauma Registry.
 SPECIFIC AUTHORITY: 395.405 FS.
 LAW IMPLEMENTED 395.404, 395.4025 FS.
 RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:
 TIME AND DATE: 1:00 p.m., August 28, 2000
 PLACE: Pinellas Park Fire Department, 11350 Forty Third Street, North, Clearwater, Florida
 TIME AND DATE: 1:00 p.m., August 30, 2000
 PLACE: Department of Health, Bureau of Emergency Medical Services, 4025 Esplanade Way, Room 301 A & B, Tallahassee, Florida
 TIME AND DATE: 1:00 p.m., August 31, 2000
 PLACE: Metro-Dade Firefighters Memorial Building, 8000 N. W. 21 Street, Suite 222, Miami, Florida
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Pam Lesley, Senior Management Analyst, Bureau of Emergency Medical Services, Department of Health, 4052 Bald Cypress Way, Bin C18, Tallahassee, Florida 32399-1738, (850)245-4440, Ext. 2733
 DRAFT MATERIALS WILL BE AVAILABLE, UPON REQUEST, ONE WEEK PRIOR TO THE FIRST WORKSHOP.
 P.O. F00396

DEPARTMENT OF HEALTH

Division of Environmental Health and Statewide Programs

RULE CHAPTER TITLE: Residential Swimming Pools, Spas
 and Hot Tubs

RULE CHAPTER NO.: 64E-21

PURPOSE AND EFFECT: To adopt a nationally recognized drowning prevention education program to be approved for use in local safety education programs and to adopt a nationally recognized drowning prevention and responsibilities of pool ownership publication.

SUBJECT AREAS TO BE ADDRESSED: Residential swimming pool safety.

SPECIFIC AUTHORITY: 515.35 FS.

LAW IMPLEMENTED: 515 FS.

RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

TIME AND DATE: 10:00 – 11:00 a.m., August 28, 2000

PLACE: Pinellas Park Fire Department, 11350 Forty Third Street, North, Clearwater, Florida

TIME AND DATE: 10:00 – 11:00 a.m., August 30, 2000

PLACE: Department of Health, Bureau of Emergency Medical Services, 4025 Esplanade Way, Room 301 A & B, Tallahassee, Florida

TIME AND DATE: 10:00 – 11:00 a.m., August 31, 2000

PLACE: Metro-Dade Firefighters Memorial Building, 8000 N.W. 21 Street, Suite 222, Miami, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Pam Lesley, Senior Management Analyst, Bureau of Emergency Medical Services, Department of Health, 4052 Bald Cypress Way, Bin C18, Tallahassee, Florida 32399-1738, (850)245-4440, Ext. 2733
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.
 P.O. F00396

**Section II
 Proposed Rules**

DEPARTMENT OF INSURANCE

RULE TITLE:	RULE NO.:
Written Notice to Policyowner and Insurance Commissioner Required When Changing Life Insurance Portfolio	4-151.011

PURPOSE AND EFFECT: To provide written notice to consumers and the Insurance Commissioner when changing life insurance portfolio.

SUMMARY: The amendment repeals the rule. There is no authority for the rule and repeal is required.

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

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

SPECIFIC AUTHORITY: 624.308 FS.

LAW IMPLEMENTED: 624.307(1), 626.9541(1)(v) FS.

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

TIME AND DATE: 9:30 a.m., September 5, 2000

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bill Pace, Senior Management Analyst I, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0300

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 Bill Pace, (850)922-3110, Ext. 5124.

THE FULL TEXT OF THE PROPOSED RULE IS:

4-151.011 Written Notice to Policyowner and Insurance Commissioner Required When Changing Life Insurance Portfolio.

~~(1) Any licensee simultaneously holding a securities license and a life insurance agent's license who knows that existing life insurance has been or will be affected by lapse, surrender, lapse into paid-up or extended term insurance or by borrowing, and who in connection therewith makes a proposal to the policyowner of such insurance involving the purchase of securities, shall 15 days prior to taking any action to carry out the proposal, give a written notice to the policyowner and to the Insurance Commissioner.~~

~~(2) If it shall be impracticable to give such notice 15 days prior to taking action, such licensee shall obtain a notarized affidavit signed by the policyowner, stating why it was impracticable to give 15 days notice. If the policyowner refuses to sign such affidavit, such licensee shall make a notarized affidavit signed by himself, stating why it was impracticable to give 15 days notice. In either case, such licensee shall promptly give a copy of the affidavit and notice to the policyowner and the Insurance Commissioner.~~

~~(3) The notice required by subsection (1) shall be submitted on Form I-40(FL), "15 Days Notice to Policyowner and Insurance Commissioner," rev. 1-91, which is hereby adopted and incorporated by reference. The form may be obtained from and the department's copy shall be mailed to the Bureau of Life and Health Forms and Market Conduct Review, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, FL 32399-0300. A copy of the form shall be given to the policyowner, and the original shall be retained by the agent.~~

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.9541(1)(v) FS. History--New 12-20-62, Repromulgated 12-24-74, Formerly 4-15.01, Amended 5-20-90, Formerly 4-15.001, Amended 3-11-91, Formerly 4-24.022, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bill Pace, Senior Management Analyst I, Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rich Robleto, Chief, Bureau of L & H Forms and Rates, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 25, 2000

DEPARTMENT OF INSURANCE

RULE TITLES:	RULE NOS.:
Revision of Non-complying Policy Forms and Certification Required	4-154.103
Severability	4-154.108
Effective and Operative Dates	4-154.109

PURPOSE AND EFFECT: These rules were identified as being unnecessary during the rules review project pursuant to section 120.536(2)(b), F.S., and are thus being repealed.

SUMMARY: Rule 4-154.103 is no longer necessary because of the passage of time. Rule 4-154.108 is a useless severability provision. Rule 4-154.109 is now moot because the effective dates are no longer important.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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: 624.308, 627.643 FS.

LAW IMPLEMENTED: 627.642, 627.643 FS.

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

TIME AND DATE: 2:00 p.m., September 5, 2000

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Richard Robleto, Bureau Chief, Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, phone (850)413-5110

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Yvonne White, (850)413-4214.

THE FULL TEXT OF THE PROPOSED RULES IS:

4-154.103 Revision of Non-complying Policy Forms and Certification Required.

Specific Authority 627.643, 624.308 FS. Law Implemented 624.307(1), 627.642, 627.643 FS. History--New 1-1-75, Formerly 4-37.03, 4-37.003, Repealed.

4-154.108 Severability.

Specific Authority 627.643, 624.308, FS. Law Implemented 624.307(1), 627.642, 627.643 FS. History-New 1-1-75, Formerly 4-37.08, 4-37.008, Repealed

4-154.109 Effective and Operative Dates.

Specific Authority 627.643, 624.308 FS. Law Implemented 624.307(1), 627.642, 627.643 FS. History-New 1-1-75, Formerly 4-37.09, 4-37.009, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard Robleto, Bureau Chief, Life & Health Forms and Rates, Division of Insurer Services, Department of Insurance
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Belinda Miller, Director, Division of Insurer Services, Department of Insurance
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 25, 2000

DEPARTMENT OF INSURANCE

Table with 2 columns: RULE TITLES and RULE NOS.
Scope of Rules; Effective Date 4-163.001
Filing Requirements 4-163.004
Limits of Coverage; Credit Life 4-163.005
Limits of Coverage; Credit Disability 4-163.006
Term and Evidence of Insurance 4-163.007

PURPOSE AND EFFECT: These rules were identified as being unnecessary during the rules review project pursuant to section 120.536(2)(b), F.S., and are thus being repealed.

SUMMARY: The rules merely refer back to the statutes, which are self-implementing.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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: 627.678 FS.

LAW IMPLEMENTED: 627.677, 627.679, 627.681, 627.682 FS.

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

TIME AND DATE: 2:00 p.m., September 5, 2000

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Richard Robleto, Bureau Chief, Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, phone (850)413-5110

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Yvonne White at (850)413-4214.

THE FULL TEXT OF THE PROPOSED RULES IS:

4-163.001 Scope of Rules; Effective Date.

Specific Authority 627.678 FS. Law Implemented 627.677 FS. History-Repromulgated 12-24-74, Formerly 4-7.01, 4-7.001, Repealed

4-163.004 Filing Requirements.

Specific Authority 627.678 FS. Law Implemented 627.682 FS. History-Repromulgated 12-24-74, Formerly 4-7.04, 4-7.004, Repealed

4-163.005 Limits of Coverage; Credit Life.

Specific Authority 627.678 FS. Law Implemented 627.679 FS. History-Repromulgated 12-24-74, Formerly 4-7.05, 4-7.005, Repealed

4-163.006 Limits of Coverage; Credit Disability.

Specific Authority 627.678 FS. Law Implemented 627.679 FS. History-Repromulgated 12-24-74, Formerly 4-7.06, 4-7.006, Repealed

4-163.007 Term and Evidence of Insurance.

Specific Authority 627.678 FS. Law Implemented 627.681 FS. History-Repromulgated 12-24-74, Formerly 4-7.07, 4-7.007, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Rich Robleto, Bureau Chief, Life and Health Forms and Rates, Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Belinda Miller, Director, Division of Insurer Services, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 25, 2000

DEPARTMENT OF EDUCATION

State Board of Education

Table with 2 columns: RULE TITLE and RULE NO.
Comprehensive Management Information System 6A-1.0014

PURPOSE AND EFFECT: The purpose of this amendment is to revise existing requirements of the statewide comprehensive management information system which are necessary in order to implement changes recommended by school districts and to make changes in state reporting and local recordkeeping procedures for state and/or federal programs. The effect is to maintain compatibility among state and local information systems components. The statewide comprehensive management information system provides the data on which the measurement of school improvement and accountability is based.

SUMMARY: The rule incorporates revisions to selected data elements, procedures and timelines for state reporting, local recordkeeping, and statewide records transfer which are to be

implemented by each school district and the Department of Education within the automated statewide comprehensive management information system. The rule contains the security, privacy, and retention procedures to be used by the Department for school district, student, staff and finance records collected and maintained at the state level.

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 the notice.

SPECIFIC AUTHORITY: 229.053(1) FS.

LAW IMPLEMENTED: 228.093(3)(d)3., 229.555(2), 229.565(3), 229.781 FS.

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

TIME AND DATE: 9:00 a.m., September 12, 2000

PLACE: Room LL03, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Glenn Mayne, Director, Division of Technology, Department of Education, Room B1-14, 325 West Gaines Street, Tallahassee, Florida 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.0014 Comprehensive Management Information System.

(1) No change.

(2) The data elements, procedures and timelines for state reporting, local recordkeeping and statewide records transfer to be implemented by each school district and the Department within its automated information system component as prescribed in the publications entitled "DOE Information Data Base Requirements: Volume I - Automated Student Information System, 2000" 1995" "~~DOE Information Data Base Requirements: Volume I - Automated Student Information System, 1996 Addendum.~~" "~~DOE Information Data Base Requirements: Volume I - Automated Student Information System, 1997 Addendum.~~" "~~DOE Information Data Base Requirements: Volume I - Automated Student Information System, 1998 Addendum.~~" "~~DOE Information Data Base Requirements Volume I - Automated Student Information System, 1999 Addendum.~~" "~~DOE Information Data Base Requirements: Volume II - Automated Staff Information System, 2000.~~" 1995," "~~DOE Information Data Base Requirements Volume II - Automated Staff Information System, 1999 Addendum.~~" and "DOE Information Data Base Requirements: Volume III - Automated Finance Information System, 1995." These publications which include the Department procedures for the security, privacy, and retention of school district student and staff records collected and maintained at the state level are hereby incorporated by

reference and made a part of this rule. Copies of these publications may be obtained from the Education Information and Accountability Services Section, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399, at a cost to be established by the Commissioner not to exceed actual cost.

(3) No change.

Specific Authority 229.053(1) FS. Law Implemented 228.093(3)(d)3., 229.555(2), 229.565(3), 229.781 FS. History--New 2-19-87, Amended 12-21-87, 12-13-88, 3-25-90, 3-24-91, 3-17-92, 12-23-92, 2-16-94, 3-21-95, 7-4-96, 5-19-97, 10-13-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: George C. Haynie, Deputy Commissioner for Technology and Administration, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Gallagher, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 24, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 16, 2000

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: RULE NO.:

Accommodations of the Statewide Assessment Program Instruments and Procedures for Limited English Proficient Students 6A-6.09091

PURPOSE AND EFFECT: The purpose of this rule is to establish procedures for the provision of testing accommodations for students with limited English proficiencies. The accommodations will affect the administration of the High School Competency Test, the Florida Comprehensive Assessment Test, and the Florida Writing Assessment Test. The effect will be to allow students with limited English proficiency greater access to appropriate test modifications, thus allowing them to more fully participate in the statewide assessment testing programs and to allow more such students to meet the requirements for a regular high school diploma.

SUMMARY: This rule establishes procedures whereby appropriate accommodations may be made for limited English proficient students who are participating in statewide assessment testing programs. The procedures define the type of accommodations that may be provided to such students.

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 the notice.

SPECIFIC AUTHORITY: 229.57(14) FS.

LAW IMPLEMENTED: 229.57(3), 232.246(8) FS.

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

TIME AND DATE: 9:00 a.m., September 12, 2000

PLACE: Room LL03, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Betty Coxe, Deputy Commissioner for Educational Programs, Department of Education, The Capitol, Room PL08, Tallahassee, Florida 32399-0400, (850)413-0555

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.09091 Accommodations of the Statewide Assessment Program Instruments and Procedures for Limited English Proficient Students.

(1) The Department of Education shall provide accommodations for limited English proficient (LEP) students to enable them to fully participate in the statewide assessment program as defined in Section 229.57, Florida Statutes.

(2) Each school board shall utilize appropriate test accommodations within the limits prescribed herein. School district personnel are required to implement the accommodations in a manner that ensures the test responses are the independent work of the student. Personnel are prohibited from assisting a student in determining how the student will respond or directing or leading the student to a particular response.

(3) School districts shall offer test accommodations to LEP students who currently are receiving services in a program operated in accordance with an approved district LEP plan. The assessment tests may be administered with any one or a combination of the accommodations authorized herein that are determined to be appropriate for the individual student. Accommodations for statewide assessment tests shall include:

(a) High School Competency Test and Florida Comprehensive Assessment Test.

1. Students may be given additional time to complete each test section, and the entire test may be administered over one or more days. Students who begin any individual section of the test shall complete it in the same school day.

2. Students may be given access to English-to-heritage language/heritage language-to-English dictionaries such as those made available to LEP students in an instructional setting. A dictionary written exclusively in the heritage language or in English shall not be provided.

3. Students may be given the opportunity to be tested in a separate room with the English for Speakers of Other Languages (ESOL) or heritage language teacher serving as test administrator. If the student is not of legal age, the parents of said student shall be informed of this particular accommodation and shall be given the opportunity to select the preferred method of test administration.

4. Students taking the mathematics test section may be provided limited assistance by the ESOL or heritage language teacher using the student's heritage language. This assistance shall be as follows:

a. The teacher may answer student inquiries related to any of the test directions.

b. The teacher may answer specific inquiries concerning a word or phrase in a particular test question that is confusing the student because of limited English proficiency. In no case shall assistance be given the student in actually solving the mathematics questions.

c. Questions for clarification posed by individual students must be answered on an individual basis by the test administrator to prevent interference with another student's ability to concentrate.

5. Students taking the communications or reading test sections may be provided limited assistance by the ESOL or heritage language teacher using the student's heritage language. This assistance shall be as follows:

a. The teacher may answer student inquiries related to any of the general test directions as long as the student is not unmistakably led to infer the correct answer to any of the questions.

b. The teacher shall not answer students' inquiries about the reading passages, the question stems, or answer alternatives.

c. The students may have access to the dictionary specified in subparagraph (3)(a)2., of this rule, but the student is expected to read the reading passage, the question stems, and the answer alternatives in English.

(b) Writing Assessment Test.

1. Flexible setting. Students may be given the opportunity to be tested in a separate room with the ESOL or heritage language teacher serving as test administrator. If the student is not of legal age, the parents of said student shall be informed of this particular accommodation and shall be given the opportunity to select the preferred method of test administration.

2. Assistance in the heritage language. The ESOL or heritage language teacher may answer student questions about the general test directions in their heritage language, but the teacher is prohibited from answering questions about the writing prompt.

3. Flexible scheduling. Students may take the test during several brief sessions within one school day. All testing must be completed within the prescribed testing period shown in the test administration manual.

4. Flexible timing. Students may be provided additional time beyond the time limit specified in the test administration manual for administration of the test to non-LEP students.

5. Dictionary. LEP students may have access to English-to-heritage language/heritage language-to-English dictionaries, such as those made available to LEP students in an instructional setting. A dictionary written exclusively in the heritage language or in English shall not be provided.

(4) Each school board shall establish procedures whereby training shall be provided to the ESOL or heritage language teacher who is administering any of the statewide assessment tests. The training shall be designed to teach the teacher how to administer the statewide assessment tests within the limits prescribed in this rule.

(5) Limited English proficient students who otherwise are classified as exceptional education or handicapped students shall be afforded the additional test accommodations specified in Rule 6A-1.0943, FAC.

Specific Authority 229.57(14) FS. Law Implemented 229.57(3), 232.246(8) FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Betty Coxe, Deputy Commissioner for Educational Programs,
Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Tom Gallagher, Commissioner of
Education

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: March 24, 2000

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Residency for Tuition Purposes
RULE NO.: 6A-10.044

PURPOSE AND EFFECT: The purpose of this rule amendment is to revise the existing provisions governing residency status for tuition purposes. The effect will be to bring community college and state university residency policies into closer alignment as required by Section 240.1201, Florida Statutes.

SUMMARY: This amendment clarifies which non-U.S. citizens are eligible to establish Florida residency for tuition purposes; adds several specific visa and immigration categories to the list of eligible non-citizens.

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 the notice.

SPECIFIC AUTHORITY: 229.053(1), 240.325 FS.

LAW IMPLEMENTED: 240.1201 FS.

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

TIME AND DATE: 9:00 a.m., September 12, 2000

PLACE: Room LL03, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Betty Coxe, Deputy Commissioner for Educational Programs, Department of Education, The Capitol, Room PL08, Tallahassee, Florida 32399-0400, (850)413-0555

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-10.044 Residency for Tuition Purposes.

The State Board of Community Colleges and the Board of Regents shall maintain consistent policies and practices for the classification of students as residents for tuition purposes to facilitate the transfer of students among institutions. The policies and practices may vary to accommodate differences in governance, but the determinations of classification shall be consistent to assure students of being classified the same regardless of the institution determining the classification.

(1) through (3) No change.

(4) Non-U.S. citizens such as permanent residents ~~resident aliens~~, parolees, asylees, refugees, or other permanent status persons (e.g., conditional permanent residents and temporary residents ~~persons who married U.S. citizens and temporary permanent residents~~), who have applied to and have been approved by the U.S. Immigration and Naturalization Service with no date certain for departure for indefinite stay and employment shall be considered eligible to establish Florida residency for tuition purposes. In addition, nonimmigrants holding one of the following visas shall be considered eligible to establish Florida residency for tuition purposes. Persons in visa categories not listed herein shall be considered ineligible to establish Florida residency for tuition purposes.

(a) Visa category A – Government official.

(b) Visa category E – Treaty trader or investor.

(c) Visa category G – Representative of international organization.

(d) Visa category H-1 – Temporary worker performing professional nursing services or in a specialty occupation.

(e) Visa category H-4 – Only if spouse or child of alien classified H-1.

~~(f)(d)~~ Visa category I – Foreign information media representative.

~~(g)(e)~~ Visa category K – Fiance, fiancée, or a child of United States citizen(s).

(h) Visa category L – Intracompany transferee (including spouse or child).

(i) Visa category N – Parent or child of alien accorded special immigrant status.

(j) Visa category O-1 – Workers of “extraordinary” ability in the sciences, arts, education, business, or athletics.

- (k) Visa category O-3 – Only if spouse or child of O-1 alien.
- (l) Visa category R – Religious workers.
- (m) Visa category NATO 1-7 – Representatives and employees of NATO and their families.
- (5) Non-U.S. citizens who fall within the following categories shall also be considered eligible to establish Florida residency for tuition purposes:
 - (a) Citizens of Micronesia.
 - (b) Citizens of the Marshall Islands.
 - (c) Beneficiaries of the Family Unity Program.
 - (d) Individuals granted temporary protected status.
 - (e) Individuals granted withholding of deportation status.
 - (f) Individuals granted suspension of deportation status or cancellation of removal.
 - (g) Individuals granted a stay of deportation status.
 - (h) Individuals granted deferred action status.
 - (i) Individuals granted deferred enforced departure status.
 - (j) Applicants for adjustment of status.
 - (k) Asylum applicants with INS receipt or Immigration Court stamp.

Specific Authority 229.053(1), 240.325 FS. Law Implemented 240.1201 FS. History–New 10-6-92, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Betty Coxe, Deputy Commissioner for Educational Programs, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Gallagher, Commissioner of Education

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 21, 2000

DEPARTMENT OF REVENUE

RULE TITLES:	RULE NOS.:
Certificate of Sale	12-21.020
Application of Payments	12-21.030

PURPOSE AND EFFECT: The purpose of the proposed repeal of Rules 12-21.020 and 12-21.030, FAC., is to remove language that is redundant of statute and unnecessary, as required by s. 120.74(1)(c) and (d), F.S. The effect of these proposed repeals is to reduce the number of administrative rules maintained by the Department.

SUMMARY: Rule 12-21.020, FAC., requires the Sheriff to issue a certificate of sale whenever a taxpayer’s goods are sold for tax purposes. However, sections 56.25 and 213.74, F.S., contain a specific requirement mandating the issuance of a certificate of sale, which makes this rule redundant. Rule 12-21.030, FAC., states that the proceeds of a sale by the Sheriff must be disposed of pursuant to s. 213.75, F.S. Since

s. 213.75, F.S., contains specific guidelines for how tax payments or proceeds should be applied to an unpaid tax liability, this rule is unnecessary.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since the requirements and procedures associated with these proposed rule repeals are adequately covered by statute, there are no additional or significant regulatory costs involved. Therefore, no statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 72.011(2), 120.54(1), 199.202, 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 199.262, 201.16, 206.075, 206.97, 206.9835, 207.014, 211.125, 212.14, 212.15, 213.69, 213.73, 213.732, 213.74, 213.75, 336.021, 336.025 FS.

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

TIME AND DATE: 10:00 a.m., September 5, 2000
 PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4830

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE FULL TEXT OF THE PROPOSED RULES IS:

12-21.020 Certificate of Sale.
~~The Sheriff shall issue a certificate of sale pursuant to Section 56.25, F.S., and Section 213.74, F.S.~~

Specific Authority 72.011(2), 120.54(1), 199.202, 212.18(2), 213.06(1) FS. Law Implemented 199.262, 201.16, 206.075, 206.97, 206.9835, 207.014, 211.125, 212.14, 212.15, 213.69, 213.73, 213.732, 213.74, 213.75, 336.021, 336.025 FS. History–New 7-1-88, Repealed.

12-21.030 Application of Payments.
~~Application of payments shall be made consistently with Section 213.75, F.S.~~

Specific Authority 72.011(2), 120.54(1), 199.202, 212.18(2), 213.06(1) FS. Law Implemented 199.262, 201.16, 206.075, 206.97, 206.9835, 207.014, 211.125, 212.14, 212.15, 213.69, 213.73, 213.732, 213.74, 213.75, 336.021, 336.025 FS. History–New 7-1-88, Repealed.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 1, 2000

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLE: Tobacco Products
 RULE NO.: 12A-1.078

PURPOSE AND EFFECT: The purpose of the proposed repeal of Rule 12A-1.078, FAC., is to remove language that is unnecessary, as required by s. 120.74(1)(c), F.S. The effect of this proposed repeal is to reduce the number of administrative rules maintained by the Department.

SUMMARY: Rule 12A-1.078, FAC., states that the retail sale of tobacco products is subject to sales tax, including any other state and federal taxes. However, sections 212.02(3) and (16), 212.05(1) and (3), and 212.081(1), F.S., contain specific provisions concerning the application of sales tax to tobacco products, which makes this rule unnecessary.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since the requirements and procedures associated with this proposed rule repeal are adequately covered by statute, there are no additional or significant regulatory costs involved. Therefore, no statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS.
 LAW IMPLEMENTED: 212.02(3), 212.05(1), 212.081(1) FS.
 A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., September 5, 2000
 PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-9407

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance

and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-1.078 Tobacco Products.
~~Cigarettes and all other tobacco products, such as cigars, smoking tobacco, chewing tobacco, snuff, etc. are taxable. The tax is due on the total selling price paid by the purchaser, including any other state and federal taxes which are a part thereof.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(3), 212.05(1), 212.081(1) FS. History-Revised 10-7-68, 6-16-72, Formerly 12A-1.78, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-9407

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 1, 2000

DEPARTMENT OF CORRECTIONS

RULE TITLES:	RULE NOS.:
Inmate Grievances – General Policy	33-103.001
Inmate Grievances – Terminology and Definitions	33-103.002
Inmate Grievances – Training Requirements	33-103.003
Inmate Grievances – Staff and Inmate Participation	33-103.004
Formal Grievance – Institution or Facility Level	33-103.006
Inmate Grievances – Miscellaneous Provisions	33-103.015
Inmate Grievances – Reprisals	33-103.017
Inmate Grievances – Forms	33-103.019

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to provide definitions of applicable terms and clarify the procedures pertaining to inmate grievances.

SUMMARY: The proposed rule adds definitions of applicable terms, establishes forms for implementation of procedures relating to inmate grievances, corrects titles, and clarifies procedures for amendment of grievances and for the filing of grievances by inmates in special housing units.

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: 20.315, 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-103.001 Inmate Grievances – General Policy.

(1) The purpose of the grievance procedure is to provide an inmate with a channel for the administrative settlement of a grievance. In addition to providing the inmate with the opportunity of having a grievance heard and considered, this procedure will assist the department by providing additional means for internal resolution of problems and improving lines of communication. This procedure will also provide a written record in the event of subsequent judicial or administrative review. The inmate grievance procedure was fully certified by the United States Department of Justice in March, 1992, pursuant to the requirements of Sections 944.09 and 944.331, Florida Statutes.

(2) Each inmate shall be entitled to invoke the grievance procedure regardless of any disciplinary, classification or other administrative action or legislative decision to which the inmate may be subject. Each ~~The~~ institution shall ensure that the grievance mechanism is accessible to ~~impaired and disabled~~ inmates who have disabilities. This may be accomplished by providing assistance through the institution library if requested.

(3) Inmates can file complaints regarding the following matters:

(a) The substance, interpretation, and application of ~~policies, rules, and procedures of the facility and~~ department that affect them personally;

(b) through (d) No change.

(e) ~~Any matter relating to~~ Conditions of care or supervision within the authority of the Florida Department of Corrections, except as noted herein.

(4) No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 12-7-97, Formerly 33-29.001, Amended _____.

33-103.002 Inmate Grievances – Terminology and Definitions.

Terminology and Definitions. The following terms, as defined, shall be standard usage throughout the department:

(1) Amendment: where used herein, refers to an addition or change to a previously filed grievance.

(2)(4) Bureau of Inmate Grievance Appeals: The bureau authorized by the secretary to receive, review, investigate, evaluate, and respond to grievance appeals as defined in paragraph (8)(7). The Bureau of Inmate Grievance Appeals is located in the Office of the General Counsel and is managed by the Chief of Inmate Grievance Appeals.

(2) through (3) renumbered (3) through (4) No change.

(5)(4) Formal Grievance: This is a statement of complaint filed at the institutional or facility level with the warden, assistant warden or deputy warden, through the use of the Request for Administrative Remedy or Appeal, Form DC1-303. Form DC1-303 is incorporated by reference in rule 33-103.019. Formal grievances are addressed in rule 33-103.006, Florida Administrative Code.

(6)(5) General Procedure Policy and Practice: Subject matter of a grievance which has a substantial impact on the general inmate population.

(7)(6) Grievance: A written complaint or petition, either informal or formal, by an inmate concerning an incident, procedure policy, or condition within an institution, facility or the Department which affects the inmate complainant personally.

(8)(7) Grievance Appeal or Central Office Review: This is a statement of complaint filed with the Secretary of the Department of Corrections through the use of the Request for Administrative Remedy or Appeal, Form DC1-303. Appeals are addressed in rule 33-103.007, Florida Administrative Code.

(9) Grievance of Reprisal: refers to a grievance submitted by an inmate alleging that staff have or are threatening to take retaliatory action against the inmate for good faith participation in the inmate grievance procedure or for a particular incident.

(10)(8) Informal Grievance: This is an initial statement of complaint filed on an Inmate Request, DC6-236, with the staff member who is responsible in the particular area of the problem, ~~the classification team, the appropriate section head, or other institutional staff.~~ Form DC6-236 is incorporated by reference in rule 33-103.019.

(11) Literature Review Committee: The final reviewing authority for appeals regarding rejected reading material. The committee is composed of the Bureau Chief of Security Operations or his or her representative, the Bureau Chief of Inmate Grievance Appeals or his or her representative, and the Library Services Administrator or his or her representative.

(12) Recipient: A person or office receiving an inmate grievance for processing.

~~(13)(9)~~ Reviewing Authority: Staff who are authorized to sign grievances as the final authority for review, e.g., warden, assistant warden, or the Secretary's representative.

(a) through (b) No change.

~~(e) Community correctional centers or contract community facilities – the select exempt services staff person who has oversight responsibility of the community correctional center or contract community facility;~~

~~(c)(d)~~ Road prisons, vocational centers, and work camps, community correctional centers, and contract community facilities – warden or assistant warden of the supervising institution.

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

~~(14)(10)~~ No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09 FS. History–New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 12-7-97, Formerly 33-29.002, Amended _____.

33-103.003 Inmate Grievances – Training Requirements.

(1) No change.

(2) Inmate Orientation. Through the use of a standardized lesson plan, inmates will receive training in the use of the inmate grievance procedure by institution or facility staff. Inmates shall sign a statement acknowledging receipt of training on the inmate grievance procedure. A copy of this statement shall be placed in the inmate file. Form DC1-307, Acknowledgement of Receipt of Grievance Orientation, shall be used for this purpose. Form DC1-307 is incorporated by reference in Rule 33-103.019.

(a) through (b) No change.

(c) The orientation program shall include the following:

1. No change.

2. The written procedure shall be available in any language spoken by a significant proportion of the institution's population, and appropriate provisions shall be made for those speaking other ~~those~~ languages, as well as for the impaired and disabled;

3. through 4. No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09 FS. History–New 10-12-89, Amended 1-15-92, 4-10-95, 12-7-97, Formerly 33-29.003, Amended 8-1-00, _____.

33-103.004 Inmate Grievances – Staff and Inmate Participation.

(1) Inmate and employee participation in the grievance process will take the form of solicitation of written comments by inmates and employees on selected formal inmate grievances that staff determine will significantly impact the inmate population and which challenge general procedures ~~policy~~ and practices prior to the initial adjudication of the grievance. Each institution shall within 5 calendar days of receipt, post copies of this type of formal grievance on inmate and employee bulletin boards, circulate among all inmates in all disciplinary, administrative, and close management areas,

including all inmates under sentence of death. These grievances shall be posted and circulated without identification of individual names of identifying facts. Written comments must be received in the office of the reviewing authority as defined in 33-103.002(9)(a) through (d) within 5 calendar days from the date of posting in order to receive consideration. With the exception of submitting written comments, no inmate or employee who appears to be involved in the matter shall participate in any capacity in the final resolution of a grievance.

(2) Inmates and employees have the opportunity to review the effectiveness and credibility of the department's grievance procedure through the submission of written comments to the reviewing authority as defined in 33-103.002(9)(a) through (d). The reviewing authority as defined in 33-103.002(9)(a) through (d) shall review and respond to written comments received and institute procedural changes as appropriate. Comments received relating to this rule that are outside the decision making authority of the reviewing authority as defined in 33-103.002(9)(a) through (d) shall be forwarded to the Office of the General Counsel Bureau of Legal Services for review and appropriate action. If the comments or complaint focuses on the implementation of the rule at a particular institution, the reviewing authority as defined in 33-103.002(9)(a) through (d) has the authority to make necessary changes in this implementation consistent with the rule. If the comments or complaint deal with the content of the rule itself and the only way a change could be effected would be to change the rule, then it needs to be forwarded to the Office of the General Counsel Bureau of Legal Services. The Office of the General Counsel Bureau of Legal Services shall review the complaint to see if there appears to be a problem with the rule itself. If changes are necessary, the Office of the General Counsel Bureau of Legal Services coordinates the rule promulgation process. The warden shall receive a response and in turn advise the employee or inmate.

(3) through (4) No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09 FS. History–New 10-12-89, Amended 1-15-92, 4-10-95, 12-7-97, Formerly 33-29.004, Amended _____.

33-103.006 Formal Grievance – Institution or Facility Level.

(1) When an inmate decides to file a formal grievance, he shall do so by completing Form DC1-303, Request for Administrative Remedy or Appeal and filing within the time limits set forth in 33-103.011.

(a) No change.

~~(b) In community correctional centers and contract facilities, the form shall be sent to the select exempt services staff person who has oversight responsibility of the community correctional center or contract facility as defined in 33-103.002(9)(e).~~

~~(b)(6)~~ In road prisons, vocational centers, ~~and~~ work camps, community correctional centers and contract facilities the form shall be sent to the warden or assistant warden of the supervising institution.

(2) Procedural Requirements.

(a) through (i) No change.

(j) If the inmate is filing an amendment to a previously filed grievance or appeal, the inmate shall clearly state this at the beginning of PART A of the Request for Administrative Remedy or Appeal, Form DC1-303. Amendments are to be filed only regarding issues unknown or unavailable to the inmate at the time of filing the original grievance and must be submitted within a reasonable time frame of knowledge of the new information.

(3) through (8) No change.

(9) If an inmate is in a special housing unit and wants to file a grievance he shall submit the grievance to designated staff who shall be responsible for distribution of the grievance. The designated staff person shall complete Part "C" of the DC1-303 form by entering the inmate's committed name, DC number, institution, date of receipt, and sign as the recipient. If the staff person is not the institutional grievance coordinator he shall not read or classify the grievance.

~~(10)(9)~~ No change.

Specific Authority 20.351, 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 8-10-97, 12-7-97, 5-10-98, 2-17-99, Formerly 33-29.006, Amended 8-1-00, _____.

33-103.015 Inmate Grievances – Miscellaneous Provisions.

(1) No change.

(2) Form DC6-236 ~~DC3-005~~, Inmate Request, shall be available as a minimum from the institutional library, classification department, classification staff, and the housing officer of any living unit. Form DC1-303, Request For Administrative Remedy or Appeal, shall be available as a minimum from the institutional library, classification department, classification staff, and the housing officer of any housing location ~~confinement unit~~.

(3) The warden, assistant warden or deputy warden ~~or circuit administrator~~ is authorized to designate other staff to receive, review, and investigate any grievance of an institutional nature. The warden ~~or circuit administrator~~ is authorized to designate the assistant warden or deputy warden ~~or deputy circuit administrator~~ to grant and implement relief as approved by the warden ~~or warden or circuit administrator~~, except as to grievances involving discipline, medical grievances, grievances alleging violation of the Americans with Disabilities Act, grievances challenging placement in close management, grievances of an emergency nature, grievances of reprisal or grievances of a sensitive nature that are filed directly with the warden ~~or circuit administrator~~. For

grievances filed directly with the warden ~~or circuit administrator~~, the decision to approve, return, or deny the grievance shall be made by the warden ~~or reviewing authority~~.

(4) No change.

(5) The response to an informal grievance and a formal grievance shall include the following statement, or one similar in content and intent if the grievance is denied: You may obtain further administrative review of your complaint by obtaining form DC1-303, Request for Administrative Remedy or Appeal, completing the form, providing attachments as required, and forwarding your complaint to the warden, assistant warden, deputy warden or the Bureau of Inmate Grievance Appeals.

(6) No change.

(7) Writing paper and writing utensils shall be provided to those inmates who have insufficient ~~no~~ funds in their accounts if such are needed to prepare the grievance or grievance appeal. These supplies shall be available from the areas where the grievance forms are available as set forth in 33-103.015(2).

(8) through (11) No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 1-29-92, 9-3-92, 12-22-92, 7-11-93, 5-3-94, 4-10-95, 9-23-96, 8-10-97, 12-7-97, 5-10-98, 2-17-99, Formerly 33-29.015, Amended 8-1-00, _____.

33-103.017 Inmate Grievances – Reprisal.

(1) No action shall be taken against an inmate as the result of the submission of a grievance or appeal. Good faith use of or good faith participation in the grievance process shall not result in ~~formal or informal~~ reprisal against the inmate.

(2) No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 12-22-92, 4-10-95, Formerly 33-29.016, Amended _____.

33-103.019 Inmate Grievances – Forms.

The following forms relevant to this chapter are hereby incorporated by reference. A copy of any of these forms is available from the Bureau of Inmate Grievance Appeals, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. ~~If the forms are to be mailed, the request must be accompanied by a self-addressed stamped envelope.~~

(1) through (4) No change.

(5) Form DC1-307, Acknowledgement of Receipt of Grievance Orientation, effective _____.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 4-10-95, 12-7-97, Formerly 33-29.018, Amended 8-1-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Celeste Kemp

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore, Secretary, Department of Corrections

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 25, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: June 9, 2000

DEPARTMENT OF CORRECTIONS

RULE TITLES:	RULE NOS.:
Close Management	33-601.800
Close Management – General	33-601.801
Levels of Close Management	33-601.802
Privileges in Close Management	33-601.803
Close Management Review Team	33-601.804
Assignment to Close Management	33-601.805
Review of Assignment to Close Management	33-601.806
Close Management – Warden’s Responsibility	33-601.807
Close Management – Regional Director’s Responsibility	33-601.808
Close Management – Case Management Responsibilities	33-601.809
Close Management Facilities	33-601.810
Close Management – Other Conditions and Privileges	33-601.811
Close Management Records and Forms	33-601.812
Close Management – Rule Change Implementation	33-601.813

PURPOSE AND EFFECT: The purpose of the proposed rules is to add rule 33-601.800, to repeal rules 33-601.801-.813, and to clarify procedures relating to close management.

SUMMARY: The proposed rule adds applicable definitions and forms related to close management; clarify the roles of the Institutional Classification Team, State Classification Office, and classification officer; clarifying procedures related to who must make visits to close management units; delineating procedures related to review of placement in close management; setting forth requirements relating to mental health evaluations prior to placement in close management; and establishing procedures related to inmate personal plans for inmates placed in close management.

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: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

33-601.800 Close Management.

(1) Definitions.

(a) Area housing supervisor – a correctional officer sergeant, or above, who is in charge of the confinement unit for a particular shift.

(b) Clinical health care personnel – a physician, clinical associate, nurse, Correctional Medical Technician Certified (CMTC), psychologist or psychological specialist.

(c) Close Management (CM) – the confinement of an inmate apart from the general population, for reasons of security or the order and effective management of the institution, where the inmate, through his or her own behavior, has demonstrated an inability to live in the general population without abusing the rights and privileges of others.

(d) Close Management Levels – the three individual levels (CMI, CMII, and CMIII) associated with close management, with CMI being the most restrictive single cell housing level and CMIII being the least restrictive housing of the three CM levels.

(e) Close Management Plan – a program plan developed for individual inmates determined to be at risk for deterioration of mental health functioning as a result of prolonged confinement. The plan utilizes a variety of therapeutic activities, prevention, and intervention components from available mental health and program resources to prevent potential deterioration of mental health and adaptive functioning.

(f) Close Management Program Team – an interdisciplinary team of representatives from mental health, programs, classification, and security. This teams develops and monitors close management plans for individual inmates in close management determined to be at risk for potential deterioration of mental health or adaptive functioning as a result of prolonged confinement.

(g) Confinement Review – the evaluation of pertinent information or documentation concerning an inmate’s confinement status to determine if changes or modifications are required or recommended.

(h) Confinement Visit – personal contact by staff members with inmates in confinement status to ensure that their welfare is properly addressed.

(i) Institutional Classification Team (ICT) – the team consisting of the warden or assistant warden, classification supervisor, and chief of security, that is responsible for making work, program, housing and inmate status decisions at a facility and for making other recommendations to the State Classification Office (SCO).

(j) Institutional Classification Team Docket – the official record of an ICT hearing.

(k) Major Rule Violation – any assault, battery or attempted assault or battery; any spoken or written threat towards any person; inciting, attempting to incite or

participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; and any escape or escape attempt.

(l) Offender Based Information System (OBIS) – the department’s computer offender database system which is utilized to organize and store security, classification, program and other offender information.

(m) Restricted Labor Squad – an armed supervision work squad consisting of close custody inmates whose primary detail is farm operations.

(n) Senior Correctional Officer – a correctional officer lieutenant or above.

(o) Special risk inmate – any inmate who has demonstrated behavior that is or could be harmful to himself or herself.

(p) State Classification Office (SCO) – a staff member at the central office level who is responsible for the review of inmate classification decisions. Duties include approving or rejecting ICT recommendations

(2) Levels of Close Management.

(a) Close Management I (CMI).

1. Close Management I is the most restrictive single cell housing level of all the close management status designations.

2. An inmate assigned to CMI will be ineligible for a work assignment. An inmate may be placed in CMI without having previously been in CMII or III. Any of the following factors constitutes a basis for placement of an inmate in CMI status:

a. An incident causing death;

b. An act causing injury or an act which could have resulted in injury to another;

c. The taking of a hostage or an attempt to take a hostage;

d. Instigation or incitement of a riot or disorder;

e. Creating or causing property damage in excess of \$1,000;

f. Participation in or causing further institutional disruption during a riot or disorder;

g. An escape or escape attempt involving use of a weapon, outside assistance, use of equipment or tools to penetrate a secure perimeter or violence committed during or while on escape;

h. An escape or escape attempt from a secure perimeter;

i. An escape or escape attempt while under armed supervision while outside the perimeter of the institution;

j. Possession of weapons, ammunition, explosives, flammables, or initiation of or participation in trafficking of these items or trafficking in drugs;

k. Participation in a sexual assault or battery;

l. An inmate who meets the criteria for placement in CMII or CMIII and has been in close management previously during the current period of incarceration;

m. An inmate who is currently in CMII or CMIII and shows an inability to adjust as evidenced by continued disciplinary actions or unsatisfactory ratings;

n. Documented leadership in a security threat group that is certified by the threat assessment review committee in central office.

(b) Close Management II (CMII).

1. CMII is restrictive cell housing which may or may not be restricted to single cell housing.

2. An inmate may be placed into CMII without having previously been placed in CMIII. Any of the following factors constitutes a basis for placement of an inmate in CMII status:

a. An act or acts in the community, during other periods of confinement, or any circumstances associated with the current period of incarceration such that safety, security, and public safety concerns suggest further review prior to placement in open population;

b. A pattern of predatory actions which makes an inmate a threat to others;

c. An act causing injury or an act which could have resulted in injury to another;

d. An escape or an escape attempt from within the secure perimeter of a facility without violence, the use of weapons, the taking of hostages, the use of equipment or tools, or outside assistance;

e. Participation in riots or disorders during any period of incarceration;

f. A pattern of behavior during the present period of incarceration involving acts of violence or threats of violence;

g. Initiated or participated in a contraband trafficking operation involving negotiables, escape paraphernalia [other than items listed in (2)(a)2.j], or other items that present a threat to the safe and secure operation of the institution or facility;

h. Presents a risk to another inmate’s safety and well being in population, as identified by an act or acts which demonstrates an inability to live in general population without endangering others;

i. Has met the criteria for placement in CMIII and has been in close management previously during the current period of incarceration; and

j. Is currently in CMIII and shows an inability to adjust as evidenced by continued disciplinary action or unsatisfactory ratings.

(c) Close Management III.

1. CMIII is the least restrictive cell housing unit in close management.

2. Any of the following factors constitutes a basis for placement of an inmate in CMIII Status:

a. An escape or an escape attempt, or a documented history of escape from a non-secure facility or environment without violence, weapons, outside assistance, or the arrest for any other felony while on escape;

b. Assisting or aiding in an escape or an escape attempt;

c. A history of disciplinary action or institutional adjustment reflecting an inability to live in the general inmate population without disrupting the operation of the institution;

d. Participation in a predatory or aggressive act through the use of force or intimidation;

e. Participation in a riot or disorder by refusing to follow orders or staff;

f. Possession of unauthorized drugs, testing positive for drugs on a urinalysis test, possession of negotiables, escape paraphernalia [except items listed in (2)(a)2.j], or other items that present a threat to the safe and secure operation of the institution or facility; and

g. Validated membership in a security threat group that has been certified by the threat assessment review committee in central office.

(3) Procedures for Placement in Close Management.

(a) Close management is the confinement of an inmate apart from the general population, for reasons of security, or the order and effective management of the institution, where the inmate, through his or her own behavior, has demonstrated an inability to live in the general population without abusing the rights and privileges of others. The secretary shall designate which institutions are authorized to house close management inmates, based on the needs of the department.

(b) When an inmate in general population has committed acts that threaten the safety of others, threaten the security of the institution, or demonstrate an inability to live in the general population without abusing the rights and privileges of others, the inmate shall be placed in administrative confinement pending close management review. When an inmate in any other confinement status has committed acts that threaten the safety of others, threaten the security of the institution, or demonstrated an inability to live in a segregated population without abusing the rights and privileges of others the inmate shall be housed in his or her current status pending close management review. Inmates being considered for close management who have completed disciplinary confinement and the final decision regarding close management placement has not been determined will be housed in administrative confinement until the review and decision is made by the SCO.

(c) Prior to docketing an inmate's case for close management, the classification supervisor will submit a referral to the senior psychologist for evaluation of the inmate utilizing the Close Management Referral Assessment, DC6-128. Form DC6-128 is incorporated by reference in paragraph (18) of this rule.

(d) Mental health staff will complete the mental health review within two working days of receipt of Form DC6-128 from the classification supervisor. If the senior psychologist determines that no further evaluation is needed, he or she will forward Form DC6-128 to the classification supervisor with relevant recommendations. If the senior psychologist determines that further evaluation is needed, either the senior psychologist or psychiatrist will conduct an interview and evaluation with the inmate to determine the treatment needs of the inmate. This interview and evaluation will be completed within five working days after the SCO's final decision to place the inmate in close management and will include the following placement options: unrestricted placement, placement in a close management facility in which there is a provision for out patient mental health services, placement in a close management facility where intensive mental health services are available, or close management not recommended because of the inmate's current mental health condition. The senior psychologist or psychiatrist will forward Form DC6-128 to the classification supervisor with the results of the assessment and recommendation for the inmate.

(e) Upon receiving the mental health assessment the classification supervisor will submit the case for ICT Docket. The ICT will evaluate the charges, interview the inmate, and document its findings on the Report of Close Management, Form DC6-233c. Form DC6-233c is incorporated by reference in paragraph (18) of this rule. The inmate will be given a minimum of forty-eight hours to prepare for the review unless waived by completing a Close Management Waiver, Form DC6-265. Form DC6-265 is incorporated by reference in paragraph (18) of this rule. The inmate may present information verbally or in writing for consideration by the ICT. The team will document on Form DC6-233c that the inmate was informed of his or her allotted time to prepare for the review. The ICT is authorized to postpone the case review to allow an inmate additional time to prepare. If an extension of time is given, the team will document such postponement on form DC6-233c.

(f) A staff assistant will be assigned to assist an inmate when the team determines the inmate is illiterate or does not understand English, or when the complexity of the issue makes it unlikely that the inmate will be able to properly represent himself or herself. This assistance can also be offered at the inmate's request. In such event, it is the responsibility of the staff member to explain the close management recommendation and procedures to the inmate. Even though the staff member will be authorized to assist an inmate during the hearing and aid the inmate in presenting his or her position, the staff member will not take the position of an advocate or defense attorney for the inmate.

(g) ICT Hearing. The inmate will appear at the hearing unless he or she demonstrates disruptive behavior, either before or during the hearing, that impedes the process. In such

cases, the review will be completed without the inmate, and the absence or removal of the inmate will be documented on Form DC6-233c. After the interview and review of all pertinent information including the mental health assessment, the ICT will make a recommendation to the SCO. This recommendation will be documented on Form DC6-233c. The ICT will inform the inmate of the basis for its decision and provide a copy of the team's decision to the inmate after the conclusion of the hearing. The classification supervisor will enter the team results in OBIS.

(h) The SCO will review the recommendations of the ICT, the Close Management Referral Assessment, Form DC6-128, and other pertinent information before making the final decision regarding close management placement. This review will be on site and the SCO may interview the inmate, except in situations requiring more immediate action. In these cases, the SCO will review the documentation in OBIS. The SCO will approve, disapprove, or modify the ICT's recommendation or obtain further information from the team before reaching a final decision. If the team's recommendation is disapproved or modified by the SCO, the inmate will be informed of the decision in writing. Inmate notification will not be required when the SCO has approved the ICT's recommendation. After the review is complete, the SCO will document its decision in OBIS.

(4) Transfers From a Non-CM Institution.

(a) Once a recommendation is made, the team will enter the recommendation in OBIS and fax a copy of the DC6-233c reflecting the decision and signatures to the SCO.

(b) The inmate will remain in administrative or current confinement status pending review and final decision of the SCO. If the inmate's release date from disciplinary confinement expires, the inmate shall be placed in administrative confinement until the review and decision is made by the SCO. The SCO will review the recommendation from the ICT and either approve or disapprove the recommendation.

(c) If approved, the SCO will notify the Bureau of Sentence Structure and Transportation for future transfer of the inmate.

(d) If the recommendation is disapproved, the SCO will provide written notification to the ICT of the requesting institution on its decision not to transfer. After the review is complete, the SCO will document its decision in OBIS.

(5) Transfers While Inmate is in CM Status.

(a) If an inmate in close management is reassigned to another level of close management which requires transfer to another institution, the time spent awaiting transfer will be taken into consideration when setting the schedule of reviews by the ICT at the receiving institution.

(b) To transfer an inmate in close management status to another close management facility, the following will occur:

1. The ICT from the sending institution will recommend the appropriate level of close management based upon the criteria and facts for placement prior to the transfer.

2. Transfers will be limited to those inmates in close management who are being recommended for a close management level that the sending institution is not capable of providing, situations that involve special reviews, or situations that require an inmate to be moved to a higher level facility.

(c) The recommendation by the ICT to transfer a close management inmate will be decided by the SCO. If approved, the SCO will submit notification to the Bureau of Sentence Structure and Transportation for transfer of the inmate.

(d) The receiving institution shall then place the inmate directly into the approved close management status without completing an additional evaluation. If the recommendation is disapproved, the SCO will provide written notification to the ICT of the requesting institution of its decision not to transfer. After the review is complete, the SCO will document its decision in OBIS.

(6) Close Management Facilities.

(a) The number of inmates housed in a close management cell will not exceed the number of bunks in the cell.

(b) The only exception to Section (6)(a) is during an emergency situation as declared by the warden or duty warden. The emergency will be made known to the regional director and to the emergency action center in the central office. If the exception exists in excess of 24 hours, the warden or duty warden must get specific authorization from the regional director to continue to house inmates beyond the 24 hour period in such conditions.

(c) Prior to placing inmates in the same cell, the inmate will be interviewed by the housing supervisor and a review will be initiated to determine if any of the inmates in the close management unit are a threat to the inmate being placed, or if the inmate being placed is a threat to other inmates in the unit.

(d) If the inmate cannot be placed for these reasons, the housing supervisor will place or maintain the inmate in administrative confinement until the issue can be expeditiously resolved. The case will be immediately forwarded to the ICT for review. The ICT will review the case, interview the inmate, and forward recommendations to the SCO. The SCO will review the case and may interview the inmate and make a final decision on the inmate's placement.

(e) Water Supply to CM Units. All close management cells will be equipped with toilet facilities and running water for drinking and other sanitary purposes. Water in the cell can be turned off when necessary due to misbehavior. Misbehavior is defined as any activity exhibited by an inmate which causes an interruption in the water system and its proper function, such as intentionally clogging a toilet bowl or sink with paper in order to then flood the housing area. It also includes the intentional misuse of the water for such purposes as throwing it on staff or other inmates, or mixing it with another substance

for an unauthorized purpose (inmate mixes water with soap or shampoo and apply to the floor or himself or herself to hinder cell extraction). In such event, the inmate will be furnished with an adequate supply of drinking water by other means to prevent dehydration. This action can be taken in addition to formal disciplinary action being taken against the inmate pursuant to established procedures regarding disciplinary action. Any misbehavior from an inmate and subsequent action by security staff will be documented on the Daily Record of Segregation, Form DC6-229. Form DC6-229 is incorporated by reference in paragraph (18) of this rule.

(f) Prior to placement of an inmate in a close management cell, the cell will be thoroughly inspected by the housing officer to ensure that it is in proper order. The housing officer shall document the cell's condition on Form DC6-221, Cell Inspection. After such time, the inmate housed in that cell will be responsible for the condition of the cell. Form DC6-221 is incorporated by reference in paragraph (18) of this rule.

(g) The close management cells will be physically separate from other confinement cells, and have physical barriers to reduce cross association of those in close management with those in other status confinement when such locations are not possible. They will be built to permit verbal communication and unobstructed observation by the staff. The close management cells will not exceed the number of bunks in the cell, whenever possible, given the physical design of the facility and the number of inmates housed in close management.

(7) Close Management Plan (CMP).

(a) The close management program team consisting of representatives from mental health, programs, classification, and security will complete a CMP within 30 days of the inmate being placed in close management.

(b) The CMP will be developed based on the inmate's needs assessment and will take into consideration the inmate's CM level.

(c) The CMP will incorporate therapeutic activities and may include prevention and intervention components. The purpose of the plan will be to increase sensory stimulation using a variety of activities from available mental health and program resources.

(8) Conditions and Privileges.

(a) Clothing – Inmates in close management shall be provided the same clothing and clothing exchange as the general inmate population unless there are facts to suggest that on an individual basis exceptions are necessary for the welfare of the inmate or the security of the institution. In such cases, the exceptions shall be documented on Form DC6-229 and approved by the chief of security. Shower slides may be substituted for regulation shoes. Any item may be removed from the cell in order to prevent the inmate from inflicting injury to himself or herself or others or to prevent the destruction of property or equipment. If an inmate's clothing is

removed, a modesty garment shall be immediately obtained and given to the inmate. If the inmate chooses not to wear the garment, the garment shall be left in the cell and this action shall be documented on Form DC6-229, Daily Record of Segregation. Under no circumstances shall an inmate be left without a means to cover himself or herself.

(b) Bedding and linen – Bedding and linen for inmates in close management shall be issued and exchanged the same as is provided to the general inmate population. Any exceptions shall be based on potential harm to individuals or a threat to the security of the institution. The shift supervisor or the senior correctional officer must approve the action initially. Such exceptions shall be documented on Form DC6-229 and the chief of security shall make the final decision in regard to action no later than the next working day following the action.

(c) Personal Property – Inmates shall be allowed to retain personal property including stamps, watches, rings and health and comfort items unless there is a indication of a security problem. Exceptions or removal of any item will be documented on the DC6-229. An Inmate Impounded Personal Property List, Form DC6-220, will be completed by security staff and signed by the inmate designating what personal items were removed. The original will then be placed in the inmate's property file and a copy of the form will be given to the inmate for his or her records. Radios and television sets are not authorized for an inmate in close management. Form DC6-220 is incorporated by reference in Rule 33-501.401.

(d) Comfort Items – Inmates in close management shall be permitted personal hygiene items and other medically needed or prescribed items such as eye glasses or hearing aids, except when security requirements dictate otherwise. Inmates in close management shall not possess any products that contain baby oil, mineral oil, cocoa butter, or alcohol. In the event certain items that inmates in close management are not normally prohibited from possessing are removed, the senior correctional officer shall be notified and must approve the action taken, or the item must be returned to the inmate. Action taken shall be recorded on the Daily Record of Segregation, Form DC6-229, which must be reviewed by the chief of security. When any personal property is removed, a Receipt for Personal Property, Form DC6-227, designating what personal items were removed, shall be completed by security staff and signed by the inmate. Form DC6-227 is incorporated by reference in (18) of this rule. The following comfort items shall be provided as a minimum: toothbrush, toothpaste, bar of soap, towel or paper towels, and feminine hygiene products for women, and toilet tissue.

(e) Personal Hygiene – Inmates in close management shall meet the same standards in regard to personal hygiene as required of the general inmate population.

1. At a minimum each inmate in confinement shall shower three times per week and on days that the inmate works.

2. Male inmates shall be required to shave at least three times per week. Hair care shall be the same as that provided to and required of the general population inmates.

(f) Diet and Meals – All inmates in close management shall receive normal institutional meals as are available to the general inmate population except that if any item on the regular menu might create a security problem in the confinement area, then another item of comparable quality shall be substituted. An alternative meal (special management meal) may be provided for any inmate in close management who uses food or food service equipment in a manner that is hazardous to himself or herself, staff, or other inmates. The issuance of a special management meal will be in strict accordance with rule 33-602.223. Any deviation from established meal service is to be documented by security staff on the Daily Record of Segregation, Form DC6-229.

(g) Canteen Items. Inmates in CMI and II will be allowed to make canteen purchases once per month unless restricted by disciplinary action. Canteen purchases are subject to the following limitations, unless modified by the ICT:

1. Inmates in CMI and II will be restricted to a limit of five non-food items. In making this determination, with the exception of stamps and notebook paper, it is the number of non-food items that is counted not the type of item. For example, three security pens counts as three items, not one item. Twenty-five stamps or fewer will count as one item and two packages or less of notebook paper will count as one item.

2. Inmates in CMIII will be allowed to make canteen purchases once every two weeks unless restricted by disciplinary action. Canteen purchases are subject to the following limitations, unless modified by the ICT: Inmates in CMIII will be restricted to five non-food items and four food items. In making the determination for food, it is the number of food items that is counted not the type of item. For example, three packages of cookies count as three items, not one item.

3. The ICT has the authority to suspend privileges for canteen purchases when the inmate fails to comply with the rules and procedures established for close management. Any action taken by the ICT regarding the suspension or limiting of privileges will be documented on the Daily Record of Segregation, DC6-229.

(h) Religious Accommodations. Inmates in close management status shall be allowed to participate in religious ceremonies that can be accomplished at cell-side (for example, communion).

(i) Counseling Interviews – Inmates in close management may be removed from their cells to attend any counseling session when there is no security problem involved.

(j) Legal Access – An inmate in close management will have access to his or her personal legal papers and law books and have correspondence access with the law library. Access to the law library will be obtained through delivery of research materials to an inmate's cell, and access to visits with certified

inmate law clerks. Although the inmate may not be represented by an attorney at any administrative hearing, access to an attorney or aide to that attorney will be granted for legal visits at any reasonable time during normal business hours. Indigent inmates will be provided paper and writing utensils in order to prepare legal papers. Inmates who are not indigent will be allowed to purchase paper and envelopes for this purpose by completing Form DC6-251, CMI and II Canteen Order, or Form DC6-252, CMIII Canteen Order, within the stated time frames. Forms DC6-251 and DC6-252 are incorporated by reference in paragraph (18) of this rule. Typewriters or typing services are not considered required items and will not be permitted in confinement cells.

(k) Correspondence – Inmates in close management shall have the same opportunities for correspondence that are available to the general inmate population.

(l) Writing utensils – Inmates in close management shall possess only security pens. Other types of pens shall be confiscated and stored until the inmate is released from close management status. If a security pen is not available, the inmate shall be allowed to sign out a regular pen from the confinement unit officer. All care shall be taken to ensure that an inmate who requests access to a pen in order to prepare legal documents or legal mail or to file a grievance with the department has access to a pen for a time period sufficient to prepare the legal mail, documents, or grievances.

(m) Reading materials – Reading materials, including scriptural or devotional materials and books that are in compliance with admissibility requirements, are allowed in close management units unless there is an indication of a threat to the safety, security, or sanitation of the institution. If it is determined that there is a safety, security or sanitation risk, the items will be removed. Such removal of reading materials will be documented on Form DC6-229, Daily Record of Segregation.

(n) Exercise – Those inmates confined on a 24-hour basis excluding showers and clinic trips may exercise in their cells. If the inmate requests a physical fitness program handout, the wellness specialist or the confinement officer shall provide the inmate with an in-cell exercise guide and document such on the Daily Record of Segregation, Form DC6-229. However, if confinement extends beyond a 30-day period, an exercise schedule shall be implemented to ensure a minimum of three hours per week of exercise out of doors. The assignment and participation of an inmate on the restricted labor squad will satisfy the minimum exercise requirements. Such exercise periods shall be documented on Form DC6-229. The ICT is authorized to restrict exercise for an individual inmate only when the inmate is found guilty of a major rule violation. In this instance, a major rule violation is defined as: any assault, battery or attempted assault or battery; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance;

fighting; possession of weapons, ammunition, explosives or escape paraphernalia; escape or escape attempt. Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be for no more than 15 days per incident and for no longer than 30 days in cumulative length. Medical restrictions determined by health services staff can also place limitations on the amount and type of exercise permitted. Such restrictions of exercise periods will be documented on the Daily Record of Segregation, Form DC6-229.

(9) Privileges in Close Management Units.

(a) While in a close management unit, an inmate's movement within the institution and contacts with other individuals will be restricted. Privileges will also be limited depending on the specific close management level.

(b) CMI. Privileges for an inmate assigned to CMI who maintains a satisfactory adjustment are as follows:

1. Participation in available approved programs that the inmate can perform within the cell after a minimum period of at least six months with a clear disciplinary record since assignment to close management;

2. Check out one soft-back book from the library at least once per week and possess no more than four personal soft back books at any given time.

3. Conduct routine inmate bank transactions once per month;

4. Subscribe to one magazine as provided for in rule 33-602.401 and possess no more than four issues at any given time;

5. Make emergency telephone calls and telephone calls to an attorney as explained in rule 33-602.205;

6. Receive a personal visit after completing 90 days of satisfactory adjustment in close management status and having maintained a clear disciplinary record since assignment to close management. If found guilty of any disciplinary infractions while assigned to CMI, the inmate is eligible to be considered for visits 90 days following release from disciplinary status or the disciplinary hearing.

7. If a penalty other than disciplinary confinement was imposed, with a continued clear disciplinary record, the inmate is eligible to receive personal visits after each subsequent 90 day period with a continued clear disciplinary record and satisfactory adjustment while in the status unless security or safety concerns would preclude a visit. A CMI inmate is eligible for a maximum of four visits per year. All visits for CMI inmates in CMI will be non-contact visits.

(c) CMII. In addition to the privileges provided for CMI inmates, [with the exclusion of (9)(b)], CMII inmates will be eligible to receive personal visits:

1. After completing 60 days of satisfactory adjustment in close management status and having maintained a clear disciplinary record since being assigned to close management.

2. If found guilty of any disciplinary infraction while assigned to CMII, the inmate is eligible to be considered for visits 60 days following release from disciplinary status or the disciplinary hearing if a penalty other than disciplinary confinement was imposed, with a continued clear disciplinary record.

3. The inmate is eligible to receive personal visits after each subsequent 60 day period with a continued clear disciplinary record and satisfactory adjustment while in the status unless security and safety concerns would preclude a visit. A CMII inmate is eligible for a maximum of six visits per year. All visits for inmates in CMII will be non-contact visits.

(d) CMIII. In addition to the privileges provided above for CMI inmates, [with the exclusion of (9)(b)], CMIII inmates will be entitled to the following:

1. A personal visit after completing 60 days of satisfactory adjustment in close management status and having maintained a clear disciplinary record since being assigned to close management.

2. If found guilty of a disciplinary infraction while assigned to CMIII, the inmate is eligible to be considered for visits 30 days following release from disciplinary status or the disciplinary hearing if a penalty other than disciplinary confinement was imposed, and the inmate has a continued clear disciplinary record.

3. The inmate is eligible to receive personal visits after each subsequent 30 day period with a continued clear disciplinary record and satisfactory adjustment while in the status unless security or safety concern would preclude a visit. A CMIII inmate is eligible for a maximum of 11 visits per year. The level of supervision and restraint of CMIII inmates during visits will be determined by the warden.

4. Day room privileges after six continuous months with a clear disciplinary record and above satisfactory adjustment within the close management unit unless security and safety concerns would preclude day room activities. This privilege will be limited to once per week for up to two hours in duration.

5. Purchase a maximum of four canteen food items if the inmate has not received a disciplinary report for 90 days while in close management status. In making this determination, it is the number of food items that is considered, not the type of food. For example, three packages of cookies count as three items, not one item.

6. Any disciplinary reports received by an inmate between the time that he or she requests canteen food items and the delivery of those items will result in disapproval of those requested items.

(10) Suspension of Privileges.

(a) In addition to the suspension of privileges through disciplinary action, the ICT has the authority to suspend privileges for inmates in close management status who fail to comply with the rules and procedures established for close management.

(b) The ICT shall suspend an inmate's privileges if security and safety concerns would preclude an inmate from receiving certain privileges. Any action taken by the ICT regarding the suspension or limiting of privileges will be documented on the Daily Record of Segregation, Form DC6-229. Privileges suspended by the ICT in excess of 90 days will require the review and approval of the SCO.

(11) Work Assignments.

(a) The decision to make work assignments and the type of assignments made will be determined by the ICT. Inmates shall be provided the opportunity for work assignment consideration as determined by the ICT except when precluded by doctor's orders for medical reasons.

(b) CMI inmates are restricted from all outside cell work activities. CMII inmates are only eligible for work assignments on restricted labor squads or in CMI, II, or death row housing units. CMIII inmates are eligible for work assignments either inside or outside the close management unit, including restricted labor squads, work assignments within other close management units, and work assignments usually designated for open population inmates.

(c) Work assignments shall be performed during day light hours.

(12) Restraint and Escort Requirements.

(a) Prior to opening a cell for any purpose, including exercise, medical or disciplinary call-outs, telephone calls, recreation, and visiting, all inmates in the cell shall be handcuffed behind their backs. If documented medical conditions require that inmates be handcuffed in front, the escort officers shall be particularly vigilant.

(b) A minimum of two officers shall be physically present at the cell whenever the cell door is opened.

(c) Prior to escorting an inmate from a cell the inmate shall be thoroughly searched. If the inmate is being taken outside the immediate housing unit, leg irons and other restraint devices shall be applied.

(d) Due to the unique mission of close management units, it is understood that more than one inmate may be out of his or her cell within the unit at any one time. However, whenever inmates are being escorted in restraints, there shall be one officer with each inmate and the inmates shall be kept at a distance from each other which would preclude any unauthorized physical contact.

(13)(a) Contact by Staff.

(b) Inmates in close management shall receive a personal contact or visit by the following staff members. All visits by staff shall be documented on the Inspection of Special Housing Record, Form DC6-228. Form DC6-228 is incorporated by

reference in paragraph (18) of this rule. The staff member shall also document his or her visit on the Daily Record of Segregation, Form DC6-229, if there is any discussion of significance, action or behavior of the inmate, or any other important evidential information which may have an influence or effect on the status of confinement. These visits shall be conducted at a minimum of:

1. At least every 30 minutes by a correctional officer, but on an irregular schedule.

2. Daily by the area housing supervisor.

3. Daily by the officer-in-charge on duty for all shifts except in case of riot or other institutional emergency.

4. Daily by the chief of security (when on duty at the facility) except in case of riot or other institutional emergency.

5. Daily by a clinical health care person.

6. Weekly by the chaplain. More frequent visits shall be made upon request of the inmate if the chaplain's schedule permits.

7. Weekly by the warden and assistant wardens.

8. At least once a week by a classification officer.

9. At least once a month by a member of the ICT to ensure that the inmate's welfare is properly provided for, and to determine the time and method of release or any program changes.

(14) Special Risk Inmates.

(a) Any inmate who has demonstrated behavior that is or could be harmful to himself or herself shall be designated as a special risk inmate. If the inmate demonstrates bizarre, mentally disordered, or self-destructive behavior, the medical department shall be immediately contacted to determine if special watch or suicide watch procedures shall be initiated.

(b) Suicidal inmates shall be removed to a designated area where a correctional officer or health care staff provides observation. Visual checks shall be made in accordance with medical protocols or at least every 30 minutes and shall be documented on Form DC4-650, Observation Checklist/Restraint Observation Checklist, until the inmate is no longer considered a special risk inmate. All actions taken by staff with regard to special risk inmates shall be documented on Form DC6-229 and followed with an Incident Report, Form DC6-210. Form DC4-650 is incorporated by reference in paragraph (18) of this rule. Form DC6-210 is incorporated by reference in Rule 33-602.210.

(15) Review of Close Management.

(a) An ICT member shall review inmates in close management at least once every week for the first 60 days and once every 30 days thereafter. The purpose shall be toward reducing the inmate's status to the lowest management level or returning the inmate to open population as soon as the facts of the case indicate that this can be done safely.

(b) Any inmate assigned to close management for more than 30 days shall be given a psychological assessment by mental health professional staff to determine the inmate's mental condition. The assessment shall include a personal interview. The psychologist or psychological specialist shall prepare a report to the ICT with the facts of the case. The ICT shall then make a decision regarding continuation of confinement. Any recommendations by the psychologist or psychologist specialist that the inmate be released from close management shall be forwarded by the ICT to the SCO. All such assessments shall be documented in the mental health record. If the decision is to continue confinement and that confinement extends beyond 90 days, a new psychological assessment shall be completed each 90-day period.

(c) The close management program team (CMPT) will review the CMP at least 30 days after the implementation of the plan and at least every 60 days thereafter. All changes and or modifications will be documented on the inmate's CMP. The CMPT's review will include the following:

1. An assessment of the status of the inmate's adaptive functioning.
2. An evaluation of the status of the close management plan's objectives and goals, and
3. A determination if changes or modifications to the current plan are needed.

(d) When an inmate has not been released to general population and is in any close management status for six months, the classification officer shall interview the inmate and shall prepare a formal assessment and evaluation on the Report of close management. Such reports shall include a brief paragraph detailing the basis for confinement, what has transpired during the six month period, and whether the inmate should be released, maintained at the current level, or reduced to a lower level of management. The case shall be forwarded to the classification supervisor who shall docket the case for ICT review.

(e) The ICT shall review the report of close management prepared by the classification officer, insert any other information regarding the inmate's status and interview the inmate. The ICT's recommendation shall be documented in OBIS and the Report of Close Management, Form DC6-233c. If it is determined that no justifiable safety and security issues exists for the inmate to remain in close management the ICT shall forward their recommendation for release to the SCO for review. For an inmate to remain in close management the ICT shall justify the safety and security issues or circumstances that can only be met by maintaining the inmate at the current level or a lower level of management.

(f) The SCO shall conduct an onsite interview with each inmate at least once every six months or as often as necessary to determine if continuation, modification, or removal from close management status is appropriate. The SCO shall advise the inmate of the decision. The SCO shall review all reports

prepared by the ICT concerning an inmate's close management status and may interview the inmate before determining the final disposition of the inmate's close management status. If it is determined that no justifiable safety and security issues exist for the inmate to remain in close management the SCO shall cause the inmate to be immediately released. For an inmate to remain in close management, the SCO shall determine based on the reports and documentation that there are safety and security issues or circumstances for maintaining the inmate at the current level or at a lower level of management. The SCO's decision shall be documented in OBIS and the Report of Close Management, Form DC6-233c.

(16) Close Management Records.

(a) A Report of Close Management, Form DC6-233c, shall be kept for each inmate placed in close management.

(b) A Daily Record of Segregation, Form DC6-229, shall be maintained for each inmate as long as he is in close management. Form DC6-229 shall be utilized to document any activities, including cell searches, items removed, showers, recreation, haircuts and shaves. If items that inmates in close management are not prohibited from possessing are denied or removed from the inmate, the shift supervisor or the senior correctional officer must approve the action initially. The items denied or removed shall be documented on Form DC6-229 and the chief of security shall make the final decision in regard to the action no later than the next working day following the action. The confinement housing officer shall make a notation of any unusual occurrences or changes in the inmate's behavior and any action taken. Changes in housing location or any other special action shall also be noted. Form DC6-229 shall be maintained in the housing area for one week, at which time the form shall be forwarded to the ICT for review. Once reviewed, these forms shall be forwarded to classification to be filed in the institutional inmate record.

(c) An Inspection of Special Housing Record, Form DC6-228, shall be maintained in each close management area. Each staff person shall sign the record when entering and leaving the confinement area. Prior to leaving the confinement area, each staff member shall indicate any specific problems, including any inmate who requires special attention. Upon completion, Form DC6-228 shall be maintained in the housing area and forwarded to the chief of security on a weekly basis where it shall be maintained on file pursuant to the current retention schedule.

(17) Staffing Issues.

(a) Officers assigned to a confinement unit shall be rotated to another assignment every 18 months for a period of at least one year. Any officer assigned to a confinement post shall be authorized a minimum period of five days annual leave or a five day assignment to a less stressful post every six months.

(b) The Inspector General shall notify the warden and regional director of any officer involved in eight or more use of force incidents in an 18 month period. The regional director shall review the circumstances for possible reassignment.

(18) Forms. The following forms referenced in this rule are hereby incorporated by reference. Copies of any of these forms are available from the Forms Control Administrator, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) Form DC4-650, Observation Checklist/Restraint Observation Checklist, effective date _____.

(b) Form DC6-128, Close Management Referral Assessment, effective date _____.

(c) Form DC6-221, Cell Inspection, effective date _____.

(d) Form DC6-227, Receipt for Personal Property, effective date _____.

(e) Form DC6-228, Inspection of Special Housing Record, effective date _____.

(f) Form DC6-229, Daily Record of Segregation, effective date _____.

(g) Form DC6-233c, Report of Close Management, effective date _____.

(h) Form DC6-251, CMI and II Canteen Order, effective _____.

(i) Form DC6-252, CMIII Canteen Order, effective _____.

(j) Form DC6-265, Close Management Waiver, effective date _____.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History–New _____.

33-601.801 Close Management – General.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History–Transferred from 33-3.0083, 10-1-95, Amended 4-14-98, Formerly 33-38.001, Repealed _____.

33-601.802 Levels of Close Management.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History–Transferred from 33-3.0083, 10-1-95, Amended 4-14-98, Formerly 33-38.002, Repealed _____.

33-601.803 Privileges in Close Management.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History–Transferred from 33-3.0083, 10-1-95, Amended 4-14-98, 9-2-98, Formerly 33-38.003, Repealed _____.

33-601.804 Close Management Review Team.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History–Transferred from 33-3.0083, 10-1-95, Formerly 33-38.004, Repealed _____.

33-601.805 Assignment to Close Management.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History–Transferred from 33-3.0083, 10-1-95, Formerly 33-38.005, Repealed _____.

33-601.806 Review of Assignment to Close Management.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History–Transferred from 33-3.0083, 10-1-95, Amended 4-14-98, Formerly 33-38.006, Repealed _____.

33-601.807 Close Management – Warden's Responsibility.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History–Transferred from 33-3.0083, 10-1-95, Amended 4-14-98, Formerly 33-38.007, Repealed _____.

33-601.808 Close Management – Regional Director's Responsibility.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History–Transferred from 33-3.0083, 10-1-95, Amended 4-14-98, Formerly 33-38.008, Repealed _____.

33-601.809 Close Management – Case Management Responsibilities.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History–Transferred from 33-3.0083, 10-1-95, Amended 4-14-98, Formerly 33-38.009, Repealed _____.

33-601.810 Close Management Facilities.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History–Transferred from 33-3.0083, 10-1-95, Amended 4-14-98, Formerly 33-38.010, Repealed _____.

33-601.811 Close Management – Other Conditions and Privileges.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History–Transferred from 33-3.0083, 10-1-95, Formerly 33-38.011, Repealed _____.

33-601.812 Close Management Records and Forms.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History–Transferred from 33-3.0083, 10-1-95, Amended 4-14-98, Formerly 33-38.012, Repealed _____.

33-601.813 Close Management – Rule Change Implementation.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History–New 10-1-95, Formerly 33-38.013, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Stan Czerniak

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore, Secretary, Department of Corrections

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 25, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 28, 2000

DEPARTMENT OF CORRECTIONS

RULE TITLE: Disciplinary Confinement
RULE NO.: 33-602.222

PURPOSE, EFFECT AND SUMMARY: The proposed rule clarifies provisions related to disciplinary confinement, incorporates new forms utilized in conjunction with the rule, provides applicable definitions, and describes the duties and responsibilities of staff with regard to disciplinary confinement. The proposed rule provides clarification as to: physical structure, equipment and lighting of disciplinary confinement cells; the use of bedding and provision of clothing and comfort items; diet, meals and weight records of inmates housed in disciplinary confinement; legal access; visitation privileges' personal property allowed in disciplinary confinement; restrictions on exercise; required staff visits to disciplinary confinement; and restraint and escort requirements.

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: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 33-602.222 follows. See Florida Administrative Code for present text.)

33-602.222 Disciplinary Confinement.

(1) Definitions.

(a) Clinical Health Care Personnel, where used herein, refers to a physician, clinical associate, nurse, Correctional Medical Technician Certified (CMTC), psychologist or psychological specialist who is employed with the department and works in an institution or correctional facility.

(b) Confinement Review, where used herein, refers to the evaluation of pertinent information or documentation concerning an inmate's confinement status to determine if changes or modifications in the confinement status are required or recommended.

(c) Confinement Visit, where used herein, refers to personal contact by a staff member with an inmate in confinement status to ensure that his or her welfare is properly addressed.

(d) Disciplinary Confinement refers to a form of punishment in which inmates found guilty of committing violations of the department rules are confined for specified periods of time to individual cells based upon authorized penalties for prohibited conduct.

(e) Disciplinary Hearing refers to a non-judicial administrative proceeding in which it is determined if sufficient evidence exists to find an inmate guilty of a rule violation.

(f) Disciplinary Team refers to a team made up of at least two staff persons appointed by the warden, one of whom shall be a correctional officer lieutenant or above.

(g) Institutional Classification Team (ICT) refers to the team responsible for making local classification decisions as defined in rule and procedure. The ICT shall be comprised of the warden or assistant warden who shall serve as chairperson, the classification supervisor, the chief of security, and other members, as necessary, when appointed by the warden or designated by rule.

(h) Security Pens refers to a specially designed flexible ink pen that bends under pressure and has a tip that retracts under excessive pressure.

(i) Shift Supervisor refers to the correctional officer in charge of security on any work shift.

(j) State Classification Office (SCO) refers to a staff member at the central office level responsible for the review of inmate classification decisions including approving or rejecting ICT recommendations.

(2) Placement in Confinement.

(a) Inmates shall be given pre-confinement medical evaluations by medical staff prior to being placed in disciplinary confinement. Any inmate currently in another confinement status who received a pre-confinement medical assessment will not be required to have another prior to placement in disciplinary confinement.

(b) Inmates placed in disciplinary confinement shall be placed in cells separate from other confinement statuses whenever possible. Whenever such location is not possible, physical barriers shall preclude the cross association of those in disciplinary confinement with those in other housing statuses. The disciplinary confinement cells shall be approximately the same square footage as utilized for general population. Disciplinary confinement units shall be built to permit verbal communication and unobstructed observation by staff.

(3) Disciplinary Confinement Cells.

(a) Inmates shall not be housed in disciplinary confinement cells in greater number than there are bunks in the cells. The only exception to this policy is during an emergency situation as declared by the warden or duty warden. Any emergency situation shall be communicated to the regional director and to the Emergency Action Center in the central office. If this exception exists in excess of 24 hours, the warden

or duty warden must get specific authorization from the regional director to continue to house inmates beyond the 24 hour period in such conditions.

(b) All disciplinary confinement cells shall be equipped with toilet facilities and running water for drinking and other sanitary purposes. Water in the cell can be turned off by correctional staff due to an inmate's inappropriate behavior that causes an interruption in the water system or the intentional misuse of water for an unauthorized purpose. In such event, the inmate occupant will be furnished an adequate supply of drinking water by other means to prevent dehydration. These actions shall be documented on Form DC6-229, Daily Record of Segregation. Form DC6-229 has been incorporated by reference in section (13) of this rule.

(c) Prior to the inmate's placement into, and after the inmate's removal from, a disciplinary confinement cell, the cell shall be thoroughly inspected to ensure that it is in proper order and the inmate housed in that cell will then be held responsible for the condition of the cell. The correctional officer conducting the inspection shall complete and sign Form DC6-221, Cell Inspection, attesting to the condition of the cell. Form DC6-221 is incorporated by reference in (13) of this rule.

(d) Each confinement cell shall provide for a minimum of twenty foot-candles of light, including natural lighting.

(e) Care shall be exercised to maintain noise levels in confinement units at a reasonable level so as not to interfere with normal operating activities.

(4) Conditions and Privileges.

(a) Clothing. Inmates in disciplinary confinement shall be provided the same clothing and clothing exchange as the general inmate population. Exceptions shall be made on an individual basis when evidence suggests it would be in the best interest of the inmate or security of the institution. In such cases, the exceptions shall be noted on the Daily Record of Segregation, Form DC6-229, and approved by the chief of security. Shower slides may be substituted for regulation shoes. Any item may be removed from the cell in order to prevent the inmate from inflicting injury to himself or herself or to others or to prevent the destruction of property or equipment. If an inmate's clothing is removed, a modesty garment shall be immediately obtained and given to the inmate. If the inmate chooses not to wear the garment, the garment shall be left in the cell and this action shall be documented on Form DC6-229. Under no circumstances shall an inmate be left without a means to cover himself or herself.

(b) Bedding and linen. Inmates in disciplinary confinement shall have bedding and linen issued and exchanged in the same manner as is provided to the general inmate population. Any exceptions shall be based on potential harm to individuals or a clear threat to the security of the institution. Such exceptions shall be documented on Form DC6-229, Daily Record of Segregation.

(c) Personal Property. Inmates in confinement shall be allowed to retain stamps, eyeglasses, hearing aids, personal watches, and rings unless there is an indication of a security problem. If removal of any item in the inmate's possession is determined necessary, the correctional staff shall document their actions on the DC6-229, Daily Record of Segregation, which shall be approved by the chief of security. The correctional staff shall issue the inmate a receipt for her or his confiscated items by completing the Impounded Inmate Personal Property List, Form DC6-220. Form DC6-220 is incorporated by reference in section (13) of this rule.

(d) Comfort Items. Inmates in confinement shall be afforded, at a minimum, the following comfort items: toothbrush, toothpaste, bar of soap, towel (or paper towels), toilet tissue, and feminine hygiene products for women.

(e) Personal Hygiene. Inmates in disciplinary confinement shall meet the following standards in regards to personal hygiene as required of the general inmate population:

1. At a minimum, each inmate in disciplinary confinement shall shower three times per week.

2. Male inmates shall be required to shave at least three times per week.

3. Hair care shall be the same as that provided to, and required of, general population inmates.

(f) Diet and Meals. Inmates in disciplinary confinement shall receive meals representative of the food served to the general population, but not necessarily a choice of every item. Any food item that might create a security problem in the confinement area shall be replaced with another item of comparable quality and quantity. Substitutions shall be documented on the Daily Record of Segregation, Form DC6-229.

(g) Canteen Items. Inmates shall be prohibited from purchasing canteen items while in disciplinary confinement. However, non-indigent inmates shall be allowed to purchase stamps, envelopes, and paper for preparation of legal documents and for mail to notify visitors of his or her confinement status.

(h) Counseling and Interviews. Inmates in disciplinary confinement may be removed to attend individual or group counseling sessions or interviews when approved by the warden or his or her designated representative.

(i) Visiting Privileges.

1. Inmates in disciplinary confinement shall be allowed visits only when specifically authorized by the warden or his or her designated representative.

2. When an inmate is denied visiting privileges or has special visiting restrictions due to placement in disciplinary confinement, it is the responsibility of the inmate to inform visitors of such restrictions. Staff shall specifically point out this responsibility to the inmate at such time as the restrictions become effective. If sufficient time has elapsed so that visitors could have been informed, then the visiting restrictions shall be

imposed even though visitors arrive and request visits. However, if insufficient time precluded notification of the visitors of the restrictions imposed, consideration shall be given for a special visitors' pass. Such special consideration may be for a visitation period less than the full visiting day.

(j) Legal visits. Legal visits shall be allowed as provided in rule 33-601.711, Legal Visitors.

(k) Legal Access.

1. Inmates in disciplinary confinement shall be permitted to have access to their personal legal papers and law books, to correspond with the law library, to have the law library deliver research materials to their cells, and to visit with certified inmate law clerks. Steps shall be taken to ensure that inmates are not denied needed legal access while in disciplinary confinement.

2. Indigent inmates shall be provided paper, envelopes, and writing utensils in order to prepare legal papers or notify visitors of confinement status. Typewriters or typing services are not required items and shall not be permitted in confinement cells.

(l) Telephone. Inmates in disciplinary confinement shall not be allowed telephone privileges except in cases of emergency or when necessary to ensure the inmate's access to attorneys or the courts. Telephone privileges shall only be allowed when alternate means of access is not feasible. Calls to attorneys shall not be monitored.

(m) Correspondence.

1. Inmates in disciplinary confinement shall be allowed routine correspondence privileges unless restricted as provided in rule 33-601.308, Disciplinary Action. Inmates shall be encouraged to write their families to advise them of their anticipated visiting status. Indigent inmates shall be provided paper and envelopes for this purpose.

2. Grievance forms, DC6-236, Inmate Request, and DC1-303, Request for Administrative Remedy, shall be made available to the inmate at any time, regardless of his or her confinement status and shall be transmitted to the addressee without delay. Forms DC6-236 and DC1-303 are incorporated in Rule 33-103.011.

(n) Writing utensils. Inmates in disciplinary confinement shall possess only one security pen. If no security pens are available, the inmate shall be allowed to sign out a regular pen from the confinement unit officer. All care shall be taken to ensure that an inmate has access to a pen for a time period sufficient to prepare legal documents or legal mail, to file a grievance, or to notify family of confinement status.

(o) Reading Material. Inmates in disciplinary confinement shall be allowed, at a minimum, a copy of a testament or bible and religious tracts. All books must be in softback cover. Safety, sanitation, and security concerns may limit the amount of reading material authorized.

(p) Exercise.

1. Those inmates confined on a twenty-four hour basis, excluding showers and clinic trips, may exercise in their cells. However, if confinement extends beyond a thirty-day period, an exercise schedule shall be implemented to ensure a minimum of three hours per week of exercise out-of-doors. Such exercise periods shall be documented on Form DC6-229.

2. If the inmate requests a copy of the physical fitness program, the wellness specialist or confinement unit correctional officer shall provide the inmate with an in-cell exercise guide and document this action on the Daily Record of Segregation, Form DC6-229.

3. The warden or assistant warden is authorized to restrict exercise for an individual inmate only when the inmate is found guilty of a major rule violation. In this instance, a major rule violation is defined as: any assault, battery, attempted assault or battery; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; escape or escape attempt. Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be no more than 15 days per incident and for no longer than 30 days cumulative length and shall be documented on Form DC6-229, Daily Record of Segregation. Exceptions to this restriction may be made only when documented facts show that such exercise periods should not be granted. Restrictions may also be placed on the exercise periods by professional medical staff. The reasons for any exercise restrictions shall be documented.

(q) Weighing. Inmates shall be weighed upon entering disciplinary confinement, at least once a week while in disciplinary confinement, and upon leaving disciplinary confinement. The weight of the inmate shall be documented on Form DC6-229, Daily Record of Segregation.

(4) Restrictions.

(a) Any privilege listed within section (3), except essential health items (including prescribed medication) and receiving and sending legal mail or grievance forms, shall be subject to restriction when an inmate's conduct and behavior become unmanageable.

(b) When any privilege is restricted or any item is removed from an inmate's cell, the action taken must be approved by the shift supervisor. The action taken and the reason for it shall be documented on the Daily Record of Segregation, Form DC6-229. A copy of the Inmate Impounded Personal Property List, Form DC6-220, shall be issued to the inmate as a receipt for any property taken. This action must be reviewed and approved by the chief of security no later than the next working day following the action.

(5) Restraint and Escort Requirements.

(a) Prior to opening a cell door for any reason, including exercise, medical or disciplinary call-outs, telephone calls, recreation, and visits, all inmates in the cell shall be handcuffed behind their backs, unless documented medical conditions require that an inmate be handcuffed in front. In such cases, escort officers shall be particularly vigilant.

(b) A minimum of two officers shall be physically present at the cell whenever a cell door is opened.

(c) Prior to escorting an inmate from a cell, the inmate shall be thoroughly searched. If the inmate is being taken outside the immediate housing unit, leg irons and other appropriate-restraint devices shall be placed on the inmate.

(d) After the required restraints are applied, the inmate has been thoroughly searched, and the cell door has been secured, the second officer is authorized to leave the area.

(e) If two inmates are being escorted from the same cell, both inmates can be escorted at the same time, provided that the second officer remains to escort the second inmate and no other movement is occurring on the wing. During all other situations, only one inmate at a time shall be escorted on each confinement wing.

(7) Visits to Disciplinary Confinement.

(a) Disciplinary confinement areas housing inmates shall require visits by various institutional staff. All visits by staff shall be documented on the Inspection of Special Housing Record DC6-228. Form DC6-228 is incorporated in (13) of this rule. Staff shall also document their visit on the Daily Record of Segregation DC6-229, including any discussion of significance, action or behavior of the inmate, or any other important evidential information which may have an influence or effect on the status of confinement. Visits will be at least:

1. Every 30 minutes by a correctional officer, but on an irregular schedule.

2. Daily by the housing area supervisor.

3. Daily by the shift supervisor on duty for all shifts except in the case of riot or other institutional emergency.

4. Daily by the chief of security, when on duty at the facility, except in cases of riot or other institutional emergency.

5. Daily by a clinical health care worker.

6. Weekly by the chaplain. The chaplain is also authorized to provide spiritual guidance and counsel to inmates in confinement and may distribute religious materials.

7. Weekly by the warden and assistant wardens.

8. Weekly by a classification officer.

9. As frequently as necessary, but not less than once every 30 days, by a member of the ICT to ensure that the inmate's welfare is properly provided for and to determine the time and method of release.

10. The SCO will review every inmate housed in disciplinary confinement longer than ninety consecutive days as frequently as necessary to ensure that the inmate's welfare is

provided for and to determine if the inmate should be released. A list of inmates meeting the above criteria shall be provided to the SCO by the ICT at the facility.

(b) Any inmate who has demonstrated behavior that is or could be harmful to himself or herself shall be designated as a special risk inmate. If the inmate exhibits bizarre, mentally disordered, or self-destructive behavior, the medical department shall be immediately contacted by correctional staff to determine if special watch or suicide watch procedures should be initiated. Suicidal inmates shall be removed to an isolation management room or to alternate housing designated by the authorized Health Care Staff where a correctional officer or medical staff can provide observation. Visual checks shall be made in accordance with medical protocols or the Inmate Suicide Precautions procedure at least every 30 minutes and shall be documented on Form DC4-650, Observation Checklist/Restraint Observation Checklist, until the inmate is no longer considered a special risk inmate. Form DC4-650 is incorporated by reference in section (13) of this rule. All actions taken by staff concerning special risk inmates shall be noted on Form DC6-229 and shall be followed with an incident report, Form DC6-210. Form DC6-210 is incorporated by reference in Rule 33-602.210.

(8) Review and Release from Disciplinary Confinement.

(a) A member of the ICT shall review the cases of inmates in disciplinary confinement every week. If, in the opinion of the reviewing member, an inmate should be considered for early release from confinement, the reviewer shall place a recommendation on the docket for the ICT's evaluation and consideration. The goal shall be toward returning an inmate to the general population when the ICT determines the inmate can reasonably be expected to satisfactorily conform to institutional rules and regulations.

(b) Any inmate assigned to disciplinary confinement for more than 30 days shall be given a psychological assessment by mental health professional staff to determine the inmate's mental condition. The assessment shall include a personal interview. The psychological specialist may complete the record review and gather other needed information. However, the psychologist or psychiatrist must render his or her professional opinion about the offender's mental capacity to tolerate continued confinement. Should the inmate be deemed significantly maladjusted, the doctor shall advise the ICT and Warden. The psychologist or psychological specialist shall prepare a report to the ICT with the facts of the case. The ICT shall then make a decision regarding continuation of confinement. Any recommendations by the psychologist or psychologist specialist that the inmate be released from disciplinary confinement shall be forwarded by the ICT to the SCO. All such assessments shall be documented in the mental health record. If the decision is to continue confinement and that confinement extends beyond 90 days, a new psychological assessment shall be completed each 90-day period.

(c) If an inmate is housed for more than 30 days, the ICT shall interview the inmate and prepare a formal assessment and evaluation report. Such reports may be in a brief paragraph form detailing the basis for confinement, what has transpired since the last report, the decision concerning continued disciplinary confinement, and the basis for that decision.

(d) The SCO shall review all reports prepared by the ICT concerning the inmate's disciplinary confinement at the next on-site visit, and may interview the inmate before determining the final disposition of the inmate's disciplinary confinement.

(e) The confinement housing supervisor is authorized to have an inmate released from disciplinary confinement upon completion of his disciplinary confinement time, unless the ICT has determined that a need exists to modify the inmate's status to administrative confinement.

(9) Disciplinary Confinement Records.

(a) A Report of Disciplinary Confinement, Form DC6-233a, shall be kept for each inmate placed in disciplinary confinement. A photocopy of the DC6-233a, with section I completed, shall be kept in disciplinary confinement with the other confinement records for each inmate. Form DC6-233a is incorporated by reference in section (13) of this rule.

(b) Upon completion of the DC6-233a, the white copy of the form shall be mailed to central office to be filed in the central office inmate record and the yellow copy shall be filed in the institutional inmate record.

(10) Daily Record of Segregation. A Daily Record of Segregation, Form DC6-229, shall be maintained on each inmate in disciplinary confinement. The shift supervisor of all three shifts, health care staff, classification staff and the ICT or SCO shall sign the DC6-229 form whenever they make a visit to a specific inmate. The DC6-229, Daily Record of Segregation, shall be maintained in the housing area for one week, at which time the form shall be forwarded to the warden for review. Once reviewed, the form shall be forwarded to classification to be filed in the institutional inmate record. Full and complete remarks shall be made in the DC6-229, Daily Record of Segregation, in the following situations as outlined in section (10)(a) of this rule by:

(a) Security Department – Shift Supervisor.

1. Whenever a staff member has requested that a specific inmate be interviewed or upon the shift supervisor's observation of a particular inmate's behavior, or significant discussion with a particular inmate,

2. When there is a noticeable deviation in the inmate's behavior,

3. When it becomes necessary to notify the medical department of an inmate's bizarre or self-destructive behavior, or the inmate appears to be ill,

4. When it becomes necessary to restrict any privilege or remove any clothing, bedding or comfort item for the inmate's own protection, to prevent destruction, or if it poses a threat to institutional security or staff,

5. When the inmate refuses food,

6. When the inmate's cell assignment is changed,

7. When the inmate is released to general population,

8. To further explain a notation made under the "Physical Appearances" or "Attitude" sections of the Daily Record of Segregation, Form DC6-229, or

9. Whenever an inmate's prescribed medication is confiscated by correctional staff, maintained in a secure location, and dispensed to the inmate in accordance with the prescription label.

(b) Medical Department.

1. When the inmate is ordered removed from confinement for medical reasons and where the inmate is relocated,

2. When the inmate's diet is ordered changed,

3. When changes of clothing, bedding or other restrictions are ordered,

4. When medical complaints are received and treatment is given,

5. When deviations in behavior are observed, or

6. When medication is dispensed.

(c) ICT.

1. Upon each review of the case, or

2. Upon release from confinement.

(d) SCO.

1. Upon each review of the case, or

2. Upon release from confinement.

(11) Inspection of Special Housing Record.

(a) Form DC6-228, Inspection of Special Housing Record, shall be maintained in each disciplinary confinement area.

(b) Each staff person shall sign the form when entering and leaving the disciplinary confinement area. Prior to leaving the disciplinary confinement area, each staff member shall indicate any specific problems, including identification of any inmate who required special attention.

(c) Correctional staff assigned to this area shall use this form to document all routine security checks. The shift supervisor shall sign the DC6-228 when conducting his or her daily routine visit to the confinement area. Entries on this form by security staff, as referenced above, shall specifically state that each cell in the disciplinary confinement area has been visited and shall indicate any specific problem, including identification of any inmate who required special attention.

(d) Upon completion, the DC6-228 shall be maintained in the housing area and shall be forwarded to the chief of security on a weekly basis where it shall be maintained on file pursuant to the current retention schedule.

(12) Staffing issues.

(a) Officers assigned to a disciplinary confinement unit shall be rotated at least every 18 months to another assignment for a period of at least one year before reassignment to this type of housing unit. Any officer assigned to a confinement post

shall be authorized a minimum period of five days annual leave or a five day assignment to a less stressful post every six months.

(b) The Inspector General shall notify the warden and regional director of any officer involved in eight or more use of force incidents in an 18 month period. The Regional Director of Institutions shall review the Inspector General's report and determine whether correctional officers involved in eight or more use of force incidents need to be reassigned. The warden shall ensure that the regional director's directive is followed.

(13) Forms. The following forms referenced in this rule are hereby incorporated by reference. A copy of any of these forms may be obtained from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) Form DC6-229, Daily Record of Segregation, effective date _____.

(b) Form DC6-228, Inspection of Special Housing Record, effective date _____.

(c) Form DC4-650, Observation Checklist/Restraint Observation Checklist, effective date _____.

(d) Form DC6-220, Impounded Personal Property List, effective date _____.

(e) Form DC6-221, Cell Inspection, effective date _____.

(f) DC6-233a, Report of Disciplinary Confinement, effective _____.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History--New 3-12-84, Formerly 33-3.084, Amended 7-10-90, 4-28-96, 12-7-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Stan Czerniak
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore, Secretary, Department of Corrections
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 28, 2000
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 28, 2000

AGENCY FOR HEALTH CARE ADMINISTRATION
Health Facility and Agency Licensing
RULE TITLE: Statewide Provider and Managed Care Organization Claim Dispute Resolution Program
RULE NO.: 59A-12.020

PURPOSE AND EFFECT: The purpose of this rule is to implement the provisions specified in Section 408.7057, Florida Statutes, related to the establishment of a Statewide Provider and Managed Care Organization Claim Dispute Resolution Program.

SUMMARY: The proposed rule was developed in response to legislation passed by the 2000 Legislature, mandating the agency to establish a Statewide Provider and Managed Care Organization Claim Dispute Resolution Program by January 1, 2001. Specifically, the rule establishes jurisdictional amounts and methods of aggregation for claim disputes, review procedures, and review costs. Once the rule is adopted, the agency will issue a Request for Proposals (RFP) to solicit competitive bids from interested vendors.

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

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

SPECIFIC AUTHORITY: 408.7057(6) FS.

LAW IMPLEMENTED: 408.7057 FS.

Written comments or suggestions on the proposed rule may be submitted to the Bureau of Managed Care within 21 days of the Date of this Notice for Inclusion in the Record of the Proceeding.

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

TIME AND DATE: 10:00 a.m., Tuesday, September 5, 2000
PLACE: Agency for Health Care Administration, Building 3, First Floor, Conference Room A, 2727 Mahan Drive, Tallahassee, FL 32308

Pursuant to the provisions of the Americans with Disability Act, any person requiring special accommodations to participate in the hearing, please advise the Agency at least 5 calendar days before the hearing by contacting Shannon Laxson, (850)922-6830.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela A.Thomas, Chief, Bureau of Managed Health Care, 2727 Mahan Drive, Building 1, Mail Stop 26, Tallahassee, Florida 32308, Phone (850)922-6830

THE FULL TEXT OF THE PROPOSED RULE IS:

59A-12.020 Statewide Provider and Managed Care Organization Claim Dispute Resolution Program.

(1) Definitions.

(a) "Disputed Claim" means a claim that has been submitted by a provider to the managed care organization or by a managed care organization to a provider for payment and has been denied in full or in part, or is presumed to have been underpaid or overpaid.

(b) "Disputed Claim Amount" means the difference between the expected reimbursement amount and the reimbursement received.

(c) "Managed care organization" means for the purpose of this section only, a health maintenance organization or a prepaid health clinic certified under Chapter 641, Florida Statutes, a prepaid health plan authorized under s. 409.912, Florida Statutes, or an exclusive provider organization certified under s. 627.6472, Florida Statutes.

(d) "Provider" as defined in Chapter 641.19(15), Florida Statutes, means any physician, hospital, or institution, organization, or persons that furnishes health care services and is licensed or otherwise authorized to practice in the state.

(e) "Resolution organization" means a qualified independent third-party claim-dispute resolution entity selected by and contracted with the Agency for Health Care Administration.

(2) Jurisdictional amounts and methods of aggregation for claim disputes.

(a) Claims submitted for dispute resolution shall be submitted separately by the following claim categories:

1. Hospital inpatient services claims.
2. Hospital outpatient services claims.
3. Professional services claims.

(b) Entities filing a request for dispute resolution shall be permitted to aggregate claims. The minimum disputed claim amounts for claims submitted to the resolution organization shall be as follows:

1. Hospital inpatient services. Disputed individual claim amounts must be aggregated to a total amount of \$25,000.

2. Hospital outpatient services. Disputed individual claim amounts must be aggregated to a total amount of \$10,000.

3. Professional services. Disputed individual claim amounts shall be aggregated to a minimum amount of \$500.

(c) Rural hospitals as defined in Chapter 395.602(2)(e), Florida Statutes, filing requests for claim dispute resolution, are exempt from the minimum disputed claim amounts specified in subparagraphs (b)1. and 2., of this rule.

(3) Application process.

(a) The resolution organization shall review claim disputes filed by either contracted and noncontracted providers, or managed care organizations. A request for dispute resolution and supporting documentation must be submitted in hard copy or electronically to the resolution organization in a format prescribed by the resolution organization.

(b) A complete copy of the request, including all supporting documentation, must be submitted to the adverse party at the same time.

(c) The resolution organization must review all requests for claim dispute resolution within 10 days after receipt to determine whether the request meets the statutory and rule criteria for submission to the resolution organization as specified in subsection 408.7057(2)(b)1. through 7., and (d), Florida Statutes.

(d) If the resolution organization determines that the dispute resolution request does not meet the statutory and rule criteria, the request shall be returned to the entity filing the request.

(4) Review Process.

(a) Once the resolution organization determines that the application meets statutory and rule criteria, it must review the documentation submitted. The resolution organization must notify the entity requesting the dispute resolution and the adverse party electronically or by mail that the request for dispute resolution has been accepted for review.

(b) If the resolution organization determines that the documentation provided with the initial application is not sufficient, it may request additional documents from the entity filing the request for dispute resolution within the timeframes specified by the resolution organization. Any additional documentation submitted to the resolution organization must be submitted to the adverse party at the same time.

(c) The adverse party may submit a response and documentation related to the disputed claim within timeframes specified by the resolution organization. If the documentation is submitted in a timely manner, it must be considered by the dispute resolution organization. The dispute resolution organization may request additional documentation from the adverse party within specified timeframes. Any additional information submitted by the adverse party to the resolution organization must be submitted to the entity filing the request for dispute resolution at the same time.

(d) The resolution organization shall issue a written recommendation, based on findings of fact, within 60 days after receipt of the request as specified in subsection 408.7057(3), Florida Statutes.

(e) The agency shall issue a final order within 30 days after receipt of the recommendations issued by the resolution organization. The agency shall enforce the final order as authorized under subsection 641.52(1)(e), Florida Statutes.

(5) Review Cost.

(a) The agency shall approve the review cost fee schedule proposed by the resolution organization.

(b) The entity that does not prevail in the agency's final order must pay the review costs.

(c) In the event that both parties prevail in part, the review fee shall be apportioned in proportion to the final judgement. The apportionment shall be based on the disputed claim amount.

(d) If the non-prevailing party or parties fail to pay the ordered review costs within 35 days after the agency's final order, the non-paying party or parties are subject to a penalty of \$500 per day.

Specific Authority 408.7057(6) FS. Law Implemented 408.7057 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Pamela A. Thomas, Chief, Bureau of Managed Health Care

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 28, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 23, 2000

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE TITLE: RULE NO.:

Pre-licensing Education for Broker and Salesperson Applicants 61J2-3.008

PURPOSE AND EFFECT: The Commission previously approved a new course syllabus for the pre-licensing salesperson course (Course I). To comply with the new syllabus, the Commission determined that the educators must revise their course materials and end of course examinations by January 1, 2001.

SUMMARY: The Commission established January 1, 2001 as the deadline for educators to comply with the revised pre-licensing salesperson course syllabus.

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

Any person who wishes to provide information regarding the Statement of Estimated Regulatory Costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this Notice.

SPECIFIC AUTHORITY: 475.05 FS.

LAW IMPLEMENTED: 475.04, 475.17, 475.182, 475.183, 475.451 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: 8:30 a.m., September 20, 2000

PLACE: Office of the Florida Real Estate Commission, 400 West Robinson Street, Suite 301, North Tower, Orlando, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Herbert S. Fecker, Jr., Director, Division of Real Estate, 400 West Robinson Street, Suite 308, North Tower, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J2-3.008 Pre-licensing Education for Broker and Salesperson Applicants.

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

(b) A copy of the course and a copy of each form of the end of course examinations that will be distributed to students shall be submitted to the Commission for evaluation at least 60

days prior to use. The Commission will issue a status report to the course provider within 30 days after submission of the course and examinations. Approval or denial of the Commission-required pre-licensing course (Course I or Course II) will be based on the extent to which the course content covers the material set forth in the appropriate course syllabus, incorporated herein by reference, effective January 1, 2001 ~~June 30, 1993~~ (course I) and effective September 1, 1999 (course II), as developed by the Commission. Examinations must test the course material. If course approval is denied, the institution or school may resubmit the course, with the mandated changes. Approval must be granted before the course and examinations may be offered. It is the responsibility of the institution or school offering the Commission-approved courses to keep the course materials current and accurate.

(c) through (11) No change.

Specific Authority 475.05 FS. Law Implemented 475.04, 475.17, 475.182, 475.183, 475.451 FS. History—New 1-1-80, Amended 8-24-80, 9-16-84, Formerly 21V-3.08, Amended 7-16-86, 10-13-88, 5-20-90, 1-13-91, 7-20-93, Formerly 21V-3.008, Amended 12-13-94, 6-14-95, 8-2-95, 12-30-97, 9-1-99, 1-18-00,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Commission

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 19, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 23, 2000

DEPARTMENT OF HEALTH

Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

RULE TITLES: RULE NOS.:

Application, Examination and Initial Active License Fee for Licensure by Examination	64B4-4.002
Application Fee for Licensure by Endorsement	64B4-4.003
Biennial Licensure Fee	64B4-4.005
Change of Status Fee	64B4-4.006
Provisional License Application Fee	64B4-4.014
Registered Intern Registration Fee and Subsequent Examination Fee	64B4-4.015
Registered Intern Biennial Renewal Fee	64B4-4.016

PURPOSE AND EFFECT: The Board proposes to amend the above cited rules to increase the fees.

SUMMARY: The Board proposes to amend Rule 64B4-4.002 to increase the national examination fee from \$150 to \$300. The Board proposes to amend Rule 64B4-4.003 to increase application fee for licensure by endorsement from \$150 to \$300. The Board proposes to amend Rule 64B4-4.005 to increase the biennial licensure fee for a clinical social worker license, marriage and family therapist license and mental health counselor license from \$105 to \$250. The Board proposes to amend Rule 64B4-4.006 to increase the fee for

processing a licensee's request to change their licensure status from \$50 to \$105. The Board proposes to amend Rule 64B4-014 to increase the provisional license application fee from \$50 to \$100. The Board proposes to amend Rule 64B4-4.015 to increase the application fee for registered intern registration from \$125 to \$150. The Board proposes to amend Rule 64B4-4.016 to increase the biennial renewal fee for a registered intern from \$50 to \$75.

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

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

SPECIFIC AUTHORITY: 455.587(1), 455.711, 491.004(5), 491.005, 491.006, 491.007(1) FS.

LAW IMPLEMENTED: 455.587(1), 455.711, 491.005, 491.0045(2)(a), 491.0046(2)(a), 491.005, 491.006, 491.007(3), 491.007(1) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sue Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-1758

THE FULL TEXT OF THE PROPOSED RULES IS:

64B4-4.002 Application, Examination and Initial Active Status License Fee for Licensure by Examination.

(1) The fees for application, examination and initial active status licensure are:

(a) through (b) No change.

(c) Mental Health Counseling – \$100 application fee, ~~\$300~~ \$300 national examination fee, and \$105 initial licensure fee for a total of ~~\$505~~ \$355.

(2) through (5) No change.

Specific Authority 491.004(5), 491.005 FS. Law Implemented 491.005 FS. History–New 4-3-89, Amended 4-19-92, Formerly 21CC-4.002, 61F4-4.002, Amended 12-22-94, 7-6-95, 1-7-96, 3-5-96, Formerly 59P-4.002, Amended 1-25-98, 10-18-99, 8-9-00, _____.

64B4-4.003 Application Fee for Licensure by Endorsement.

The application fee for licensure by endorsement, which shall be submitted with each application for endorsement, shall be ~~\$300~~ \$150.00.

Specific Authority 491.004(5) FS. Law Implemented 491.006 FS. History–New 4-3-89, Formerly 21CC-4.003, 61F4-4.003, 59P-4.003, Amended _____.

64B4-4.005 Biennial Licensure Fee.

The biennial licensure fee for a clinical social worker license, marriage and family therapist license and mental health counselor license shall be ~~\$250 one hundred five dollars (\$105)~~ each.

Specific Authority 455.587(1), 491.004(5), 491.007(1) FS. Law Implemented 455.587(1), 491.007(1) FS. History–New 4-3-89, Amended 2-25-90, 6-1-92, Formerly 21CC-4.005, Amended 1-9-94, Formerly 61F4-4.005, 59P-4.005, Amended _____.

64B4-4.006 Change of Status Fee.

The fee for processing a licensee's request to change licensure status at any time other than at the beginning of a licensure cycle shall be ~~\$105~~ \$50.00.

Specific Authority 455.711, 491.004(5) FS. Law Implemented 455.711 FS. History–New 11-13-94, Formerly 59P-4.006, Amended _____.

64B4-4.014 Provisional License Application Fee.

The nonrefundable application fee for provisional licensure shall be ~~\$100~~ \$50.00 which is valid for a 24-month period after the license is issued and which is nonrenewable.

Specific Authority 491.004(5) FS. Law Implemented 491.0046(2)(a) FS. History–New 1-25-98, Amended _____.

64B4-4.015 Registered Intern Registration Fee and Subsequent Examination Fee.

(1) The nonrefundable application fee for registered intern registration is ~~\$150~~ \$125.

(2) through (3) No change.

Specific Authority 491.004(5) FS. Law Implemented 491.0045(2)(a), 491.005 FS. History–New 3-2-98, Amended _____.

64B4-4.016 Registered Intern Biennial Renewal Fee.

The biennial renewal fee for a registered intern shall be ~~\$75~~ \$50.00.

Specific Authority 491.004(5) FS. Law Implemented 491.007(3) FS. History–New 12-21-97, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 24, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 21, 2000

DEPARTMENT OF HEALTH

Division of Family Health Services

RULE TITLES:	RULE NOS.:
Scope and Purpose	64F-18.001
Definitions	64F-18.002
Procedures	64F-18.003

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to implement section 385.204, Florida Statutes by establishing the procedure for the distribution of insulin to financially needy Florida residents.

SUMMARY: The proposed rule sets out eligibility requirements and procedures for the distribution of insulin to Florida residents who could not otherwise obtain insulin for the control of their diabetes.

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

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

SPECIFIC AUTHORITY: 385.204 FS.

LAW IMPLEMENTED: 385.204 FS.

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

TIME AND DATE: 9:00 a.m., September 18, 2000

PLACE: Conference Room 110-N, 2585 Merchants Row Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Virginia Foster, Family Health Services, Department of Health, 4052 Bald Cypress Way, Bin #A18, Tallahassee, FL 32399

THE FULL TEXT OF THE PROPOSED RULES IS:

64F-18.001 Scope and Purpose.

The purpose of this rule is to establish a procedure for the distribution of insulin to financially disadvantaged bona fide Florida residents with diabetes.

Specific Authority 385.204 FS. Law Implemented 385.204 FS. History—New

64F-18.002 Definitions.

(1) “Bona fide resident” means a person living in Florida with the intent to remain as evidenced by self-declaration.

(2) “Current prescription” means a prescription written by a licensed health care practitioner who is authorized by law to prescribe medicine within 3 months of application and effective for no more than 6 months after it is written.

(3) “Designated agent” means any pharmacy that has entered into a written agreement with a county health department to provide insulin to approved insulin program participants.

(4) “Federal poverty guidelines” mean the poverty guidelines updated annually in the Federal Register by the U.S. Department of Health and Human Services under the authority of the Omnibus Budget Reconciliation Act of 1981 (42 USC 9902).

(5) “Self declaration” means a statement regarding assets, income, family size or residency made by a person applying for insulin services. Self-declaration does not include any documentation other than the signature of the person making the statement. The self-declaration statement that the department requires under this chapter shall include a signed acknowledgement by the applicant that the statement is true at the time it is made and that the applicant understands that the provider shall have the option of verifying the statement.

Specific Authority 385.204 FS. Law Implemented 385.204 FS. History—New

64F-18.003 Procedures.

(1) A person wishing to participate in the insulin program can obtain an application from any county health department. The application is form number DH2105, 10/99, “Insulin Application Form” which is incorporated herein by reference.

(2) Every 12 months a client must submit a completed application to the county health department or designated agent of the department who will approve the application based upon the following criteria:

(a) the applicant must be a bona fide Florida resident;

(b) the applicant must be unable to pay because the applicant:

1. is uninsured, or lacking insurance that would reimburse the applicant for insulin, and

2. has a net family income at or below 100% of poverty using federal poverty guidelines, and

3. has no more than \$2,500 per family in private funds, bank accounts or assets other than their homestead to defray the cost.

(c) The applicant must submit a current prescription for insulin; and

(d) If the Department of Health’s pharmaceutical budget permits, applicants with a net family income of 101-200% of poverty that meet the requirements in (2)(a), and (2)(b)1. and 3. above will be eligible for the program and receive insulin at reduced cost based on a sliding fee scale as set forth in Chapter 64F-16.

(e) If an otherwise unqualified applicant, as defined above, is temporarily without current financial resources to purchase insulin, the county health department may provide a one month supply of insulin to this applicant once annually.

(3) If at any time the applicant experiences a change in status, which could affect his or her eligibility, the applicant must report this change to the county health department within thirty days of this change.

(4) The county health department will assist clients receiving insulin through this program, who become or are found to be ineligible, in locating another source of insulin. The county health department will continue to provide insulin to the client until another source can be found for up to 1 year after the determination of ineligibility.

(5) County health departments or their designated agents will maintain records regarding their dispensing of insulin under this program for five years. These records shall include a copy of the Insulin Application Form and a copy of the applicant's prescriptions for insulin.

Specific Authority 385.204 FS. Law Implemented 385.204 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Virginia Foster
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jennie Hefelfinger
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 27, 1999
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 24, 1999, Vol. 25, No. 47

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLES:	RULE NOS.:
Definitions	65A-1.701
Special Provisions	65A-1.702
Family-Related Medicaid Coverage Groups	65A-1.703
Family-Related Medicaid General Eligibility Criteria	65A-1.705
Family-Related Medicaid Needs Criteria	65A-1.706
Family-Related Medicaid Income Criteria	65A-1.707
Family-Related Medicaid Budgeting Criteria	65A-1.708
Income and Resource Criteria	65A-1.716

PURPOSE AND EFFECT: These rule amendments will fully implement separate eligibility determination procedures in the department's processing of temporary cash assistance and Medicaid applications and will cleanup references to other rules within these rules.

SUMMARY: The department is adopting revised procedures for processing Medicaid applications that will eliminate references and implications that link Medicaid eligibility to temporary cash assistance eligibility. Statements regarding Medicaid application criteria will be amended to assure that separate criteria for the two application processes are clearly stated. Additionally, citation of repealed rules will be corrected and eligibility standards will be updated to current levels.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of estimated regulatory costs was not prepared for these proposed rule amendments.

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: 409.919 FS.

LAW IMPLEMENTED: 409.903, 409.904, 409.919 FS.

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

TIME AND DATE: 2:00 p.m., September 6, 2000

PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Audrey Mitchell, Program Administrator, 1317 Winewood Boulevard, Building 3, Room 406-A, Tallahassee, Florida 32399-0700, telephone (850)488-3090

THE FULL TEXT OF THE PROPOSED RULES IS:

65A-1.701 Definitions.

(1) through (3) No change.

(4) Caretaker relative: A "parent" or "specified relative" as defined in Rule paragraph 65A-1.705(4)(a) ~~1-506~~, F.A.C.

~~(5) Cash Assistance (Eligibility): (a) Actually receiving temporary cash assistance as provided under Florida's program for delivering these benefits as authorized by federal legislation or (b) eligible under requirements for Aid to Families with Dependent Children (AFDC) as extant on July 16, 1996 except that children receiving Title IV-E foster care maintenance payments or adoption assistance would have their eligibility determined according to AFDC rules that existed on June 1, 1995.~~

(6) through (9) renumbered (5) through (8) No change.

(9) Department: the Department of Children and Families unless otherwise specified.

(10) through (13) No change.

(14) Foster Care Children Eligibility: Children receiving Title IV-E foster care maintenance payments or adoption assistance have their eligibility determined according to AFDC eligibility rules that existed on July 16, 1996.

~~(15)(14) Income: Income for family-related Medicaid programs is the same as specified in income for public assistance programs. See Rule 65A-4.2091-512, F.A.C. For SSI-related programs refer to 20 C.F.R. §416.1100 et al. and Rule 65A-1.713.~~

(15) through (33) renumbered (16) through (34) No change.

Specific Authority 409.919 FS. Law Implemented 409.903, 409.904, 409.919 FS. History—New 10-8-97, Amended _____.

65A-1.702 Special Provisions.

(1) ~~Rules 65A-1.701 through 65A-1.716 are implemented in accordance with provisions of the 1996 WAGES Act, P. L. 104-193 and 42 CFR Ch. IV, Part 435. These Rules 65A-1.701 through 65A-1.716 primarily implement Medicaid coverage provisions and options available to states under Titles XVI and XIX of the Social Security Act in 42 CFR Ch. IV, Part 435.~~

(2) through (5) No change.

(6) Re-evaluating Medicaid Adverse Actions. The department shall re-evaluate any adverse Medicaid determination upon a showing of good cause by the individual that the previous determination was incorrect and that the individual did not request a hearing within the time prescribed in Ch. 65-2, Part IV Rule 65A-1.204(4)(b), F.A.C. This provision applies only when benefits were terminated or denied erroneously or a share of cost or patient responsibility was determined erroneously.

(a) through (f) No change.

(7) through (14) No change.

Specific Authority 409.919 FS. Law Implemented 409.903, 409.904, 409.919 FS. History—New 10-8-97, Amended 4-22-98, _____.

65A-1.703 Family-Related Medicaid Coverage Groups.

(1) The department provides mandatory Medicaid coverage for individuals, families and children described in section 409.903, F.S., and relevant provisions of Title XIX of the Social Security Act. The optional family-related Title XIX and Title XXI coverage groups served by the department are stated in each sub-section of this rule.

(a) Children under the age of 21 living with a specified relative who meet the eligibility criteria of ~~the Title XIX of the Social Security Act IV-A State Plan in effect July 16, 1996 but who would not qualify as dependent children.~~ Included in this coverage group are children who are ~~ineligible under the eligibility criteria of the Title IV-A State Plan in effect July 16, 1996 as modified in subsequent approved Medicaid State Plans solely because of their age and children~~ under age 21 in intact families, provided that the children are living with both parents, unless a parent is temporarily absent from the home.

(b) No change.

(c) Children not yet age 19 living with non-relatives.

~~(2) Individuals who have met but no longer meet the eligibility criteria of the Title IV-A State Plan in effect July 16, 1996 as modified in subsequent approved Medicaid State Plans, or who would meet the eligibility criteria of the Title IV-A State Plan in effect July 16, 1996 as modified in subsequent approved Medicaid State Plans except for certain technical requirements. This coverage group includes the following groups of individuals:~~

(a) Children under the age of 18;

~~(b) Children living with caretaker relatives and the caretaker relative; and~~

~~(c) Children born after September 30, 1983 living with non-relatives.~~

~~(2)(3) No change.~~

(3)(4) Medicaid for children not yet age 19 born after September 30, 1983. To be eligible for this coverage group the child must meet the general requirements specified in Rule 65A-1.705, F.A.C. The following additional criteria apply:

(a) There is no asset limit;

(b) The total net income for children in the filing unit:

1. up to age one is less than or equal to 185 percent of the federal poverty level;

2. age one to age six is less than or equal to 133 percent of the federal poverty level;

3. age six or older and not yet age 19 ~~and born after September 30, 1983~~, is less than or equal to 100 percent of the federal poverty level.

~~(4)(5) Children born on or before 9/30/83 and not yet age 19 and children under age one with family income between 185 and 200 percent of the federal poverty level or covered by other expansion groups.~~ Except in regard to provisions concerning health insurance coverage, eligibility for this coverage group is the same as that for children ~~born after 9/30/83~~ who have not yet reached age 19 as described in rule paragraph 65A-1.703(3)(4). Children in this coverage group may not be determined Medicaid eligible if they have private health insurance coverage or coverage through a state health benefits plan because of a family member's employment with a public agency in the state. Children who are eligible for coverage through a state health benefits plan, but who do not actually have such coverage, are Medicaid eligible on this factor of health insurance coverage. Limitations as to health insurance coverage are as provided in amendments to Titles XIX and XXI of the Social Security Act made by the Balanced Budget Act of 1997.

~~(5)(6) No change.~~

(6)(7) Medically Needy. To be eligible for this coverage group the individual must meet the general requirements prescribed in Rule 65A-1.705, F.A.C.

(a) Included in this coverage group are the following groups of individuals:

1. Children under age 21 living with a specified relative.

2. Pregnant women.

3. Children not yet age 19 born after September 30, 1983, living with non-relatives.

4. Children in foster care or in adoption subsidy under Title IV-E.

(b) No change.

Specific Authority 409.919 FS. Law Implemented 409.903, 409.904, 409.919 FS. History—New 10-8-97, Amended 9-28-98, _____.

65A-1.705 Family-Related Medicaid General Eligibility Criteria.

(1) Technical eligibility criteria of living in the home of a specified relative, age, residence, citizenship and deprivation as described in s. 414.095, F.S., P.L. 104-193 and the ~~Balanced Budget Act of 1997~~ apply to all coverage groups ~~except deprivation is not a factor of eligibility.~~

(a) ~~Coverage groups must meet the deprivation criterion only to the extent that for children and under the age of 21 in intact families and those individuals described in Rules 65A-1.703(1)(b) and (3) through (7), F.A.C.; however, for parents or caretaker relatives to also receive Medicaid they must meet payment standard income criteria [Refer to rule paragraph 65A-1.716(2)] the unemployed parent criteria set forth in 45 CFR §§ 233.10(b)(2)(ii), 233.100(a)(1)(i) and (ii), and 233.100(a)(3)(i) and (ii).~~

(b) ~~To be living in the home of a specified relative, the child must be living with a specified relative as defined in rule sub-paragraph 65A-1.705(4)(a), unless specified that the child may be living with a non-relative.~~

(c) ~~Age criteria are as specified in rule 65A-1.703.~~

(d) ~~Refer to paragraphs (2) and (3) of this rule for residence and citizenship criteria.~~

(2) The individual must be a resident of Florida as shown by living in the state with the intent to remain, ~~either permanently or indefinitely,~~ or living in the state for employment purposes.

(3) The individual must be a citizen of the United States or a qualified alien as defined in ~~Section 431 Title IV-A,~~ Public Law 104-193.

(4) through (5) No change.

Specific Authority 409.818, 409.919 FS. Law Implemented 409.903, 409.904, 409.918 FS. History–New 10-8-97, Amended 9-28-98, 4-5-99, 11-23-99, _____.

65A-1.706 Family-Related Medicaid Needs Criteria.

The ~~standards~~ criteria set forth in Rule 65A-1.716~~504~~, F.A.C., ~~are is~~ used to determine an individual's needs for Family-related Medicaid.

Specific Authority 409.919 FS. Law Implemented 409.903, 409.904, 409.919 FS. History–New 10-8-97, Amended _____.

65A-1.707 Family-Related Medicaid Income Criteria.

(1) ~~Temporary cash assistance and Title IV-A income eligibility criteria are used to determine~~ Family-related Medicaid income is based on: ~~(The definitions of income, verification; and documentation requirements; and appropriate deductions set forth in Rule paragraph 65A-1.512 65A-4.209(1) and (3) through (5), F.A.C., also are used to determine Family-related Medicaid income. Appropriate deductions are set forth in Rule 65A-4.210, F.A.C., except that work related cost of care disregards of up to \$200 per month~~

are allowed per child under age two and up to \$175 per month per child age two or over or per incapacitated adult, and a child support disregard is allowed of up to \$50 per month.

(2) No change.

Specific Authority 409.919 FS. Law Implemented 409.903, 409.904, 409.919 FS. History–New 10-8-97, Amended _____.

65A-1.708 Family-Related Medicaid Budgeting Criteria.

The criteria set forth in Rule 65A-~~41.210513~~, F.A.C., is used to determine budgeting for Family-related Medicaid budgeting.

Specific Authority 409.919 FS. Law Implemented 409.903, 409.904, 409.919 FS. History–New 10-8-97, Amended _____.

65A-1.716 Income and Resource Criteria.

(1) The monthly federal poverty level figures based on the size of the filing unit are as follows:

Filing Unit Size	90% of Poverty Guideline	100% of Poverty Guideline	120% of Poverty Guideline	133% of Poverty Guideline	185% of Poverty Guideline
1	\$ 627 648	\$ 696 687	\$ 835 824	\$ 926 944	\$ 1288 1271
2	844 830	938 922	1125 1106	1247 1226	1735 1706
3		1180 1157		1569 1539	2182 2140
4		1421 1392		1890 1851	2629 2575
5		1663 1627		2212 2164	3076 3010
6		1905 1862		2533 2477	3523 3445
7		2146 2097		2854 2789	3970 3879
8		2388 2332		3176 3102	4417 4314
9		2630 2567		3497 3414	4864 4749
10		2871 2802		3819 3727	5312 5184
11		3113 3037		4140 4039	5759 5618
12		3355 3272		4462 4352	6206 6053
Add each add. person		\$ 242 235		\$ 322 313	\$ 448 435

(2) Medicaid income and payment eligibility standards and Medically Needy income levels are by family size as follows:

Family Size	Monthly Income Level
1	\$180
2	241
3	303
4	364
5	426
6	487
7	549
8	610
9	671
10	733

For each additional person add \$62.

Exception: In determining eligibility for a pregnant woman the income limit used shall be increased to the higher limit corresponding to the applicant's actual family size, including each anticipated unborn child as a family member.

(3) No change.

(4) The maximum resource limit is \$2,000 for those individuals: (a) whose Medicaid coverage is based on their status as eligible based on payment standard income criteria

~~[Refer to rule paragraph 65A-1.716(2)] for cash assistance; or, (b) are children living with their parent(s) and who, as children, would qualify for cash assistance except for their age; or, (e) are individuals disqualified from cash assistance due to failure to cooperate with work requirements.~~ The maximum resource limit of \$2,000 also applies to those coverage groups indicated in Rule 65A-1.703. However, there is no asset limit for the coverage groups specified in Rule 65A-1.703(3)(4) and (4)(5).
 (5) No change.

Specific Authority 409.919 FS. Law Implemented 409.903, 409.904, 409.919 FS. History—New 10-8-97, Amended 12-9-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Rodney McInnis
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Audrey Mitchell
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 26, 2000
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 24, 1999

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Aquaculture

RULE CHAPTER NO.: 5L-3 RULE NOS.: 5L-3.001 5L-3.002 5L-3.003 5L-3.004 5L-3.005 5L-3.006 5L-3.007	RULE CHAPTER TITLE: Aquaculture Best Management Practices RULE TITLES: Purpose Definitions Requirement for an Aquaculture Certificate of Registration Aquaculture Best Management Practices Aquaculture Certificate of Registration Minimal Impact Aquaculture Facilities Failure to Comply With the Best Management Practices
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NOTICE OF CHANGE

SUMMARY OF CHANGE: Notice is hereby given that the following changes have been made to the proposed amendments to rules in accordance with subparagraph 120.54(3)(d)1., Florida Statutes. Notice of rulemaking was published in Vol. 26, No. 24, June 16, 2000, issue of the

Florida Administrative Weekly. These changes resulted from a review of public comments and testimony at a public hearing held on July 10, 2000, in Tallahassee, Florida.

1. Rule 5L-3.002:
 - a. Section 5L-3.002 Law Implemented is changed to: 570.07(23), 597.002, 597.003(1)(a)(j), 597.004(2) F.S.
2. Rule 5L-3.004:
 - a. Section 5L-3.004(2) is changed to: “(2) Aquaculture Best Management Practices Manual, July May 2000.”
 To obtain a copy of the revised manual, contact Sherman Wilhelm, Director, Division of Aquaculture at (850)488-4033 or visit the division’s website at www.FloridaAquaculture.com.
3. Rule 5L-3.005:
 - a. Section 5L-3.005 is changed to:
 - (1) Any person engaging in aquaculture must be certified by the department. The applicant for a certificate of registration shall submit the following to the department: Any person seeking to be certified as an aquaculture producer shall complete and submit an aquaculture certificate of registration application form, which includes a signed statement of Notice of Intent to comply with the applicable best management practices adopted by the Department. Aquaculture producers shall contact the Department:
 - (a) Applicant's name/title. Prior to constructing a new individual production unit;
 - (b) Company name. Prior to modifying an existing individual production unit;
 - (c) Complete mailing address. To renew an existing aquaculture certificate of registration; or
 - (d) Legal property description of all aquaculture facilities. To be issued a new aquaculture certificate of registration-
 - (e) Actual physical street address for each aquaculture facility.
 - (f) Description of production facilities.
 - (g) Aquaculture products to be produced.
 - (h) Fifty dollar annual registration fee.
 - (2) The Department shall issue an aquaculture certificate of registration when an applicant:
 - (a) has submitted the required information pursuant to Chapter 597.004 (1), Florida Statutes. has submitted a complete application to the Department;
 - (b) signs a statement of intent to comply with the BMPs in 5L-3.003; and signs the certificate application statement of intent to comply with the BMPs in 5L-3.003; and
 - (c) pays the appropriate fee to the Department.
4. Rule 5L-3.006:
 - a. Section 5L-3.006(1) is changed to: “(1) When determined by the Division of Aquaculture’s evaluation of facility design and on site inspections, the following individual production units are deemed to have