

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

## Section II Proposed Rules

### DEPARTMENT OF INSURANCE

#### Division of State Fire Marshal

RULE CHAPTER TITLE: Fire Prevention – General Provisions

RULE CHAPTER NO.: 4A-3

RULE TITLES: Application of Rules

RULE NOS.: 4A-3.002

Definitions 4A-3.009

Inspections of State-Owned Buildings and State-Leased Spaces 4A-3.011

Standards of the National Fire Protection Association Adopted 4A-3.012

**PURPOSE AND EFFECT:** The purposes of this rule chapter are to adopt or revise National Fire Protection Association (NFPA) standards as they apply to state-owned buildings and state-leased buildings and spaces, and to certain other kinds of structures as set forth in Section 633.022, Florida Statutes, provide or clarify definitions, and to provide for inspections of state-owned and state-leased buildings consistent with the 1998 changes to Section 633.085, Florida Statutes. The effect of this rule chapter will be to have in place new or revised NFPA standards for the structures listed above.

**SUMMARY:** Adopts new or revised NFPA standards for state-owned buildings and state-leased buildings and spaces, and for certain other kinds of structures as set forth in Section 633.022, Florida Statutes, provides for or clarifies definitions, and provides for inspections of state-owned and state-leased buildings consistent with the 1998 changes to Section 633.085, Florida Statutes.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** No Statement of Estimated Regulatory Costs has been prepared.

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

**SPECIFIC AUTHORITY:** 633.01, 633.022 FS.

**LAW IMPLEMENTED:** 633.01, 633.022 FS.

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

**TIME AND DATE:** 8:30 a.m., April 17, 2001

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0342, (850)413-3620

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 Millicent King, (850)413-3619.

THE FULL TEXT OF THE PROPOSED RULES IS:

#### 4A-3.002 Application of Rules.

(1) In the application of these rules, the terms "Rules of the State Fire Marshal" or "these rules" shall be construed to include Title 4A, Florida Administrative Code, and all standards which are referenced and adopted therein. Title 4A shall be known as the "State Uniform Firesafety Standards" ~~"State Fire Prevention Code"~~.

(2) Fire safety standards shall be applied as uniform standards as set forth herein and as defined in Section 633.021(26), Florida Statutes.

Specific Authority 633.01(1), 633.022 FS. Law Implemented 633.01(1), 633.022 FS. History—New 9-16-65, Formerly 4A-3.02, Amended 5-14-86, 2-12-87, 4-8-90, \_\_\_\_\_.

#### 4A-3.009 Definitions.

Unless otherwise provided for by statute or the NFPA, the following terms shall, for the purpose of these rules, have the meanings indicated in this Rule:

(1) through (6) No change.

(7) "State Uniform Firesafety Standards" ~~"State Fire Prevention Code"~~ means the Rules of the State Fire Marshal as set out in Title 4A, Florida Administrative Code, and includes all standards referenced and adopted therein.

(8) "U. L., Inc." means Underwriter's Laboratories, Incorporated Inc.

(9) through (10) No change.

(11) "Division" means the Division of State Fire Marshal of the Department of Insurance.

(12)(a) "State-owned building," as used in Chapter 633, Florida Statutes, and any rule adopted by the State Fire Marshal, except as provided in paragraph (b) of this subsection, means any structure used or intended for supporting or sheltering any use or occupancy of which the state, any state agency or department, or the Trustees of the Internal Improvement Trust Fund is the record owner of the legal title to such structure.

(b) "State-owned building" does not mean or include a pole barn, a picnic shelter, a lift station, an animal pen, an animal feeder, a pump house, a one-family private residence, a two-family private residence, a forestry fire tower or other fire tower, a radio tower, a building no longer in use, an empty building, or a greenhouse.

(c) Notwithstanding paragraph (b) of this subsection, the State Fire Marshal may inspect any state-owned structure excluded from the definition of state-owned building by paragraph (b) of this subsection if the State Fire Marshal has

reasonable cause to believe that a violation of Chapter 633, Florida Statutes, Section 509.215, Florida Statutes, the rules of the State Fire Marshal, or the Florida Fire Prevention Code, may exist.

(13) "State-leased" means that the state, any state agency or department, or the Trustees of the Internal Improvement Trust Fund is the lessee which is leasing the building or space from a lessor.

Specific Authority 633.01(1), 633.022, 633.065(1)(b) FS. Law Implemented 633.01, 633.022, 633.065(2), 633.083(2) FS. History—New 9-16-65, Amended 10-18-67, 9-9-81, Formerly 4A-3.09, Amended 5-14-86, 2-12-87, 4-8-90, \_\_\_\_\_.

4A-3.011 Inspections of State-Owned Buildings and State-Leased Spaces.

(1) Special definitions.

(a) "Annually" means once at any time during the fiscal year July 1 through June 30 calendar year.

(b) through (d) No change.

(2) Inspections of State-Owned Buildings.

(a) Occupancies other than high hazard occupancies shall be inspected on a recurring basis as defined in 4A-3.011(1)(c). In conducting these inspections, priority shall be given to buildings and spaces which are occupied by persons.

(b) All "High Hazard" state-owned occupancies, as defined in 633.021(11)(a), shall be inspected annually.

(3) Inspections of State-Leased Space. Each inspection of a state-leased space by the Division shall be conducted:

(a) prior to occupancy by a state agency, or

(b) upon completion of any major renovations to already occupied state-leased space.

Each other inspection of state leased space is the responsibility of the local authority having jurisdiction.

~~(4)(3)~~ Fire drills. Pursuant to Section 633.085, Florida Statutes, fire drills shall be conducted at least annually in all high hazard occupancies.

(a) through (c) No change.

~~(4) Reports required by Section 633.085, Florida Statutes.~~

~~(a) Reports for state-leased spaces shall be directed to the owner of record with a copy to the department head(s) of state government responsible for the lease(s).~~

~~(b) Any agency or person, other than employees of the State Fire Marshal, who has been authorized by contract to inspect any state-owned or state-leased building or space shall:~~

~~1. File reports as required by Section 633.085, Florida Statutes, identifying each building by the State Fire Marshal's official file number for that building.~~

~~2. Provide a signed copy of each report to the State Fire Marshal within seven days.~~

~~3. Submit a list of buildings to be inspected, identifying them by the State Fire Marshal's official file number, prior to January 1 of each year and any revision to this list as it occurs during that calendar year.~~

~~(c) If, upon reinspection, the State Fire Marshal finds that fire code violations previously reported to the department head have not been corrected and that more than two years have elapsed since the date originally given as the date by which the violation was to be corrected, then the State Fire Marshal will notify the department of the outstanding fire code violation(s) by letter and will simultaneously notify the Governor, the President of the Senate and the Speaker of the House.~~

Specific Authority 633.01(1), 633.022 FS. Law Implemented 633.022, 633.085 FS. History—New 5-14-86, Amended 2-12-87, 4-8-90, \_\_\_\_\_.

4A-3.012 Standards of the National Fire Protection Association Adopted.

(1) Except as specifically modified by statute or by the State Fire Marshal's Rules, NFPA 101, Life Safety Code, 2000 1994 edition and NFPA 1, 2000 edition, are is hereby adopted and incorporated by reference as a part of the uniform fire safety standards adopted by rule by the State Fire Marshal and are applicable to those buildings and structures specified in paragraph (a) and paragraph (b) of subsection (1) of Section 633.022, Florida Statutes. In addition, the following standards, as referenced in Chapter 2 32 of NFPA 101, 2000 1994 edition and Chapter 32 of NFPA 1, 2000 edition, except as specifically modified in the rule chapters in Rule Title 4A, are hereby adopted and incorporated by reference and shall take effect on the effective date of this rule, as a part of the uniform firesafety standards adopted by rule by the State Fire Marshal and are applicable to those buildings and structures specified in paragraph (a) and paragraph (b) of subsection (1) of Section 633.022, Florida Statutes:

NFPA 10-~~1998~~ 1990, Standard for Portable Fire Extinguishers

NFPA 11-~~1998~~ 1994, Standard for Low Expansion Foam

NFPA 11A-~~1999~~ 1994, Standard for Medium and High Expansion Foam Systems

NFPA 12-~~2000~~ 1993, Standard on Carbon Dioxide Extinguishing Systems

NFPA 12A-~~1997~~ 1992, Standard on Halon 1301 Fire Extinguishing Systems

~~NFPA 12B-1990, Standard on Halon 1211 Fire Extinguishing Systems~~

NFPA 13-~~1999~~ 1994, Standard for the Installation of Sprinkler Systems

NFPA 13D-1999, Standard for the Installation of Sprinkler Systems in One- and Two- Family Dwellings and Manufactured Homes

NFPA 13R-~~1999~~ 1994, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and including Four Stories in Height

NFPA 14-~~2000~~ 1993, Standard for the Installation of Standpipe and Hose Systems, except 2-7 shall be omitted

NFPA 15-~~1996~~ 1990, Standard for Water Spray Fixed Systems for Fire Protection

NFPA 16-~~1999~~ 1994, Standard on Deluge Foam-Water Sprinkler and Foam-Water Spray Systems  
~~NFPA 16A-1994, Standards for the Installation of Closed Head Foam-Water Sprinkler Systems~~  
 NFPA 17-~~1998~~ 1990, Standard for Dry Chemical Extinguishing Systems  
 NFPA 17A-~~1998~~ 1990, Standard on Wet Chemical Extinguishing Systems  
 NFPA 20-~~1999~~ 1993, Standard for the Installation of Centrifugal Fire Pumps  
 NFPA 22-~~1998~~ 1993, Standards for Water Tanks for Private Fire Protection  
 NFPA 24-~~1995~~ 1992, Standards for the Installation of Private Fire Service Mains and Their Appurtenances  
 NFPA 25-~~1998~~ 1992, Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems, except that quarterly flow tests shall be required for those systems supplied by a municipal water supply.  
~~NFPA 26-1988, Supervision of Valves Controlling Water Supplies for Fire Protection~~  
 NFPA 30-~~1996~~ 1993, Flammable and Combustible Liquids Code  
 NFPA 30A-~~1996~~ 1993, Automotive and Marine Service Station Code  
 NFPA 30B-~~1998~~ 1990, Code for the Manufacture and Storage of Aerosol Products  
 NFPA 31-~~1997~~ 1992, Standard for the Installation of Oil Burning Equipment  
 NFPA 32-~~1996~~ 1990, Standards for Drycleaning Plants  
 NFPA 33-~~1995~~ 1989, Standard for Spray Application Using Flammable and Combustible Materials  
 NFPA 34-~~1995~~ 1989, Standard for Dipping and Coating Processes Using Flammable or Combustible Liquids  
 NFPA 35-~~1999~~ 1987, Standard for the Manufacture of Organic Coatings  
NFPA 36-1997, Standard for Solvent Extraction Plants  
 NFPA 37-~~1998~~ 1994, Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines  
 NFPA 40-~~1997~~ 1988, Standard for the Storage and Handling of Cellulose Nitrate Motion Picture Film  
~~NFPA 40E-1993, Code for the Storage of Pyroclastic Plastics~~  
~~NFPA 43A-1990, Code for the Storage of Liquid and Solid Oxidizers~~  
~~NFPA 43B-1993, Code for the Storage of Organic Peroxide Formulations~~  
~~NFPA 43D-1986, Code for Storage of Pesticides in Portable Containers~~  
 NFPA 45-~~1996~~ 1994, Standard on Fire Protection for Laboratories Using Chemicals  
~~NFPA 49-1991, Hazardous Chemicals Data~~  
 NFPA 50-~~1996~~ 1990, Standard for Bulk Oxygen Systems at Consumer Sites

NFPA 50B-1999, Standard for Liquid Hydrogen Systems at Consumer Sites  
 NFPA 51-~~1997~~ 1992, Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting and Allied Processes  
NFPA 51A-1996, Standard for Acetylene Cylinder Charging Plants  
 NFPA 51B-~~1999~~ 1994, Standard for Fire Prevention ~~in Use of Cutting and During Welding, Cutting and Other Hot Work Processes~~  
NFPA 52-1998, Compressed Natural Gas Vehicular Fuel Systems Code  
 NFPA 54-~~1999~~ 1992, National Fuel Gas Code  
NFPA 57-1999, Liquefied Natural Gas Vehicular Fuel Systems Code  
~~NFPA 58-1998 1992, Standard for Storage and Handling of Liquefied Petroleum Gases Code~~  
NFPA 59-1998, Standard for Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants  
NFPA 59A-1996, Standard for the Production, Storage and Handling of Liquefied Natural Gas  
NFPA 61-1999, Standard for the Prevention of Fires and Dust Explosions in Agricultural and Food Products Facilities  
~~NFPA 61A-1989, Standard for the Prevention of Fire and Dust Explosions in Facilities Manufacturing and Handling Starch~~  
~~NFPA 61B-1989, Standard for the Prevention of Fires and Explosions in Grain Elevators and Facilities Handling Bulk Raw Agricultural Commodities~~  
~~NFPA 61C-1989, Standard for the Prevention of Fire and Dust Explosions in Feed Mills~~  
~~NFPA 61D-1989, Standard for the Prevention of Fire and Dust Explosions in the Milling of Agriculture Commodities for Human Consumption~~  
~~NFPA 65-1993, Standard for the Processing and Finishing of Aluminum~~  
 NFPA 69-~~1997~~ 1992, Standard on Explosion Prevention Systems  
 NFPA 70-~~1999~~ 1993, National Electrical Code  
 NFPA 72-~~1999~~ 1993, National Fire Alarm Code  
 NFPA 75-~~1999~~ 1992, Standard for the Protection of Electronic Computer/Data Processing Equipment  
 NFPA 80-~~1999~~ 1992, Standard for Fire Doors and Fire Windows  
 NFPA 82-~~1999~~ 1994, Standard on Incinerators and Waste and Linen Handling Systems and Equipment  
~~NFPA 85C-1991, Standard for the Prevention of Furnace Explosions/Implosions in Multiple Burner Boiler Furnaces~~  
 NFPA 86-~~1999~~ 1990, Standard for Ovens and Furnaces  
NFPA 86C-1999, Standard for Industrial Furnaces Using a Special Processing Atmosphere  
NFPA 86D-1999, Standard for Industrial Furnaces Using Vacuum as an Atmosphere

- NFPA 88A-~~1998~~ 1991, Standard for Parking Structures
- NFPA 88B-~~1997~~ 1991, Standard for Repair Garages
- NFPA 90A-~~1999~~ 1993, Standard for the Installation of Air Conditioning and Ventilating Systems
- NFPA 90B-~~1999~~ 1993, Standard for the Installation of Warm Air Heating and Air Conditioning Systems
- NFPA 91-~~1999~~ 1992, Standard for Exhaust Systems for Air Conveying of Vapors, Gases, Mists, and Noncombustible Particulate Solids Materials
- NFPA 92A-~~1996~~ 1993, Recommended Practice for Smoke-Control Systems
- NFPA 92B-~~1995~~ 1994, Guide for Smoke Management Systems in Malls, Atria, and Large Areas
- NFPA 96-~~1998~~ 1994, Standard for Ventilation Control and Fire Prevention of Commercial Cooking Operations, Subdivision 7-2.2 of NFPA 96 applies prospectively only. Existing installations are permitted to remain in place subject to the approval of the authority having jurisdiction.
- NFPA 99-~~1999~~ 1993, Standard for Health Care Facilities
- NFPA 101M ~~A 1998 Guide~~ 1992, ~~Manual~~ on Alternative Approaches to Life Safety
- NFPA 101B-1999, Standard on Means of Egress
- NFPA 102-~~1995~~ 1992, Standard for ~~Assembly Seating, Tents, Grandstands, Folding and Telescoping Seating, Tents and Membrane Structures~~
- NFPA 105-~~1999~~ 1993, Recommended Practice for the Installation of Smoke-Control Door Assemblies
- NFPA 110-~~1999~~ 1993, Standard for Emergency and Standby Power Systems
- NFPA 111-1996, Standard on Stored Electrical Energy Emergency and Standby Power Systems
- NFPA 120-~~1999~~ 1994, Standard for Coal Preparation Plants
- NFPA 140-1999, Standard for Motion Picture and Television Production Studio Soundstages and Approved Production Facilities
- NFPA 150-~~1995~~ 1991, Standard on Firesafety in Racetrack Stables
- NFPA 160-1998, Standard for Flame Effects Before an Audience
- NFPA 211-~~2000~~ 1992, Standard for Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances
- NFPA 214-~~1996~~ 1992, Standard on Water-Cooling Towers
- NFPA 220-~~1999~~ 1992, Standard on Types of Building Construction
- NFPA 221-1997, Standard on Fire Walls and Fire Barrier Walls
- NFPA 230-1999, Standard for the Fire Protection of Storage
- NFPA 231-1990, Standard for General Storage
- NFPA 231C-1991, Standard for Rack Storage of Materials
- NFPA 231D-~~1998~~ 1989, Standard for Storage of Rubber Tires
- NFPA 231F-1987, Standard for the Storage of Roll Paper
- NFPA 232-~~1995~~ 1994, Standard for the Protection of Records
- NFPA 232AM-1991, Standard Manual for Fire Protection for Archives and Record Centers
- NFPA 241-~~1996~~ 1993, Standard for Safeguarding Construction, Alteration, and Demolition Operations
- NFPA 251-~~1999~~ 1990, Standard Methods of ~~Fire~~ Tests of Fire Endurance of Building Construction and Materials
- NFPA 252-~~1999~~ 1990, Standard Methods of Fire Tests of Door Assemblies
- NFPA 253-~~2000~~ 1990, Standard Method of Test for Critical Flux of Floor Covering Systems Using a Radiant Heat Energy Source
- NFPA 255-~~2000~~ 1990, Standard Method of Test of Surface Burning Characteristics of Building Materials
- NFPA 256-~~1998~~ 1993, Standard Methods of Fire Tests of Roof Coverings
- NFPA 257-~~2000~~ 1990, Standard ~~for on~~ Fire Tests ~~of for~~ Window and Glass Block Assemblies
- NFPA 259-1998, Standard Test Method for Potential Heat of Building Materials
- NFPA 260-1998, Standard Method of Test and Classification System for Cigarette Ignition Resistance of Components of Upholstered Furniture
- NFPA 261-1998, Standard Method of Test for Determining Resistance of Mock-Up Upholstered Furniture Material Assemblies to Ignition by Smoldering Cigarettes
- NFPA 265-1998, Standard Method of Test for Evaluating Room Fire Growth Contribution of Textile Wall Coverings
- NFPA 266-1998, Standard Method of Test for Characteristics of Upholstered Furniture Exposed to Flaming Ignition Sources
- NFPA 267-1998, Standard Method of Test for Fire Characteristics of Mattresses and Bedding Assemblies Exposed to Flaming Ignition Sources
- NFPA 286-2000, Standard Method of Fire Test for Evaluating Contribution of Wall and Ceiling Interior Finish to Room Fire Growth
- NFPA 303-~~1995~~ 1990, Fire Protection Standards for Marinas and Boatyards
- NFPA 307-~~1995~~ 1990, Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves
- NFPA 312-1995, Standard for Fire Protection of Vessels During Construction, Repair and Lay-Up
- NFPA 318-1998, Standard for the Protection of Cleanrooms
- NFPA 321-1991, ~~Standard on Basic Classification of Flammable and Combustible Liquids~~
- NFPA 327-1993, ~~Standard Procedures for Cleaning or Safeguarding Small Tanks and Containers Without Entry~~
- NFPA 385-~~2000~~ 1990, Standard for Tank Vehicles for Flammable and Combustible Liquids
- NFPA 386-1990, ~~Standard for Portable Shipping Tanks for Flammable and Combustible Liquids~~

NFPA 395-~~1993~~ 1988, Standard for Storage of Flammable and Combustible Liquids at Farms and Isolated Sites  
NFPA 407-1996, Standard for Aircraft Fuel Servicing  
 NFPA 409-~~1995~~ 1990, Standard on Aircraft Hangars  
NFPA 410-1999, Standard on Aircraft Maintenance  
NFPA 415-1997, Standard on Airport Terminal Buildings, Fueling Ramp Drainage, and Loading Walkways  
~~NFPA 416-1993, Standard on Construction and Protection of Airport Terminal Buildings~~  
 NFPA 418-~~1995~~ 1990, Standard for Heliports  
 NFPA 430-2000, Code for Storage of Liquid and Solid Oxidizers  
NFPA 432-1997, Code for Storage of Organic Peroxide Formulations  
NFPA 434-1998, Code for the Storage of Pesticides  
 NFPA 480-~~1993~~ 1998, Standard for the Storage, Handling and Processing of Magnesium Solids and Powders  
NFPA 481-1995, Standard for the Production, Processing, Handling and Storage of Titanium  
NFPA 482-1996, Standard for the production, Processing, Handling, and Storage of Zirconium  
NFPA 485-1999, Standard for the Storage, Handling, Processing, and Use of Lithium Metal  
 NFPA 490-~~1998~~ 1993, Code for the Storage of Ammonium Nitrate  
NFPA 495-1996, Explosive Materials Code  
NFPA 498-1996, Standard for Safe Havens and Interchange Lots for Vehicles Transporting Explosives  
NFPA 501-1999, Standard on Manufactured Housing  
 NFPA 501A-~~1999~~ 1992, Standard for Firesafety Criteria for Mobile Home Installations, Sites, and Communities  
~~NFPA 501C-1993, Standard on Recreational Vehicles~~  
~~NFPA 501D-1993, Standard on Firesafety Criteria for Recreational Vehicle Parks and Campgrounds~~  
NFPA 505-1999, Fire Safety Standard for Powered Industrial Trucks Including Type Designations, Areas of Use, Conversions, Maintenance, and Operation.  
NFPA 650-1998, Standard for Pneumatic Conveying Systems for Handling Combustible Particulate Solids  
NFPA 651-1998 1993, Standard for the Machining and Finishing of Aluminum and the Production and Handling Manufacture of Aluminum Powder  
~~NFPA 654-1997~~ 1988, Standard for the Prevention of Fire and Dust Explosions ~~in the Chemical, Dye, Pharmaceutical and Plastics Industry from the Manufacturing, Processing, and Handling of Combustible Particulate Solids~~  
 NFPA 655-1993, Standard for the Prevention of Sulfur Fires and Explosions  
 NFPA 664-~~1998~~ 1993, Standard for the Prevention of Fires and Explosions in Wood Processing and Woodworking Facilities

NFPA 701-~~1999~~ 1989, Standard Methods of Fire Tests for Flame-~~Resistant~~ Propagation of Textiles and Films  
 NFPA 703-~~1995~~ 1992, Standard for Fire Retardant Impregnated Wood and Fire Retardant Coatings for Building Materials  
 NFPA 704-~~1996~~ 1990, Standard System for the Identification of the Fire Hazards of Materials for Emergency Response  
~~NFPA 780-1997~~ 1992, Installation of Lightning Protection Systems Code  
NFPA 909-1997, Standard for the Protection of Cultural Resources, Including Museums, Libraries, Places of Worship, and Historical Properties  
NFPA 1122-1997, Code for Model Rocketry  
NFPA 1123-1995, Code for Fireworks Display  
NFPA 1124-1998, Code for the Manufacture, Transportation, and Storage of Fireworks and Pyrotechnic Articles  
NFPA 1125-1995, Code for the Manufacture of Model Rocket and High Power Rocket Motors  
NFPA 1126-1996, Standard for the Use of Pyrotechnics Before a Proximate Audience  
NFPA 1127-1998, Code for High Power Rocketry  
NFPA 1142-1999, Standard for Water Supplies for Suburban and Rural Fire Fighting  
NFPA 1194-1999, Standard for Recreation Vehicle Parks and Campgrounds  
~~NFPA 1221-1999~~ 1994, Standard for Communication for Emergency Services ~~the Installation, Maintenance and Use of Public Fire Service Communication Systems.~~  
NFPA 1561-2000, Standard on Emergency Services Incident Management System  
~~NFPA 1962-1998~~ 1993, Standard for the Care, Use, and Service Testing of Fire Hose Including Couplings and Nozzles  
 NFPA 1963-1998 1993, Standards for Fire Hose Connections  
 NFPA 2001-2000, Standard on Clean Agent Fire Extinguishing Systems  
NFPA 8501-1997, Standard for Single Burner Operation  
NFPA 8502-1999, Standard for Prevention of Furnace Explosion/Implosions in Multiple Burner Boilers  
NFPA 8503-1997, Standard for Pulverized Fuel Systems  
~~ASTM E136-1987, Standard Test Method for Behavior of Materials in a Vertical Tube Furnace at 750 degrees F~~

(2) through (3) No change.

(4) The codes and standards published by the National Fire Protection Association may be obtained by writing to the NFPA at: Batterymarch Park, Quincy, Massachusetts 02269. ANSI standards may be obtained from the American National Standards Institute, 1430 Broadway, New York, NY 10018. ANSI/ASME standards may be obtained from the American Society of Mechanical Engineers, 345 East 47th Street, New York, NY 10017. ASTM standards may be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103. UL standards may be obtained from

Underwriters Laboratories, Inc., 333 Pfingston Road, Northbrook, IL 60062. All standards incorporated by reference in this rule are also available for public inspection during regular business hours at the Division currently located on the third floor (Room 326) of the Atrium Building, 325 John Knox Road, Tallahassee, Florida in Suite 604, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida.

Specific Authority 633.01(1), 633.022 FS. Law Implemented 633.01, 633.022 FS. History—New 5-14-86, Amended 2-12-87, 4-8-90, 10-30-91, 4-3-95, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles D. Clark, Director, Division of State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2001

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

## DEPARTMENT OF INSURANCE

### Division of State Fire Marshal

RULE CHAPTER TITLE: Fire Prevention – Precautions Against

Fire, General

RULE CHAPTER NO.:

4A-28

RULE TITLES:

RULE NOS.:

Smoking Prohibited under Certain Conditions 4A-28.003

Accumulations of Waste Materials 4A-28.006

Handling Readily Combustible Materials 4A-28.007

Requirements for Storage of Readily

Combustible Materials 4A-28.009

Standpipes Required 4A-28.016

PURPOSE AND EFFECT: The purpose and effect of the revisions to this rule chapter are to repeal the chapter as no longer necessary in keeping with the 1996 and 1999 changes to Chapter 120, Florida Statutes.

SUMMARY: Repeals Chapter 4A-28 because it is no longer necessary and to bring it into compliance with the 1996 and 1999 revisions of Chapter 120, Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs has been prepared.

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

SPECIFIC AUTHORITY: 633.01, 633.022 FS.

LAW IMPLEMENTED: 633.01, 633.022 FS.

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

TIME AND DATE: 8:30 a.m., April 17, 2001

PLACE: Room 116, Larson Building, 200 East Gaines Street Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0342, (850)413-3620

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 Millicent King, (850)413-3619.

## THE FULL TEXT OF THE PROPOSED RULES IS:

### 4A-28.003 Smoking Prohibited under Certain Conditions.

~~(1) Smoking shall mean and include the carrying of lighted pipe, cigar, cigarette or tobacco in any form.~~

~~(2) Where conditions are such as to make smoking a hazard in any area of piers, wharfs, warehouses, stores, industrial plants, and in open spaces where combustible materials are stored or handled, the authority having jurisdiction is empowered and authorized to order the owner or occupant in writing to post "NO SMOKING" signs in each building, structure, room or place in which smoking shall be prohibited. The authority having jurisdiction shall designate specific safe locations, if necessary, in any building, structure or place in which smoking may be permitted.~~

~~(3) "NO SMOKING" signs of approved sized lettering and location required in accordance with subsection (2).~~

~~(4) It shall be unlawful for any person to remove any legally required "NO SMOKING" sign or to smoke in any place where such signs are posted.~~

Specific Authority 633.01 FS. Law Implemented 633.01, 633.022, 633.081 FS. History—New 9-16-65, Formerly 4A-28.03, Amended 5-14-86, 7-9-90, Repealed.

### 4A-28.006 Accumulations of Waste Materials.

~~Roofs, courts, yards, vacant lots and open spaces shall be kept free and clear of deposits or accumulations of waste paper, hay, grass, straw, weeds, litter or combustible waste or rubbish of any kind. All weeds, grass, vines or other growth, which endangers property, or is liable to be fired, shall be cut down and removed by the owner or occupant of the property.~~

Specific Authority 633.01 FS. Law Implemented 633.01, 633.022, 633.081 FS. History—New 9-16-65, Formerly 4A-28.06, Amended 5-14-86, Repealed.

### 4A-28.007 Handling Readily Combustible Materials.

~~No person making, using, storing or having in charge, or under his control any shavings, excelsior, rubbish, sacks, bags, litter, hay, straw or combustible waste material shall fail or neglect at the close of each day to cause all such material which is not compactly baled and stacked in an orderly manner to be removed from the building or stored in suitable vaults or in metal or metal lined, covered, receptacles or bins.~~

Specific Authority 633.01 FS. Law Implemented 633.01, 633.022, 633.081 FS. History—New 9-16-65, Formerly 4A-28.07, Amended 5-14-86, 7-9-90, Repealed.

4A-28.008 Requirements for Storage of Readily Combustible Materials.

~~Storage in buildings shall be orderly, shall not be within two feet of the ceiling, and not so located as to endanger exit from the building. Storage in the open shall not be more than twenty feet in height, shall be so located, with respect to adjacent buildings, as not to constitute a hazard, and shall be compact and orderly.~~

Specific Authority 633.01 FS. Law Implemented 633.01, 633.022, 633.081 FS. History—New 9-16-65, Formerly 4A-28.08, Amended 5-14-86, Repealed.

4A-28.016 Standpipes Required.

~~Standpipes shall be required in buildings exceeding 50 feet in height, other than sprinklered buildings not over six stories in height, installed in accordance with the Standard of the National Fire Protection Association for the Installation of Standpipe and Hose Systems, NFPA No. 14, as adopted in Rule 4A-3.012, Florida Administrative Code, and incorporated herein by reference.~~

Specific Authority 633.01 FS. Law Implemented 633.01, 633.022 FS. History—New 7-9-90, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles D. Clark, Division of State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2001

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

## DEPARTMENT OF INSURANCE

### Division of State Fire Marshal

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Uniform Fire Safety Standards for  
Nonresidential Child  
Care Facilities

4A-36

RULE TITLES: RULE NOS.:

Purpose of Rules 4A-36.100

Application of Rules 4A-36.101

Staffing Ratios 4A-36.102

Occupancy Load 4A-36.103

Standards of the National Fire Protection

Association Adopted 4A-36.105

Emergency Forces Notification 4A-36.106

Standpipe Systems 4A-36.107

Family Day Care Homes and Group

Day Care Homes 4A-36.108

PURPOSE AND EFFECT: The purpose and effect of the revisions of this rule chapter are to revise laws implemented; revise chapter to apply to nonresidential Child Care Facilities and provide for standards for new Child Day Care Facilities; revise name of Department of Health and Rehabilitative Services to Department of Children and Family Services; provide clarification of the terms “Family Day Care Homes” and “Group Day Care Homes.”

SUMMARY: These changes make this rule chapter apply solely to nonresidential day care facilities; provides or updates standards; updates usage of terms.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs has been prepared.

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

SPECIFIC AUTHORITY: 633.01, 633.022 FS.

LAW IMPLEMENTED: 633.01, 633.022 FS.

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

TIME AND DATE: 8:30 a.m., April 17, 2001

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0342, (850)413-3620

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 Millicent King, (850)413-3619.

THE FULL TEXT OF THE PROPOSED RULES IS:

#### 4A-36.100 Purpose of Rules.

The purpose of this rule chapter is to specify, as required by the Florida Statutes, uniform fire safety standards for both new and existing nonresidential Child Care Facilities designed to care for ~~6 or more~~ infants and children, ages 0 through 17 years, for a period of less than 24 hours per day. “Nonresidential Child Care Facilities” means and includes Day Care Homes, Large Family Day Care Homes, and Day Care Centers, as used in Chapter 402, Florida Statutes.

Specific Authority 633.01, 633.022 FS. Law Implemented 633.01(1), 633.022(1)(b), 402.305 FS. History—New 3-23-88, Amended \_\_\_\_\_.

#### 4A-36.101 Application of Rules.

This rule chapter shall apply to both new and existing buildings used as nonresidential Child Care ~~childcare~~ facilities.

Specific Authority 633.01, 633.022 FS. Law Implemented 633.01(1), 633.022(1)(b), 402.305 FS. History—New 3-23-88, Amended 10-10-91.

#### 4A-36.102 Staffing Ratios.

Ratios of staff personnel to children for both new and existing facilities shall be those ratios established by the Florida Department of Children and Family Services as required by Section 402.305(4), Florida Statutes, and as adopted pursuant thereto by the rules of the Florida Department of Children and Families Services in Chapter 65C-22.001(4), Florida Administrative Code.

Specific Authority 633.01, 633.022 FS. Law Implemented 633.01(1), 633.022(1)(b), 402.305 FS. History—New 3-23-88, Amended 6-15-98.

#### 4A-36.103 Occupancy Load.

For both new and existing facilities the occupant load for which means of egress shall be provided for any floor shall be those established in Section 402.305(6), Florida Statutes the maximum number of persons intended to occupy that floor but not less than one person for each 20 square feet of floor space used by the clients. The occupancy load referenced in NFPA 101 does not apply.

Specific Authority 633.01, 633.022 FS. Law Implemented 633.01(1), 633.022(1)(b), 402.305 FS. History—New 3-23-88, Amended 10-10-91.

#### 4A-36.105 Standards of the National Fire Protection Association Adopted.

(1) The standards of the National Fire Protection Association for life safety from fire, as provided in NFPA 101, Life Safety Code, as adopted in Rule 4A-3.012, Florida Administrative Code, incorporated herein by reference shall be the Uniform Fire Safety Standards for nonresidential Child Care Facilities, except as modified herein.

(a) New child care facilities caring for not more than 6 to 12 children, inclusively, shall meet the requirements of Sections 16.1, (excluding 16.1.6, which shall not apply), 16.4, 16.5, 16.6, and 16.7 of NFPA 101 for “Group Day Care Homes”, Section 10-8, NFPA 101, and in addition, shall comply with the height and construction limits of subparagraph 10-7.1.6, NFPA 101.

(b) New child care facilities caring for more than 12 children shall meet the requirements of Sections 16-1 through 16-5 and 16-7 of NFPA 101 for “Day Care Centers”, Section 10-7, NFPA 101.

(c) Existing child care facilities caring for 6 to 12 children, inclusively, shall meet the requirements of Sections 17-1 (excluding 17-1.6), 17-4, 17-5, 17-6, and 17-7 of NFPA 101 for “Group Day Care Homes”, Section 11-8, NFPA 101.

(d) Existing child care facilities caring for more than 12 children shall meet the requirements of 17-1 through 17-5 and 17-7 of NFPA 101 for “Day Care Centers”, Section 11-7, NFPA 101. Notwithstanding any provision of NFPA 101, the

following chart will apply for Minimum Construction Requirements for existing facilities but not for new construction.

#### HEIGHT AND CONSTRUCTION LIMITS

Number of Stories (counted starting at floor of exit discharge)					
Type of Construction	Age Group	1	2	3	4+
I(443), I(332), II(222)	0 through 5	x	x	x	x
I(443), I(332), (II222)	6 and older	x	x	x	x
II(111), III(211), V(111)	0 through 5	x	x*	N.P.	N.P.
II(111), III(211), V(111)	6 and older	x	x*	N.P.	N.P.
IV(2HH)-	0 through 5	x	x*	N.P.	N.P.
IV(2HH)	6 and older	x	N.P.	N.P.	N.P.
II(000)	0 through 5	x	x*	N.P.	N.P.
II(000)	6 and older	x	x*	N.P.	N.P.
III(200), V(000)	0 through 5	x	x*	N.P.	N.P.
III(200), V(000)	6 and older	x	x*	N.P.	N.P.

X = Permitted Construction Type

N.P. = Not Permitted.

X\* = Permitted if entire building is protected throughout by an approved automatic sprinkler system.

(2) No change.

Specific Authority 633.01(1), 633.022 FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New 10-10-91, Amended 3-1-92.

#### 4A-36.106 Emergency Forces Notification.

(1) New Child Day Care Facilities shall be arranged to transmit the alarm automatically via any of the following means acceptable to the authority having jurisdiction and shall be in accordance with NFPA 72, National Fire Alarm Code (1999 edition):

(a) An auxiliary alarm system.

(b) A central station connection.

(c) A proprietary system.

(d) A remote station connection.

Where the facility is not served by a fire department, notification of appropriate emergency forces shall be transmitted by the most expedient means available immediately following emergency evacuation of the facility.

(2) Existing child day care facilities may use the notification system now in place providing it conforms to one of the following requirements:



Subparagraphs 10-7.3.4.4, and paragraph 7-6.4, NFPA 101, as adopted in 4A-3, F.A.C., is modified to provide alternative arrangements to the basic requirement of direct transmission as follows:

(a)(1) Direct Alarm transmission to the fire department; or  
 (b)(2) Notification by remote or central station systems; or  
 (c)(3) Where staff beyond the requirements of the Department of Children and Family Health and Rehabilitative Services is present at all times during which the facility is in operation, notification may be achieved by telephone, provided the facility has at least one private one-party telephone line serving that facility only, thereby allowing for immediate, unimpeded notification of emergency forces. If this method of notification is selected, a staff member who is present at all times that the facility is in operation shall be appointed to be responsible for the immediate notification of emergency forces upon the activation or initiation of any detection or alarm device or system installed in the facility; or

(d)(4) Where the facility is not served by a fire department, notification of appropriate emergency forces shall be transmitted by the most expedient means available immediately following emergency evacuation of the facility.

Specific Authority 633.01, 633.022 FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New 10-10-91, Amended.

#### 4A-36.107 Standpipe Systems.

Standpipe systems shall be provided for all buildings over 50 feet in height, except buildings not over 6 stories high which are equipped with a complete automatic sprinkler systems, in accordance with NFPA 13, as adopted in Section 4A-3.012, Florida Administrative Code.

Specific Authority 633.01, 633.022 FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New 10-10-91, Amended.

#### 4A-36.108 Family Day Care Homes and Group Day Care Homes.

The subclassifications and definitions of “Day Care Homes” as set forth in Section 16.6.1.4.1 and 17.6.1.4.1 of NFPA 101 2000 Edition, to wit, “Family Day Care Homes” and “Group Day Care Homes,” shall not apply to any facility licensed as a family day care home pursuant to Section 402.305, Florida Statutes. Any facility licensed as a Family Day Care Home pursuant to Section 402.305, Florida Statutes, shall be classified as a “Family Day Care Home” and defined in accordance with the definition of “Family Day Care Home” located in Section 402.302(7), Florida Statutes.

Specific Authority 633.022(1)(b) FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles D. Clark, Director, Division of State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2001

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

### DEPARTMENT OF INSURANCE

#### Division of State Fire Marshal

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Uniform Fire Safety Standards for  
 Residential Facilities for Individuals  
 with Developmental Disabilities 4A-38

RULE TITLES: RULE NOS.:  
 Scope 4A-38.020

Discretionary Powers of the Authority  
 Having Jurisdiction 4A-38.021

Standards of the National Fire Protection  
 Association Adopted 4A-38.023

Documentation of Client’s Evacuation Status 4A-38.024

Operating Features 4A-38.026

Standards of the National Fire Protection  
 Association Adopted 4A-38.028

Operating Features 4A-38.030

PURPOSE AND EFFECT: The purpose and effect of the changes to this rule chapter are to revise laws implemented; revise references to Department of Health and Rehabilitative Services to Department of Children and Family Services; clarify references to defined terms; provide for the local authority having jurisdiction (AHJ) to take over certain functions of property owners; adopt new provisions of the National Fire Protection Association (NFPA 101), i.e., Chapter 32 for new buildings and Chapter 33 for existing buildings.

SUMMARY: Revises laws implements, references to Department of Health and Rehabilitative Services; clarifies references to defined terms, provides for local AHJ to take over certain functions; adopts new provisions of NFPA 101.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs has been prepared.

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

SPECIFIC AUTHORITY: 633.01, 633.022 FS.

LAW IMPLEMENTED: 633.01, 633.022 FS.

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

TIME AND DATE: 8:30 a.m., April 17, 2001

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0342, (850)413-3620

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 Millicent King, (850)413-3619.

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

##### 4A-38.020 Scope.

(1) These rules apply to any residential developmental disabilities facility required to be licensed by the Florida Department of ~~Children and Family Health and Rehabilitative Services~~, pursuant to Section 393.067, Florida Statutes, Chapter 65B-38.005 and Chapter 65B-6, Florida Administrative Code. In any determination of the number of persons living in a facility, only those persons who are clients as defined in Section 393.13(4), Florida Statutes, shall be counted.

(2) No change.

(3) This rule chapter shall apply as follows:

(a) Part II shall apply to any residential facility, as defined in Section 393.063(39), Florida Statutes, which is providing room and board and personal care for individuals with developmental disabilities required to be licensed by the Florida Department of Children and Family Health and Rehabilitative Services, pursuant to Section 393.067, Florida Statutes, and Chapter 65B-6, Florida Administrative Code. These rules do not apply to day care centers or residential child care facilities.

(b) Part III shall apply to intermediate care facilities for developmentally disabled persons, as defined in 393.063(28), Florida Statutes, that are licensed pursuant to Chapter 65B-38, Florida Administrative Code.

Specific Authority 633.01(1) FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New 10-30-90, Amended \_\_\_\_\_.

##### 4A-38.021 Discretionary Powers of the Authority Having Jurisdiction.

The authority having jurisdiction may modify these rules under the following conditions:

(1) The provisions of ~~chapter 3 and chapter 6 of NFPA 101A 101M~~, "Alternative Approaches to Life Safety", as referenced in Rule 4A-3.012, Florida Administrative Code, shall be considered acceptable as an alternative method.

(2) Alternatives/equivalency shall be documented and such documents shall be provided to the authority having jurisdiction and the property owner. Such documentation shall meet the requirements of Section 1-5 of NFPA-101 edition as adopted in Chapter 4A-3.012, Florida Administrative Code ~~property owner to include but not be limited to:~~

(a) When alternatives/equivalencies are used a A list of those fire code issues modified, identified and/or considered in the alternative/equivalency process shall be furnished to the authority having jurisdiction.

(b) If ~~chapter 3 and chapter 6 of NFPA 101A 101M~~, is used to establish equivalency then the evaluation documentation shall be provided to the property owner and the authority having jurisdiction.

(c) A brief statement describing the alternative/equivalency concepts used and the results of these concepts with respect to fire code conditions that may not literally comply with required codes shall be furnished to the authority having jurisdiction.

(3) through (4) No change.

Specific Authority 633.01(1) FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New 10-30-90, Amended \_\_\_\_\_.

##### 4A-38.023 Standards of the National Fire Protection Association Adopted.

The standards of the National Fire Protection Association for life safety from fire, as provided in NFPA 101, Life Safety Code, Chapter 32 for New and Chapter 33 for Existing, the edition as adopted by Section 4A-3.012, Florida Administrative Code 1988 Edition, which is hereby adopted and incorporated by reference, shall be the uniform fire safety standards required for this state with respect to ~~retardation facilities for the developmentally disabled~~, except as modified by this rule chapter. ~~Chapter 21, "Residential Board and Care Occupancies", shall be the uniform standard, with the exception as indicated in Section 21-3.1.3.2.~~

Specific Authority 633.01(1) FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New 10-30-90, Amended 9-22-92, \_\_\_\_\_.

##### 4A-38.024 Documentation of Client's Evacuation Status.

Documentation of client's evacuation status shall be based on the speed of evacuation. Speed of Evacuation is to be determined via documentation of actual fire drills conducted with the Department of ~~Children and Family Health and Rehabilitative Services~~ personnel present, as evidenced by their signature on at least two fire drill reports during the preceding year. As an alternative, the provisions of NFPA 101A, Chapter 5, the edition as adopted in Chapter 4A-3.012, Florida Administrative Code, may be used to evaluate clients' evacuation status.

Specific Authority 633.01(1) FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New 10-30-90, Amended \_\_\_\_\_.

##### 4A-38.026 Operating Features.

Each facility coming within the scope of PART II retardation facility shall comply with the provision of Sections ~~32-7 31-4~~ or ~~33-7 31-7~~ of NFPA 101, whichever is applicable.

Specific Authority 633.01(1) FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New 10-30-90, Amended \_\_\_\_\_.

4A-38.028 Standards of the National Fire Protection Association Adopted.

The standards of the National Fire Protection Association for life safety from fire, as provided in NFPA 101, Life Safety Code, Chapter 32 for New and Chapter 33 for Existing 1988 Edition, the edition as adopted in Section 4A-3.012, Florida Administrative Code ~~which is hereby adopted and incorporated by reference~~, shall be the uniform fire safety standards required for this state with respect to intermediate care facilities for persons with developmental disabilities. Chapters relating to Chapter 21, "Residential Board and Care Occupancies", shall be the uniform standard.

Specific Authority 633.01(1) FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New 10-30-90, Amended 9-22-92, \_\_\_\_\_.

#### 4A-38.030 Operating Features.

Each intermediate care facility for the developmentally disabled shall comply with the provision of Section 32.7 34-4 or 33.7 34-7 of NFPA 101, whichever is applicable. Unless otherwise authorized by the authority having jurisdiction, fire exit drills shall be held with sufficient frequency to familiarize all occupants with the drill procedure and to have the conduct of the drill a matter of established routine. They shall be conducted no less frequently than once per month and shall be properly documented.

Specific Authority 633.01(1) FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New 10-30-90, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles D. Clark, Director, Division of State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2001

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

## DEPARTMENT OF INSURANCE

### Division of State Fire Marshal

RULE CHAPTER TITLE                      RULE CHAPTER NO.:

Uniform Fire Safety Standards for

Residential Child Care Facilities                      4A-41

RULE TITLES:                      RULE NOS.:

Title                      4A-41.001

Purpose                      4A-41.002

Scope                      4A-41.003

Standards of the National Fire Protection

Association Adopted                      4A-41.007

Separation Requirements                      4A-41.011

Exits                      4A-41.012

Emergency Lighting                      4A-41.013

Segregation and Protection from Hazards                      4A-41.014

Furnishings and Decorations                      4A-41.016

Portable Fire Extinguishers                      4A-41.017

Alarm and Detection Requirements                      4A-41.019

Building Services and Equipment                      4A-41.020

Fire Exit Drills                      4A-41.024

Fire and Emergency Plan                      4A-41.025

Wilderness Program                      4A-41.026

PURPOSE AND EFFECT: The purpose and effect of the revisions of this rule chapter are to revise laws implemented; update chapter to provide for the Life Safety Code (NFPA 101) as it relates to residential board and care; adopt NFPA 30, Combustible Liquids, 30A, and NFPA 101; repeal references to nonresidential child care facilities; repeal reference to Chapter 10C-15, Florida Administrative Code (F.A.C.)

SUMMARY: These changes primarily update references to NFPA 101, adopts NFPA 30 and 30A, and repeals references to nonresidential child care facilities.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs has been prepared.

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

SPECIFIC AUTHORITY: 633.01, 633.022 FS.

LAW IMPLEMENTED: 633.01, 633.022 FS.

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

TIME AND DATE: 8:30 a.m., April 17, 2001

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0342, (850)413-3620

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 Millicent King, (850)413-3619.

THE FULL TEXT OF THE PROPOSED RULES IS:

4A-41.001 Title.

These rules, comprising Rule Chapter 4A-41, F.A.C., shall be known as "The Uniform Fire Safety Standards for Residential ~~and Nonresidential~~ Child Care Facilities."

Specific Authority 633.01 FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New 7-2-84, Formerly 4A-41.01, Amended 9-24-90, \_\_\_\_\_.

4A-41.002 Purpose.

The purpose of this rule chapter is to establish uniform standards to provide a reasonable degree of safety from fire in residential ~~and nonresidential~~ child care facilities. These rules

try to avoid requirements which might result in unreasonable hardships, or unnecessary inconvenience, or interference with the normal use and occupancy of a building, but at the same time insist upon compliance with a uniform standard for fire safety consistent with the public interest.

Specific Authority 633.01 FS. Law Implemented 633.01(1), 633.022(1)(b), 409.175(5)(f) FS. History--New 7-2-84, Formerly 4A-41.02, Amended 9-24-90,\_\_\_\_\_.

#### 4A-41.003 Scope.

(1) These rules apply to any residential ~~or nonresidential~~ child care facility required to be licensed by the Florida Department of Children and Family Health and Rehabilitative Services, pursuant to Section 409.175, Florida Statutes, in which full-time residence is provided to six or more children who are unrelated to the proprietor and who are under age 18. Programs which use such a facility include, but are not limited to, group homes which are administered by an agency, wilderness camps, maternity homes, (emergency shelters), and runaway shelters.

(2) These rules are concerned with life safety during fires and similar emergencies. They address particular matters of construction, protection, and occupancy of buildings to try to minimize danger to life from fire, smoke, fumes, or panic before buildings are vacated.

Specific Authority 633.01 FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History--New 7-2-84, Formerly 4A-41.03, Amended 9-24-90,\_\_\_\_\_.

#### 4A-41.007 Standards of the National Fire Protection Association Adopted.

The standards of the National Fire Protection Association for life safety from fire, as provided in NFPA 101, Life Safety Code, as it relates to residential board and care, the edition as adopted in Rule 4A-3.012, Florida Administrative Code, shall be the uniform fire safety standards for this state with respect to residential ~~and nonresidential~~ child care facilities, including other buildings or structures located on the premises of said facilities.

Specific Authority 633.01 FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History--New 7-2-84, Formerly 4A-41.07, Amended 9-24-90,\_\_\_\_\_.

#### 4A-41.011 Separation Requirements.

If a residential ~~or nonresidential~~ child care facility is located in a building which has occupants other than the residential ~~or nonresidential~~ child care facility, the building shall satisfy the provisions of the Florida Building Code local building code required by Section 553.73, Florida Statutes.

Specific Authority 633.01 FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History--New 7-2-84, Formerly 4A-41.11, Amended 9-24-90,\_\_\_\_\_.

#### 4A-41.012 Exits.

(1) Means of Egress. Doors leading from rooms used by 100 or more persons in a residential ~~or nonresidential~~ child care facility shall be equipped with approved panic hardware.

(2) Marking Means of Egress. Exits signs shall not be required in a residential ~~or nonresidential~~ child care facility in which the total number of resident children is 16 or fewer.

Specific Authority 633.01 FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History--New 7-2-84, Formerly 4A-41.12, Amended 9-24-90,\_\_\_\_\_.

#### 4A-41.013 Emergency Lighting.

(1) Emergency lighting shall be provided in all residential ~~and nonresidential~~ child care facilities, except wilderness programs campsites.

(2) Residential ~~and nonresidential~~ child care facilities in which the total number of resident children is fewer than 9 need not comply with subsection (1). However, this exception does not apply to emergency shelter care, or to runaway and transient youth shelters.

Specific Authority 633.01 FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History--New 7-2-84, Formerly 4A-41.13, Amended 9-24-90,\_\_\_\_\_.

#### 4A-41.014 Segregation and Protection from Hazards.

(1) Commercial cooking equipment shall have hood systems be installed in accordance with NFPA 96, Standard for Ventilation Control and Fire Protection of the Installation of Equipment, for the Removal of Smoke and Grease-Laden Vapors from Commercial Cooking Equipment as adopted in Rule 4A-3.012, Florida Administrative Code.

(2) Flammable/combustible liquids.

(a) No change.

(b) If either flammable or combustible liquids in excess of 10 gallons in the aggregate are stored or dispensed on the premises of the facility, the facility shall comply with Chapter 4 of NFPA 30 Flammable and Combustible Liquids Code, the edition as the standards adopted in Rule 4A-3.012, Florida Administrative Code.

(c) No change.

Specific Authority 633.01 FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History--New 7-2-84, Formerly 4A-41.14, Amended 9-24-90,\_\_\_\_\_.

#### 4A-41.016 Furnishings and Decorations.

(1) All residential ~~and nonresidential~~ child care facilities in which security is required shall use only mattresses having a fire retardant cotton core with a retardant outer cover.

(2) Polyurethane mattresses are prohibited in all residential ~~and nonresidential~~ child care facilities.

Specific Authority 633.01 FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History--New 7-2-84, Formerly 4A-41.16, Amended 9-24-90,\_\_\_\_\_.

#### 4A-41.017 Portable Fire Extinguishers.

Residential ~~and nonresidential~~ child care facilities shall have at least one general purpose Class A, B, and C portable fire extinguisher for each floor. All required extinguishers shall have a minimum rating of 2A-10B:C and shall be placed so that the nearest extinguisher is not more than 75 feet from any other point in the facility.

Specific Authority 633.01 FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History--New 7-2-84, Formerly 4A-41.17, Amended 9-24-90,\_\_\_\_\_.

#### 4A-41.019 Alarm and Detection Requirements.

(1) No change.

(2) Fire alarms installed in existing residential ~~and nonresidential~~ child care facilities with 16 or fewer residents may continue to be manually operated, powered by the building electrical service, but it is not required to be electrically supervised.

Specific Authority 633.01 FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New 7-2-84, Formerly 4A-41.19, Amended 9-24-90, \_\_\_\_\_.

#### 4A-41.020 Building Services and Equipment.

(1) Unvented ~~fuel-fired~~ room heaters ~~shall not be used~~ ~~are prohibited~~ in residential ~~and nonresidential~~ child care facilities.

(2) Other heating equipment shall be of an approved type and shall be installed in accordance with the terms of its approval and with the manufacturer's instructions, and meet the requirements of applicable NFPA 101, 2000 edition, Section 9-2, as adopted in Rule Chapter 4A-60 standards as referenced in Rule 4A-3.012, Florida Administrative Code.

(3) No change.

Specific Authority 633.01 FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New 7-2-84, Formerly 4A-41.20, Amended 9-24-90, \_\_\_\_\_.

#### 4A-41.024 Fire Exit Drills.

Unless otherwise authorized by the authority having jurisdiction, as defined in 633.121, Florida Statutes, fire exit drills shall be held with sufficient frequency to familiarize all occupants with the drill procedure and to have the conduct of the drill a matter of established routine. They shall be conducted no less frequently than once per month and shall be properly documented.

Specific Authority 633.01 FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New 7-2-84, Formerly 4A-41.24, Amended 9-24-90, \_\_\_\_\_.

#### 4A-41.025 Fire and Emergency Plan.

Each residential ~~and nonresidential~~ child care facility shall develop a written fire and emergency evacuation plan which may include input from the authority having jurisdiction as described in Section 633.121, Florida Statutes.

Specific Authority 633.01 FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New 7-2-84, Formerly 4A-41.25, Amended 9-24-90, \_\_\_\_\_.

#### 4A-41.026 Wilderness Program.

In addition to other applicable provisions of this rule chapter, the following provisions shall apply to wilderness programs licensed pursuant to Section 409.175, Florida Statutes, ~~and Chapter 10C-15, Florida Administrative Code:~~

(1) Group Campsites.

(a) through (j) No change.

(k) Storage.

1. and 2. No change.

3. If flammable or combustible liquids in excess of 10 gallons in the aggregate are stored or dispensed at the campsite, the storage shall comply with the provisions of NFPA 30, the edition as adopted in Rule 4A-3.012, Florida Administrative Code.

4. If a vehicle service station is located on the campsite, the storage shall comply with NFPA 30A, the edition as adopted in Rule 4A-3.012, Florida Administrative Code.

(2) No change.

Specific Authority 633.01 FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New 7-2-84, Formerly 4A-41.26, Amended 9-24-90, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles D. Clark, Director, Division of State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2001

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

### DEPARTMENT OF INSURANCE

#### Division of State Fire Marshal

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Uniform Fire Safety Standards for

Mobile Home Parks And

Recreational Vehicle Parks

4A-42

RULE TITLES:

RULE NOS.:

Purpose

4A-42.002

Definitions

4A-42.003

Standards of the National Fire Protection

Association Adopted

4A-42.005

PURPOSE AND EFFECT: The purpose and effect of the revisions of this rule chapter are revise laws implemented; update NFPA 501A to 1996 edition.

SUMMARY: These changes revise laws implemented and update NFPA 501A to 1996 edition.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs has been prepared.

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

SPECIFIC AUTHORITY: 633.01, 633.022 FS.

LAW IMPLEMENTED: 633.01, 633.022 FS.

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

TIME AND DATE: 8:30 a.m., April 17, 2001

PLACE: Room 116, Larson Building, 200 East Gaines Street Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines, Street, Tallahassee, Florida 32399-0342, (850)413-3620

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 Millicent King, (850)413-3619.

THE FULL TEXT OF THE PROPOSED RULES IS:

4A-42.002 Purpose.

The purpose of these rules is to establish uniform requirements that will provide a reasonable degree of safety from fire in mobile home parks and recreational vehicle parks. These rules apply to both existing and new mobile home parks and recreational vehicle parks, except that the provisions of Section 633.01(4) ~~633.01(6)~~, Florida Statutes, are specifically applicable to existing mobile home parks. These rules try to avoid requirements that might result in unreasonable hardships or unnecessary inconveniences or interference with the normal use of the facilities.

Specific Authority 633.022(1)(b) ~~633.01(1)~~ FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New 5-1-84, Formerly 4A-42.02, Amended 8-1-90.

4A-42.003 Definitions.

As used in this rule chapter, unless the context clearly requires otherwise,

(1) "Authority Having Jurisdiction" shall mean a duly authorized representative of an agency or agencies having legal enforcement authority, as described in 633.121, Florida Statutes.

(2) through (4) No change.

Specific Authority 633.022(1)(b) ~~633.01(1)~~ FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New 5-1-84, Formerly 4A-42.03, Amended 8-1-90.

4A-42.005 Standards of the National Fire Protection Association Adopted.

(1) The standards of the National Fire Protection Association, Standard for Fire Safety Criteria for Manufactured Home Installations, Sites and Communities, NFPA 501A, the edition as adopted in Section 4A-3.012, Florida Administrative Code, and Standard for Fire Safety Criteria for Recreational Vehicle Parks and Campgrounds, NFPA 501D, 1996 edition, which is hereby adopted and incorporated by reference shall be the "Uniform Fire Safety Standards for Mobile Home Parks and Recreational Vehicle Parks," ~~as adopted more fully in Rule 4A-3.012, Florida Administrative Code.~~

(2) The codes and standards published by the National Fire Protection Association may be obtained by writing to the NFPA at: 1 Batterymarch Park, Quincy, Massachusetts

02269-9101. All standards adopted and incorporated by reference in this rule are also available for public inspection during regular business hours at the Bureau of Fire Prevention, Division of State Fire Marshal, Department of Insurance, 325 John Knox Road, The Atrium, Third Floor, Tallahassee, Florida 32303.

Specific Authority 633.01, 633.022(1)(b) FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New 5-1-84, Formerly 4A-42.05, Amended 8-1-90.

NAME OF PERSON ORIGINATING PROPOSED RULE: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles D. Clark, Director, Division of State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2001

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

**DEPARTMENT OF INSURANCE**

**Division of State Fire Marshal**

RULE CHAPTER TITLE:

RULE CHAPTER NO.:

Uniform Fire Safety Standards for

Transient Public Lodging

Establishments, Timeshare Plans,

and Timeshare Unit Facilities

4A-43

RULE TITLES:

RULE NOS.:

Title

4A-43.001

Scope

4A-43.003

Automatic Smoke Detection Requirements

4A-43.009

Individually Annunciated at Panel

4A-43.0095

Standpipe and Hose Systems

4A-43.011

Special Compliance Schedule

4A-43.014

Historic Hotel Structures

4A-43.015

Standards of the National Fire Protection

Association Adopted

4A-43.017

One and Two Family Dwellings, Recreational

Vehicles and Mobile Homes Licensed as

Public Lodging Establishments

4A-43.018

PURPOSE AND EFFECT: The purpose and effect of the revisions of this rule chapter are to revise laws implemented; make chapter applicable to timeshare plans or facilities; revise law implemented; revise to provide that existing facilities may continue to use battery powered smoke detectors with certain restrictions; adopt certain portions of NFPA 72; repeal adoption of NFPA 74-6-2; require all public lodging establishments and time share plans and units to be sprinklered in accordance with Sections 509.215 and 721.24, Florida Statutes; repeal provisions for extensions; adopt NFPA 72 and repeal NFPA 74.

SUMMARY: These changes make this rule chapter applicable to timeshare plans or facilities, provide for existing timeshare plans or facilities, require sprinklering, repeal provisions for extensions, and adopt NFPA 72 and repeal NFPA 74.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs has been prepared.

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

SPECIFIC AUTHORITY: 633.01, 633.022 FS.

LAW IMPLEMENTED: 633.01, 633.022 FS.

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

TIME AND DATE: 8:30 a.m., April 17, 2001

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0342, (850)413-3620

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 Millicent King, (850)413-3619.

THE FULL TEXT OF THE PROPOSED RULES IS:

UNIFORM FIRE SAFETY STANDARDS FOR TRANSIENT PUBLIC LODGING ESTABLISHMENTS, TIMESHARE PLANS, AND TIMESHARE UNIT FACILITIES.

4A-43.001 Title.

These rules, comprising Rule Chapter 4A-43, F.A.C. shall be known as "The Uniform Fire Safety Standards for Transient Public Lodging Establishments, Timeshare Plans, or Timeshare Unit Facilities."

Specific Authority 509.215(7), 633.01, 633.022(1)(b), 721.24(5) FS. Law Implemented 509.215(7), 633.01(1), 633.022(1)(b), 721.24(5) FS. History—New 11-12-85, Formerly 4A-43.01, Amended 5-14-91, \_\_\_\_\_.

4A-43.003 Scope.

(1) These rules apply to any transient public lodging establishment as defined and licensed by the Department of Business and Professional Regulation under paragraph (a) of subsection (4), and subsection (10), of Section 509.013 Chapter 509, Florida Statutes, and any time-share unit or time-share plan as defined in subsections (33) and (35) of Section 721.05 Chapter 721, Florida Statutes.

~~(2) These rules do not attempt to address those general fire prevention or building construction features that are normally functions of fire prevention and building codes.~~

Specific Authority 509.215(7), 633.01, 633.022(1)(b), 721.24(5) FS. Law Implemented 509.215(7), 633.01(1), 633.022(1)(b), 721.24(5) FS. History—New 11-12-85, Formerly 4A-43.03, Amended 8-24-87, 5-14-91, 5-23-94, \_\_\_\_\_.

4A-43.009 Automatic Smoke Detection Requirements.

(1) The single station smoke detectors specified for construction contracts before October 1, 1983, by Section 509.215, Florida Statutes, for transient public lodging establishments which are less than 3 stories in height and by section 721.24, Florida Statutes, for a time-share plan which is less than 3 stories in height shall be approved UL 217, listed single station smoke detector. Existing facilities may continue to use battery powered smoke detectors provided they are tested on a regular basis in accordance with paragraph (b) and replaced in accordance with the manufacturer's recommendations, as required in Section 2-6 of NFPA 72, the edition as adopted in section 4A-3.012, but not less than once every twelve (12) months. New facilities shall have the detectors powered by the building electrical service with a rechargeable battery as a secondary power supply in compliance with NFPA 72, Section 1-5.2.6, the edition as adopted in Section 4A-3.012, Florida Administrative Code. The detector may be powered by the building electrical service or battery power supply.

~~(a) If batteries are used in a single station smoke detector, as either the primary or the secondary source of energy, then All all such smoke detectors shall comply with NFPA 72, Section 2-3 74-3-3.1 the edition as adopted in Rule Chapter 4A-3 and the batteries shall be replaced in accordance with the detector manufacturer's recommendations per NFPA 74 6-1 as adopted in Rule Chapter 4A-3, F.A.C., but not less frequently than once every twelve (12) months.~~

(b) Battery powered, single station smoke detectors, where used, shall be tested and inspected not less frequently than once per week ~~as required by NFPA 74 6-2 as adopted in Rule Chapter 4A-3, F.A.C.~~ A log of the required tests and inspections shall be kept and available to the authority having jurisdiction at any time. This log shall include, but not be limited to, the following information and any other information as may be required by the authority having jurisdiction:

1. through 7. No change.

(c) No change.

(2) Specialized smoke detectors for the deaf and hearing-impaired as required by subsection (8) of Section 509.215, Florida Statutes, shall be listed by a nationally recognized testing laboratory for the intended use, and shall:

(a) Have a visual signaling appliance which has an effective intensity rating of at least 100 candela; and ~~or~~,

(b) Be listed by a nationally recognized testing laboratory for the particular purpose of alerting the deaf and hearing impaired in the event of a fire.

Specific Authority 509.215(7), 633.01, 633.022(1)(b), 721.24(5) FS. Law Implemented 509.215(7), 633.01(1), 633.022(1)(b), 721.24(5) FS. History—New 11-12-85, Formerly 4A-43.09, Amended 8-24-87, 5-14-91, \_\_\_\_\_.

## 4A-43.0095 Individually Annunciated at Panel.

Single station smoke detectors which annunciate at a panel at a supervised location, where used, shall meet the following:

(1) No change.

(2) Trouble signals shall be audible and distinctive from alarm signals, and shall comply with NFPA 72 Section 1-5.4.6, the edition A-2-7.3 as adopted in Rule Chapter 4A-3.

(3) The annunciator system shall have primary power supplied in accordance with NFPA 72, Section 1-5.2.4, the edition A-2-6.3 and 2-6.7 as adopted in Rule Chapter 4A-3, F.A.C., and secondary power supplied in accordance with NFPA 72, Section 1-5.2.5, the edition A-2-6.4 as adopted in Rule Chapter 4A-3, F.A.C.

Specific Authority 509.215(7), 633.01, 633.022(1)(b), 721.24(5) FS. Law Implemented 509.215(7), 633.01(1), 633.022(1)(b), 721.24(5) FS. History—New 5-14-91, Amended.

## 4A-43.011 Standpipe and Hose Systems.

Standpipe and hose systems are required for all transient public-lodging establishments, timeshare units or timeshare plans which are located in buildings exceeding 50 feet in height or in buildings over six stories high which have a complete automatic sprinkler system. The standpipe and hose systems shall comply with the provisions of NFPA 14, the edition as adopted in Rule 4A-3.012, Florida Administrative Code. Both standpipe and hose are required for those buildings that do not have sprinkler systems. A standpipe with no hose, but hose connections, is required for those buildings that do have sprinkler systems.

Specific Authority 509.215(7), 633.01, 633.022(1)(b), 721.24(5) FS. Law Implemented 509.215(7), 633.01(1), 633.022(1)(b), 721.24(5) FS. History—New 11-12-85, Formerly 4A-43.11, Amended 8-24-87, 5-14-91, Amended.

## 4A-43.014 Special Compliance Schedule.

All required public lodging establishments, time share plan or time share unit shall be sprinklered in accordance with Section 509.215 and Section 721.24, Florida Statutes. All systems must have been installed and operational by October 1, 1994, and the Division of the State Fire Marshal will no longer grant any extensions for delayed installations. Individuals failing to comply with the October 1, 1990, deadline for sprinklers as stipulated by Sections 509.215 and 721.24, Florida Statutes, may be granted an extension of time upon compliance with the following requirements:

(1) The individual shall submit a letter of notification of intent to request an extension to the State Fire Marshal. This letter shall be received in the Office of the State Fire Marshal in Tallahassee no later than 5:00 P.M. on October 1, 1990, and

(2) The individual shall submit an engineering design plan that is in compliance with Chapter 471, Florida Statutes, together with a construction schedule to the State Fire Marshal. ~~The engineering design plan and the construction schedule together with evidence demonstrating that compliance with this section by the date required would impose an extreme~~

~~hardship and a disproportionate financial impact shall be received in the Office of the State Fire Marshal in Tallahassee no later than 5:00 P.M. on January 1, 1991.~~

(3) ~~Any establishment that has been granted an extension pursuant to 509.215 or 721.24, Florida Statutes, shall post in a conspicuous location a sign in the registration area, so all persons registering will be made aware of the lack of sprinklers. The sign or signs shall be clearly visible with letters not less than 3 inches in height on a background of contrasting color bearing the following wording: "This Establishment Has Not Yet Installed The Approved Sprinkler System As Required By Florida Law." The sign shall be in English and in any other language common to the area as determined by the authority having jurisdiction.~~

(4) ~~Individuals failing to comply with any extension granted pursuant to this rule may be granted no more than three one year extensions provided the individual submits a letter requesting the extension together with a revised work schedule to the State Fire Marshal no later than ninety (90) days before the end of the immediately preceding extension period. The entire system must be installed and operational by October 1, 1994.~~

Specific Authority 509.215(7), 633.01, 633.022(1)(b), 721.24(5) FS. Law Implemented 509.215(7), 633.01(1), 633.022(1)(b), 721.24(5) FS. History—New 11-12-85, Formerly 4A-43.14, Amended 8-24-87, 5-14-91, Amended.

## 4A-43.015 Historic Hotel Structures.

(1) Any request to utilize the special provisions of subsection 509.215(6), Florida Statutes, shall be made in writing to the Director of the Division of State Fire Marshal.

(2) The special historical review task force, as designated in Section 509.215(6)(b), Florida Statutes, committee shall review the application of fire safety standards required by Section 509.215, Florida Statutes, and shall address other fire safety provisions pursuant to the authority of Section 633.01, Florida Statutes.

Specific Authority 509.215(7), 633.01, 633.022(1)(b), 721.24(5) FS. Law Implemented 509.215(7), 633.01(1), 633.022(1)(b), 721.24(5) FS. History—New 11-12-85, Formerly 4A-43.15, Amended 8-24-87, 5-14-91, Amended.

## 4A-43.017 Standards of the National Fire Protection Association Adopted.

(1) ~~Construction contract let after September 30, 1983; a transient public lodging establishment or time share plan as described in Sections 509.215(1)(a) or (b) and 721.24(1)(a) or (b), Florida Statutes, for which the construction contract is let after September 30, 1983, shall, in addition to the special protective features specified in Section 509.215(1) or 721.24(1), Florida Statutes, comply with all applicable standards as adopted in Chapter 4A-3, Florida Administrative Code.~~

(2) ~~Construction contract let before October 1, 1983; a transient public lodging establishment or time share plan as described in Sections 509.215(2) and 721.24(2), Florida Statutes, for which the construction contract was let before~~



October 1, 1983, shall comply with one of the alternatives set forth in subsection 509.215(2)(a) or (b) or 721.24(2)(a) or (b), Florida Statutes, and with the applicable standards as adopted in Chapter 4A-3, Florida Administrative Code.

~~(3) Any components installed and operational on the effective date of this rule chapter may continue to be used regardless of the requirements of the applicable NFPA standards if those components are performing or can be made to perform to the satisfaction of the authority having jurisdiction.~~

Specific 509.215(7), 633.01, 721.24(5) FS. Law Implemented 509.215, 633.022, 721.24 FS. History—New 5-14-91, Repealed.

4A-43.018 One and Two Family Dwellings, Recreational Vehicles and Mobile Homes Licensed as Public Lodging Establishments.

(1) This section applies to one and two family dwellings, recreational vehicles and mobile homes licensed as public lodging establishments as defined in Florida Statutes section 509.013(4)(a). Except as modified by this rule, one ~~One~~ and two family dwellings used by more than one party per living unit shall comply with Chapter 24, One-Family and Two-Family Dwellings, of NFPA 101, Life Safety Code, as adopted in Chapter 4A-3, Florida Administrative Code, and incorporated by reference therein.

(2) Three family and four family dwellings licensed as public lodging establishments shall comply with Chapter 28, New Hotels and Dormitories or Chapter 29, Existing Hotels and Dormitories, of NFPA 101, Life Safety Code, as adopted in Chapter 4A-3, Florida Administrative Code, and incorporated by reference therein.

(3) Smoke detectors.

(a) through (c) No change.

(d) To qualify as "approved," smoke detectors shall be installed in accordance with NFPA 72 National Fire Alarm code 74, Standard for the Installation, Maintenance and Use of Household Fire Warning Equipment, the edition as adopted in Chapter 4A-3, Florida Administrative Code, and incorporated by reference therein.

(4) through (6) No change.

(7) Minimum acceptable portable fire extinguisher requirements shall conform to NFPA (10, as adopted in Section 4A-3.012, Florida Administrative Code ~~be one 2A-10BC multipurpose dry chemical fire extinguisher for each 3000 square feet of gross floor area or portion thereof. Portable fire extinguishers(s) shall be located so that the maximum travel distance to an extinguisher shall not exceed 50 feet.~~

(8) through (11) No change.

Specific Authority 509.215(7), 633.01, 633.022(1)(b), 721.24(5) FS. Law Implemented 509.215(7), 633.01(1), 633.022(1)(b), 721.24(5) FS. History—New 5-23-94, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles D. Clark, Director, Division of State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2001

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

## DEPARTMENT OF INSURANCE

### Division of State Fire Marshal

RULE CHAPTER TITLE RULE CHAPTER NO.:

Uniform Fire Safety Standards 4A-47

for Elevators 4A-47

RULE TITLES: RULE NOS.:

Title 4A-47.001

Purpose 4A-47.002

Scope 4A-47.003

Definitions 4A-47.004

Interpretations of this Rule Chapter 4A-47.005

Enclosure of Elevator Hoistways, Machine

Rooms and Machine Spaces 4A-47.006

Installation of Automatic Smoke and

Heat Detectors 4A-47.008

Special Provisions for Automatic Sprinklers

in Non-Hydraulic Elevators 4A-47.009

Special Provisions for Automatic Sprinklers in

Hydraulic Elevators 4A-47.010

Adoption of the Florida Elevator Safety Code 4A-47.011

PURPOSE AND EFFECT: The purpose and effect of the revisions of this rule chapter are to repeal the existing rule chapter and provide for the adoption of the Florida Elevator Safety Code in Chapter 61C-5, Florida Administrative Code.

SUMMARY: Repeals the existing rule chapter and provides for the adoption of the Florida Elevator Safety Code in Chapter 61C-5, Florida Administrative Code.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs has been prepared.

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

SPECIFIC AUTHORITY: 633.01, 633.022 FS.

LAW IMPLEMENTED: 633.01, 633.022 FS.

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

TIME AND DATE: 8:30 a.m., April 17, 2001

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines, Street, Tallahassee, Florida 32399-0342, (850)413-3620

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 Millicent King at (850)413-3619.

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

##### 4A-47.001 Title.

~~These rules comprising Rule Chapter 4A-47 shall be known as the "Uniform Fire Safety Standards for Elevators."~~

Specific Authority 633.01 FS. Law Implemented 633.01, 633.022 FS. History—New 2-23-88, Repealed.

##### 4A-47.002 Purpose.

~~The purpose of this Rule Chapter is to specify measures to provide a reasonable degree of public safety from fire in Elevators, both new and existing. These rules try to avoid requirements which might result in unreasonable hardships or unnecessary inconvenience, but at the same time insist upon compliance with uniform fire safety standards for the protection of life safety and necessary to protect the public interest, even though a financial hardship may result in some individual cases.~~

Specific Authority 633.01 FS. Law Implemented 633.01, 633.022 FS. History—New 2-23-88, Repealed.

##### 4A-47.003 Scope.

~~These rules apply to the construction, installation, operation, inspection and testing of Elevators for Fire Safety. The rules further specify additional requirements for the installation of fire detection equipment. They apply to new installations on the effective date of these rules and existing installations as stated herein or when the installation is being replaced with a new system.~~

Specific Authority 633.01 FS. Law Implemented 633.01, 633.022 FS. History—New 2-23-88, Repealed.

##### 4A-47.004 Definitions.

~~(1) "ANSI/ASME" refers to the American National Standards Institute Publication, sponsored and published by the American Society of Mechanical Engineers.~~

~~(2) "Approved" means accepted by the authority having jurisdiction upon evaluation of compliance with appropriate standards for the product or procedure in question; or by reason of testing and listing by an approved nationally recognized testing laboratory.~~

~~(3) "Authority Having Jurisdiction" means the organization, office or individual responsible for "approving" equipment, an installation or a procedure.~~

~~(4) "Elevator" means a hoisting and lowering mechanism, equipped with a car or platform which moves in guide rails and serves two or more landings and is classified by the following types:~~

~~(a) elevator, freight—an elevator primarily used for carrying freight and on which only the operator and the persons necessary for unloading and loading the freight are permitted to ride.~~

~~(b) elevator, gravity—an elevator utilizing gravity to move the car.~~

~~(c) elevator, inclined—an elevator which travels at an angle or inclination of 70 degrees or less from the horizontal.~~

~~(d) elevator, multideck—an elevator having two or more compartments located one immediately above the other.~~

~~(e) elevator, observation—an elevator designed to permit exterior viewing by passengers while the car is traveling.~~

~~(f) elevator, passenger—an elevator used primarily to carry persons other than the operator and persons necessary for loading and unloading.~~

~~(g) elevator, power—an elevator utilizing energy other than gravitational or manual to move the car.~~

~~(h) elevator, electric—a power elevator where the energy is applied by means of an electric driving machine.~~

~~(i) elevator, hydraulic—a power elevator where the energy is applied, by means of a liquid under pressure, in a cylinder equipped with a plunger or piston.~~

~~(j) elevator, direct plunger hydraulic—a hydraulic elevator having a plunger or cylinder directly attached to the car frame or platform.~~

~~(k) elevator, electro hydraulic—a direct plunger elevator where liquid is pumped under pressure directly into the cylinder by a pump driven by an electric motor.~~

~~(l) elevator, maintained pressure hydraulic—a direct plunger elevator where liquid under pressure is available at all times for transfer into the cylinder.~~

~~(m) elevator, roped hydraulic—a hydraulic elevator having its piston connected to the car with wire ropes.~~

~~(n) elevator, screw column—a power elevator having an uncounterweighted car which is supported, raised, and lowered by means of a screw thread.~~

~~(5) "Existing" shall mean elevator installations for which an elevator or building construction permit has been issued prior to the adoption of these rules.~~

~~(6) "Fire Barrier" shall mean a continuous membrane, whether vertical or horizontal, such as a wall or floor assembly, that is designed and constructed with a specified fire resistance rating to limit the spread of fire and which will also restrict the movement of smoke. Such barriers may have protected openings.~~

~~(7) "Hoistway" (Shaft) shall mean an opening through a building or structure for travel of elevators extending from the pit floor to the roof or floor above.~~

(a) ~~Blind hoistway — the portion of a hoistway (shaft) where normal landing entrances are not provided.~~

(b) ~~Multiple hoistway — a hoistway (shaft) with more than one elevator.~~

(c) ~~Single hoistway — a hoistway (shaft) with a single elevator.~~

(8) ~~“Hoistway enclosure” means the fixed structure, consisting of vertical walls or assemblies listed for the intended purpose, which isolates the hoistway from all other areas or from an adjacent hoistway and in which the hoistway doors and door assemblies are installed.~~

(9) ~~“Listed” refers to equipment or materials included in a list published by an organization acceptable to the “authority having jurisdiction” and concerned with product evaluation, provided that the organization maintains periodic inspection of production of listed equipment or material meets appropriate standards or has been tested and found suitable for use in a specified manner.~~

(10) ~~“Machine Rooms or Spaces” shall mean a room or rooms accommodating control equipment or other machinery associated with the elevator.~~

(11) ~~“New” shall mean elevator installations for which an elevator or building construction permit has been issued after the effective date of these rules.~~

(12) ~~“NFPA” means the standards of the National Fire Protection Association.~~

(13) ~~“Standard” means a document containing mandatory requirements, using the word “shall” to indicate requirements.~~

(14) ~~“Story” means that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. For purposes of this rule chapter the first story shall begin at the floor assembly of the lowest story which is served by the elevator.~~

(15) ~~“Number of Stories” shall mean, for purposes of this rule chapter, the number of stories determined by beginning with the lowest story and counting all stories which are connected by the elevator hoistway (shaft).~~

Specific Authority 633.01 FS. Law Implemented 633.01, 633.022 FS. History—New 2-23-88, Amended 11-29-89, Repealed.

#### 4A-47.005 Interpretation of this Rule Chapter.

~~The State Fire Marshal shall be the final administrative interpreting authority regarding the rules in this Rule Chapter.~~

Specific Authority 633.01 FS. Law Implemented 633.01, 633.022 FS. History—New 2-23-88, Repealed.

#### 4A-47.006 Enclosure of Elevator Hoistways, Machine Rooms and Machine Spaces.

~~(1) All new elevator hoistways, machine rooms, control equipment, sheaves and other machinery associated with elevators shall be enclosed throughout their height with fire resistive enclosures as required by the building code and ANSI A17.1 (1987 edition). Exception: Observation elevators installed in areas not requiring fire resistive ratings.~~

~~(2) Existing elevator hoistways, machine rooms, control equipment, sheaves and other machinery associated with elevators shall be enclosed throughout their height and protected as listed below:~~

~~(a) Enclosures connecting four stories or more — 2 hour fire barriers.~~

~~Exception No. 1: 1 hour if construction requires a 1 hour fire barrier.~~

~~Exception No. 2: 1 hour, if assembly or health care occupancies.~~

~~Exception No. 3: 1 hour, if detention or correctional occupancy, or apartment buildings and protected throughout by an automatic sprinkler system.~~

Specific Authority 633.01 FS. Law Implemented 633.01, 633.022 FS. History—New 2-23-88, Amended 11-29-89, Repealed.

#### 4A-47.008 Installation of Automatic Smoke and Heat Detectors.

~~(1) Automatic Smoke Detectors shall be installed according to the provisions of Section 211, Emergency Operation and Signaling Devices, ANSI A17.1 — 1987 edition, as incorporated herein by reference, except as modified by this rule chapter.~~

~~(2) Automatic Smoke Detectors required to be installed by the provisions of this rule chapter shall also comply with the provisions of NFPA 72 A — 1987 edition, specifically Chapters 2 and 3, as adopted in Rule 4A-3.012, F.A.C.~~

~~(3) The installation of wiring for Fire Detection Equipment for Elevators shall be in accordance with the provisions of NFPA 70, Article 760, 1987 edition, Fire Protection Signaling Systems, National Electrical Code, as adopted in Rule 4A-3.012, F.A.C.~~

~~(4) Operation of Elevators under Fire or Other Emergency Conditions — Elevators having a travel distance of 25 feet or more shall conform to the requirements of ANSI A17.1, Safety Code for Elevators and Escalators, Rule 211.3, 1987 Edition, as incorporated herein by reference.~~

~~(5) Operation of elevators in sprinklered buildings regardless of the travel distance shall comply with the provisions of ANSI A17.1, 1987 edition, Section 211.3b.~~

Specific Authority 633.01 FS. Law Implemented 633.01, 633.022 FS. History—New 2-23-88, Amended 11-29-89, Repealed.

#### 4A-47.009 Special Provisions for Automatic Sprinklers in Non-Hydraulic Elevators.

~~(1) When an Automatic Sprinkler System is to be installed throughout a building for complete fire protection coverage, the provisions of ANSI A17.1, Rule 102.2(c)(4) 1987 edition, which is incorporated herein by reference, shall be applicable. An approved fixed temperature (1350 F) heat detector shall be installed as the means to automatically disconnect the main power supply to the affected elevator(s) prior to the application~~

of water. The main power supply shall not be self resetting. The fixed temperature detector shall not be construed to be a part of the building alarm system.

(2) When an Automatic Sprinkler System is to be installed throughout a building for complete fire protection coverage, the elevator equipment room and hoistway shall be sprinklered in accordance with the provisions of NFPA 13, 1989 edition, as adopted herein by reference and in Rule 4A-3.012, FAC. The sprinkler head shall have an activation temperature greater than the fixed temperature heat detector required in 4A-47.009(1).

Exception No. 1: If the elevator equipment room is above the highest occupiable floor within the structure then the sprinkler head shall be deleted.

Exception No. 2: The sprinkler head at the top of elevator hoistway in buildings that are greater than 3 stories shall be deleted in hoistway enclosures that meet the requirements of Rule 4A-47.006(1).

(3) The sprinkler system may be of the wet or pre-action design, excluding manual override. If the system is of pre-action design, the fixed temperature detector required in 4A-47.009(1) shall activate the pre-action system.

(4) Sprinkler heads in the elevator equipment room and hoistway shall be protected in accordance with the provisions of Section 3-11.8, NFPA 13, 1989 edition.

(5) In elevator equipment rooms of elevators that are equipped with fire fighter service in accordance with the provisions of Section 211, ANSI A17.1, 1987 edition, smoke detectors shall be installed in accordance with Section 211.3b, ANSI A17.1, 1987 edition. In addition to activating Phase I elevator recall, the elevator equipment room smoke detector shall cause a suitable warning light to flash. The warning light shall be located adjacent to the "Phase I" recall switch or elevator hall button at the designated and alternate fire department access level.

(6) A warning sign shall be incorporated with or adjacent to the light and contain the following wording: "Do Not Use Elevator." The minimum size for the letters on the sign shall be 1/8 inch. This smoke detector and warning light shall not be construed to be a part of the elevator control system.

Specific Authority 633.01 FS. Law Implemented 633.01, 633.022 FS. History—New 2-23-88, Amended 5-19-88, 11-29-88, Repealed \_\_\_\_\_.

4A-47.010 Special Provisions for Automatic Sprinklers in Hydraulic Elevators.

(1) When an Automatic Sprinkler System is to be installed throughout a building for complete fire protection coverage, the provisions of ANSI A17.1, Rule 102.2(c)(4) (1987 edition) which is incorporated herein by reference, shall be applicable. The heat detector required in 4A-47.009(1) of this rule chapter shall be installed as the means to automatically disconnect the main power supply to the affected elevator(s) prior to the

application of water. The main power supply shall not be self resetting. The fixed temperature detector shall not be construed to be a part of the building alarm system.

(2) When an Automatic Sprinkler System is to be installed throughout a building for complete fire protection coverage, the elevator equipment room and hoistway shall be sprinklered in accordance with the provisions of NFPA 13 (1989 edition), as adopted herein by reference and in Rule 4A-3.012, FAC. The sprinkler head shall have an activation temperature greater than the fixed temperature heat detector required in 4A-47.009(1).

(3) The sprinkler system may be of the wet or pre-action design, excluding manual override. If the system is of pre-action design, the fixed temperature detector required in 4A-47.009(1) shall activate the pre-action system.

(4) Sprinkler heads in the elevator equipment room and hoistway shall be protected in accordance with the provisions of Section 3-11.8, NFPA 13 (1989 edition).

(5) In elevator equipment rooms of elevators that are equipped with fire fighter service in accordance with the provisions of Section 211, ANSI A17.1 (1987 edition), smoke detectors shall be installed in accordance with Section 211.3b, ANSI A17.1 (1987 edition). In addition to activating Phase I elevator recall, the elevator equipment room smoke detector shall cause a suitable warning light to flash. The warning light shall be located adjacent to the "Phase I" recall switch or elevator hall button at the designated and alternate fire department access level.

(6) A warning sign shall be incorporated with or adjacent to the light and contain the following wording: "Do Not Use Elevator." The minimum size for the letters on the sign shall be 1/8 inch. This smoke detector and warning light shall not be construed to be part of the elevator control system.

Specific Authority 633.01 FS. Law Implemented 633.01, 633.022 FS. History—New 11-29-88, Repealed \_\_\_\_\_.

4A-47.011 Adoption of the Florida Elevator Safety Code.  
The following shall be in compliance with those standards adopted in Chapter 61C-5, Florida Elevator Safety Code:

(1) Enclosures of elevator hoistways, machine rooms, and machine spaces;

(2) Automatic smoke detectors and heat detectors; and

(3) Automatic sprinklers in hydraulic and non-hydraulic elevators.

Specific Authority 633.01 FS. Law Implemented 633.01, 633.022 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles D. Clark, Director, Division of State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: February 12, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: November 9, 2000

## DEPARTMENT OF INSURANCE

### Division of State Fire Marshal

RULE CHAPTER TITLE: Fire Safety Standards Fire  
RULE CHAPTER NO.: 4A-48

Alarm Systems  
RULE TITLES: 4A-48.002  
Scope 4A-48.002

Testing Laboratories Application  
for Certification 4A-48.004  
Record of Completion 4A-48.005  
Specifications for Fire Alarm Tags 4A-48.006  
Monitoring 4A-48.008

PURPOSE AND EFFECT: The purpose and effect of the revisions of this rule chapter are to update laws implemented; provide for continuation of use of certain fire alarm systems provided they are fully functional and approved by the authority having jurisdiction; provide for fire alarm systems to be approved by nationally recognized testing laboratory; substitute Record of Completion for test certificate in 4A-48.005(1), F.A.C.; provide additional requirements for fire alarms; provide certain requirements for companies wishing to do monitoring in fire departments' areas.

SUMMARY: These changes update laws implemented; provide for continuation of use of certain fire alarm systems provided they are fully functional and approved by the authority having jurisdiction; provide for fire alarm systems to be approved by nationally recognized testing laboratory; substitute Record of Completion for test certificate in 4A-48.005(1), F.A.C.; provide additional requirements for fire alarms; provide certain requirements for companies wishing to do monitoring in fire departments' areas.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs has been prepared.

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

SPECIFIC AUTHORITY: 633.01, 633.022 FS.

LAW IMPLEMENTED: 633.01, 633.022 FS.

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

TIME AND DATE: 8:30 a.m., April 17, 2001

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0342, (850)413-3620

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 Millicent King at (850)413-3619.

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

#### 4A-48.002 Scope.

These rules apply to both new and existing fire alarm systems as of the effective date of the rule. Those systems which were based on product and engineering practices recognized as being acceptable at the date of installation but are not in compliance with currently adopted standards may continue in use, provided they are functional and approved approval by the authority having jurisdiction.

Specific Authority 633.70(4), 633.701(7) FS. Law Implemented 633.01(1), 633.022(2)(b), 633.70(4), 633.701(7) FS. History--New 6-28-90, Amended

#### 4A-48.004 Testing Laboratories Application for Certification.

Equipment used for the installation of a fire alarm system shall be approved by a nationally recognized testing laboratory. All information concerning the equipment shall be submitted to the authority having jurisdiction. Any testing laboratory desiring to be certified by the State Fire Marshal shall submit a "State of Florida Application for Certification Form" (Form DI4A-48-1), which is incorporated herein by reference and will be effective on the effective date of this rule. Copies of this form are available from the Department of Insurance, Division of State Fire Marshal, Bureau of Fire Prevention, 200 East Gaines Street, Tallahassee, Florida 32399-0342.

Specific Authority 633.70(4), 633.701(7) FS. Law Implemented 633.01(1), 633.022(2)(b), 633.70(4), 633.701(7) FS. History--New 6-28-90, Amended 11-16-94.

#### 4A-48.005 Record of Completion Test Certificate.

(1) Information applicable in National Fire Protection Association (NFPA) Standards shall be a minimum requirement and shall be contained in the Record of Completion test certificate provided to the consumer when the fire alarm system is installed or improved (see figure 1-7.2.1, NFPA 72 the edition as adopted in 4A-3.012(1), F.A.C (1993 edition).

(2)(a) The requirements for fire alarm system components, devices, and systems shall be tested, maintained, and inspected using the guidelines set forth in NFPA 72, as adopted in rule 4A-3.012(1), Florida Administrative Code, and incorporated by reference therein.

(b) All inspections and testing work performed on a fire alarm system shall be reported in detail on the a system record log using the form required in provided in figure 7-5.1, NFPA 72, figure 7-5.2.2. the edition as adopted in Section 4A-3.012, F.A.C. (1993 edition). This form shall be located and maintained at the property protected by the fire alarm system and be readily available for inspection.

(3) All repairs shall be recorded, by the repairing company, in the system record log and contain the following information:

(a) through (f) No change.

(4)(a) Any Only defective or non-functioning items discovered during any fire alarm system test or inspection shall be reported immediately, and shall also be reported in writing to the authority having jurisdiction, as described in Section 633.121, Florida Statutes pursuant to section 633.121, Florida Statutes, within five fifteen business days from the date the defective or non-functioning item is discovered. Written notification shall include a description of the problems found and corrective action taken.

(b) Any non-functioning system or interruption of monitoring shall be reported immediately, by telephone if possible, and shall also be reported in writing or by electronic means to the authority having jurisdiction, as described in Section 633.121, Florida Statutes, within five business days from the date the non-functioning system or interruption of monitoring is discovered. Written notification shall describe the cause of the interruption and the corrective action or actions that were taken.

(c) If the non-functioning system was due to improper or faulty installation practices, the authority having jurisdiction shall report such facts to the Department of Business and Professional Regulation.

(5) If the system is being maintained by a servicing contract and the servicing contract expires, is delegated, or changed, the authority having jurisdiction shall be notified.

Specific Authority 633.70(4), 633.701(7) FS. Law Implemented 633.01(1), 633.022(2)(b), 633.70(4), 633.701(7) FS. History--New 6-28-90, Amended 11-16-94, \_\_\_\_\_.

#### 4A-48.006 Specifications for Fire Alarm Tags.

(1) No change.

(2) Standard Fire Alarm Tags – Specifications.

(a) through (b) No change.

(c) Tags shall contain the following information:

1. No change.

2. Name of person performing the work and the license holder's initials.

3. No change.

4. Type of systems involved according to NFPA 72, as adopted in Section Rule 4A-3.012, Florida Administrative Code.

5. through 6. No change.

(d) through (e) No change.

(3) through (5) No change.

Specific Authority 633.70(4), 633.701(7) FS. Law Implemented 633.01(1), 633.022(2)(b), 633.70(4), 633.701(7) FS. History--New 6-28-90, Amended 6-30-91, 11-16-94, \_\_\_\_\_.

#### 4A-48.008 Monitoring.

(1) Automatic emergency forces notification and any type of monitoring of fire alarm signals shall be installed and operate in accordance with the applicable NFPA standards adopted in Rule 4A-3.012(1), Florida Administrative Code, and incorporated by reference therein.

(2) Any company wishing to do monitoring or is currently monitoring in a fire department's area shall notify the authority having jurisdiction of that location. The authority having jurisdiction shall be notified when any monitoring is discontinued within 24 hours and follow-up that notification by written notification.

Specific Authority 633.70(4), 633.701(7) FS. Law Implemented 633.01(1), 633.022(2)(b), 633.70(4), 633.701(7) FS. History--New 11-16-94, Amended \_\_\_\_\_.

**ADD PAGE FOR FIGURE “A”**

Tags shall be punched with a standard 1/8" or 1/4" hole punch in all relevant data sections before placing the tag on the fire alarm panel.

Any tag required by the state fire marshal which indicates that the fire alarm system, or any component thereof, has been serviced, repaired, altered, replaced, or tested shall be removed before a new tag is placed on the fire alarm system.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles D. Clark, Director, Division of State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2001

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

## DEPARTMENT OF INSURANCE

### Division of State Fire Marshal

RULE CHAPTER TITLE: Uniform Fire Safety Standards for

Self-Service Gasoline Stations 4A-49

RULE TITLES: RULE NOS.:

Fire Protection Standards Adopted 4A-49.003

Attendant on Duty 4A-49.004

PURPOSE AND EFFECT: The purpose and effect of the revisions to this rule chapter are to update NFPA provisions adopted and require that an attendant be on duty while fuel is offered for sale to the public.

SUMMARY: Updates NFPA provisions adopted and requires that an attendant be on duty while fuel is offered for sale to the public.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs has been prepared.

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

SPECIFIC AUTHORITY: 633.01, 633.022 FS.

LAW IMPLEMENTED: 633.01, 633.022 FS.

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

TIME AND DATE: 8:30 a.m., April 17, 2001

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0342, (850)413-3620

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 Millicent King at (850)413-3619.

## THE FULL TEXT OF THE PROPOSED RULES IS:

### 4A-49.003 Fire Protection Standards Adopted.

(1) No change.

(2) Additional applicable fire protection standards specifically referenced in Chapter 6, NFPA 30, the edition as adopted in Section 4A-3.012, F.A.C., and Chapter 9, NFPA 30A, the edition as adopted in Section 4A-3.012, F.A.C., and Chapter 28-2, NFPA 1, the edition as adopted in Section 4A-30.012, F.A.C., which are applicable to self-service gasoline stations and the edition of such standards listed in Rule 4A-3.012 shall apply.

(3) No change.

Specific Authority 633.01, 633.022(1)(b), 526.141(7) FS. Law Implemented 633.01, 633.022, 526.141(7) FS. History—New 8-1-90, Amended.

### 4A-49.004 Attendant on Duty.

All self-service gasoline service stations shall have at least one attendant on duty and present on the premises of the station while the station is open to the public or at any time fuel is offered for sale to the public. The duties of the attendant are specified by subsection (3) of Section 526.141, Florida Statutes, and NFPA 30A, Section 9-4, the edition as adopted in Section 4A-3.012, Florida Administrative Code.

Specific Authority 633.01, 633.022(1)(b), 526.141(7) FS. Law Implemented 633.01, 526.141(7) FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles D. Clark, Director, Division of State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2001

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

## DEPARTMENT OF INSURANCE

### Division of State Fire Marshal

RULE CHAPTER TITLE: Fees Rule Chapter

RULE CHAPTER NO.: 4A-52

RULE TITLES: RULE NOS.:

Application 4A-52.003

Fees 4A-52.004



PURPOSE AND EFFECT: The purpose and effect of the revisions of this rule chapter are to revise laws implemented; clarify application of fees; update to conform to change in statute of application to state-leased buildings; clarify application of inspection fees.

SUMMARY: Revises laws implemented; clarifies application of fees; updates fees to conform to change in statute of application to state-leased buildings; clarifies application of inspection fees.

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

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

SPECIFIC AUTHORITY: 633.01, 633.022 FS.

LAW IMPLEMENTED: 633.01, 633.022 FS.

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

TIME AND DATE: 8:30 a.m., April 17, 2001

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0342, (850)413-3620

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 Millicent King at (850)413-3619.

THE FULL TEXT OF THE PROPOSED RULE IS:

#### 4A-52.003 Application.

The State Legislature mandates that the State Fire Marshal shall perform the following functions for which fees shall be charged:

(1) Inspect each state-owned ~~or state-leased~~ building on a recurring basis, as defined in Section 4A-3.012 and inspect high hazard state owned occupancies at least annually for compliance with applicable fire safety standards for state-owned ~~and state-leased~~ buildings.

(2) through (4) No change.

Specific Authority 633.01, 633.085(5) FS. Law Implemented 633.01(1), 633.085 FS. History—New 6-18-91, Amended \_\_\_\_\_.

#### 4A-52.004 Fees.

(1) Review of plans for all new construction, renovations, alterations, or changes of occupancy.

~~(a)1. The plans review fee for all new construction, renovations, alterations, or changes of occupancy for state-owned or state-leased buildings is computed by multiplying the estimated construction cost by .00062.~~

~~(a)1.2. Beginning January 1, 1994, The~~ the plans review fee for all new construction, renovations, alterations, or changes of occupancy for state-owned and state-leased buildings shall ~~will~~ be computed by multiplying the estimated cost of construction by .0025.

~~2.3.~~ If no construction cost is involved in a change of occupancy, the plans review fee will be calculated at the rate of \$.02 per square foot of newly occupied space.

~~3.4.~~ The minimum fee for each plans review is \$100 per building.

(b)1. The plans review fees set forth in (1)(a) of this rule includes 3 cover two (2) inspections; or site visits.

a. When applicable, one mandatory site visit to observe the inspection on the underground fire protection main. This site visit is to occur prior to cover-up; and

b.a. One optional inspection, conducted at the discretion of the State Fire Marshal's Plans Review or Firesafety Inspection Section, to occur prior to close-in of the building; and

c.b. One mandatory inspection to occur prior to occupancy of the building.

2. No change.

(c) through (d) No change.

(2) Fire safety inspections on existing buildings.

(a) The fee for recurring or annual fire safety inspections, ~~and any additional inspections needed to ensure code compliance,~~ for state-owned buildings is computed by multiplying the value of the building, as reported by ~~to~~ the Division of Risk Management for coverage in the state's property self-insurance program, ~~(V)~~ by .0002.

$$\text{Fee} = V \times .0002$$

This fee includes any additional inspection or inspections that may be necessary to help insure compliance with the fire prevention code. The minimum fee for each inspection is \$100 per building.

~~(b) The fee for recurring or annual fire safety inspections for state-leased buildings is \$.03 per square foot of net-leased area. The minimum fee for each inspection is \$100 per building.~~

~~(b)(c)1.~~ The Division of State Fire Marshal shall bill annual fire inspection fees by September 1 of each year.

2. The bill for inspection fees sent to a state agency would cover fees for all space, ~~whether owned or leased, occupied by~~ that agency.

3. through 4. No change.

Specific Authority 633.01, 633.085(5) FS. Law Implemented 633.01(1), 633.085(5) FS. History—New 6-18-91, Amended 10-20-93, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
James Goodloe, Chief, Bureau of Fire Prevention, Division of  
State Fire Marshal

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Charles D. Clark, Director, Division  
of State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: February 12, 2001

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

## DEPARTMENT OF INSURANCE

### Division of State Fire Marshal

RULE CHAPTER TITLE:                      RULE CHAPTER NO.:  
Uniform Fire Safety Standards                      4A-53

for Hospitals and Nursing Homes

RULE TITLE:                                      RULE NO.:  
Scope    4A-53.003

PURPOSE AND EFFECT: The purpose and effect of the  
revisions of this rule chapter are to clarify that these rules apply  
to new and existing hospitals and nursing homes.

SUMMARY: These changes make this rule chapter apply to  
new and existing hospitals and nursing homes.

SUMMARY OF STATEMENT OF ESTIMATED  
REGULATORY COSTS: No Statement of Estimated  
Regulatory Costs has been prepared.

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

SPECIFIC AUTHORITY: 633.01, 633.022 FS.

LAW IMPLEMENTED: 633.01, 633.022 FS.

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

TIME AND DATE: 8:30 a.m., April 17, 2001

PLACE: Room 116, Larson Building, 200 East Gaines Street,  
Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE  
PROPOSED RULE IS: James Goodloe, Chief, Bureau of Fire  
Prevention, Division of State Fire Marshal, 200 East Gaines  
Street, Tallahassee, Florida 32399-0342, (850)413-3620

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  
Millicent King, (850)413-3619.

THE FULL TEXT OF THE PROPOSED RULE IS:

4A-53.003 Scope.

(1) These rules are concerned with life safety during fires  
and similar emergencies. They address particular matters such  
as devices, systems installations, protection, and occupancy of

buildings to try to minimize danger to life from fire, smoke,  
fumes or panic before buildings, structures or premises are  
vacated.

(2) These rules apply to both new and existing hospitals  
and nursing homes.

Specific Authority 633.01, 633.022(1)(b) FS. Law Implemented 633.01 (1),  
633.022 FS. History—New 9-3-90, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
James Goodloe, Chief, Bureau of Fire Prevention, Division of  
State Fire Marshal

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Charles D. Clark, Director, Division  
of State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: February 12, 2001

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

## DEPARTMENT OF INSURANCE

### Division of State Fire Marshal

RULE CHAPTER TITLE:                      RULE CHAPTER NO.:  
Uniform Fire Safety Standards for

Correctional Facilities                      4A-54

RULE TITLES:                                      RULE NOS.:

Scope    4A-54.003

Definitions                                      4A-54.004

Mattresses                                      4A-54.006

Stair Treads                                      4A-54.007

PURPOSE AND EFFECT: The purpose and effect of the  
revisions of this rule chapter are to revise laws implemented;  
provide that rules are applicable to both new and existing  
correctional facilities; adopt and incorporate Department of  
Management Services, General Services Standard  
850-500-170 or ASTM E 906; adopt NFPA 101, Chapter 22 or  
23, as applicable.

SUMMARY: Revises laws implemented; provides that rules  
are applicable to both new and existing correctional facilities;  
adopts and incorporates Department of Management Services,  
General Services Standard 850-500-170 or ASTM E 906;  
adopt NFPA 101, Chapter 22 or 23, as applicable.

SUMMARY OF STATEMENT OF ESTIMATED  
REGULATORY COSTS: No Statement of Estimated  
Regulatory Costs has been prepared.

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

SPECIFIC AUTHORITY: 633.01, 633.022 FS.

LAW IMPLEMENTED: 633.01, 633.022 FS.

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

TIME AND DATE: 8:30 a.m., April 17, 2001

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0342, (850)413-3620

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 Millicent King, (850)413-3619.

THE FULL TEXT OF THE PROPOSED RULES IS:

#### 4A-54.003 Scope.

(1) These rules are concerned with life safety during fires and similar emergencies. They address particular matters such as devices, systems installations, protection, and occupancy of buildings to try to minimize danger to life from fire, smoke, fumes or panic before buildings, structures or premises are vacated.

(2) These rules apply to both new and existing correctional facilities.

Specific Authority 633.01 (1) FS. Law Implemented 633.01 (1), 633.022(1)(b) FS. History--New 6-6-90, Amended.

#### 4A-54.004 Definitions.

(1) No change.

(2) "Authority having jurisdiction" shall refer to a duly authorized representative of an agency or agencies having statutory legal code enforcement responsibilities.

Specific Authority 633.01 (1) FS. Law Implemented 633.01 (1), 633.022(1)(b) FS. History--New 6-6-90, Amended.

#### 4A-54.006 Mattresses.

(1) Polyurethane mattresses ~~without durable fire retardant covers~~ are prohibited in correctional facilities.

~~(2) Existing polyurethane mattresses with durable fire retardant covers shall be used only in open type housing and medium/minimum custody areas where the likelihood of intentionally set fires are minimal.~~

~~(2)(3)~~ Existing cotton core mattresses, with fire retardant treated cotton, may be used in areas of high risk of intentional ignition or where rescue or evacuation will be impeded. Wherever possible, cover existing cotton mattresses with a fire retardant outer cover.

~~(3)(4)~~ New purchases of mattresses for new or existing correctional facilities shall be for fire-retardant cotton core with durable fire retardant outer coverage, or fiber-filled material conforming to the flammability requirements set forth in the following standards:

(a) CFR 16, Part 1632, ~~1994 edition~~, which is incorporated herein by reference; or

(b) U.L. Standard 1895, Standard for Fire Test of Mattresses, which is incorporated herein by reference; or

(c) Department of Management Services, General Services Standard, 850-500-170, which is incorporated herein by reference; or

(d) ASTM E 906, which is incorporated herein by reference.

(4) General Services Standard, 850-500-170 may be obtained by writing to the State Fire Marshal at 200 East Gaines Street, Tallahassee, Florida 32399-0340, or by visiting the office of the State Fire Marshal at the Atrium, Third Floor, 325 John Knox Road, Tallahassee, Florida 32303.

(5) ASTM E 906 may be obtained by contacting the American National Standards Institute, Inc., 11 West 42nd Street, 13th Floor, New York, New York 10036 or by visiting the office of the State Fire Marshal at the Atrium, Third Floor, 325 John Knox Road, Tallahassee, Florida 32303.

Specific Authority 633.01 (1) FS. Law Implemented 633.01 (1), 633.022(1)(b) FS. History--New 6-6-90, Amended.

#### 4A-54.007 Stair Treads.

Stair treads in correctional facilities shall be in compliance with Chapter 22 or 23 of NFPA 101, as applicable, the edition as adopted in Section 4A-3.012, Florida Administrative Code of the grated or solid types.

Specific Authority 633.01 FS. Law Implemented 633.01 (1), 633.022(2) FS. History--New 6-6-90, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles D. Clark, Director, Division of State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2001

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

## DEPARTMENT OF INSURANCE

### Division of State Fire Marshal

RULE CHAPTER TITLE: Uniform Fire Safety Standards for

RULE CHAPTER NO.: 4A-55

Public Food Service Establishments

4A-55

RULE TITLES:

RULE NOS.:

Purpose

4A-55.002

Scope

4A-55.003

Definitions

4A-55.004

PURPOSE AND EFFECT: The purpose and effect of the revisions of this rule chapter are to revise laws implemented; substitute a public food service establishment for correctional facilities; repeal 4A-55.004, Definition, as unnecessary.

SUMMARY: Revises laws implemented; substitutes a public food service establishment for correctional facilities; repeals 4A-55.004, Definition, as unnecessary.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs has been prepared.

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

SPECIFIC AUTHORITY: 633.01, 633.022 FS.

LAW IMPLEMENTED: 633.01, 633.022 FS.

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

TIME AND DATE: 8:30 a.m., April 17, 2001

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0342, (850)413-3620

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 Millicent King, (850)413-3619.

THE FULL TEXT OF THE PROPOSED RULES IS:

4A-55.002 Purpose.

(1) No change.

(2) These rules try to avoid requirements which might result in unreasonable hardships, or unnecessary inconveniences or interference with the normal use and occupancy of a public food service establishment ~~correctional facilities~~, but at the same time insist upon compliance with uniform standards for fire safety consistent with the public interest, even though a financial hardship may result in some individual cases.

Specific Authority 633.01, 633.022(1)(b) FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New 9-3-90, Amended.

4A-55.003 Scope.

(1) These rules are concerned with life safety during fires and similar emergencies. They address particular matters such as devices, systems installations, protection, and occupancy of buildings to try to minimize danger to life from fire, smoke, fumes or panic before buildings, structures or premises are vacated.

(2) These rules apply to both new and existing public food service establishments.

Specific Authority 633.01, 633.022(1)(b) FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New 9-3-90, Amended.

4A-55.004 Definitions.

(1) ~~"Approved" shall mean accepted by the authority having jurisdiction upon evaluation of compliance with appropriate standards for the product or procedures in question, or by reason of testing and listing or approval by a recognized testing laboratory.~~

(2) ~~"Authority having jurisdiction" shall refer to a duly authorized representative of an agency or agencies having legal code enforcement responsibilities.~~

Specific Authority 633.01, 633.022(1)(b) FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History—New 9-3-90, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles D. Clark, Director, Division of State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2001

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

## DEPARTMENT OF INSURANCE

### Division of State Fire Marshal

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Uniform Fire Safety Standards for  
Migrant Labor Camps

4A-56

RULE TITLES: RULE NOS.:  
Definitions 4A-56.004

Manufactured Homes in Migrant Labor Camps 4A-56.006

PURPOSE AND EFFECT: The purpose and effect of the revisions of this rule chapter are to revise laws implemented; provide technical clarification of references; revise applicability of chapter to migrant labor camps using manufactured homes.

SUMMARY: Revises laws implemented; provides technical clarification of references; revises applicability of chapter to migrant labor camps using manufactured homes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs has been prepared.

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

SPECIFIC AUTHORITY: 633.01, 633.022 FS.

LAW IMPLEMENTED: 633.01, 633.022 FS.

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

TIME AND DATE: 8:30 a.m., April 17, 2001

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0342, (850)413-3620

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 Millicent King, (850)413-3619.

THE FULL TEXT OF THE PROPOSED RULES IS:

4A-56.004 Definitions.

(1) No change.

(2) "Authority having jurisdiction" means shall refer to a duly authorized representative of an agency or agencies having statutory legal code enforcement responsibilities, as described in Section 633.121, Florida Statutes.

Specific Authority 633.01, 633.022(1)(b) FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History--New 6-6-90, Amended.

4A-56.006 Manufactured Homes in Migrant Labor Camps Standards for Mobile Homes.

Migrant labor Camps using manufactured homes shall comply with NFPA 501A, Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities, the edition as adopted in 4A-4.012, Florida Administrative Code.

(1) ~~Those mobile homes manufactured in 1977 or before shall comply with the N.F.P.A. 501B mobile home standard for the year of their manufacture. Those standards are 501B, Chapter 3, 1964 edition; 501B, Part 8, 1968 edition; 501B, Part 8, 1971 edition; 501B, Part 8, 1972 edition; 501B, Parts 8 and 9, 1973 edition; 501B, Part 8, 1974 edition; 501B, Chapter 2 and Appendix to Chapter 2, 1977 edition, which are hereby incorporated by reference and may be obtained by writing to the National Fire Protection Association at Batterymarch Park, Quincy, Massachusetts 02269.~~

(2) ~~Those mobile homes manufactured after 1977 shall comply with Federal Requirements of 24 CFR, Chapter XX, Part 3280, Manufactured Home Construction and Safety Standards, which are hereby incorporated by reference.~~

Specific Authority 633.01, 633.022(1)(b) FS. Law Implemented 633.01(1), 633.022(1)(b) FS. History--New 6-30-91, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles D. Clark, Director, Division of State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2001

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

## DEPARTMENT OF COMMUNITY AFFAIRS

### Division of Housing and Community Development

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Manufactured Buildings 9B-1

RULE TITLES: RULE NOS.:

Definitions 9B-1.002

Administration and Department Responsibilities 9B-1.003

Adoption of Model Codes 9B-1.004

Enforcement Authority 9B-1.0055

Certification of Third Party Agencies 9B-1.006

Manufacturer Certification 9B-1.007

Inspections 9B-1.0085

Design Plan and Systems Approval 9B-1.009

Component System 9B-1.0095

Manufacturer's Quality Assurance Manual  
Control Procedures 9B-1.010

Alterations 9B-1.011

Reciprocity 9B-1.014

Department Insignia 9B-1.016

Schedule of Fees 9B-1.020

Change of Manufacturer's Status 9B-1.021

Manufacturer Obligations Upon Sale of Building 9B-1.022

Oversight, Complaint 9B-1.023

Factory-Built Schools, Certifications 9B-1.026

Factory-Built Schools, Plan Review 9B-1.027

Factory-Built Schools, Inspections and Work

Progress Reports 9B-1.028

Factory-Built Schools, Insignia and Data Plate 9B-1.030

PURPOSE, EFFECT AND SUMMARY: In 2000, the Legislature enacted substantial statutory amendments which effected the Department's authority implemented by Rule 9B-1, F.A.C. Additionally, the Florida Building Commission has completed a review of the manufactured building program in anticipation of its authority which should take effect during 2001. The Department promulgates the following amendments and additions to 9B-1, F.A.C., to implement the legislative mandates and Commission recommendations. Specifically, the amendments provide for the inspection and plan review for factory-built schools; delegate greater autonomy and authority to the third-party entities performing plan review and inspection services; define the Department's role in certifying and monitoring manufacturers and third party agencies; impose plan review criteria developed by the Florida Building Commission; clarify the interrelationship between the building code and the fire prevention code as they pertain to manufactured buildings; establish inspection standards and repeal reciprocity provisions as duplicitous of statute.

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: 320.01(2)(a), 553.37, 553.37(1),(2),(4), 553.37, 553.38, 553.38(1), 553.73(2), 553.381, 553.415 FS.

LAW IMPLEMENTED: 553.36, 553.37, 553.37(1)-(8), 553.38, 553.38(1),(2), 553.381, 553.39, 553.415 FS.

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

TIME AND DATE: 1:00 p.m., April 23, 2001

PLACE: Randall Kelley Training Center, Room 305, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida

Any person requiring special accommodation at the hearing because of a disability or physical impairment should contact Mo Madani, Planning Manager, Codes & Standards, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-1824, Suncom 277-1824, at least seven days before the date of the hearing. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ila Jones, Program Administrator, Codes and Standards, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-1824, Suncom 277-1824

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

##### 9B-1.002 Definitions.

For the purpose of this chapter, the following words, unless the context does not permit, shall have the meanings indicated:

(1) Third Party Agency – An individual or entity, which may be a private sector entity, a state department with building construction responsibilities or a local government ~~Approved Inspection Agency~~ ~~An organization determined by the Department pursuant to Rule 9B-1.006 to be especially qualified by reason of facilities, personnel, experience, and demonstrated reliability, to be qualified pursuant to this chapter to review plans for or inspect the construction of investigate, test, and evaluate~~ manufactured building units, systems, or the component parts thereof together with the plans, specifications, and quality control procedures to ensure that such units, systems, or component parts are in full compliance with the codes and standards herein ~~adopted by the Department pursuant to this part~~ and to assign and attach the insignia of the Department to label such units complying with those standards.

(2) ~~Approved~~ – ~~Conforming to the requirements of the Department of Community Affairs.~~

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

(4)(5) Component – Any three dimensional assembly, subassembly, or combination of elements for use as a part of a building, which may include structural, electrical, mechanical, plumbing and fire protection systems, and other building systems affecting life safety.

(6) ~~Damage~~ ~~Damage or breakage occurring to a manufactured building or any part thereof causing it not to comply with the applicable quality control manuals or the requirements of this chapter.~~

(5)(7) Dealer – Any person, corporation or business engaged in leasing, selling, or both buying, leasing, and selling manufactured buildings.

(8) through (9) renumbered (6) through (7) No change.

(10) ~~Field Technical Service~~ ~~Interpretation and clarification in the field by the Department of technical data relating to the application of this chapter.~~

(11) through (13) renumbered (8) through (10) No change.

(14) ~~Listed~~ ~~Equipment or materials or structures included in a list published by an approved listing agency.~~

(15) ~~Listing Agency~~ ~~An agency under contract with the Department which is in the business of listing or labeling products that have been tested to approved standards and found safe for use in a specific manner.~~

(11)(16) Local Building Official – The officer or other designated authority or their duly authorized representative charged with the administration of the applicable technical codes in the subject jurisdiction ~~local government technical codes. This term is synonymous with “building official” as that term is defined in s. 468.603(1), F.S.~~

(12) Enforcement Agency – An agency of state or local government with authority to make inspections of buildings and to enforce the codes which establish standards for design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures or facilities.

(17) ~~Local Government~~ ~~Any municipality, county, district or combination thereof comprising one or more governmental units.~~

(13)(18) No change.

(14)(19) Manufactured Building – A closed structure, building assembly, or system of subassemblies, which may include structural, electrical, plumbing, heating, ventilating, or other service systems manufactured for installation or erection, with or without other specified components, as a finished building or as part of a finished building, which shall include but not be limited to residential, commercial, institutional, storage, and industrial structures.

(20) ~~Manufacture Certification~~ ~~Conforming to the recognized codes and regulatory requirements adopted by the Department of Community Affairs.~~

~~(15)(21) Manufacturer – Any person who, or entity which, has been certified to produce, modify, or produce and modify produces and/or modifies a manufactured buildings for placement in the State of Florida.~~

~~(16)(22) No change.~~

~~(23) Model Codes—All of the Standard Codes listed in the above paragraphs are those published by the Southern Building Code Congress International, Inc.~~

~~(17)(24) Modification – Any change to a manufactured building, which affects the structural, electrical, thermal, mechanical, plumbing systems, life safety, means of egress, material flammability/flare spread or handicap accessibility of the building to persons with disabilities.~~

~~(18)(25) Occupancy Classification – The purpose for which a building, or part thereof, is used or intended to be used as defined in the codes and standards adopted herein.~~

~~(19)(26) No change.~~

~~(20)(27) Quality Control Manual – A mManual prepared by each manufacturer for its manufacturing plants which contains all aspects of quality control procedures to be utilized by an entity or individual performing a function regulated hereby outlined in Rule 9B-1.010.~~

~~(21)(28) Recertified Building – A manufactured building which has been previously approved by the Department and which has been subjected to the supplemental procedures provided in this chapter for subsequent approval modified from the originally approved plans. The portion of the building being modified must comply with the applicable codes. Each building must be used for the occupancy classification for which it was certified by the Department.~~

~~(29) Recertification Insignia—An approved device or seal issued by the Department to indicate that a manufactured building has been modified in compliance and accordance with the provisions of this chapter.~~

~~(30) Recognized Testing Organization—An organization which tests and labels equipment and materials for compliance with relevant standard or standards. Recognized organization shall comply with qualification criteria of Rule 9B-1.003(5).~~

~~(22)(31) Residential Building – Any structure in which families or households live or in which sleeping and accessory accommodations are provided which is not classified as an Institutional Occupancy as defined in the Standard Building Code, including but not limited to, dwellings, multiple-family dwellings, hotels, motels, dormitories, and lodging houses or as defined by the Standard Building Code.~~

~~(32) Site—The location on which a manufactured building is modified, manufactured, installed or is to be installed.~~

~~(33) through (34) renumbered (23) through (24) No change.~~

~~(35) System Prototype—A specific design of manufactured building designated by the manufacturer to be the standard for reproduction. A system prototype may include options that do not affect the performance function of any system.~~

~~(36) Temporary Building at Construction Site—Any building or shed which is temporary, and used for the storage of materials, equipment or other functions which are exclusively for construction purposes.~~

~~(25) Factory-built School – Any building designed or intended for use as a school building which is manufactured in whole or in part at an off site facility, including prefabricated educational facilities, factory-built educational facilities and modular built educational facilities that are designed to be portable, relocatable, demountable, or reconstructible, are used primarily as classrooms or the components of an entire school and do not fall under the provisions of ss. 320.822-320.862, F.S.~~

~~(26) Traveler – a form utilized in a manufacturing facility in conjunction with the manufacturer's quality control program to indicate that all quality control inspections are conducted during the manufacturing process and that all inspections indicate compliance with the approved plans.~~

Specific Authority 553.37(1), 553.415 FS. Law Implemented 553.36, 553.415 FS. History—New 1-17-72, Amended 2-23-75, 12-8-75, 3-1-80, 9-29-82, Formerly 9B-1.02, Amended 1-1-87, 3-1-92, 3-1-95, \_\_\_\_\_.

(Substantial rewording of Rule 9B-1.003 follows. See Florida Administrative Code for present text.)

9B-1.003 Administration and Department Responsibilities Activities.

(1) Forms – The following forms are hereby adopted by reference for use in administering this part.

<u>FMBP 1-00</u>	<u>Manufacturer Application for State Approval – 1 page</u>
<u>FMBP 2-00</u>	<u>Agency Application for State Approval – 1 page</u>
<u>FMBP 3-00</u>	<u>Manufacturer's Renewal Application – 1 page</u>
<u>FMBP 4-00</u>	<u>Agency Renewal Application – 1 page</u>
<u>FMBP 5-00</u>	<u>In-Plant Inspection Report – 1 page</u>
<u>FMBP 6-00</u>	<u>Insignia Request Form – 1 page</u>
<u>FMBP 7-00</u>	<u>Component System Insignia Request Form – 1 page</u>
<u>FMBP 8-00</u>	<u>Insignia Acknowledgment and Inspection Information – 1 page</u>
<u>FMBP 9-00</u>	<u>Reinsignia Request – 1 page</u>
<u>FMBP 10-00</u>	<u>Manufacturer Performance Monitoring Checklist – 2 pages</u>
<u>FMBP 11-00</u>	<u>Agency Performance Monitoring Checklist – 1 page</u>
<u>FMBP 12-00</u>	<u>Manufactured Building Permit Information – 1 page</u>

FMBP 13-00	Invoice – 1 page
FMBP PS-1-00	Application for School Boards
FMBP PS-5-00	Work Performance Report
FMBP PS-7-00	Insignia Request Form for Factory-Built Schools

(2) Certification – The Department shall certify manufacturers and third party agencies in accordance with this rule chapter. Certifications shall be for a period of three years which shall be measured on a yearly cycle running from July 1 through June 30. The expiration date of the certification shall be measured from July 1 of the year that application is made. All certifications, licenses and approvals granted by the Department pursuant to Rule Chapter 9B-1, F.A.C., are subject to revocation for failure to adhere to Rule Chapter 9B-1, F.A.C., the codes and standards adopted herein, or Chapter 553, F.S. Proceedings against certifications, insignia and approvals shall be in accordance with Chapter 120.60, F.S.

(3) Monitoring – The Department, through its employees or its designated performance auditors, shall monitor the performance of third party agencies and manufacturers. Each certified manufacturer and each certified third party agency shall be subject to a performance audit at a minimum of once every three years. Unannounced visits to offices and manufacturing facilities shall be utilized unless impractical based upon the nature of the business to be monitored. Information obtained through monitoring shall remain confidential to the extent permitted by law. Agencies and manufacturers shall provide the auditor access to records, facilities and personnel as requested by the auditor. The auditor shall collect information through interviews, examination of documents and observation of activity to determine whether the manufacturer or third party agency comply with the codes and standards adopted herein and this chapter. Any determination of nonconformance with any applicable provision shall be reported to the Department and the manufacturer or third party agency or both the third party agency and the manufacturer. The report shall identify the facts that support the finding of nonconformity and recommend corrective action. The Department shall determine the appropriate corrective action subject to the requirements of s. 120.60, F.S.

(4) Testing and Evaluations of Products – A recognized testing organization must comply with the ISO/IEC Guide 25:990 General Requirements for the Competency of Calibration and Testing Agencies; ISO/IEC Guide 38:1983 Acceptance of Testing Agencies; 40:1983 ISO/IEC Guide for the Acceptance of Certification Bodies.

Specific Authority 553.37(1),(2) FS. Law Implemented 553.37(1),(2), 553.381 FS. History–New 1-17-72, Amended 2-23-75, 3-1-80, 11-1-84, Formerly 9B-1.03, Amended 1-1-87, 1-1-89, 3-1-92, 3-1-95, 9-7-00, \_\_\_\_\_.

9B-1.004 Adoption of Model Codes.

(1) Building Code – The design and fabrication of manufactured buildings and components, shall comply with the technical requirements of the Standard Building Code, referenced in Rule 9B-3.047, ~~Florida Administrative Code~~, including Appendix M, except that as follows: (a) Chapters 1 and 32 shall be deleted.

(2) Life Safety Code (NFPA 101) – Buildings designed and manufactured by these rules shall conform to the requirements of the Life Safety Code, referenced in ss. Sections 633.022 and 633.025, Florida Statutes.

(3) No change.

(4) Gas Code – The design, fabrication and installation of gas piping systems and equipment in or on manufactured buildings shall comply with the requirements of the Standard Gas Code, referenced in Rule 9B-3.047, ~~Florida Administrative Code~~, except as follows:

(a) Chapter 1 shall be deleted.

(b) See paragraph (7) below.

(5) Plumbing Code – The design, fabrication and installation of plumbing systems and equipment, in or on manufactured buildings shall comply with the requirements of the Standard Plumbing Code, referenced in Rule 9B-3.047, ~~Florida Administrative Code~~, except as follows: ~~(a) Chapter 1 shall be deleted.~~

(6) Mechanical Code – The design, fabrication and installation of mechanical systems and equipment, in or on manufactured buildings shall comply with the requirements of the Standard Mechanical Code, referenced in Rule 9B-3.047, ~~Florida Administrative Code~~, except as follows: ~~(a) Chapter 1 shall be deleted.~~

(7) Liquefied Petroleum Gas – The design, fabrication, and installation of gas piping systems and equipment for Liquefied Petroleum Gas in or on all manufactured buildings shall comply with the requirements of Chapter 527, ~~F.S., of the Florida Statutes~~ (NFPA 54).

(8) No change.

(9) Energy Code – The thermal performance of manufactured buildings shall comply with the Florida Energy Efficiency Code for Building Construction referenced in Rule 9B-13, ~~Florida Administrative Code~~.

(10) Accessibility Standards – Manufactured buildings shall comply with Chapter 553, Part V, ~~Florida Statutes~~.

(11) Glass Standard – The design and installation of glass in or on a manufactured building must comply with the Standard Building Code referenced in Rule 9B-3.047, ~~Florida Administrative Code~~, and Chapter 553, Part III, ~~Florida Statutes~~.



(12) Building Official – For purpose of this chapter, where reference is made in any of the above mentioned codes in Rule 9B-1.004, F.A.C., to the building official, the plumbing or mechanical inspector official, to the administrative authority or enforcement official, or to any such authoritative person, it shall mean the Manufactured Buildings Program Administrator.

(13) No change.

(14) The above shall not apply to any building exempted pursuant to s. Section 553.73, Part VII, Florida Statutes.

(15) No change.

(16) Notwithstanding the foregoing provisions of this section, factory-built schools shall be subject to the following: Relocatable buildings used in the public school system, being manufactured and/or built away from the installation site, may be inspected by an inspection/plans review agency under contract with the Department of Community Affairs. The buildings must comply with the Uniform Building Codes adopted by the Department of Education and bear the Department of Community Affairs insignia of approval.

(a) Existing Buildings. Factory-built schools utilized as educational facilities prior to October 4, 2000, are hereby designated as existing buildings and shall comply with the requirements of Chapter 5, State Requirements for Educational Facilities (SREF), 1999 edition, adopted herein by reference. A copy of SREF can be obtained from Department of Education, Division of Educational Facilities, 325 West Gaines Street, Room 1054, Tallahassee, Florida 32399-0400.

(b) New Construction. Factory-built schools other than existing buildings shall be manufactured and installed as required by Chapter 7, State Requirements for Educational Facilities (SREF), 1999 edition, adopted herein by reference. A copy of SREF can be obtained from Department of Education, Division of Educational Facilities, 325 West Gaines Street, Room 1054, Tallahassee, Florida 32399-0400.

(17) Manufactured buildings, including factory-built schools, shall be subject to fire safety criteria and enforcement thereof as provided in Chapter 633, F.S., and rules adopted pursuant thereto.

Specific Authority 320.01(2)(a), 553.37(1), 553.38(1), 553.415, 553.73(2) FS. Law Implemented 553.37(8), 553.38(1), 553.415 FS. History—New 1-17-72, Amended 6-19-74, 2-23-75, 12-21-76, 3-20-79, 3-1-80, 6-24-80, 9-29-82, 1-29-84, 11-1-84, Formerly 9B-1.04, Amended 1-1-87, 1-1-89, 1-1-90, 3-1-92, 3-1-95.

#### 9B-1.0055 Enforcement Authority.

The Enforcement Agency is authorized to enforce all limitations on the plan approval as indicated on the data plate.

Specific Authority 320.01(2)(a), 553.37(1), 553.38(1), 553.73(2) FS. Law Implemented 553.37(8), 553.38(1) FS. History—New

(Substantial rewording of Rule 9B-1.006 follows. See Florida Administrative Code for present text.)

#### 9B-1.006 Certification of Third Party Agencies Delegation of Inspection Authority: Qualifications, Acceptance.

(1) Individuals or entities who desire to perform plan review, inspection, or both plan review and inspection of manufactured buildings shall be certified by the department. Those inspectors and plans reviewers employed by entities to perform the delegated functions do not require individual certification as an agency to the extent that the delegated functions are performed within the scope of the individuals regular course of employment. Individuals or entities performing delegated functions as an independent contractor for a third-party agency shall be individually certified.

(2) Application – The applicant shall submit a completed application (Form FMBP 2-00) with application fee amount stated in the Schedule of Fees. The application shall contain the following information.

(a) Name, address, and phone number of the applicant. If the applicant is a corporation, the application shall identify the officers and directors of the corporation, as well as the identity of any shareholders that hold controlling ownership interest in the corporation. If the applicant is a partnership, the application shall identify each partner.

(b) Names and professional license types and numbers of all employees or contractors employed or otherwise utilized for inspections or plans review or both inspections and plans review within the State of Florida.

(c) A statement of independence which shall be signed by the individual, each of the partners of a partnership, or the chief operating officer of a corporation to be certified. The statement shall be notarized and dated within the twelve months immediately preceding its submission. The statement shall affirm that the agency, any independent contractors utilized by the agency and its employees have no financial interest in any manufacturer other than providing professional plans review and inspection services and that the third party agency is not owned, operated, or controlled by any manufacturer or dealer.

(d) An affirmation that the agency shall comply with the Florida Manufactured Buildings Act and the Rule Chapter 9B-1, F.A.C.

(e) Proof of general liability insurance with minimum coverage limits of \$1,000,000.

(3) Agency's Quality Assurance Program Manual – The applicant shall submit a quality assurance manual to the department with the application which shall at a minimum contain the following sections.

(a) An introduction to the agency – A brief history, types of services provided.

(b) Outline of internal quality control plan and person in charge of quality control. How the agency plans to meet duties and responsibilities stated in subsection (4) below.

(c) An organizational chart showing relationship between administration, operation, and quality control responsibilities including plan reviewers and inspectors by name and title. Identify if they are employees or under contract.

(d) Personnel resumes shall be included for architects, engineers, plan reviewers, inspectors, and their supervisors. Applicable education, experience, and license number shall be indicated in the resume.

(e) Training program – Programs for required continuing education, seminars, discussions on code compliance, plan reviews, inspections, department requirements, etc.

(f) Inspection procedures – including inspection checklists for code compliance, inspection records, correction notice, reinspection, inspection visits and scope of inspections.

(g) Procedure for control of insignia;

(h) Procedure for maintenance of records.

(4) Duties and Responsibilities – Upon certification, the agency shall be entitled to conduct such plans review and inspection services for which it is qualified pursuant to these rules and shall comply with the following general duties and responsibilities.

(a) The agency shall act faithfully on behalf of the Department implementing the laws and rules of the manufactured buildings program.

(b) The primary duty and responsibility of the agency is to assure that the buildings and components manufactured are compliant with the applicable codes.

(c) Upon agency's approval of plans, satisfactory inspection of a building, or both approval of plans and a building constructed in accordance with those plans, electronic copies in a readable format on a standard compact disk of the plans as approved, the inspection report, or the plans and inspection report shall be forwarded to the Department.

(d) The agency shall biennially evaluate manufacturer's quality assurance program.

(5) The agency shall maintain its independence as certified until the expiration or resignation of its certification. An agency shall not perform plans review or inspect buildings that are designed by the agency, its employees or its contractors.

(6) Renewal – The third party agency shall renew its certification once every three years and update the information provided in its initial application using Form FMBP 4-00. Renewal must be requested no fewer than 60 days and no more than 90 days prior to the expiration date of the third party agency's certification. If application is made for renewal fewer than 60 days prior to the expiration date, but not after the

expiration date, a late fee of \$25.00 shall be charged. The Agency must meet the qualifications in effect upon the date of renewal to have its certification renewed.

Specific Authority 553.37(1), 553.38(1) FS. Law Implemented 553.37(8) FS. History—New 1-17-72, Amended 2-23-75, 12-8-75, 11-14-76, 3-23-77, 3-1-80, 9-29-82, 4-21-83, 11-1-84, Formerly 9B-1.06, Amended 1-1-87, 3-1-92, 3-1-95,\_\_\_\_\_.

(Substantial rewording of Rule 9B-1.007 follows. See Florida Administrative Code for present text.)

#### 9B-1.007 Manufacturer Certification Requirements.

(1) All individuals or entities manufacturing buildings or components for installation in Florida must be certified by the department. In the event that a manufacturer has more than one facility producing manufactured buildings, the manufacturer shall obtain certification for each such facility individually.

(2) Initial Certification Requirements – A manufacturer must submit to the department the following for certification:

(a) Application Package – a completed application; application fee; certificate of product liability insurance with coverage not less than \$1,000,000; and a copy of the contract with a certified third-party agency for plan review and inspection services.

(b) Identification of principals which shall at a minimum include the names of partners if the manufacturer is a partnership or its officers, directors, controlling owners and registered agent if the manufacturer is a corporation.

(c) Description of manufacturing facility including at a minimum the size of shed(s) for weather protection of building materials and buildings under construction or repair, the size of yard at the facility for storing buildings and a site plan of the facility.

(d) A Quality Assurance Program Manual which also may be called Quality Control Manual (QC Manual) in triplicate.

(3) The manufacturer shall submit a separate application for each of its plant locations. The Quality Assurance Program Manual shall be kept at each location.

(4) Renewal – The manufacturer shall renew its certification once every three years and update the information provided in its initial application using Form FMBP 3-00. Renewal must be requested no fewer than 60 days and no more than 90 days prior to the expiration date of the third party agency's certification. If application is made for renewal fewer than 60 days prior to the expiration date, but not after the expiration date, a late fee of \$25.00 shall be charged. The manufacturer must meet the qualifications in effect upon the date of renewal to have its certification renewed.

Specific Authority 553.37(1), 553.38(1), 553.381 FS. Law Implemented 553.37, 553.37(8), 553.38(1) FS. History—New 1-17-72, Amended 2-23-75, 11-14-76, 3-1-80, 11-4-84, Formerly 9B-1.07, Amended 1-1-87, 1-1-89, 3-1-95, 9-7-00,\_\_\_\_\_.

9B-1.0085 Inspections.

(1) Inspections shall be conducted at the manufacturing facility by an appropriately licensed representative of the Third Party Agency selected by the manufacturer. The inspections shall be to ensure that the buildings are being manufactured in compliance with the applicable codes and the approved plans. Once a Third Party Agency has inspected a manufactured building, the manufacturer shall not seek to have the building inspected by another agency, nor shall any agency inspect a building that has already been inspected by another unless the subsequent inspection is at the direction of the Department or unless the building or modification thereto is being inspected for recertification by the Department.

(2) At a minimum, a certified Third Party Agency shall:

(a) With regard to manufactured buildings, observe the manufacture of the first building built subsequent to the plan approval or the selection of the agency, whichever occurs last, from start to finish, inspecting all subsystems thereof. Continual observation and inspection shall continue until the third party agency determines that the implementation of the manufacturer's quality control program in conjunction with application of the approved plans and specifications and the manufacturer's capabilities result in a building that meets or exceeds the standards adopted herein. Thereafter, the agency shall inspect each module produced during that production run during at least one point during the manufacturing process and shall inspect the entire production line during each plant inspection, so that a minimum of seventy-five percent (75%) of the modules inspected will have a minimum of one of the subsystems (electrical, plumbing, structural, mechanical or thermal) exposed for inspection.

(b) With regard to components, observe the manufacture of the first unit assembled subsequent to the plan approval or the selection of the agency, whichever occurs last, from start to finish, inspecting all subsystems thereof. Continual observation and inspection shall continue until the third party agency determines that the implementation of the manufacturer's quality control program in conjunction with application of the approved plans and specifications and the manufacturer's capabilities result in a component that meets or exceeds the codes and standards adopted herein. Thereafter, the Third Party Agency shall inspect not less than fifty percent (50%) of the components in that production run.

(c) During each inspection, the agency shall verify that the manufacturer's in-plant quality-control program is working as set forth in the approved quality-control manual.

(d) Should work stop on a particular module or component for a period of two months, reinspection shall be required.

(3) When a Third Party Agency discovers a deviation from the Code or the approved plans which creates or threatens an imminent life safety hazard, all buildings or components which have progressed through that stage of production since the agencies previous inspection shall be inspected to ensure the

absence of that deviation, and the agency shall immediately notify the manufacturer and the Department in writing. Any building or component exhibiting the deviation shall be brought into conformance with the applicable code or the approved plans by the manufacturer within thirty days of notification of the deviation by the third party agency. The corrective action must be left available for reinspection by the Third Party Agency.

(4) The Third Party Agency shall note all inspections, deviations and corrective actions in a written inspection report and shall complete the Inspection Report portion of the Building Code Information System available via the Internet.

(5) The agency shall give a copy of the inspection report(s) to the manufacturer for record and shall retain another copy. The agency or the manufacturer shall provide a copy of an inspection report to the department when requested.

Specific Authority 553.38 FS. Law Implemented 553.38 FS. History—New

9B-1.009 Design Plan and Systems Approval.

(1) General. A final design plan approval shall be contingent upon compliance with these rules and the building codes specified in Rule 9B-1.004, F.A.C. All submittals to the ~~Third Party Agency Department~~ shall be in triplicate and ~~shall be made through the manufacturer's approved inspection agency.~~ The Third Party Agency reviewing the plans shall notify a manufacturer of any apparent errors or omissions and request any additional information necessary to evaluate the plans submitted within thirty days of receipt of the plans. The Department shall have the authority to seek revocation of a plan final approval by a Third Party Agency if, through monitoring activities, the Department discovers that the plans fail to comply with the standards adopted herein of all plans and systems.

(2) Design Plan Approval Application. Initial application to the ~~Agency Department~~ for design plan approval shall include:

(a) Completed application forms, ~~attached hereto and incorporated by reference in 9B-1.003(6), effective January 1, 1987.~~

(b) Three completed sets of design plans and specifications, prepared by an architect or engineer licensed to practice in the State of Florida, except as exempted by ~~Florida law Section 481.229, F.S., or Section 471.003, F.S.;~~ legible quality control manuals, supporting calculations and any required test results for each system and prototype to be approved. Based on compliance with the codes in Rule 9B-1.004, F.A.C., the Third Party Agency's plans examiner licensed under Chapter 468, F.S., ~~approved inspection agency's certified plans examiner~~ shall approve or disapprove the manufacturer's submittal. If the submittal is approved, the individual shall affix a stamp authorized by the Department, on each sheet print, the cover of the quality control manual and

supporting data in manual form. Plans drawn to a scale less than 1/8" to the foot are not acceptable. ~~For microfiche purposes, Plans shall be legible for reproduction purposes.~~

(c) If the plans are for a residential manufactured building, certification from the design professional responsible for the plans that the structure has been designed only for erection or installation on a site-built permanent foundation and is not designed to be moved once so erected or installed. If the residential manufactured building is transportable in one or more sections and is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis, the manufacturer shall certify that the manufactured building has been excluded from regulation by the United States Department of Housing and Urban Development. Design plan filing fees as required by the fee schedule in Rule 9B-1.020.

(3) System Approval. The manufacturer may submit through the inspection agency for Department approval a system of construction which may include any or all elements of building systems such as structural, mechanical, plumbing, and electrical elements or components. Such submission shall include all documents and data providing complete information necessary for evaluation of the system's performance and capabilities for its intended use. ~~The local government is responsible for inspecting the assembly of the components to assure compliance with the locally adopted code.~~

(4) Calculations and Test Procedures.

(a) Where it is necessary to substantiate any structural design or method of construction, calculations and supporting data, signed by a Florida Licensed Architect or Professional Engineer, where required by law or the department shall be submitted to the Third Party Agency department.

(b) ~~The load-bearing capacity of elements or assemblies shall be, determined in accordance with the applicable code, either by calculations in accordance with generally established principles of engineering design, or by physical tests allowed by the code. When the composition or configuration of elements, assemblies, or details of structural members are such that calculations of their safe load carrying capacity, basic structural integrity or fire resistance cannot be accurately determined in accordance with generally established principles of engineering design, such structural properties or fire resistance of such members of assemblies must comply with the Standard Building Code referenced in 9B-1.004. Tests shall be performed by a recognized testing organization that can demonstrate compliance with Rule 9B-1.003(4)(5), F.A.C. Tests shall be directed, witnessed and evaluated by a licensed architect or professional engineer. Test procedures and results shall be reviewed and evaluated by the Third Party Agency Department.~~

(5) A licensed modular plan reviewer shall review each set of documents so submitted, including without limitation the plans, specifications and design calculations, for compliance with the appropriate code and this part and shall utilize a checklist. The plans review and the checklist utilized therewith shall at a minimum contain the following elements:  
~~Manufacturers Plan Approval Revoked.~~

(a) ~~For commercial buildings: The manufacturer's plan approval shall terminate within ninety (90) days if he fails to update his submittal to the latest editions of the State adopted codes. Revocation of plans approval may also occur if the manufacturer is without inspection agency services, or upon the failure of the manufacturer to comply with any of the provisions of this chapter.~~

1. Building including determination of occupancy group and special occupancy requirements, and determination of minimum type of construction;

2. Fire resistant construction requirements including fire resistant separations, fire resistant protection for type of construction, protection of openings and penetrations of rated walls, fire blocking and draftstopping and calculated fire resistance;

3. Fire suppression systems including early warning, smoke evacuation systems schematic, fire sprinklers, standpipes, pre-engineered systems, and riser diagram;

4. Life Safety systems including occupant load and egress capacities, early warning systems, smoke control, stair pressurization, and systems schematic;

5. Occupancy Load/Egress Requirements including gross and net occupancy load, means of egress including exit access, exit and exit discharge, stairs construction/geometry and protection, doors, emergency lighting and exit signs, specific occupancy requirements, construction requirements, and horizontal exits/exit passageways;

6. Structural requirements including termite protection, design loads, wind requirements, building envelope, structural calculations (if required), wall systems, floor systems, roof systems, threshold inspection plan, and stair systems;

7. Materials including wood, steel, aluminum, concrete, plastic, glass, masonry, gypsum board and plaster, insulating (mechanical), roofing and insulation;

8. Accessibility requirements including accessible route, vertical accessibility, toilet and bathing facilities, drinking fountains, equipment, special occupancy requirements and fair housing requirements;

9. Interior requirements including interior finishes (flame spread/smoke develop), light and ventilation and sanitation;

10. Special systems including elevators, escalators and lifts;

11. Electrical including wiring including services, feeders and branch circuits, overcurrent protection, grounding, wiring methods and materials, and GFCI's, equipment, special occupancies, emergency systems, communication systems, low-voltage, and load calculations;

12. Plumbing including minimum plumbing facilities, fixture requirements, water supply piping, sanitary drainage, water heaters, vents, roof drainage, back flow prevention, irrigation, location water supply line, grease traps, environmental requirements and plumbing riser;

13. Mechanical including energy calculations, exhaust systems including clothes dryer exhaust, kitchen equipment exhaust and specialty exhaust systems, equipment, equipment location, make-up air, roof mounted equipment, duct systems, ventilation, combustion air, chimneys, fireplaces and vents, appliances, boilers, refrigeration, bathroom ventilation and laboratory;

14. Gas including gas piping, venting, combustion air, chimneys and vents, appliances, type of gas, fire places, LP tank location and riser diagram/shut-offs.

(b) For residential one and two family buildings: Upon revocation of plan approval, assigned insignias not used prior to the date of a manufacturer's revocation are void and shall be returned to the Department. The Department shall reimburse the amount paid for the insignias to the manufacturer.

1. Building including fire resistant construction if required, fire including smoke detector locations, egress including egress window size and location and stairs construction requirements, structural requirements including complete wall section from lowest element of the building through roof including assembly and materials, connector tables, wind requirements and structural calculations (if required), and accessibility requirements including show/identify accessible bath;

2. Electrical including service location, panel location and load calculations;

3. Plumbing including minimum plumbing facilities and fixture location based on floor plan;

4. Mechanical including energy calculations, equipment and duct layout and chimney and fireplaces if required;

5. Gas including location of gas appliances and indicate combustion air locations.

(c) The manufacturer's state certification shall terminate when the manufacturer filed a petition for a declaration of bankruptcy.

(6) Plan Approval Expiration – Upon revision of the building codes adopted herein, plan approvals shall expire upon the latter of the effective date of that revision or ninety (90) days from adoption of that revision by the Florida Building Commission unless the manufacturer files with the department a sworn statement by a Third Party Agency that the plans have been reviewed and that they are in compliance with the revisions to the adopted codes. Non-conforming

Application. Should the application or subsequent plans submittal not conform to the requirements of these rules, the applicant shall be notified in writing. If corrections have not been received by the Department within 60 days of such notice, the application will be deemed abandoned and all fees submitted shall apply towards departmental cost incurred with any excess returned. Subsequent resubmission shall be the same as for a new application.

(7) Evidence of Third Party Agency department approval. Approved plans and specifications shall be evidenced by a letter certificate from the Agency department. Approved copies of the design plans and specifications shall be returned to the manufacturer with an agency a state approval letter indicating the limitations, if any, of such approval. An approved copy of the plans shall be available for inspection use at each place of manufacture which shall be made available for inspection and monitoring. Upon approval of the plans, the Third Party Agency shall submit a copy of the plans bearing the approval stamp to the Department together with a list of any limitations of that plan approval and a separate copy of the plans and limitations on compact disk in a readable format. The Third Party Agency shall also remit the plan filing fees established in Rule 9B-1.020, F.A.C.

(8) Manufacturer's Component Data Plate. Each component or package of like components shall contain a manufacturer's data plate which indicates the limiting characteristics and design criteria of such components for determining how they are to be installed and utilized within their capabilities. Such data plate information shall be approved by the agency and the department.

(9) Manufacturer's Modular Data Plate. The manufacturer shall install on all industrialized buildings and components prior to leaving the manufacturing plant a data plate which shall be permanently mounted on or about the electrical panel and which shall contain, but not be limited to, the following design information when applicable.

- (a) Manufacturer number of modules;
- (b) Manufacturer Certification Number plan number;
- (c) Date of Manufacture serial number;
- (d) Date of Alteration insignia number;
- (e) Number of Modules occupancy classification;
- (f) Construction Type fire rating of exterior walls;
- (g) Occupancy Use Classification construction classification;
- (h) Florida Insignia Number maximum floor live load;
- (i) Serial Number maximum snow load (roof live load);
- (j) Agency Plan Number maximum wind load (velocity);
- (k) Standard Plan Approval Number seismic zone (0, 1, 2, 3);

(l) Maximum Floor Load (pounds per square foot), Live Load and Dead Load thermal transmittance value (Uo) of: walls, roof/ceiling and floors;

(m) Roof Load; Live Load and Dead Load date the building was constructed;

(n) Wind Velocity Rating;

(o) "U" rating of Floor, Wall, and Roof;

(p) Approved for Flood Zone Usage; and

(q) Limitations of the plan approval by the Third Party Agency.

(10) A professional engineer or architect registered by the State is authorized to prepare modifications to a manufacturer's typical, model which has received prior approval by the department. Any modifications shall bear the appropriate seal required by Section 481.221, F.S., or 471, F.S., as appropriate. Such modifications shall be approved by the inspection agency prior to submission to the department. The manufacturer has the option of beginning construction of the building after receiving the inspection agency approval at his own risk or delaying construction until the department has approved the modification. If the department determines that the designer has erred or made modifications which do not conform to the codes adopted herein, no insignias will be released until the deficiencies have been corrected.

(11) All material submitted by the manufacturer to the department in the form of design plans, engineering data, test results, quality control manual and other design information relating to their application will be considered as confidential information of the applicant until such time as approval has been issued by the department.

Specific Authority 553.37(1) FS. Law Implemented 553.38(1) FS. History—New 1-17-72, Amended 2-23-75, 3-1-80, 9-29-82, 1-29-84, 11-1-84, Formerly 9B-1.09, Amended 1-1-87, 3-1-92, 3-1-95, \_\_\_\_\_.

#### 9B-1.0095 Component System.

(1) A manufacturer may prefabricate building components such as wall, floor, or roof panels in standardized sections that are assembled in building construction. These components may be certified under the Florida Manufactured Buildings Program.

(2) The applicable enforcement agency is responsible for inspecting installation of components.

(3) The manufacturer shall submit documents and data providing complete information necessary for evaluation of the component's performance and capabilities for its intended use. Method of construction, calculations and test procedures shall be certified by a Florida registered architect or engineer and shall be as follows:

(a) Method of construction and detail drawings shall be submitted;

(b) Structural calculations in accordance with established principles of engineering design;

(c) When the component is such that calculations of their safe structural integrity or fire resistance cannot be accurately determined, tests shall be performed by a recognized testing organization. Test procedures and results shall be submitted;

(d) All components shall comply with the applicable building codes;

Specific Authority 553.37, 553.38 FS. Law Implemented 553.37, 553.38 FS. History—New \_\_\_\_\_.

(Substantial rewording of Rule 9B-1.010 follows. See Florida Administrative Code for present text.)

9B-1.010 Manufacturer's Quality Assurance Manual Control Procedures.

The manufacturer's Quality Control Manual shall at a minimum contain the following information.

#### (1) Organizational Element:

(a) Introduction of the manufacturer – a brief history which shall, at a minimum include the length of time that the manufacturer has been in the manufactured buildings industry, where it is incorporated, whether it is a division of any parent organization, the identity of products it manufactures, and the location of the facility.

(b) An organizational chart showing responsible management and supervisory positions by title and name. A job description for each of the positions shall be provided.

(c) Brief resume of all personnel in management and supervisory positions including the Quality Control Manager showing education and experience.

(d) Administrative procedure for revision of quality control procedure and Q. C. Manual.

(e) Procedure for retaining permanent records of plans, travelers, inspection reports, serial numbers of buildings, insignias used, first destination of labeled buildings or components.

(f) Method and frequency for training of quality control and production personnel.

#### (2) Design and Specification Control:

(a) Procedures for revisions to plans.

(b) Recording system of drawings and specifications.

#### (3) Material Control:

(a) Inspection procedure of materials, equipment and supplies when received.

(b) Method of storing and protection of building materials and equipment against damage.

(c) Provision for disposal of rejected materials, equipment and supplies.

(d) Forms used.

#### (4) Production Control:

(a) A description of manufacturing process – method and sequence of construction.

(b) Check lists of material specifications and workmanship inspections performed at each stage of production by supervisors, corrective actions taken, use of traveler.

(c) Frequency of quality control inspections.

(d) List of tests to be performed, testing equipments, results and technical data acceptable.

(e) Procedures for timely preventive and remedial measures.

(f) Assignment of authority to accept or reject work.

(g) Provision for disposition of rejected items.

(h) Forms used.

(5) Finished Product Control and Identification of Products:

(a) Procedure for handling and storage of finished buildings/modules and components.

(b) Preparation for shipping, transportation, and delivery.

(c) Serial numbering system of buildings or components and location of the serial number not readily removable.

(d) Location of manufacturer's data plate. Information to contain in the data plate.

(e) Location of Florida State insignia.

(f) Forms used.

Specific Authority 553.37(1) FS. Law Implemented 553.37(1), (8) FS. History—New 1-17-72, Amended 2-23-75, 3-1-80, 9-29-82, Formerly 9B-1.10, Amended 1-1-89, 3-1-92, 3-1-95, 9-7-00, \_\_\_\_\_.

9B-1.011 ~~Change in Status, Alterations.~~

~~(1) Changes to Approved Plans and/or QCM. Where the manufacturer proposes changes to the plans, quality control manual or procedures, three copies of such changes shall be submitted to the Department through the inspection agency for approval.~~

~~(2) Change of Ownership. Where there is a change of ownership of a manufacturing business having the Department's approval, the new owner shall forward to the Department a new agency contract, organizational chart, exclusive rights to states' certified plans and notify the Department of such change within ten (10) days. If the new owner submits a statement that he will continue to manufacture in accordance with previously approved plans, new application and plan filing fees pursuant to the fee schedule in these rules and regulations shall not be required.~~

~~(3) Change of Name or Address. In the event of a change in the name or address of any manufacturer or inspection agency, the Department shall be notified in writing within ten (10) days.~~

~~(4) Discontinuance of Manufacture. When a manufacturer discontinues production of a model carrying the Department's plan approval, the manufacturer shall, within ten (10) days, advise the Department of the date of such discontinuance.~~

~~(1)(5) Alteration or Conversion. Any unauthorized modification, alteration or conversion made to an approved manufactured building prior to installation shall void the insignia of approval. The insignia affixed to the building shall be confiscated by the inspection agency or the local building official as authorized by the Department and returned to the Department.~~

~~(2)(6) No change.~~

(a) In order to recertify a used manufactured building the owner must provide the approved inspection agency with a set of the original or as-built plans of the building reflecting the proposed modifications. When the agency approves the plans to modify the building, the manufacturer is authorized to begin work on it. The agency shall forward copies ~~a copy~~ of the approved plans to the Department as provided in Rule 9B-1.009(7), F.A.C., for its ~~review and~~ records. Once the agency has tested and/or evaluated each system in the building and certifies to the Department that the building is in compliance with the applicable codes, the Department will issue a recertification insignia to be affixed to the building.

(b) through (d) No change.

~~(3)(7)~~ On-site Modifications. On-site modification to manufactured buildings must be inspected by either an agency approved by the Department or by the ~~local~~ building official and must comply with the applicable codes. The manufactured building is not subject to locally adopted codes until it is taken out of compliance with the applicable state approved plans by modifications, or the occupancy classification has changed. The local jurisdiction has superseding authority over any on-site modifications to a manufactured building or may delegate this authority to the Department in writing on a case-by-case basis. Upon issuance of a certificate of occupancy for the modified manufactured building, the old insignia shall be removed and returned to the Department.

Specific Authority 553.37(1) FS. Law Implemented 553.37(1), (4) FS. History—New 1-17-72, Amended 2-23-75, 3-1-80, 9-29-82, 11-1-84, Formerly 9B-1.11, Amended 1-1-87, 3-1-92, 3-1-95, \_\_\_\_\_.

9B-1.014 Reciprocity.

Specific Authority 553.37(1) FS. Law Implemented 553.37(1), (6), 553.38(1) FS. History—New 1-17-72, Amended 2-23-75, 3-20-79, 3-1-80, 9-29-82, 11-1-84, Formerly 9B-1.14, Amended 1-1-87, 1-1-89, 3-1-92, 3-1-95, Repealed.

9B-1.016 Department Insignia ~~and Insignia Control Form.~~

(1) Each manufactured building, re-certified building, and components approved by the Third Party Agency shall be affixed with or component containing any portion of a closed system manufactured or modified by a manufacturer for sale or installation in Florida shall bear the appropriate insignia prior to leaving the manufacturing plant except factory-built school buildings.

~~(2) Each Insignia fees shall be charged as provided in the Schedule of Fees affixed to the unit in a visible location as approved by the department and whenever possible on the electrical distribution panel cover.~~

(3) Assigned insignias are not transferable from one building to another, or from one manufacturer to another manufacturer transferable and are void when not affixed as assigned. All such voided insignias shall be returned to, or may be confiscated by, the department.

(4) The control of the insignia shall remain with the Department and will be revoked by the Department in the event of violation of the conditions of approval. All such voided insignias shall be returned to the Department.

(5) Insignias shall be ordered from the Department utilizing insignia request Form FMBP 6-00, FMBP 7-00 or FMBP-PS-7-00. Fees for insignia as provided in Rule 9B-1.020, F.A.C., shall be submitted at the time of the request for insignia. One insignia shall be required for each building. An insignia control form shall be attached to the approved plans, and the identification numbers on the insignia control form shall match the serial number and insignia number affixed to the building.

(6) The Department shall issue insignias for those buildings and components built from previously approved plans. No insignia shall be issued until the plans for that building have been approved. Transporting or installing buildings or components which contain code deficiencies or which do not bear insignias shall be grounds for decertification of the manufacturer or agency or both.

(7) Insignias shall be mailed to the manufacturer's inspection agency. The Department shall reissue insignias if it is notified by the Third Party Agency that the insignias have not been received within fifteen days from the date of mailing. If a building and/or component is shipped to the installation site without bearing the state insignia, the Department shall supervise the affixing of the insignia on the building and/or component in the field and the manufacturer shall be required to incur the cost.

(8) The agency shall affix insignias to buildings only after inspection and determination that the building or component is in compliance with the building codes.

(9) After insignia is affixed, no alteration shall be made before installation.

(10) Insignias shall be denied to buildings and components not conforming with approved plans or system design.

(11) Affixing insignia to a building or components which has code deficiencies or do not conform to the approved plan, shall be grounds for decertification of the manufacturer or agency or both. In such case insignia shall be removed by the agency or the Department.

Specific Authority 553.37(1) FS. Law Implemented 553.37(1)-(5), 553.38 FS. History—New 1-17-72, Amended 9-17-73, 2-23-75, 3-1-80, 6-24-80, 9-29-82, 11-1-84, Formerly 9B-1.16, Amended 1-1-87, 3-1-92, 3-1-95.

(Substantial rewording of 9B-1.020 follows. See Florida Administrative Code for present text.)

9B-1.020 Schedule of Fees.

The Department shall charge the following fees for the indicated items:

(1) Manufacturer's certification application fee is \$300. Once a manufacturer has had at least one manufacturing facility certified, the manufacturer shall pay an application fee of \$100 for each additional manufacturing facility to be certified.

(2) Third Party Agency certification application fee is \$600.

(3) Manufacturers will be assessed a \$300.00 fee for certification and upon renewal for the initial manufacturing facility and a \$150.00 for certification and renewal each manufacturing facility thereafter.

(4) Inspections/Plans Review Agency will be assessed a \$900 fee for certification and upon renewal.

(5) Field technical service \$40.00 per man hour, plus expenses payable when service is rendered.

(6) Insignia Fees:

(a) Factory-built school used in the public school system insignia fee is \$30.00 for each building.

(b) Panelized Construction for Modular Residential or Commercial Buildings erected at installation site. The insignia fee shall be determined in the following manner:

Three dollars (\$3.00) per 100 square feet of floor area or major fraction thereof, based upon the plan with the largest floor area for each of the following sub-systems:

1. Foundation;

2. Floor;

3. Interior Walls;

4. Exterior Walls;

5. Ceiling and/or Roof;

The insignia shall be affixed to each panel prior to the panel leaving the manufacturing facility.

(c) Manufactured buildings that are less than 720 square feet in area as installed, and are not approved for use for human habitation such as storage sheds and lawn storage buildings: \$10.00 per building.

(d) Manufactured buildings and components not otherwise provided above: \$60.00 per module.

(7) All fees are non-refundable.

Specific Authority 553.37(1) FS. Law Implemented 553.37(7) FS. History—New 1-17-72, Amended 2-1-72, 2-23-75, 12-8-75, 3-20-79, 3-1-80, 9-29-82, 11-1-84, Formerly 9B-1.20, Amended 1-1-87, 1-1-89, 1-1-90, 3-1-92, 3-1-95.

9B-1.021 Change of Manufacturer's Status.

(1) Change of Ownership – When the ownership of a manufacturer changes, the new owner shall take the following steps.

(a) Inform the department in writing within 10 days of such change and give effective date of change.

(b) The new owner shall submit a completed manufacturer's application to the department.

(c) Submit an organizational chart of the management identified by title and name of officers.



(d) Send resume of officers in the management to the department.

(e) Send a certificate of product liability insurance to the department.

(f) A service contract with the plan review/inspection agency.

(g) If the new owner received exclusive rights to use state approved plans and the quality control manual of the previous owner, it shall be informed to the department.

(h) Certification of Quality Control Manual by agency. Make name changes and other changes in the Quality Control Manual where applicable. The department shall assign a new manufacturer's identification number.

(2) Change of Name and Address – In the event of a change in the name or address of any manufacturer or plan review/inspection agency, the department shall be notified within ten days.

(3) Change of agency – The following procedure shall be followed when a manufacturer changes plan review/inspection agency.

(a) The manufacturer shall inform the department of its change of agency reflecting effective date. The manufacturer shall not be without an agency.

(b) The manufacturer shall submit to the department a copy of the service agreement with the new agency reflecting an effective date.

(c) The new agency shall review and approve the existing or an updated Quality Control Manual of the manufacturer and submit to the department.

(4) Termination of state certificate – When a manufacturer or an agency decides to discontinue doing business, the department shall be informed in writing at least thirty (30) days in advance and such discontinuance shall act as a resignation of the certification.

Specific Authority 553.37(1) FS. Law Implemented 553.37(1). (4) FS. History–New \_\_\_\_\_.

#### 9B-1.022 Manufacturer Obligations Upon Sale of Building.

The manufacturer shall provide a TRANSPORTATION AND INSTALLATION BOOKLET with each building and component package. It shall include:

(1) Precautions and instructions for transportation of modules; and

(2) Installation instructions.

Specific Authority 553.38 FS. Law Implemented 553.38 FS. History–New \_\_\_\_\_.

#### 9B-1.023 Oversight, Complaint.

(1) Any person, firm or corporation, with a substantial interest in any action or any failure to act in conformity with these rules, including without limitation the technical standards and administrative provisions adopted hereby, may file a

complaint to the department. Such complaints may be with regard to the conduct of the department, the agency, the manufacturer or any of their employee(s).

(2) It is the responsibility of the manufacturer to correct code violations. The agency that approved the plans for the subject building or inspected the building shall investigate complaints and make a recommendation to the department regarding the existence of a code violation and disposition thereof. This activity shall be subject to monitoring, and the Department shall make an independent determination about the existence of a violation.

(3) Any complaint should contain sufficient information including the following:

(a) Parties involved;

(b) Description of grievance;

(c) Important dates and transactions;

(d) What is being affected; and

(e) Relief sought by the applicant.

Specific Authority 553.38(2), 553.39 FS. Law Implemented 553.38(2), 553.39 FS. History–New \_\_\_\_\_.

#### 9B-1.026 Factory-Built Schools, Certifications.

(1) Manufacturers. Prior to manufacturing factory-built schools for utilization in the State of Florida, a manufacturer shall be certified by the Department as provided in Rule 9B-1.007, F.A.C., and shall be subject to the continuing requirements thereof to maintain certification. Fees for certification of manufacturers shall be as provided in Rule 9B-1.020, F.A.C.

(2) Third Party Plan Review. The Department shall contract with an individual or entity to perform plan review pertaining to factory-built schools. Such individual or entity shall be subject to certification as a Third Party Agency as provided in Rule 9B-1.007, F.A.C. Maximum fees that the third party entity may charge those seeking plan approval shall be established by contract between the Department and the Plan Review entity.

(3) Inspectors and Third Party Inspection Entities. All entities that perform inspections of factory-built schools shall be certified by the Department as provided in Rule 9B-1.006, F.A.C., shall be certified as Uniform Building Code Inspectors and shall be subject to the continuing requirements thereof to maintain certification. Inspectors permanently employed by local school boards and community colleges shall be granted an exemption from certification by the Department pursuant to Rule 9B-1.006, F.A.C., upon written request of the Local School Board or Community College. All entities that perform inspections, whether exempt from certification or not, shall submit a quality assurance manual to the Department with the application, which shall at a minimum contain the following sections:

(a) Introduction to the agency, including a brief history and types of services provided;

(b) Outline of the agency's internal quality control plan, including the name and title of the person in charge of quality control and how the agency plans to meet the duties and responsibilities imposed by this chapter;

(c) Organizational chart showing the relationship between administration, operation, and quality control responsibilities, including a list of inspectors by name and title, identifying each as an employee or under contract;

(d) Personnel resumes;

(e) Training program, including programs for required continuing education, seminars, discussions on code compliance, inspections and department requirements;

(f) Inspection procedures, including inspection checklists for code compliance, inspection records, correction notice, reinspection, inspection visits and scope of inspections;

(g) Test procedures and methods pertaining to tests required by the applicable building codes;

(h) Procedure for control of insignia; and

(j) Procedure for maintenance of records.

Specific Authority 553.415 FS. Law Implemented 553.415 FS. History—New

#### 9B-1.027 Factory-Built Schools, Plan Review.

Plan review of plans for factory-built schools shall be performed by the Third Party Agency selected by the Department. An applicant for plan approval shall submit complete plans to an agency in the manner and format agreed to by the agency and the applicant. Plan submittals shall include a schedule of inspections which shall be performed periodically as necessary to assure that the building complies with applicable standards. Upon determination by the agency that the plans submitted comply with all applicable standards, the agency shall certify such determination by affixing an approval stamp on each page of the plans, and shall return one copy to the applicant, maintain an original set, and submit one copy electronically to the Department. The agency shall be compensated for the actual cost of the plan review by the applicant. No manufacturing activity shall commence until plan approval has been obtained from the Third Party Agency. Plan review at a minimum shall include those items identified in Rule 9B-1.009(5)(a), F.A.C.

Specific Authority 553.415 FS. Law Implemented 553.415 FS. History—New

#### 9B-1.028 Factory-Built Schools, Inspections and Work Progress Reports.

(1) Inspectors. The school board or community college (educational entity) which is to utilize the factory-built school shall be responsible for compliance with inspection requirements.

(2) Existing Buildings. Factory-built schools designated as existing buildings shall be inspected prior to July 1, 2001, to determine compliance with the applicable standards. All deficiencies shall be noted in an inspection report provided to

the educational entity upon completion of the inspection. Activities performed to rehabilitate a non-compliant building shall be subject to plan review and reinspection. Upon an inspector's determination that the building complies with the applicable standards, the inspector shall provide to the Department the information as required on the data plate for the building and identify the building as satisfactory for use as an educational facility on the Building Code Information System when that system becomes available on the Internet.

(3) New Construction. All buildings other than existing buildings shall be subject to inspection during the manufacturing process. The educational entity shall ensure that factory inspections are performed periodically and are sufficient to ensure that the building and its systems comply with the applicable standards. The inspector shall require the correction of all deficiencies found during the manufacturing process. Upon an inspector's determination that the building complies with the applicable standards, the inspector shall provide to the Department the information as required on the data plate for the building and identify the building as satisfactory for use as an educational facility on the Building Code Information System when that system becomes available on the Internet.

(4) Recurring Inspections. Factory-built schools shall be inspected once each year to determine continued compliance with the applicable standards. Noncompliance shall result in the building being found unsatisfactory. Unsatisfactory findings shall be reported to the Department and identified on the Building Code Information System when that system becomes available on the Internet.

(5) Manufacturers and their agents and employees. Inspectors and those representatives of the educational entity responsible for supervising work related to the manufacture and installation of a factory-built school shall complete and execute a Work Performance Report, Form FMBP-SB-5-00. There shall be at least one Work Performance Report for all periods during which a factory-built school is being manufactured or installed. The report shall be executed by that person who actually supervised the work during the period for which the report is completed. The completed reports shall be kept and maintained by the entity that has actual physical custody of the building.

Specific Authority 553.415 FS. Law Implemented 553.415 FS. History—New

#### 9B-1.030 Factory-Built Schools, Insignia and Data Plate.

(1) Generally. Each factory-built school building utilized for educational purposes shall bear the insignia of the Department and a data plate. Application for insignia shall be made by the educational entity utilizing the factory-built school on the form designated in Rule 9B-1.003, F.A.C. Insignia shall be issued to the inspector who completes the inspection of the building as installed. The data plate shall be fabricated by the manufacturer of new buildings and the owner

of existing buildings of durable material with the required information inscribed thereon. The insignia and data plate shall be permanently mounted on or about the electrical panel. Insignia shall be mounted on the building for which the insignia has been issued by the inspector having completed the inspection of the building as installed. Insignia and data plates are non-transferable. The data plate shall provide the following information:

- (a) Manufacturer;
- (b) Manufacturer certification number;
- (c) Date of manufacture;
- (d) Date of alteration;
- (e) Number of modules;
- (f) Construction type;
- (g) Occupancy use classification;
- (h) Florida insignia number;
- (i) Serial number;
- (j) Agency plan number;
- (k) Standard plan approval number;
- (l) Maximum floor load (pounds per square foot), live load, and dead load;
- (m) Roof load, live load and dead load;
- (n) Wind velocity rating;
- (o) "U" rating of floor, wall and roof;
- (p) Whether the building is approved for flood zone usage;
- (q) Whether the building is approved for enhanced hurricane protection zone usage;
- (r) Whether the building is designed for use as a public shelter in enhanced hurricane protection areas; and
- (s) Limitations of the plan approval by the third-party agency.
- (t) Whether the building is rated as satisfactory for use as an educational facility.

(2) Issuance of Insignia. Insignias to be affixed to factory-built schools shall be issued to the educational entity upon receipt by the Department of an inspection report finding that the building is satisfactory for educational purposes and containing information required for the data plate.

(3) Revocation. An inspector shall notify the Department of any unsatisfactory finding as the result of an installation or annual inspection. The insignia of the Department shall be revoked upon a determination that the factory-built school fails to comply with the applicable standards. Revocation shall be accomplished through procedures established by Section 120.60, F.S.

(4) Fees. Fees shall be paid prior to issuance of insignia for factory-built schools. One insignia shall be issued per building. The fees for insignia shall be as provided in Rule 9B-1.020, F.A.C. Such fees are non-refundable.

Specific Authority 553.415 FS. Law Implemented 553.415 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Ila Jones, Program Administrator, Codes and Standards, Division of Housing and Community Development

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Joseph Myers, Director, Division of Housing and Community Development, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 8, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 20, 2000

## DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: CONTRACTORS – Highway –  
Qualification to Bid

RULE CHAPTER NO.: 14-22

RULE TITLES: General Procedural Requirements

RULE NOS.: 14-22.0011

Rating the Applicant

14-22.003

Eligibility for Obtaining Proposal Documents

14-22.008

Over-Bidding

14-22.009

Suspension, Revocation, or Denial of Qualification

14-22.012

Contractor Non-Responsibility

14-22.0141

Forms

14-22.015

PURPOSE AND EFFECT: The proposed amendment is to update and clarify provisions of Rule Chapter 14-22, including substantive amendments, restructuring of the rule chapter, and editorial revisions. In addition, the tables in Rule 14-22.003 showing ratings for Management and Administration of Work and Work Performance are being removed from the text of the rules. The rating factors will be contained in a new form, which is being incorporated by reference in Rule 14-22.015.

SUMMARY: This is a proposed amendment and restructuring of seven rules within Rule Chapter 14-22. The rating tables for Management and Administration of Work and Work Performance are being removed from the text and replaced by a form.

SPECIFIC AUTHORITY: 334.044(2), 337.14(1) FS.

LAW IMPLEMENTED: 120.569, 337.11(3)(b), 337.11(5)(a)1.-3., 337.11(7)(b)1., 337.11(7)(c), 337.14, 337.16, 337.164, 337.165, 337.167 FS.

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.

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: 2:00 p.m., April 23, 2001

PLACE: 605 Suwannee Street, Suwannee Room (Room 250), Tallahassee, Florida

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

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

##### 14-22.0011 General Procedural Requirements.

(1) This rule chapter sets forth requirements for ~~qualifying applicants to be certified by the Department as qualified who wish~~ to bid for the performance of road, bridge, or public transportation construction contracts, in excess of \$250,000.

(2) Except for the provisions of Rules 14-22.012 and 14-22.0141, this rule chapter does not apply to bidders who wish to bid on construction contracts of \$250,000 or less, or other contracts not having to do with the construction of roads, bridges, or other public transportation projects.

(3) Time. The provisions of Rule 28-106, F.A.C., shall apply in computing any period of time prescribed by this rule chapter.

(4) Request for Hearing. All requests for hearing shall be in writing and shall be filed with the Clerk of Agency Proceedings, Department of Transportation, MS 58, Haydon Burns Building, 605 Suwannee Street, Tallahassee, Florida 32399-0458. A request for hearing is filed when it is delivered to and received by the Clerk of Agency Proceedings at the above address and accordingly, is not timely filed unless it is received by the Clerk of Agency Proceedings within the appropriate time period.

##### (5) Definitions.

(a) The following terms shall have the meanings set forth in Section 337.165, Florida Statutes: "contractor," "contract crime," "convicted" or "conviction," and "affiliate,"

(b) The term "affiliate" also shall include those companies which:

1. Have the same person or entity holding at least five percent ownership interest in both companies ~~owning a majority of the stock of the companies.~~

2. Have one of the companies holding an ownership interest in owning all or a majority of the stock of the other.

3. Have a common director(s) or officer(s).

4. Have one company financing the other, or otherwise making financial advances to the other.

5. Have one company subscribing to all the capital stock of the other, or otherwise causing the incorporation of the other.

6. Have one company paying the salaries, expenses, or losses of the other.

7. Have the directors of one company directing the actions of the directors or officers of the other, so that the directors or officers of each company do not act independently of each other.

8. Have one business entity so closely allied with another business entity through an established course of dealings, such as lending of financial assistance or engaging in joint ventures, as to cause a public perception that the two firms are one entity.

(c) The term "applicant" means the person, firm, or combination of persons or firms for which qualification is desired. Joint ventures are addressed in Rule ~~Section~~ 14-22.007.

(d) The term "bidder" means an entity which is ~~pre~~qualified according to this rule chapter, and which possesses sufficient current capacity to obtain bid proposal documents from the Department.

(e) The terms ~~"business", "business purposes" or "construction assets"~~ means assets used for the construction of roads, bridges, or public transportation projects. The terms ~~"non-business", "non-business purposes," or "non-construction assets"~~ means assets not used for the construction of roads, bridges, or public transportation projects.

(f) The term "qualified equipment appraiser" means an individual employed by an equipment company that sells, rents, or leases the general type of equipment being appraised, or a company or individual(s) engaged in the business of appraising equipment regularly used in the construction of roads, bridges, or other transportation projects.

(g) The term "qualified real estate appraiser" means an individual who meets all of the requirements of the laws of the state in which the appraisal occurs. Real estate appraisals on Florida real estate must be performed by a "Certified General Appraiser," as defined in Section 475.611, Florida Statutes.

(h) The term "construction revenues" means all revenues earned through contracting for the performance of road, bridge, and other construction projects (to include all revenues derived from providing administration, labor, material, equipment, supplies, and services necessary to fulfill contractual obligations incurred in the performance of road, bridge, and other construction projects).

Specific Authority 334.044(2), 337.14(1) FS. Law Implemented 120.569, 337.11(3)(b), 337.11(5)(a)1.-3., 337.11(7)(b)1., 337.11(7)(c), 337.14, 337.16, 337.164, 337.165, 337.167 FS. History—New 11-10-82, Amended 8-25-83, Formerly 14-22.011, Amended 12-20-89, 1-4-94, 7-1-95, 8-6-96, 1-17-99.

##### 14-22.003 Rating the Applicant.

(1) Verification of Information. The Department will make such inquiries and investigations as deemed necessary to verify and evaluate whether the applicant is competent, is

responsible, and possesses the necessary financial resources to perform the desired work, based upon the following ~~applicant's statements regarding:~~

(a) ~~The necessary Organization and management, including construction experience, and past work performance record of the applicant or applicant's employees, whether with or prior to their employment by that applicant, including deficiency in quality of completed work, any history of payment of liquidated damages, untimely completion of projects where liquidated damages were not paid, uncooperative attitude, contracts litigation, claims, and defaults in Florida or other states possessed by the applicant's employees.~~

(b) ~~Adequate Equipment, as shown on the equipment list for the requested classes of work. Adequate equipment shall be basic equipment used by the industry in the normal construction for each class of work or called for in the Standard Specifications for Road and Bridge Construction in force at the time of application.~~

(c) ~~Work performance record, including the quality of completed work, any history of payment of liquidated damages, untimely completion of projects where liquidated damages were not paid, cooperative attitude, contracts litigation, claims, and defaults.~~

(c)(d) ~~Integrity, including evaluation of truthfulness of statements in the application and in other contractual documents, and responsibility.~~

(d) ~~Financial resources, sufficient to establish a Maximum Capacity Rating (MCR) as set forth in (2) below. The Department will consider any other relevant financial information.~~

(2) ~~MCR Maximum Capacity Rating.~~

(a) ~~Definition and Formula. The Maximum Capacity Rating (MCR) shall be the total aggregate dollar amount of uncompleted work an applicant may have under contract at any one time as prime contractor and/or subcontractor, regardless of its location and with whom contracted. The MCR is determined by the Department using the following formula:~~

~~MCR = AF x CRF x ANW, in which~~

~~MCR = Maximum Capacity Rating~~

~~AF = Ability Factor (determined from the Ability Score as provided below)~~

~~CRF = Current Ratio Factor (determined as provided below)~~

~~ANW = Adjusted Net Worth (for rating purpose, determined as provided below).~~

1. Ability Score.

a. New applicants and applicants who have not been qualified under this rule for more than two years shall have their Ability Factor determined from the total Ability Score resulting from evaluations of the applicant's organization, management, work experience, and letters of recommendation. The maximum values used in determining the ability score for the above applicants are as follows:

ABILITY SCORE	
ORGANIZATION AND MANAGEMENT	MAXIMUM VALUE
Experience of Principals	15
Experience of Construction Supervisors	15
WORK EXPERIENCE	
Completed Contracts	
Highway and bridge related	
Non-highway and bridge related	10
ONGOING CONTRACTS	
Highway and bridge related	25*
Non-highway and bridge related	10
TOTAL	100
*MAXIMUM VALUE SHALL BE INCREASED TO 35 IF APPLICANT'S EXPERIENCE IS EXCLUSIVELY IN HIGHWAY AND BRIDGE CONSTRUCTION.	

b. If the applicant has been qualified under this rule within the last two years, and the Department has three or more Prime Contractor Past Performance Reports on file for projects completed for the Department within five years of the application filing date which have not been previously used to determine an Ability Score, the applicant's Ability Score shall be calculated by adding the scores of these reports plus the average score from the previous application and dividing this sum by the number of scores used. Prime Contractor's Past Performance Reports shall reflect the applicant's organization, management and demonstrated work performance, including work sublet to others, set forth in Form 700-010-25, which is incorporated by reference in Rule 14-22.015, as follows:

MANAGEMENT AND ADMINISTRATION OF THE WORK	MAXIMUM VALUE
<b>PRECONSTRUCTION CONFERENCE PRESENTATION</b>	
Maintenance of traffic plan furnished	\$
Erosion control and water pollution plan furnished	\$
Written proposed work schedule furnished	\$
Tentative work project schedule furnished	\$
Additional permits and licenses required by the contractor identified or acquired	\$
Sources for contract materials provided	\$
Potential subcontractors identified	\$
All forms necessary to meet E.E.O. requirements completed and furnished	\$
Contractor's construction vehicle registration documentation provided	\$
<b>CONTRACT COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY (E.E.O.), LABOR, ON THE JOB TRAINING (O.J.T.), AND DISADVANTAGED BUSINESS ENTERPRISE (D.B.E.)</b>	
Complied with E.E.O. hiring goals	\$
Displayed company E.E.O. policy statement for duration of contract	\$
Furnished certified payrolls to the Department as required for themselves and their subcontractors	\$
Corrected wage violations within time frame stipulated	\$
Complied with applicable labor regulations	\$
Completed on the job (O.J.T.) training for worker classifications submitted	\$
Satisfied contract D.B.E. requirements	\$
<b>PROJECT RECORDS AND CONTRACT DOCUMENTATION</b>	
Submitted subcontract requests in a timely manner (Reasonably prior to the subcontracting needed on the job)	10
Rental agreements provided to the department prior to deployment of equipment on the job	10
Certification for materials furnished when materials were delivered or stockpiled	10
Invoices and delivery tickets furnished for materials used	10
Shop drawings submitted to allow time for required review	10
Responded to correspondence from the department by the date requested	10
Provided the Department a copy of written permission for operations conducted on private property adjacent to the project	10
<b>EFFECTIVENESS IN SCHEDULING AND ORGANIZING CONSTRUCTION OPERATIONS AND NEGOTIATING CONTRACT MODIFICATIONS</b>	
Materials were ordered and delivered early enough to be available for use when needed	30
Advanced planning and coordination was done on complicated or critical work to assure a smooth operation	40
Coordinated subcontractor operations to maintain work schedule	30
Organized and coordinated all operations to maintain work schedule preventing delays or stoppages of work	40
Notified the Department in advance of personnel or schedule changes and shut downs for adverse weather, holidays, or other circumstances	20
Handled necessary modifications to the contract promptly and in a cooperative manner	20
Submitted documentation for extra work, time extensions, or claims that was organized and complete	30

WORK PERFORMANCE	MAXIMUM VALUE
<b>EXECUTION OF THE WORK</b>	
Provided supervisory personnel that demonstrated experience in the types of work performed	30
Committed manpower that possessed skill levels commensurate with assigned duties to maintain work schedule	30
Performed work on other production items available when work on controlling items was prevented	10
Started and completed intermediate or critical project phases within scheduled time plus authorized extensions	20
Took necessary steps to minimize and immediately correct hazardous job site conditions and operations	30
Cooperated in the performance of the work with other contractors on or adjacent to the project.	10
Supervised subcontractors to maintain work schedule and insure contract compliance	30
Complied with conditions stipulated in regulatory permits	30
Adhered to the requirements stipulated in the contract and project plans	10
Provided accurate engineering and survey layout	20
Promptly corrected all deficient work to comply with the contract requirements	20
<b>WORK QUALITY AND INTERFACE WITH THE DEPARTMENT'S INSPECTION OF THE WORK</b>	
Provided resources to produce uniform quality to the finished work	40
Informed Department project personnel in advance of scheduled day-to-day items of work	20
Allowed sufficient time for completing job site sampling and testing of materials	30
Gave sufficient notice for the Department project personnel to provide for and complete required inspection before continuing with affected work	30
Informed the project personnel when conflicts with existing portions of the work were encountered	20
Provided and maintained adequate survey station markers and grades to allow for necessary inspection	10
Endeavored to resolve problems at the project level and followed the chain of authority in the Department	20
<b>MAINTENANCE OF TRAFFIC (M.O.T.)</b>	
Provided and maintained necessary signing, striping, and traffic control devices to safely move traffic through the construction zone	40
Provided qualified personnel for the set up and servicing of M.O.T. operations	30
Utilized appropriate and safe methods to switch, close, or open lanes under live traffic	40
Coordinated construction operations that directly affected the traveling public so as to minimize impact to the public	30
Provided properly trained and fully equipped personnel for flagging traffic	20
Provided and maintained a current list of personnel available for non-working hour emergencies	20
<b>INTERACTION OF CONSTRUCTION OPERATIONS WITH EXISTING FACILITIES AND COMPLETED WORK</b>	
Installed and maintained erosion control devices in accordance with approved erosion control plan	20
Protected private property and business facilities along the right of way or adjacent to the project	10
Provided and maintained adequate access to adjacent property	20

Coordinated daily construction activities with adjacent business operations to reduce adverse effects	30
Provided prompt response to legitimate complaints from adjacent business or property owners	20
Protected accepted work from damage from continuing construction operations	10
<b>JOB SITE SAFETY CONDITIONS</b>	
Enforced contract safety regulations for construction operations	20
Enforced contractor's own safety policies for construction operations	20
Maintained work site in an organized and safe condition	20
Provided workers safety training and equipment	20
Maintained, in good working order, safety warning devices and safety gear on construction equipment	20
<b>EQUIPMENT PROVISION AND UTILIZATION</b>	
Had on site the amount and types of equipment required to maintain work schedule	10
Utilized equipment that met the contract requirements and produced an acceptable finished product	10
Repaired and maintained production equipment	10
<b>INTERFACE WITH UTILITIES</b>	
Demonstrated effort to schedule and coordinate with utility companies prior to beginning construction operations affecting those utilities	10
Took adequate measures to protect existing utility equipment and property	10
Immediately notified utility companies and the Department when construction operations interrupted or damaged utilities	10
Demonstrated a cooperative effort to work together with utility companies as needed to correct unforeseen problems	10
<b>FINAL COMPLETION OF THE WORK</b>	
Completed work within contract time plus authorized extensions	5
Retained a work force sufficient to timely complete final clean-up	5
Completed all punch list items in a timely manner	5
Final paperwork and documentation was submitted	5
<b>PERFORMANCE SCORE CALCULATION. TOTAL SCORE DIVIDED BY MAXIMUM RATING ATTAINABLE MULTIPLIED BY 100 EQUALS PERFORMANCE SCORE.</b>	

c. If the applicant has been qualified under this rule within the last two years, and the Department does not have three or more Prime Contractor Past Performance Reports on file for the applicant for projects completed for the Department within five years of the application filing date, then the Ability Factor (AF) from the applicant's last successful application will be is brought forward and used.

d. The average Ability Score determined in a. or b. above is converted to an AF Ability Factor pursuant to Rule Section 14-22.003(2)(a)2., or the AF Ability Factor is brought forward as indicated in c. above. The AF Ability Factor is then used in the formula pursuant to Rule Section 14-22.003(2)(a) to compute the applicant's MCR Maximum Capacity Rating.

2. Ability Factor. The Ability Score for new and active applicants shall determine the Ability Factor (AF) as follows:

Ability Score	AF
<del>Less than 54</del>	<del>1</del>
<del>55-64 or less</del>	<del>1 2</del>
65-69	<u>2 3</u>
70-73	<u>3 4</u>
74-76	<u>4 5</u>
77-79	<u>5 6</u>
80-84	8
90-93	12
94-97	14
98-100	15

a. Notwithstanding the requirements in Rule Sections 14-22.003(2)(a) and 14-22.003(2)(a)1.a., 1.b., 1.c., 1.d., and 14.22.003(2)(a)2. above, the AF will be limited to a maximum of 4., if the applicant receives an ability score of 76 or less on the initial application, or receives an ability score of 76 on two or more Prime Contractor Past Performance Reports on file for projects completed during the 12 month period preceding the



applicant's fiscal year ending date for which the Certificate of Qualification is being issued. The use of a surety commitment letter to raise the MCR is prohibited under this limitation.

b. This AF limitation will remain in effect during the current qualification period.

3. Current Ratio Factor (CRF). The current ratio is the number resulting from dividing the adjusted current assets by the adjusted current liabilities. The actual current ratio from 0.60 up to a maximum of 2.00 will be used as the CRF Current Ratio Factor. For current ratios greater than 2.00, 2.00 will be used as the CRF Current Ratio Factor. The applicant will be denied qualification if its ~~their~~ current ratio is less than 0.60.

4. Adjusted Net Worth (ANW). The ANW Adjusted Net Worth must be a positive value for the applicant to be considered for qualification. The ANW Adjusted Net Worth used in the MCR Maximum Capacity Rating formula will be the amount of capital and surplus (net worth) adjusted as follows:

a. Value allowed for equipment shall be the book value, or 50 percent of actual value given by a qualified equipment appraiser, whichever is greater. Equipment appraisals must be dated no earlier ~~older~~ than six months prior to receipt of the application.

b. Value allowed for real estate used for business purposes (road, bridge, or public transportation construction) shall be:

(I) The book value or the value given by a qualified real estate appraiser, ~~(Real estate appraisals shall be~~ dated no earlier ~~older~~ than two years prior to the date the application is filed), less

(II) encumbrances against same (~~s~~Such encumbrances will not also be deducted elsewhere).

c. No value will be allowed for real estate, or ~~and~~ any other property not used in road, bridge, or public transportation construction, and no allowance shall be given for homesteads or personal property.

d. Assets of doubtful value shall be eliminated in part or entirely.

e. Contingent liabilities shall be treated as actual liabilities, wholly or in part, depending on the probability of such liabilities becoming actual liabilities.

5. ~~Maximum Capacity Rating (MCR)~~. The calculated MCR Maximum Capacity Rating shall be rounded off according to the following scale:

Up to \$500,000 – round off to nearest \$10,000

Above \$500,000 to \$2,000,000 – round off to nearest \$25,000

Above \$2,000,000 – round off to nearest \$50,000

(b) Bonding Capacity.

1. Except for the provisions of Rule Section 14-22.003(2)(a)2.a., above, an ~~An~~ applicant qualifying who ~~qualifies~~ for a positive rating under the above provisions, has an Ability Score of 80 ~~75~~ or higher, and has a Current Ratio Factor of at least 1.00, shall be allowed to raise its ~~their~~ MCR

~~Maximum Capacity Rating~~ upon receipt of evidence of a current bonding capacity exceeding the calculated MCR Maximum Capacity Rating from a surety company authorized to do business in Florida. Such evidence shall be in the form of a letter of commitment executed by an officer of the surety who is authorized to bind the surety, with a power of attorney attached. The surety letter must be dated within four months of the request and cover the certification period. The limit for an ~~an~~ MCR Maximum Capacity Rating issued on the basis of such bond commitment for applicants with an Ability Score of 80 ~~75~~ through 90 will be determined by the following "Surety Capacity" formula:

$$SC = SM \times MCR \times (CRV \div TRV)$$

In which:

SC = Surety Capacity

SM = Surety Multiplier (Determined from Ability Score – Surety Multiplier Table as provided below)

MCR = Maximum Capacity Rating (Determined as provided in 14-22.003(2)(a))

CRV = Construction Revenues (As set forth in applicant's financial statements per 14-22.002(2)(c)2.)

TRV = Total Revenues (As set forth in applicant's financial statements)

ABILITY SCORE – SURETY MULTIPLIER TABLE			
Ability Score	Surety Multiplier	Ability Score	Surety Multiplier
<del>75</del>	<del>2.0</del>	83	4.2
<del>76</del>	<del>2.2</del>	84	4.6
<del>77</del>	<del>2.4</del>	85	5.0
<del>78</del>	<del>2.6</del>	86	5.6
<del>79</del>	<del>2.8</del>	87	6.2
80	3.0	88	6.8
81	3.4	89	7.4
82	3.8	90	8.0

2. Except for the provisions of 14-22.003(2)(a)2.a., above, ~~the MCR the Maximum Capacity Rating~~ for firms that have an Ability Score of 91 or greater will be the "Aggregate of Contracts" amount stipulated in the surety commitment letter. An MCR Maximum Capacity Rating established through the use of a surety commitment letter shall not exceed the "Aggregate of Contracts" amount stipulated in the surety commitment letter.

3. Except for the provisions of Rule Section 14-22.003(2)(a)2.a., above, use ~~Use~~ of a surety commitment letter to increase an applicant's MCR Maximum Capacity Rating will only be considered if at the time of application the applicant's CRF Current Ratio Factor is at least 1.00, as defined in Rule Section 14-22.003(2)(a)3., and the applicant has an Ability Score of 80 ~~75~~ or higher. No event(s) during the qualification period subsequent to the ending date of the

audited financial statements used for qualification will be considered in determining an applicant's CRF Current Ratio Factor.

~~4. Newly established companies with a Current Ratio Factor of at least 1.00 may use a surety commitment letter as described above, provided the applicant has received an Ability Score of 75 or higher. The Maximum Capacity Rating issued on the basis of such bond commitment shall be determined by multiplying the surety commitment amount(s) by 0.50.~~

(3) Classification of Work.

(a) Applicant request for class(es) of work. Applicants shall indicate each class of work for which they desire qualification. The Department will consider qualifying the applicant only in the specific class or classes of work requested.

(b) The major classes of work are as follows:

1. Major Bridges:

- a. Bridges which include bascule spans.
- b. Bridges which include curved steel girders.
- c. Bridges with multi-level roadways.
- d. Bridges of concrete segmental construction.
- e. Bridges which include steel truss construction.
- f. Bridges which include cable stayed construction.
- g. Bridges of conventional construction which are over a water opening of 1,000 feet or more.

2. Intermediate Bridges are bridges that contain none of the types of construction listed under Major Bridges and span lengths exceeding 50 feet (center to center of cap).

3. Minor Bridges are bridges with span lengths not exceeding 50 feet (center to center of cap) and total length not exceeding 300 feet. A Minor Bridge shall not contain any type of construction listed under Major Bridges or Intermediate Bridges.

4. Bascule Bridge Rehabilitation.

5. Grading (includes clearing and grubbing, excavation, and embankment).

6. Drainage (includes all storm drains, pipe culverts, culverts, etc.).

7. Flexible Paving (includes limerock, shell base and other optional base courses, soil-cement base, mixed-in-place bituminous paving, bituminous surface treatments and stabilizing).

8. Portland Cement Concrete Paving.

9. Hot Plant-Mix Bituminous (includes structural and surface courses).

(c) Specialty classes of work are as follows:

1. Electrical work (includes roadway, bridge, and runway lighting).

2. Fencing.

3. Guardrail.

4. Grassing, Seeding, and Sodding.

5. Landscaping.

6. Traffic Signals.

7. Computerized Traffic Control Systems.

8. Bridge Painting.

9. Pavement Markings (includes delineators, traffic stripe painting, and thermoplastics).

10. Roadway Signing.

(d) Such other classes of work not normally performed by road and bridge contractors as the applicant may request.

Specific Authority 120.53(1)(a), 334.044(2), 337.14(1) FS. Law Implemented 337.11(3)(b), 337.11(5)(a)1.-3., 337.11(7)(b)1., 337.11(7)(c), 337.14, 337.164, 337.167 FS. History—Formerly Chapter 14-8, Amended 7-1-67, 8-20-68, 5-9-70, 1-6-72, 9-24-75, Formerly 14-22.01(4), Amended 3-23-79, 11-10-82, 8-25-83, 1-9-84, 10-1-85, Formerly 14-22.03, Amended 12-20-89, 4-22-92, 1-4-94, 7-1-95, 7-2-95, \_\_\_\_\_.

14-22.008 Eligibility for Obtaining Proposal Documents.

(1) Proposal documents for a specific project(s) shall be issued only to a prospective bidder who has a Current Capacity equal to or larger than the budgeted contract amount and a Certificate of Qualification, which expires on or after the date proposals are to be received, covering one or more classes of work which, in the aggregate, comprises 50 percent or more of the Department's budget estimate of the total value of normal work included in the proposal documents, ~~and who also has a Current Capacity equal to or larger than the budgeted contract amount.~~

(2) The term "normal work" as used herein means all work in the contract not designated in the proposal document or the Specifications as Specialty Work.

(3) The term "Current Capacity" as used herein is as defined in Rule Section 14-22.006(1).

(4) Eligibility for obtaining proposal documents shall have no effect on determination of the Current Capacity.

(5) A qualified bidder will be issued proposal documents for any number of projects, provided the estimated contract amount of any individual project requested does not exceed their Current Capacity. Except for the provisions of Rule Section 14-22.003(2)(a)2.a., above, qQualified firms that desire to bid a project which exceeds their Current Capacity, ~~and whose CRF Current Ratio Factor~~ was at least 1.00 based on the financial statements used for current qualification, and that have an Ability Score of 80 ~~75~~ or higher, will be allowed to bid that specific project if the firm furnishes a commitment letter from a surety company, authorized to do business in Florida, that the project amount does not exceed the firm's Surety Capacity as established by Rule Section 14-22.003(2)(b)1., ~~and that provides sufficient surety coverage to allow the firm to be eligible to receive bidding documents for that specific project only.~~ Issuance of proposal documents by the Department will be subject to payment of applicable costs by the qualified bidder.

(6) The bid shall be signed by the owner for sole proprietorships; partner(s) authorized to bind the entity for a partnership; the president or vice president for corporations; and for limited liability companies an ~~the~~ authorized executing

official. Bids submitted by a joint venture shall be signed by the authorized executing officials of the business entities comprising the joint venture and the attorney-in-fact for the joint venture.

Specific Authority 334.044(2), 337.14(1) FS. Law Implemented 337.11(3)(b), 337.11(5)(a)1.-3., 337.11(7)(b)1., 337.11(7)(c), 337.14, 337.164 FS. History—Formerly Chapter 14-8, Amended 7-1-68, 8-20-68, 5-9-70, 1-6-72, 9-24-75, Formerly 14-22.01(11), Amended 3-23-79, 11-10-82, 8-25-83, Formerly 14-22.08, Amended 12-20-89, 1-4-94, 7-1-95, 7-2-95, \_\_\_\_\_.

#### 14-22.009 Over-Bidding.

(1) Any bid that exceeds the Current Capacity of the bidder shall be disqualified and rejected unless the bidder fulfills the requirements of Rule Section 14-22.009(3).

(2) In the event a bidder submits the low bid on two or more projects in the same letting where ~~and~~ the aggregate dollar amount of the bids is greater than the Current Capacity of the bidder, and the bidder is unable to increase its ~~their~~ Current Capacity by fulfilling the requirements of Rule Section 14-22.009(3), the Department shall select the particular project or projects for ~~to~~ award that will be in the best interest of the Department, and is within the bidder's Current Capacity, and shall disqualify and reject their other bid or bid(s).

(3) Before the Department takes action under the provisions of either of the preceding two paragraphs, the bidder shall be notified in writing of the Department's action and, except for the AF provisions of Rule Section 14-22.003(2)(a)2.a., above, shall be allowed a period of 10 days from the date the bid was opened to submit evidence to justify an increase in its ~~their~~ Current Capacity, such as additional bonding capacity (only permitted for firms that possess a Current Ratio Factor of at least 1.00 based on financial statements for current qualification and that have an Ability Score of 75 or higher) or that work on existing contracts has been subcontracted to others. Proposed subcontracts under unexecuted contracts will not be considered. If the Department finds the evidence justifies a change in the bidder's Current Capacity, its ~~their~~ Current Capacity shall be changed accordingly. Any such change based on bonding capacity will be subject to the Surety Capacity requirements of Rule Section 14-22.003(2)(b)1. and subject to a time limit.

(4) The determination of the successful bidder on any project or projects in which bids have been disqualified under the provisions of this section shall be made without consideration of the bid or bids so disqualified ~~bid(s).~~

Specific Authority 334.044(2), 337.14(1) FS. Law Implemented 337.11(3)(b), 337.11(5)(a) 1.-3., 337.11(7)(b)1., 337.11(7)(c), 337.14, 337.165 FS. History—Formerly Chapter 14-8, Amended 7-1-67, 8-20-68, 5-9-70, 1-6-72, 9-24-75, Formerly 14-22.01(11), Amended 3-23-79, 11-10-82, 8-25-83, Formerly 14-22.09, Amended 12-20-89, 1-4-94, 7-1-95, 7-2-95, \_\_\_\_\_.

14-22.012 Suspension, Revocation, or Denial of Qualification.

(1) The Department will, for good cause, ~~as that term is defined in Section 337.16(2), Florida Statutes,~~ suspend, revoke, or deny any contractor's qualification to bid. A suspension, revocation, or denial for good cause pursuant to this rule shall prohibit the contractor from bidding on any Department construction contract for which ~~prequalification~~ is required by Section 337.14, Florida Statutes, ~~and~~ shall constitute a determination of non-responsibility to bid on any other Department construction or maintenance contract, and shall prohibit the contractor from acting as a material supplier or, subcontractor, or consultant on any Department contract or project during the period of suspension, revocation, or denial. As provided in Section 337.16(2), Florida Statutes, such good cause shall include, but shall not be limited to, the provisions of paragraphs (a) and (b) through (e) below. When a specific period of revocation, denial, or suspension is not specified by this rule, the period shall be based on the criteria set forth in ~~of~~ Rule Section 14-22.0141(4), F.A.C., as well as Department contractor certification activities.

(a) The contractor's Certificate of Qualification shall be suspended, revoked, or denied or revoked for at least one year when it is determined by the Department that any one of the following has occurred:

1. One of the circumstances specified under Section 337.16(2)(a), (b), ~~or~~ (d), or (e), Florida Statutes, has occurred.

2. Affiliated contractors submitted more than one proposal for the same work. In this event the Certificate of Qualification of all of the affiliated bidders will be revoked or denied. All bids of affiliated bidders will be rejected.

3. The contractor made or submitted to the Department false, deceptive, or fraudulent statements, certifications, or materials in any claim for payment or any information required by any Department contract, including the Certification of Current Capacity to the Department.

~~4. The contractor defaulted on any Department contract or a the contract surety assumed control of financial responsibility for, took over any Department contract of from the contractor.~~

~~(b) When the Department determines that a contractor has submitted a false, deceptive, or fraudulent Certification of Current Capacity to the Department, the Certificate of Qualification of a contractor will be suspended or denied as provided in subparagraphs 1. and 2. Any bid submitted with a false, deceptive, or fraudulent Certification of Current Capacity shall be disqualified and rejected.~~

~~(b)1. A~~ The contractor's ~~shall have its~~ Certificate of Qualification shall be suspended, revoked, or denied; for a period of 90 days upon a first occurrence, 180 days upon a second occurrence within three years of the first occurrence, or one year upon a third occurrence within three years of the first occurrence, when it is determined by the Department that one of the following has occurred:-

1. The contractor failed to timely furnish all contract documents required by the contract specifications or special provisions, or by any state or federal statutes or regulations.

2. The contractor failed to register, pursuant to Chapter 320, Florida Statutes, all motor vehicles operated in this state. In the event the contractor submits a second false, deceptive, or fraudulent Certification of Current Capacity within two years after the end of a suspension under subparagraph 1., the Department will revoke or deny the contractor's Certificate of Qualification to bid for a period not exceeding one year.

3. The contractor failed to notify the Department's Contracts Administration Office within 10 days of the contractor or any of its affiliates being declared in default or otherwise not completing work on a contract, or being suspended from qualification to bid or denied qualification to bid by any other public agency, semi-public agency, or private entity. This suspension will be in addition to any period of denial or revocation resulting from violation of (a) above.

(c) If the contractor is an affiliate of a contractor who has been determined non-responsible, pursuant to Rule 14-22.0141, or whose Certificate of Qualification was suspended, revoked, or denied and the contractor is dependent on the affiliation for personnel, equipment, bonding capacity, or financial resources, then that contractor's Certificate of Qualification shall be suspended, revoked, or denied for the same time period as the affiliate.

(d) A contractor's Certificate of Qualification shall be suspended for a period of four months when it is determined by the Department that the contractor failed to notify the Contracts Administration Office within 10 days of being declared in default, suspended from qualification to bid or denied qualification to bid by any public agency, semi-public agency, or private entity.

(e) A contractor's Certificate of Qualification shall be suspended for a period not to exceed four months when it is determined by the Department that either one of the following has occurred:

1. The contractor failed to timely furnish all contract documents required by the contract specifications or special provisions to be provided after the Department's offer of final payment. However, the contractor shall be reinstated to the qualified bidders list upon providing all outstanding documents, unless its Certificate of Qualification has expired.

2. The contractor failed to register, pursuant to Chapter 320, Florida Statutes, all motor vehicles operated in this state. However, the contractor shall be reinstated to the qualified bidders list upon providing a notarized affidavit of such registration unless its Certificate of Qualification has expired.

(2) The Department shall deny or revoke ~~or deny~~ the Certificate of Qualification to bid of any contractor and its affiliates for a period of 36 months, pursuant to Section 337.165, Florida Statutes, when it is determined by the Department that the contractor has, subsequent to January 1,

1978, been convicted of a contract crime within the jurisdiction of any state or federal court. Any such contractor shall not act as a prime contractor, material supplier, subcontractor, or consultant on any Department contract or project during the period of denial or suspension, ~~revocation, or denial~~.

(3) The Certificate of Qualification of a contractor found delinquent under Section 337.16(1), Florida Statutes, shall be denied, suspended, or revoked as provided in that statute. A suspension or revocation shall prohibit the contractor from being a subcontractor on Department work during the period of suspension or revocation, except when a prime contractor's bid has used prices of a subcontractor who becomes disqualified after the bid and before the request for authorization to sublet is presented.

(4) Any decision by the Department to suspend, revoke, or deny a contractor's Certificate of Qualification to bid will be provided to the contractor in accordance with Rule 28-106.111, F.A.C. The Department's action will become final unless a timely petition for a hearing is filed in accordance with Rules 28-106.104, 28-106.201, and 28-106.301, F.A.C. In order to be timely, when the Department's intent is to deny a Certificate of Qualification for reasons other than delinquency or conviction for contract crime, the petition must be filed with the Department's Clerk of Agency Proceedings within 10 ~~24~~ days after receipt of the Department's notice, in accordance with Sections 337.14 and 337.16, Florida Statutes. When the Department's intent is to revoke or suspend a Certificate of Qualification or deny a Certificate of Qualification for delinquency or conviction for contract crime, Rule 28-106.111, F.A.C., except that when Department action is based on a contract crime or delinquency, the petition shall be filed within 21 ~~40~~ days of receipt of the Department's notice, pursuant to Rule 28-106.111, F.A.C. ~~Substantially affected persons may file a request for a variance from or waiver of applicable Department rules in accordance with Section 120.542, Florida Statutes, and Rule Chapter 28-104, F.A.C.~~

(5) If a contractor's Certificate of Qualification is revoked, suspended, or denied and the contractor receives an additional period of revocation, suspension, or denial of its Certificate of Qualification, the time periods will run consecutively.

(6)(5) The suspension, revocation, or denial of any qualification to bid shall not affect obligations under any pre-existing contracts, except as may be amended by the parties.

Specific Authority 334.044(2), 337.14(1) FS. Law Implemented 334.044(27), 337.11, 337.14, 337.16, 337.164, 337.165, 337.167 FS. History—Formerly Chapter 14-8, Amended 7-1-67, 8-20-68, 5-9-70, 1-6-72, 9-24-75, Formerly 14-22.01(11), Amended 3-23-79, 11-10-82, 8-25-83, 10-1-85, Formerly 14-22.12, Amended 12-20-89, 1-4-94, 7-1-95, 7-2-95, 2-16-99, \_\_\_\_\_.

14-22.0141 Contractor Non-Responsibility.

(1) Contractors who wish to bid for the performance of construction contracts less than or equal to \$250,000, or any maintenance contracts, are presumed to be responsible bidders

unless the Department determines that good cause exists to declare the contractor non-responsible, which shall include the following one of the following occurs:

(a) One of the circumstances specified in Section 337.16(2), Florida Statutes, occurs;

(b) The contractor or its affiliate defaulted on any Department contract, or the contract surety assumed control of or financial responsibility for, took over any Department contract of from the contractor;

(c) The contractor's qualification to bid is suspended, revoked, or denied for good cause from qualification to bid or denied qualification to bid by any public agency or semi-public agency;

(d) The contractor made or submitted to the Department false, deceptive, or fraudulent statements, certifications, or materials in any claim for payments or any information required by any Department contract;

(e) The contractor failed to comply with contract requirements, or failed to follow Department direction in the execution of a contract; The contractor is otherwise determined by the Department to be non responsible pursuant to Subsection (2);

(f) The contractor did not pay its subcontractors or suppliers in a timely manner or in compliance with contract documents;

(g)(f) The contractor or affiliate(s) or affiliates has been convicted of a contract crime, as provided in Section 337.165, Florida Statutes;

(g) Qualifications, which the contractor does not possess, have been included in the proposal package for specialized work;

(h) An affiliate of the contractor has previously been determined by the Department to be non-responsible, and the specified period of suspension, revocation, or denial remains in effect.

(2) In addition to the criteria set out in Subsection (1), the Department shall determine a contractor to be non responsible pursuant to Section 337.16(2), Florida Statutes:

(i)(a) When a review of the performance of a contractor performing under contract on construction contracts less than or equal to \$250,000, or any maintenance contracts reveals The contractor has demonstrated instances of poor or unsatisfactory performance, deficient management resulting in project delay, or poor quality workmanship, a history of payment of liquidated damages, untimely completion of projects where liquidated damages were not paid, uncooperative attitude, contract litigation, claims, or defaults the Department will consider all surrounding circumstances and make a professional determination of contractor non-responsibility of any contractor determined to be deficient. The Department shall then proceed in accordance with Subsection (4).

(j)(b) When the Department determines that any other circumstance constituting "good cause" under Section 337.16(2), Florida Statutes, exist. The Department shall then proceed in accordance with Subsection (4).

(3) In the event that any of Subsections (1)(a) through (f) occur, the Department shall proceed in accordance with Subsection (4).

(2)(4) Determination of Contractor Non-Responsibility. The determination of contractor non-responsibility will be made by the appropriate District Secretary. The Contractor District Secretary will be determined to be declare the contractor non-responsible and ineligible to bid on Department contracts for a period of time, based on the seriousness of the deficiency.

(a) Examples of factors affecting the seriousness of a deficiency are:

1. Impacts on project schedule, cost, or quality of work;
2. Unsafe conditions allowed to exist;
3. Complaints from the public;
4. Delay or interference with the bidding process; and
5. The potential for repetition;.
6. Integrity of the public construction process; and
7. Effect on the health, safety, and welfare of the public.

(b) This rule does not limit the Department's ability to reject a bid submitted by a contractor for a particular contract based upon the contractor being non responsible.

(3)(b) Notice of intended agency action under this section Any decision to suspend the contractor from bidding will be provided in accordance with Rule 28-106.111, F.A.C. The Department's action will become final unless a timely petition for a hearing is filed in accordance with Rules 28-106.104, 28-106.201 and 28-106.301, F.A.C. In order to be timely, the petition must be filed with the Department's Clerk of Agency Proceedings within 21 days after receipt of the Department's notice, in accordance with Rule 28-106.111, F.A.C. except that when Department action is based on a contract crime, the petition shall be filed within 10 days of receipt of the Department's notice. Substantially affected persons may file a request for a variance from or waiver of applicable Department rules in accordance with Section 120.542, Florida Statutes, and Rule Chapter 28-104, F.A.C.

(c) If a contractor receives two or more suspensions during the same period, the suspensions will be served consecutively.

(5) This rule does not limit the Department's ability to reject a bid submitted by a contractor for a particular contract as non responsible, should any of the events in Subsections (1)(a) through (f) occur.

Specific Authority 334.044(2) FS. Law Implemented 337.16(2) FS. History-- New 4-12-95, Amended 12-7-97, \_\_\_\_\_.

14-22.015 Forms.

The following forms are incorporated by reference as part of the rules of the Department and are available from the Contracts Administration Office, 605 Suwannee Street, Mail Station 55, Room 1-B 60, Tallahassee, Florida 32399-0455:

Form Number	Date	Title
375-020-32	<u>12/98</u> <del>10/93</del>	Application for Qualification
375-020-21	10/93	Status of Contracts on Hand
375-020-22	<u>08/00</u> <del>02/95</del>	Certification of Current Capacity
700-010-25	03/01	Contractor Past Performance Rating

Specific Authority 334.044(2), 337.14(1) FS. Law Implemented 120.53(1)(b), 337.14, 337.164, 337.167 FS. History—New 11-10-82, Amended 8-25-83, Formerly 14-22.15, Amended 12-20-89, 1-4-94, 7-1-95, 7-2-95, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
William Aubaugh, Highway Operations Director

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Thomas F. Barry, Jr., P.E., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 9, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 16, 2001

## REGIONAL UTILITY AUTHORITIES

### Tampa Bay Water – A Regional Water Supply Authority

RULE TITLE: \_\_\_\_\_ RULE NO.: \_\_\_\_\_  
Agency Description 49B-1.007

PURPOSE AND EFFECT: The purpose of this proposed amendment is to accurately reflect the membership of Tampa Bay Water, pursuant to its Amended and Restated Interlocal Agreement, as well as its statutory authorization. The City of New Port Richey is a party to that Agreement, and should be included as a party in the existing rule.

SUMMARY: This rule identifies the member governments and statutory authorization of Tampa Bay Water, A Regional Water Supply Authority.

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: 163.01(5)(h), 373.1962, 373.1963 FS.

LAW IMPLEMENTED: 373.1962, 373.1963 FS.

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

TIME AND DATE: 10:00 a.m., April 16, 2001

PLACE: Tampa Bay Water, 2535 Landmark Drive, Suite 211, Clearwater, FL 33761-3930

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Donald D. Conn, General Counsel, Tampa Bay Water, 2535 Landmark Drive, Suite 211, Clearwater, FL 33761-3930

THE FULL TEXT OF THE PROPOSED RULE IS:

49B-1.007 Agency Description.

(1) Tampa Bay Water, A Regional Water Supply Authority, is a public body authorized by Sections 373.1962 and 373.1963, Florida Statutes. It was created by Interlocal Agreement pursuant to Section 163.01, Florida Statutes. The Counties of Hillsborough, Pasco and Pinellas, and the municipalities of Tampa, ~~and St. Petersburg~~, and New Port Richey are the parties to that Agreement.

(2) through (4) No change.

Specific Authority 163.01(5)(h), 363.1962, 363.1963 FS. Law Implemented 363.1962, 363.1963 FS. History—New 1-11-81. Formerly 16M-1.07, 16M-1.007, Amended 7-29-97, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Barrie Buenaventura

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Donald D. Conn, General Counsel

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 23, 2001

## REGIONAL UTILITY AUTHORITIES

### Tampa Bay Water – A Regional Water Supply Authority

RULE TITLE: \_\_\_\_\_ RULE NO.: \_\_\_\_\_  
Well Mitigation Policy 49B-3.005

PURPOSE AND EFFECT: Consistent with its responsibilities and Water Use Permit requirements, Tampa Bay Water mitigates complaints regarding domestic wells located within specified areas in the vicinity of its wellfields. Due to extreme drought conditions in the Tampa Bay Water area, the volume of complaints regarding domestic wells located within prescribed mitigation areas has substantially increased. This increase in complaints has resulted in unavoidable delays between receipt of a complaint and actual mitigation under the terms of the current rule. The purposes and effects of the proposed amendment to Rule 49B-3.005 (Well Mitigation Policy) are to prioritize the mitigation of wells for existing legal users, to establish standards and criteria for wells that are to be mitigated for non-existing legal users, to define domestic wells eligible for mitigation, and to enable Tampa Bay Water to comply with the requirements of its Water Use Permits. It is intended that this amendment operate prospectively from the date of its adoption.

**SUMMARY:** This rule identifies domestic wells eligible for mitigation by Tampa Bay Water, and defines the mitigation area for each wellfield owned and operated by Tampa Bay Water.

**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:** 163.01, 373.1962, 373.1963 FS.

**LAW IMPLEMENTED:** 163.01, 373.223(1)(b), 373.196, 373.1963 FS.

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

**TIME AND DATE:** 10:00 a.m., April 16, 2001

**PLACE:** Tampa Bay Water, 2535 Landmark Drive, Suite 211, Clearwater, FL 33761-3930

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Donald D. Conn, General Counsel, Tampa Bay Water, 2535 Landmark Drive, Suite 211, Clearwater, FL 33761-3930

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

(Substantial rewording of Rule 49B-3.005 follows. See Florida Administrative Code for present text.)

**49B-3.005 Well Mitigation Policy.**

Tampa Bay Water shall mitigate on a priority basis all eligible water level and related complaints regarding domestic wells for existing legal users, as well as other eligible domestic wells constructed with a minimum of 147 feet (210 feet in the case of the South Central Hillsborough Regional Wellfield) of 4 or 5-inch galvanized steel or PVC casing, except in those instances of well failure due to an Act of God (i.e. lightning strikes, power failure, and flooding). Mitigation under this policy shall be without a determination of the cause of the well failure. This procedure shall not limit the authority of the Southwest Florida Water Management District to require additional mitigation by rule or applicable water use permit condition. To be eligible for mitigation, a domestic well must be located within the mitigation area established for each wellfield in the current water use permit. In those cases where the current water use permit does not prescribe a mitigation area, the boundary of the mitigation area shall be the five (5) foot drawdown contour in the Floridan Aquifer caused by permitted peak month withdrawals from the wellfield, or a circle(s) whose radius extends two (2) miles from each active production well, whichever is greater.

Specific Authority 163.01, 373.1962, 373.1963 FS. Law Implemented 163.01, 373.223(1)(b), 373.196, 373.1963 FS. History—New 5-24-93, Amended 4-16-95, Formerly 16M-3.005, Amended.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Jon Kennedy, P.E.

**NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:** Jerry L. Maxwell, General Manager

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** December 18, 2000

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** February 23, 2001

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

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

**PURPOSE AND EFFECT:** The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Chiropractic Services Coverage and Limitations Handbook, January 2001. The effect will be to incorporate by reference in the rule the current Florida Medicaid Chiropractic Services Coverage and Limitations Handbook.

**SUMMARY:** The purpose of the rule is to incorporate by reference the revised Florida Medicaid Chiropractic Services Coverage and Limitations Handbook, January 2001.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** No statement of 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:** 409.919 FS.

**LAW IMPLEMENTED:** 409.906, 409.908, 409.9081 FS.

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

**TIME AND DATE:** 9:00 a.m., April 17, 2001

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Karen Jackson, Medicaid Program Development, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308, (850)922-7314

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

59G-4.040 Chiropractic Services.

(1) No change.

(2) All chiropractic services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Chiropractic Services Coverage and Limitations

Handbook, ~~January 2001~~ January 2000, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA-1500 and Child Health Check-Up 221, which is incorporated in 59G-5.020. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908, 409.9081 FS. History--New 6-1-89, Amended 7-1-91, 12-31-91, 3-17-92, 4-21-92, 11-9-92, 7-5-93, 1-19-94, Formerly 10C-7.066, Amended 10-10-94, 5-25-95, 1-9-96, 10-21-97, 5-24-99, 4-23-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Karen Jackson

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

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: March 1, 2001

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

#### AGENCY FOR HEALTH CARE ADMINISTRATION

##### Medicaid

RULE TITLE: Dental Services

RULE NO.:  
59G-4.060

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Dental Coverage and Limitations Handbook, January 2001. The effect will be to incorporate by reference in the rule the current Florida Medicaid Dental Coverage and Limitations Handbook, January 2001.

SUMMARY: The purpose of this rule amendment is to incorporate by reference the revised Florida Medicaid Dental Coverage and Limitations Handbook, January 2001.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908 FS.

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

TIME AND DATE: 9:00 a.m., April 17, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE  
PROPOSED RULE IS: Millard Howard, Agency for Health  
Care Administration, Medicaid Program Development, 2727  
Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308,  
(850)922-7328

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.060 Dental Services.

(1) No change.

(2) All dental services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Dental Coverage and Limitations Handbook, January 2001 ~~January 2000~~, and Florida Medicaid Provider Reimbursement Handbook, Dental 111, October 1999, which are incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up 221, which is incorporated in 59G-5.020. All three handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908 FS. History--New 7-10-80, Amended 2-19-81, 10-27-81, 7-21-83, Formerly 10C-7.523, Amended 9-11-90, 11-3-92, Formerly 10C-7.0523, Amended 6-29-93, Formerly 10P-4.060, Amended 7-19-94, 7-16-96, 3-11-98, 10-13-98, 12-28-98, 6-10-99, 4-23-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Millard Howard

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

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: March 3, 2001

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

#### AGENCY FOR HEALTH CARE ADMINISTRATION

##### Medicaid

RULE TITLE: Hearing Services

RULE NO.:  
59G-4.110

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Hearing Services Coverage and Limitations Handbook, January 2001. The effect will be to incorporate by reference in the rule the current Florida Medicaid Hearing Services Coverage and Limitations Handbook, January 2001.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Hearing Services Coverage and Limitations Handbook, August 1999.

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: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908 FS.

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

TIME AND DATE: 9:00 a.m., April 17, 2001



PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building #3 MS 20, Conference Room C, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Helen Sancho, Agency for Health Care Administration, Medicaid Program Development, P. O. Box 12600, Tallahassee, Florida 32317-2600, (850)922-7322

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.110 Hearing Services.

(1) No change.

(2) All physicians, audiologists and hearing aid specialists enrolled in the Medicaid program must be in compliance with the provisions of the Florida Medicaid Hearing Services Coverage and Limitations Handbook, January 2001 ~~July 2000~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up 221, which is incorporated by reference in Chapter 59G-5.020, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908 FS. History—New 8-3-80, Amended 7-21-83, Formerly 10C-7.522, Amended 4-13-93, Formerly 10C-7.0522, Amended 12-21-97, 10-13-98, 5-7-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Helen Sancho

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

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: January 5, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: August 25, 2000

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Optometric Services

RULE NO.:  
59G-4.210

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Optometric Services Coverage and Limitations Handbook, January 2001. The effect will be to incorporate by reference in the rule the current Florida Medicaid Optometric Services Coverage and Limitations Handbook, January 2001.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Optometric Services Coverage and Limitations Handbook, January 2001.

SUMMARY OF STATEMENT OF ESTIMATED  
REGULATORY COST: No statement of 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: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908, 409.9081 FS.

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

TIME AND DATE: 9:00 a.m., April 17, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Debra H. Marshall, Agency for Health Care Administration, Medicaid Program Development, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308, (850)922-7354

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.210 Optometric Services.

(1) No change.

(2) All optometry practitioners enrolled in the Medicaid program must be in compliance with the provisions of the Florida Medicaid Optometric Services Coverage and Limitations Handbook, January 2001 ~~January 2000~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up 221, which is incorporated by reference in Chapter 59G-5.020, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908, 409.9081 FS. History—New, 4-13-93, Amended 7-1-93, Formerly 10C-7.069, Amended 12-21-97, 10-13-98, 5-24-99, 4-23-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Debra H. Marshall

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

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: March 1, 2001

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

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Podiatry Services

RULE NO.:  
59G-4.220

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

Handbook, January 2001. The effect will be to incorporate by reference in the rule the current Florida Medicaid Podiatry Services Coverage and Limitations Handbook, January 2001.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Podiatry Services Coverage and Limitations Handbook, January 2001.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of 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: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908, 409.9081 FS.

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

TIME AND DATE: 9:00 a.m., April 17, 2001

PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building #3, Conference Room C, Tallahassee, Florida  
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Jackson, Agency for Health Care Administration, Medicaid Program Development, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308, (850)922-7314

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.220 Podiatry Services.

(1) No change.

(2) All podiatry providers enrolled in the Medicaid program must be in compliance with the provisions of the Florida Medicaid Podiatry Services Coverage and Limitations Handbook, January 2001 ~~January 2000~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up 221, which is incorporated in 59G-5.020. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908, 409.9081 FS. History—New 1-23-84, Amended 10-25-84, Formerly 10C-7.529, Amended 4-21-92, 11-9-92, 7-1-93, Formerly 10C-7.0529, 10P-4.220, Amended 1-7-96, 3-11-98, 10-13-98, 5-24-99, 4-23-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Karen Jackson

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 1, 2001

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

## AGENCY FOR HEALTH CARE ADMINISTRATION

### Medicaid

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

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Registered Nurse First Assistant Coverage and Limitations Handbook, January 2001. The effect will be to incorporate by reference in the rule the current Florida Medicaid Registered Nurse First Assistant Coverage and Limitations Handbook, January 2001.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Registered Nurse First Assistant Coverage and Limitations Handbook, January 2001.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of 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: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908, 409.9081 FS.

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

DATE AND TIME: 9:00 a.m., April 17, 2001

PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building #3, Conference Room C, Tallahassee, Florida  
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Madeleine Obernier, Agency for Health Care Administration, Medicaid Program Development, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308, (850)922-7326

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.270 Registered Nurse First Assistant Services.

(1) No change.

(2) All registered nurse first assistant services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Registered Nurse First Assistant Coverage and Limitations Handbook, January 2001 ~~January 2000~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up 221, which is incorporated in 59G-5.020. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908, 409.9081 FS. History—New 3-11-98, Amended 10-13-98, 5-24-99, 4-23-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Madeleine Obernier  
NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Ruben King-Shaw, Jr.  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: March 1, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: July 21, 2000

## DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

### Division of Hotels and Restaurants

RULE CHAPTER TITLE: RULE CHAPTER NO.:  
Florida Elevator Safety Code 61C-5  
RULE TITLE: RULE NO.:  
Elevator Fees; Construction and Alteration  
Permits; Annual Certificates of Operation;  
Delinquency Fee; Temporary Operation  
Permits Certificate Replacement 61C-5.006

PURPOSE AND EFFECT: The purpose of this rule amendment is to adopt the revision (reduction) of elevator safety fees. These fees are being reduced in accordance with the Bureau of Elevator Safety workload reduction resulting from the 2000 Legislative session.

SUMMARY: This rule amendment provides for a reduction in elevator safety fees corresponding to the reduction of relative workload.

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

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

SPECIFIC AUTHORITY: 399.07(1)(d), 399.07(2)(d), 399.10 FS.

LAW IMPLEMENTED: 399.07(1)(d), 399.07(2)(d) FS.

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

TIME AND DATE: 10:00 a.m. (EST), Monday, April 23, 2001

PLACE: Secretary's Conference Room, Room 259, The Johns Building, 725 South Bronough Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the agency at least 48 business hours before the hearing by contacting Geoffrey Luebkekmann, Assistant Division Director, (850)488-1133. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Geoffrey Luebkekmann, Assistant Division Director, Department of Business and Professional Regulation, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, FL 32399-1012, telephone (850)488-1133

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

61C-5.006 Elevator Fees; Construction and Alteration Permits; Annual Certificates of Operation; Delinquency Fee; Temporary Operation Permits Certificate Replacement.

(1) Application for elevator permit to erect or move shall be accompanied by a fee of \$250. Every permit issued becomes invalid unless the work authorized by such permit is commenced within 1 year after issuance, or if the work authorized by such permit is suspended or abandoned for a period of 1 year after the time the work is commenced; provided that, for good cause, one or more extensions of time, for periods not exceeding 90 days each may be allowed. Such extensions shall be in writing and signed by the director or his designee. The following grounds for extension shall constitute good cause for the granting of an extension:

(a) An extension of time shall be granted due to delays in construction, including delay arising from the non-availability of parts necessary to complete construction; except when the director or his designee determines that the delay is the fault of the contractor or applicant, or where the delay results from failure to diligently pursue construction.

(b) An extension of time shall be granted due to delays caused by the injury, illness or death of an involved material party to the construction.

(c) The director shall also grant an extension of time where failure to grant the requested extension will impose hardship on the party requesting the permit; except when the director or his designee determines that the necessity for the extension is due to the party's ~~sies~~ own negligence and the necessity for the extension would have been avoided by the party's ~~ies~~ exercise of due diligence.

(2) through (3) No change.

(4) Annual certificate of operation fees for elevators are based on whether or not a service maintenance contract to insure safe elevator operation is consistently in force. In addition, the fee shall be based on the following schedules:

(a) Fees based on type of installation and number of landings. Hand-operated, electric, hydraulic passenger and freight elevators, escalators, side walk elevators, power operated dumbwaiters, material lifts and dumbwaiters with automatic transfer devices, inclined stairway chairlifts, inclined and vertical wheelchair lifts and inclined elevators.

NUMBER OF LANDINGS	FEES UNDER SERVICE MAINTENANCE CONTRACT	FEE NO SERVICE MAINTENANCE CONTRACT
Elevators serving 0-2 landings	<u>\$32</u> <del>\$35</del>	<u>\$72</u> <del>\$80</del>
Elevators serving 3-5 landings	<u>\$36</u> <del>\$40</del>	<u>\$77</u> <del>\$85</del>
Elevators serving 6-10 landings	<u>\$41</u> <del>\$45</del>	<u>\$81</u> <del>\$90</del>
Elevators serving 11-15 landings	<u>\$45</u> <del>\$50</del>	<u>\$86</u> <del>\$95</del>
Elevators serving Over 15 landings	<u>\$45</u> <del>\$50</del>	<u>\$90</u> <del>\$100</del>

(b) Fee based on type of installation, regardless of the number of landings:

TYPE OF INSTALLATION	FEES UNDER SERVICE MAINTENANCE CONTRACT	FEE NO SERVICE MAINTENANCE CONTRACT
Special purpose Elevators, Manlifts, Moving Walks	<u>\$45</u> <del>\$50</del>	<u>\$90</u> <del>\$100</del>

(c) Fee for Temporary Operating Permits – \$100. The permit shall be issued for a period not to exceed 30 days.

(5) through (6) No change.

Specific Authority 399.07(1)(d), 399.07(2)(d), 399.10 FS. Law Implemented 399.07(1)(d), (2)(d) FS. History—New 8-21-79, Amended 11-20-79, 10-8-81, 4-21-82, 8-1-82, 11-27-83, 9-19-84, 10-8-85, Formerly 7C-5.06, Amended 10-31-88, 7-1-92, 10-11-92, Formerly 7C-5.006, Amended 2-2-94, 1-1-98.

NAME OF PERSON ORIGINATING PROPOSED RULE: Geoffrey Luebke, Assistant Division Director, Division of Hotels and Restaurants, Department of Business and Professional Regulation

NAME OF PERSON OR SUPERVISOR WHO APPROVED THE PROPOSED RULE: Kim Binkley-Seyer, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 8, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 27, No. 5, February 2, 2001

## DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

### Board of Professional Engineers

RULE TITLE:

RULE NO.:

Disciplinary Guidelines; Range of Penalties;

Aggravating and Mitigating Circumstances 61G15-19.004

PURPOSE AND EFFECT: The purpose of the rule amendments is to clarify the rule text.

SUMMARY: The Board proposes to amend subsection (2)(r) to clarify the fines to be imposed for a firm practicing without a certificate of authorization.

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: 455.227, 471.008, 471.031, 471.033 FS.

LAW IMPLEMENTED: 455.227, 471.031, 471.033 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Natalie Lowe, Administrator, Board of Professional Engineers, 1208 Hays Street, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-19.004 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) No change.

(2) The following disciplinary guidelines shall be followed by the board in imposing disciplinary penalties upon licensees for violation of the below mentioned statutes and rules:

VIOLATION

PENALTY RANGE

MINIMUM MAXIMUM

(a) through (q) No change.

(r) Firm practicing without certificate of authorization (471.023, F.S.)

Guidance Letter to become certified or cease practice. If firm applies for certificate, Board will impose a fine of \$100/month for uncertified practice, or a \$1,000 maximum, per month of

(3) No change.

Specific Authority 455.227, 471.008, 471.031, 471.033 FS. Law Implemented 455.227, 471.031, 471.033 FS. History—New 1-7-87, Formerly 21H-19.004, Amended 11-27-94,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Professional Engineers  
NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Board of Professional Engineers  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: February 21, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: December 22, 2000

**DEPARTMENT OF BUSINESS AND PROFESSIONAL  
REGULATION**

**Board of Professional Engineers**

RULE TITLE: RULE NO.:  
Re-examination 61G15-21.007  
PURPOSE AND EFFECT: The purpose of the rule  
amendments is to clean up the rule text in an attempt to clarify  
re-examination.

SUMMARY: The Board proposes to amend this rule by  
changing the word “individual” to “applicant” where ever it  
appears in the rule, and to reword subsection (2) to clarify  
re-examination.

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: 455.217(2) FS.

LAW IMPLEMENTED: 455.217(2), 471.011 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE  
PROPOSED RULE IS: Natalie Lowe, Administrator, Board of  
Professional Engineers, 1208 Hays Street, Tallahassee, Florida  
32301

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-21.007 Re-examination.

(1) An applicant individual who fails to pass or take Part  
One or Part Two of the Engineer Examination or the Engineer  
Intern Examination may take the applicable examination upon  
payment of the proper re-examination fee at a regularly  
scheduled examination date. An applicant individual who has  
passed one of the two parts of the Engineering Examination  
shall be given credit for the part passed. If an applicant fails to  
take or appear for an examination he shall be required to pay a

re-examination fee for any part of the examination not taken or  
appeared for. If an applicant fails to take an examination for  
two consecutive examination dates he shall be required to  
submit a new application and pay the required fee.

(2) If an applicant fails five times to pass the examination,  
the applicant must take additional engineering courses in order  
to reapply for examination. The applicant must submit to the  
Board of Professional Engineers transcripts for the enrollment  
and completion of twelve (12) college credit hours of  
engineering courses in the applicant’s area of deficiency. In  
order to meet the statutory requirement that persons failing the  
examination five times beginning with October of 1992, must  
take additional education courses in order to reapply for  
examination after failing the examination, the Board of  
Engineers requires a person to evidence enrollment and  
completion of at least twelve (12) college credit hours of  
engineering courses related to their area of deficiency by  
submission of transcripts.

Specific Authority 455.217(2) FS. Law Implemented 455.217(2), 471.011 FS.  
History—New 1-8-80, Amended 8-25-81, Formerly 21H-21.07, 21H-21.007,  
Amended 2-14-95,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Professional Engineers

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

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: February 21, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: December 22, 2000

**DEPARTMENT OF BUSINESS AND PROFESSIONAL  
REGULATION**

**Board of Professional Engineers**

RULE TITLE: RULE NO.:  
Change of Status Fee 61G15-24.003  
PURPOSE AND EFFECT: The purpose of the rule  
amendments is to increase the fees.

SUMMARY: The Board proposes to amend this rule to  
increase the fee for reactivation of an inactive status license  
from \$25 to \$50, and to increase the fee from \$25 to \$75 for  
licensees who wish to apply for inactive status at any time  
other than at the beginning of the licensure cycle.

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: 455.271 FS.

LAW IMPLEMENTED: 455.271 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Natalie Lowe, Administrator, Board of Professional Engineers, 1208 Hays Street, Tallahassee, Florida 32301

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

61G15-24.003 Change of Status Fee.

(1) Active. The fee for reactivation of an inactive status license shall be \$50.00 ~~\$25.00~~.

(2) Inactive. A licensee shall pay an inactive status fee of \$75.00 ~~\$25.00~~ when the licensee applies for inactive status at any time other than at the beginning of licensure cycle.

Specific Authority 455.271 FS. Law Implemented 455.271 FS. History--New 2-5-97, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Professional Engineers

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 21, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 22, 2000

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

DOCKET NO.: 00-43R

RULE CHAPTER TITLE: Identification of Impaired  
RULE CHAPTER NO.: 62-303

Surface Waters 62-303

RULE TITLES: RULE NOS.:

Scope and Intent 62-303.100

Relationship Between Planning and 62-303.150

Verified Lists 62-303.200

Definitions 62-303.300

Methodology to Develop the Planning List 62-303.310

Evaluation of Aquatic Life Support 62-303.320

Exceedances of Aquatic Life-Based 62-303.330

Water Quality Criteria 62-303.340

Biological Assessment 62-303.350

Toxicity 62-303.351

Interpretation of Narrative Nutrient Criteria 62-303.352

Nutrients in Streams 62-303.353

Nutrients in Lakes 62-303.360

Nutrients in Estuaries 62-303.370

Primary Contact and Recreation Use Support 62-303.380

Fish and Shellfish Consumption Use Support 62-303.400

Drinking Water Use Support and Protection 62-303.410

of Human Health 62-303.420

Methodology to Develop the Verified List 62-303.430

Determination of Aquatic Life Support 62-303.440

Exceedances of Aquatic Life-Based Water 62-303.450

Quality Criteria 62-303.460

Biological Impairment 62-303.470

Toxicity 62-303.480

Interpretation of Narrative Nutrient Criteria 62-303.490

Primary Contact and Recreation Use Support 62-303.500

Fish and Shellfish Consumption Use Support 62-303.510

Drinking Water Use Support and Protection 62-303.520

of Human Health 62-303.530

Prioritization 62-303.540

Evaluation of Proposed Pollution 62-303.550

Control Mechanisms 62-303.560

Listing Cycle 62-303.570

Format of Verified List and Verified 62-303.580

List Approval 62-303.590

Delisting Procedure 62-303.600

Impairment of Interstate and Tribal Waters 62-303.610

PURPOSE, EFFECT AND SUMMARY: The purpose of the

proposed new rule is to establish a methodology to identify

impaired waters that will be included on the State's verified list

of impaired waters, for which the Department will calculate

Total Maximum Daily Loads, pursuant to subsection

403.067(4), Florida Statutes (F.S.), and which will be

submitted to the United States Environmental Protection

Agency pursuant to subparagraphs 303(d)(1)(A) and

303(d)(1)(C) of the Clean Water Act. As directed by 403.067,

F.S., the development of the State's 303(d) list will be a

two-step process; waters will first be identified as potentially

impaired and then any impairment will be verified before

listing the water. The rule implements this statutory direction

by providing a methodology to identify surface waters of the

state that will be included on a "planning list" of waters.

Pursuant to subsections 403.067(2) and (3), F.S., the

Department will evaluate the data used to place these waters on

the planning list, verify that the data meet quality assurance

and data sufficiency requirements of the "verified list," and

collect additional data, as needed, to complete the assessment.

The rule also provides information about the listing cycle, the

format of the verified list, and delisting procedures.

SUMMARY OF STATEMENT OF ESTIMATED

REGULATORY COSTS: The Department is preparing a draft

Statement of Estimated Regulatory Costs (SERC) for proposed

Chapter 62-303, F.A.C. The Department will include estimates

of costs for the Department to prepare the planning list and

verify whether waters on the planning list are in fact impaired,

including costs associated with collecting additional data as

needed to meet the data sufficiency requirements for the

verified list. The Department will also provide information on

other costs associated with the Total Maximum Daily Load

(TMDL) Program, including TMDL development costs.

As this rule does not require implementation or enforcement by

other regulatory agencies, there are no required additional costs

to other regulatory agencies. However, there may be some

additional monitoring costs if other agencies want their data to be considered under this rule, and the SERC will address these potential costs. Costs to regulated and affected parties to implement TMDLs will be addressed when those TMDLs are adopted by rule.

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

SPECIFIC AUTHORITY: 403.061, 403.067 FS.

LAW IMPLEMENTED: 403.021(11), 403.062, 403.067 FS.

A HEARING WILL BE HELD BEFORE THE ENVIRONMENTAL REGULATION COMMISSION AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m. or as soon thereafter as the matter can be heard, Thursday, April 26, 2001

PLACE: Department of Environmental Protection, Twin Towers Office Building, Room 609, 2600 Blair Stone Road, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES AND AGENDA FOR THE PUBLIC HEARING IS: Daryll Joyner, Division of Water Resource Management, Bureau of Watershed Management, Mail Station 3510, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)488-3603

THE FULL TEXT OF THE PROPOSED RULES IS:

#### PART I GENERAL

##### 62-303.100 Scope and Intent.

(1) This chapter establishes a methodology to identify surface waters of the state that will be included on the state's planning list of waters that will be assessed pursuant to subsections 403.067(2) and (3), Florida Statutes (F.S.). It also establishes a methodology to identify impaired waters that will be included on the state's verified list of impaired waters, for which the Department will calculate Total Maximum Daily Loads (TMDLs), pursuant to subsection 403.067(4), F.S., and which will be submitted to the United States Environmental Protection Agency (EPA) pursuant to subparagraph 303(d)(1)(C) of the Clean Water Act (CWA).

(2) Subsection 303(d) of the CWA and section 403.067, F.S., describe impaired waters as those not meeting applicable water quality standards, which is a broad term that includes designated uses, water quality criteria, the Florida antidegradation policy, and moderating provisions. However, as recognized when the water quality standards were adopted, many water bodies naturally do not meet one or more established water quality criteria at all times, even though they meet their designated use. Data on exceedances of water quality criteria will provide critical information about the status of assessed waters, but it is the intent of this chapter to

only list waters on the verified list that are impaired due to point source or nonpoint source pollutant discharges. It is not the intent of this chapter to include waters that do not meet water quality criteria solely due to natural conditions or physical alterations of the water body not related to pollutants. Similarly, it is not the intent of this chapter to include waters where designated uses are being met and where water quality criteria exceedances are limited to those parameters for which permitted mixing zones or other moderating provisions (such as site-specific alternative criteria) are in effect. Waters that do not meet applicable water quality standards due to natural conditions or to pollution not related to pollutants shall be noted in the state's water quality assessment prepared under subsection 305(b) of the CWA [305(b) Report].

(3) This chapter is intended to interpret existing water quality criteria and evaluate attainment of established designated uses as set forth in Chapter 62-302, F.A.C., for the purposes of identifying water bodies or segments for which TMDLs will be established. It is not the intent of this chapter to establish new water quality criteria or standards, or to determine the applicability of existing criteria under other provisions of Florida law. In cases where this chapter relies on numeric indicators of ambient water quality as part of the methodology for determining whether existing narrative criteria are being met, these numeric values are intended to be used only in the context of developing a planning list and identifying an impaired water pursuant to this chapter. As such, exceedances of these numeric values shall not, by themselves, constitute violations of Department rules that would warrant enforcement action.

(4) Nothing in this rule is intended to limit any actions by federal, state, or local agencies, affected persons, or citizens pursuant to other rules or regulations.

(5) Pursuant to section 403.067, F.S., impaired waters shall not be listed on the verified list if reasonable assurance is provided that, as a result of existing or proposed technology-based effluent limitations and other pollution control programs under local, state, or federal authority, they will attain water quality standards in the future and reasonable progress towards attainment of water quality standards will be made by the time the next 303(d) list is scheduled to be submitted to EPA.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.021(11), 403.062, 403.067 FS. History--New.

##### 62-303.150 Relationship Between Planning and Verified Lists.

(1) The Department shall follow the methodology in Section 62-303.300 to develop a planning list pursuant to subsection 403.067(2), F.S. As required by subsection 403.067(2), F.S., the planning list shall not be used in the administration or implementation of any regulatory program, and shall be submitted to EPA for informational purposes only. Waters on this planning list will be assessed pursuant to

subsection 403.067(3), F.S., as part of the Department's watershed management approach. During this assessment, the Department shall determine whether the water body is impaired and whether the impairment is due to pollutant discharges using the methodology in Part III. The resultant verified list of impaired waters, which is the list of waters for which TMDLs will be developed by the Department pursuant to subsection 403.067(4), will be adopted by Secretarial Order and will be subject to challenge under subsection 120.569 and 120.57, F.S. Once adopted, the list will be submitted to the EPA pursuant to subparagraphs 303(d)(1)(A) and (C) of the CWA.

(2) Consistent with state and federal requirements, opportunities for public participation, including workshops, meetings, and periods to submit comments on draft lists, will be provided as part of the development of planning and verified lists.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

#### 62-303.200 Definitions.

##### As used in this chapter:

(1) "BioRecon" shall mean a bioassessment conducted following the procedures outlined in "Protocols for Conducting a Biological Reconnaissance in Florida Streams," Florida Department of Environmental Protection, March 13, 1995, which is incorporated by reference.

(2) "Clean techniques" shall mean those applicable field sampling procedures and analytical methods referenced in "Method 1669: Sampling Ambient Water for Trace Metals at EPA Water Quality Criteria Levels, July 1996, USEPA, Office of Water, Engineering and Analysis Division, Washington, D.C.," which is incorporated by reference.

(3) "Department" or "DEP" shall mean the Florida Department of Environmental Protection.

(4) "Designated use" shall mean the present and future most beneficial use of a body of water as designated by the Environmental Regulation Commission by means of the classification system contained in Chapter 62-302, F.A.C.

(5) "Estuary" shall mean predominantly marine regions of interaction between rivers and nearshore ocean waters, where tidal action and river flow mix fresh and salt water. Such areas include bays, mouths of rivers, and lagoons.

(6) "Impaired water" shall mean a water body or water body segment that does not meet its applicable water quality standards as set forth in Chapters 62-302 and 62-4, F.A.C. as determined by the methodology in Part III of this chapter, due in whole or in part to discharges of pollutants from point or nonpoint sources.

(7) "Lake Condition Index" shall mean the benthic macroinvertebrate component of a bioassessment conducted following the procedures outlined in "Development of Lake

Condition Indexes (LCI) for Florida," Florida Department of Environmental Protection, July, 2000, which is incorporated by reference.

(8) "Natural background" shall mean the condition of waters in the absence of man-induced alterations based on the best scientific information available to the Department. The establishment of natural background for an altered waterbody may be based upon a similar unaltered waterbody or on historical pre-alteration data.

(9) "Nuisance species" shall mean species of flora or fauna whose noxious characteristics or presence in sufficient number, biomass, or areal extent may reasonably be expected to prevent, or unreasonably interfere with, a designated use of those waters.

(10) "Physical alterations" shall mean human-induced changes to the physical structure of the water body.

(11) "Planning list" shall mean the list of surface waters or segments for which assessments will be conducted to evaluate whether the water is impaired and a TMDL is needed, as provided in subsection 403.067(2), F.S.

(12) "Pollutant" shall be as defined in subsection 502(6) of the CWA. Characteristics of a discharge, including dissolved oxygen, pH, or temperature, shall also be defined as pollutants if they result or may result in the potentially harmful alteration of downstream waters.

(13) "Pollution" shall be as defined in subsection 502(19) of the CWA and subsection 403.031(2), F.S.

(14) "Predominantly marine waters" shall mean surface waters in which the chloride concentration at the surface is greater than or equal to 1,500 milligrams per liter.

(15) "Secretary" shall mean the Secretary of the Florida Department of Environmental Protection.

(16) "Spill" shall mean a short-term, unpermitted discharge to surface waters, not to include sanitary sewer overflows or chronic discharges from leaking wastewater collection systems.

(17) "Stream" shall mean a free-flowing, predominantly fresh surface water in a defined channel, and includes rivers, creeks, branches, canals, freshwater sloughs, and other similar water bodies.

(18) "Stream Condition Index" shall mean a bioassessment conducted following the procedures outlined in "Development of the Stream Condition Index (SCI) for Florida," Florida Department of Environmental Protection, May, 1996, which is incorporated by reference.

(19) "Surface water" means those waters of the State upon the surface of the earth to their landward extent, whether contained in bounds created naturally or artificially or diffused. Water from natural springs shall be classified as surface water when it exits from the spring onto the earth's surface.

(20) "Tier 2 Data Quality Assessment" shall mean an assessment of the quality controls used in generating water quality data, as outlined in the Department's Guidance



Document, "A Tiered Approach to Data Quality Assessment" (DEP EAS 001-00, October 2000), which is incorporated by reference.

(21) "Total maximum daily load" (TMDL) for an impaired water body or water body segment shall mean the sum of the individual wasteload allocations for point sources and the load allocations for nonpoint sources and natural background. Prior to determining individual wasteload allocations and load allocations, the maximum amount of a pollutant that a water body or water segment can assimilate from all sources without exceeding water quality standards must first be calculated. A TMDL shall include either an implicit or explicit margin of safety and a consideration of seasonal variations.

(22) "Verified list" shall mean the list of impaired water bodies or segments for which TMDLs will be calculated, as provided in subsection 403.067(4), F.S., and which will be submitted to EPA pursuant to subparagraph 303(d)(1)(C) of the CWA.

(23) "Water quality criteria" shall mean elements of State water quality standards, expressed as constituent concentrations, levels, or narrative statements, representing a quality of water that supports the present and future most beneficial uses.

(24) "Water quality standards" shall mean standards composed of designated present and future most beneficial uses (classification of waters), the numerical and narrative criteria applied to the specific water uses or classification, the Florida antidegradation policy, and the moderating provisions (mixing zones, site-specific alternative criteria, and exemptions) contained in Chapter 62-302, F.A.C., and in Chapter 62-4, F.A.C., adopted pursuant to Chapter 403, F.S.

(25) "Water segment" shall mean a portion of a water body that the Department will assess and evaluate for purposes of determining whether a TMDL will be required. Water segments previously evaluated as part of the Department's 1998 305(b) Report are depicted in the map titled "Water Segments of Florida," which is incorporated by reference.

(26) "Waters" shall be those surface waters described in Section 403.031(13), Florida Statutes.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

## PART II THE PLANNING LIST

### 62-303.300 Methodology to Develop the Planning List.

(1) This part establishes a methodology for developing a planning list of waters to be assessed pursuant to subsections 403.067(2) and (3), F.S. A waterbody shall be placed on the planning list if it fails to meet the minimum criteria for surface waters established in Rule 62-302.500, F.A.C.; any of its designated uses, as described in this part; or applicable water quality criteria, as described in this part. It should be noted that water quality criteria are designed to protect either aquatic life

use support, which is addressed in Sections 62-303.310-353, or to protect human health, which is addressed in Sections 62-303.360-380.

(2) Waters on the list of water segments submitted to EPA in 1998 that do not meet the data sufficiency requirements for the planning list shall nevertheless be included in the state's initial planning list developed pursuant to this rule.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

### 62-303.310 Evaluation of Aquatic Life Use Support.

A Class I, II, or III water shall be placed on the planning list for assessment of aquatic life use support (propagation and maintenance of a healthy, well-balanced population of fish and wildlife) if, based on sufficient quality and quantity of data, it:

(1) exceeds applicable aquatic life-based water quality criteria as outlined in Section 62-303.320.

(2) does not meet biological assessment thresholds for its water body type as outlined in Section 62-303.330.

(3) is acutely or chronically toxic as outlined in Section 62-303.340, or

(4) exceeds nutrient thresholds as outlined in Section 62-303.350.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

### 62-303.320 Exceedances of Aquatic Life-Based Water Quality Criteria.

(1) Water segments shall be placed on the planning list if, using objective and credible data, as defined by the requirements specified in this section, the number of exceedances of an applicable water quality criterion due to pollutant discharges is greater than or equal to the number listed in Table 1 for the given sample size. This table provides the number of exceedances that indicate a minimum of a 10% exceedance frequency with a minimum of an 80% confidence level using a binomial distribution.

Table 1: Planning List

Minimum number of measured exceedances needed to put a water on the Planning list with at least 80% confidence that the actual exceedance rate is greater than or equal to ten percent.

<u>Sample sizes</u>	<u>Are listed if they have at least this # of exceedances</u>	<u>Sample sizes</u>	<u>Are listed if they have at least this # of exceedances</u>

<u>From</u>	<u>To</u>	
<u>10</u>	<u>15</u>	<u>3</u>
<u>16</u>	<u>23</u>	<u>4</u>
<u>24</u>	<u>31</u>	<u>5</u>

<u>From</u>	<u>To</u>	
<u>246</u>	<u>255</u>	<u>30</u>
<u>256</u>	<u>264</u>	<u>31</u>
<u>265</u>	<u>273</u>	<u>32</u>

<u>32</u>	<u>39</u>	<u>6</u>	<u>274</u>	<u>282</u>	<u>33</u>
<u>40</u>	<u>47</u>	<u>7</u>	<u>283</u>	<u>292</u>	<u>34</u>
<u>48</u>	<u>56</u>	<u>8</u>	<u>293</u>	<u>301</u>	<u>35</u>
<u>57</u>	<u>65</u>	<u>9</u>	<u>302</u>	<u>310</u>	<u>36</u>
<u>66</u>	<u>73</u>	<u>10</u>	<u>311</u>	<u>320</u>	<u>37</u>
<u>74</u>	<u>82</u>	<u>11</u>	<u>321</u>	<u>329</u>	<u>38</u>
<u>83</u>	<u>91</u>	<u>12</u>	<u>330</u>	<u>338</u>	<u>39</u>
<u>92</u>	<u>100</u>	<u>13</u>	<u>339</u>	<u>348</u>	<u>40</u>
<u>101</u>	<u>109</u>	<u>14</u>	<u>349</u>	<u>357</u>	<u>41</u>
<u>110</u>	<u>118</u>	<u>15</u>	<u>358</u>	<u>367</u>	<u>42</u>
<u>119</u>	<u>126</u>	<u>16</u>	<u>368</u>	<u>376</u>	<u>43</u>
<u>127</u>	<u>136</u>	<u>17</u>	<u>377</u>	<u>385</u>	<u>44</u>
<u>137</u>	<u>145</u>	<u>18</u>	<u>386</u>	<u>395</u>	<u>45</u>
<u>146</u>	<u>154</u>	<u>19</u>	<u>396</u>	<u>404</u>	<u>46</u>
<u>155</u>	<u>163</u>	<u>20</u>	<u>405</u>	<u>414</u>	<u>47</u>
<u>164</u>	<u>172</u>	<u>21</u>	<u>415</u>	<u>423</u>	<u>48</u>
<u>173</u>	<u>181</u>	<u>22</u>	<u>424</u>	<u>432</u>	<u>49</u>
<u>182</u>	<u>190</u>	<u>23</u>	<u>433</u>	<u>442</u>	<u>50</u>
<u>191</u>	<u>199</u>	<u>24</u>	<u>443</u>	<u>451</u>	<u>51</u>
<u>200</u>	<u>208</u>	<u>25</u>	<u>452</u>	<u>461</u>	<u>52</u>
<u>209</u>	<u>218</u>	<u>26</u>	<u>462</u>	<u>470</u>	<u>53</u>
<u>219</u>	<u>227</u>	<u>27</u>	<u>471</u>	<u>480</u>	<u>54</u>
<u>228</u>	<u>236</u>	<u>28</u>	<u>481</u>	<u>489</u>	<u>55</u>
<u>237</u>	<u>245</u>	<u>29</u>	<u>490</u>	<u>499</u>	<u>56</u>
			<u>500</u>	<u>500</u>	<u>57</u>

(2) The U.S. Environmental Protection Agency's Storage and Retrieval (STORET) database shall be the primary source of data used for determining water quality criteria exceedances. As required by Rule 62-40.540(3), F.A.C., the Department, other state agencies, the Water Management Districts, and local governments collecting surface water quality data in Florida shall enter the data into STORET within one year of collection. Other sampling entities that want to ensure their data will be considered for evaluation should ensure their data are entered into STORET. The Department shall consider data submitted to the Department from other sources and databases if the data meet the sufficiency and data quality requirements of this section.

(3) When determining water quality criteria exceedances, data older than ten years shall not be used to develop planning lists. Further, more recent data shall take precedence over older data if:

(a) the newer data indicate a change in water quality and this change is related to changes in pollutant loading to the watershed or improved pollution control mechanisms in the watershed contributing to the assessed area, or

(b) the Department determines that the older data do not meet the data quality requirements of this section or are no longer representative of the water quality of the segment.

The Department shall note for the record that the older data were excluded and provide details about why the older data were excluded.

(4) To be assessed for water quality criteria exceedances using Table 1, a water segment shall have a minimum of ten, temporally independent samples for the ten year period. To be treated as an independent sample, samples from a given station shall be at least one week apart. Samples collected at the same location less than seven days apart shall be considered as one sample, with the median value used to represent the sampling period. However, if any of the individual values exceed acutely toxic levels, then the worst case value shall be used to represent the sampling period. The worst case value is the minimum value for dissolved oxygen, both the minimum and maximum for pH, or the maximum value for other parameters. However, when data are available from diel or depth profile studies, the lower tenth percentile value shall be used to represent worst case conditions. For the purposes of this chapter, samples collected within 200 meters of each other will be considered the same station or location, unless there is a tributary, an outfall, or significant change in the hydrography of the water. Data from different stations within a water segment shall be treated as separate samples even if collected at the same time. However, there shall be at least five independent sampling events during the ten year assessment period, with at least one sampling event conducted in three of the four seasons of the calendar year. For the purposes of this chapter, the four seasons shall be January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31.

(5) Notwithstanding the requirements of paragraph (4), water segments shall be included on the planning list if:

(a) there are less than ten samples for the segment, but there are three or more temporally independent exceedances of an applicable water quality criterion, or

(b) there are more than one exceedance of an acute toxicity-based water quality criterion in any three year period.

(6) Outliers identified through statistical procedures shall be excluded from the assessment. However, the Department shall note for the record that the data were excluded and explain why they were excluded.

(7) The Department shall consider all readily available water quality data. However, to be used to determine water quality exceedances,

(a) data shall be collected and analyzed in accordance with Chapter 62-160, F.A.C., and

(b) for data collected after one year from the effective date of this rule, the sampling agency must provide the associated quality assurance data needed for a Tier 2 data quality assessment, with appropriate data fields entered into STORET.

(8) To be used to determine exceedances of metals criteria,

(a) surface water data for mercury shall be collected and analyzed using clean sampling and analytical techniques, and

(b) the corresponding hardness value shall be required to determine exceedances of freshwater metals criteria that are hardness dependent, and if the ambient hardness value is less

than 25 mg/L as CaCO<sub>3</sub>, then a hardness value of 25 will be used to calculate the criteria. If data are not used due to sampling or analytical techniques or because hardness data were not available, the Department shall note for the record that data were excluded and explain why they were excluded.

(9) Surface water data with values below the applicable practical quantification limit (PQL) or method detection limit (MDL) shall be assessed in accordance with Rules 62-4.246(6)(b)-(d) and (8), F.A.C.

(a) If sampling entities want to ensure that their data will be considered for evaluation, they should review the Department's list of approved MDLs and PQLs developed pursuant to Rule 62-4.246, F.A.C., and, if available, use approved analytical methods with MDLs below the applicable water quality criteria. If there are no approved methods with MDLs below a criterion, then the method with the lowest MDL should be used. Analytical results listed as below detection or below the MDL shall not be used for developing planning lists if the MDL was above the criteria and there were, at the time of sample collection, approved analytical methods with MDLs below the criteria on the Department's list of approved MDLs and PQLs.

(b) If appropriate analytical methods were used, then data with values below the applicable MDL will be deemed to meet the applicable water quality criterion and data with values between the MDL and PQL will be deemed to be equal to the MDL.

(10) It should be noted that the data requirements of this rule constitute the minimum data set needed to assess a water segment for impairment. Agencies or groups designing monitoring networks are encouraged to consult with the Department to determine the sample design appropriate for their specific monitoring goals.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

#### 62-303.330 Biological Assessment.

(1) Biological data must meet the requirements of paragraphs (3) and (7) in section 62-303.320.

(2) Bioassessments used to assess streams and lakes under this rule shall include BioRecons, Stream Condition Indices (SCIs), and the benthic macroinvertebrate component of the Lake Condition Index (LCI), which only applies to clear lakes with a color less than 40 platinum cobalt units. Because of the complexity of bioassessment procedures, persons conducting the bioassessment will, in addition to meeting the quality assurance requirements of Chapter 62-160, F.A.C., be required to pass a Department sanctioned field audit before their bioassessment data will be considered valid for use under this rule.

(3) Water segments with at least one failed bioassessment or one failure of the biological integrity standard, Rule 62-302.530(11), shall be included on the planning list for assessment of aquatic life use support.

(a) In streams, the bioassessment can be an SCI or a BioRecon. Failure of a bioassessment for streams consists of a "poor" or "very poor" rating on the Stream Condition Index, or not meeting the minimum thresholds established for all three metrics (taxa richness, Ephemeroptera/Plecoptera/Trichoptera Index, and Florida Index) on the BioRecon.

(b) Failure for lakes consists of a "poor" or "very poor" rating on the Lake Condition Index.

(4) Other information relevant to the biological integrity of the water segment, including information about alterations in the type, nature, or function of a water, shall also be considered when determining whether aquatic life use support has been maintained.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

#### 62-303.340 Toxicity.

(1) All toxicity tests used to place a water segment on a planning list shall be based on surface water samples and shall be conducted and evaluated in accordance with Chapter 62-160, F.A.C., and subsections 62-302.200(1) and (4), F.A.C., respectively.

(2) Water segments with two samples indicating acute toxicity within a twelve month period shall be placed on the planning list. Samples must be collected at least two weeks apart over a twelve month period, some time during the ten years preceding the assessment.

(3) Water segments with two samples indicating chronic toxicity within a twelve month period shall be placed on the planning list. Samples must be collected at least two weeks apart, some time during the ten years preceding the assessment.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

#### 62-303.350 Interpretation of Narrative Nutrient Criteria.

(1) Trophic state indices (TSIs) and annual mean chlorophyll a values shall be the primary means for assessing whether a water should be assessed further for nutrient impairment. Other information indicating an imbalance in flora or fauna due to nutrient enrichment, including, but not limited to, algal blooms, excessive macrophyte growth, decrease in the distribution (either in density or areal coverage) of seagrasses or other submerged aquatic vegetation, changes in algal species richness, and excessive diel oxygen swings, shall also be considered.

(2) To be used to determine whether a water should be assessed further for nutrient enrichment,

(a) data must meet the requirements of paragraphs (2)-(4), (6), and (7) in Rule 62-303.320,

(b) at least one sample from each season shall be required in any given year to calculate a Trophic State Index (TSI) or an annual mean chlorophyll a value for that year, and

(c) there must be annual means from at least four years, when evaluating the change in TSI over time pursuant to paragraph 62-303.352(3).

(3) When comparing changes in chlorophyll a or TSI values to historical levels, historical levels shall be based on the lowest five-year average for the period of record. To calculate a five-year average, there must be annual means from at least three years of the five-year period.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

#### 62-303.351 Nutrients in Streams.

A stream or stream segment shall be included on the planning list for nutrients if the following biological imbalances are observed:

(1) Algal mats are present in sufficient quantities to pose a nuisance or hinder reproduction of a threatened or endangered species, or

(2) Annual mean chlorophyll a concentrations are greater than 20 ug/l or if data indicate annual mean chlorophyll a values have increased by more than 50% over historical values for at least two consecutive years.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

#### 62-303.352 Nutrients in Lakes.

For the purposes of evaluating nutrient enrichment in lakes, TSIs shall be calculated based on the procedures outlined on pages 86 and 87 of the State's 1996 305(b) report, which are incorporated by reference. Lakes or lake segments shall be included on the planning list for nutrients if:

(1) For lakes with a mean color greater than 40 platinum cobalt units, the annual mean TSI for the lake exceeds 60, unless paleolimnological information indicates the lake was naturally greater than 60, or

(2) For lakes with a mean color less than or equal to 40 platinum cobalt units, the annual mean TSI for the lake exceeds 40, unless paleolimnological information indicates the lake was naturally greater than 40, or

(3) For any lake, data indicate that annual mean TSIs have increased over the assessment period, as indicated by a positive slope in the means plotted versus time, or the annual mean TSI has increased by more than 10 units over historical values. When evaluating the slope of mean TSIs over time, the Department shall use a Mann's one-sided, upper-tail test for trend, as described in Nonparametric Statistical Methods by M. Hollander and D. Wolfe (1999 ed.), pages 376 and 724 (which are incorporated by reference), with a 95% confidence level.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

#### 62-303.353 Nutrients in Estuaries.

Estuaries or estuary segments shall be included on the planning list for nutrients if their annual mean chlorophyll a for any year is greater than 11 ug/l or if data indicate annual mean chlorophyll a values have increased by more than 50% over historical values for at least two consecutive years.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

#### 62-303.360 Primary Contact and Recreation Use Support.

(1) A Class I, II, or III water shall be placed on the planning list for primary contact and recreation use support if:

(a) The water segment does not meet the applicable water quality criteria for bacteriological quality based on the methodology described in Section 62-303.320, or

(b) The water segment includes a bathing area that was closed by a local health Department or county government for more than one week or more than once during a calendar year based on bacteriological data, or

(c) The water segment includes a bathing area for which a local health Department or county government has issued closures, advisories, or warnings totaling 21 days or more during a calendar year based on bacteriological data, or

(d) The water segment includes a bathing area that was closed or had advisories or warnings for more than 12 weeks during a calendar year based on previous bacteriological data or on derived relationships between bacteria levels and rainfall or flow.

(2) For data collected after August 1, 2000, the Florida Department of Health (DoH) database shall be the primary source of data used for determining bathing area closures.

(3) Advisories, warnings, and closures based on red tides, rip tides, sewage spills, sharks, medical wastes, hurricanes, or other factors not related to chronic discharges of pollutants shall not be included when assessing recreation use support. However, the Department shall note for the record that data were excluded and explain why they were excluded.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

#### 62-303.370 Fish and Shellfish Consumption Use Support.

A Class I, II, or III water shall be placed on the planning list for fish and shellfish consumption if:

(1) The water segment does not meet the applicable Class II water quality criteria for bacteriological quality based on the methodology described in Section 62-303.320, or

(2) There is either a limited or no consumption fish consumption advisory, issued by the DoH, or other authorized governmental entity, in effect for the water segment, or

(3) For Class II waters, the water segment includes an area that has been approved for shellfish harvesting by the Shellfish Evaluation and Assessment Program, but which has been downgraded from its initial harvesting classification to a more

restrictive classification. Changes in harvesting classification from prohibited to unclassified do not constitute a downgrade in classification.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

#### 62-303.380 Drinking Water Use Support and Protection of Human Health.

(1) A Class I water shall be placed on the planning list for drinking water use support if:

(a) The water segment does not meet the applicable Class I water quality criteria based on the methodology described in Section 62-303.320, or

(b) A public water system demonstrates to the Department that either:

1. Treatment costs to meet applicable drinking water criteria have increased by at least 25% to treat contaminants that exceed Class I criteria or to treat blue-green algae or other nuisance algae in the source water, or

2. The system has changed to an alternative supply because of additional costs that would be required to treat their surface water source.

(c) When determining increased treatment costs described in paragraph (b), costs due solely to new, more stringent drinking water requirements, inflation, or increases in costs of materials shall not be included.

(2) A water shall be placed on the planning list for assessment of the threat to human health if the annual mean concentration for any year of the assessment period exceeds a human health-based criteria expressed as an annual average. To be used to determine whether a water should be assessed further for human-health impacts, data must meet the requirements of paragraphs (2), (3), (6), and (7) in Rule 62-303.320.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

### PART III THE VERIFIED LIST

#### 62-303.400 Methodology to Develop the Verified List.

(1) Waters shall be verified as being impaired if they meet the requirements for the planning list in Part II and the additional requirements of Sections 62-303.420-.480. A water body that fails to meet the minimum criteria for surface waters established in Rule 62-302.500, F.A.C.; any of its designated uses, as described in this part; or applicable water quality criteria, as described in this part, shall be determined to be impaired.

(2) Additional data and information collected after the development of the planning list will be considered when assessing waters on the planning list, provided it meets the requirements of this chapter. In cases where additional data are needed for waters on the planning list to meet the data sufficiency requirements for the verified list, it is the

Department's goal to collect this additional data as part of its watershed management approach, with the data collected during either the same cycle that the water is initially listed on the planning list (within 1 year) or during the subsequent cycle (six years). Except for data used to evaluate historical trends in chlorophyll a or TSIs, the Department shall not use data that are more than 7.5 years old at the time the water segment is proposed for listing on the verified list.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

#### 62-303.410 Determination of Aquatic Life Use Support.

Failure to meet any of the metrics used to determine aquatic life use support listed in Sections 62-303.420-.450 shall constitute verification that there is an impairment of the designated use for propagation and maintenance of a healthy, well-balanced population of fish and wildlife.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

#### 62-303.420 Exceedances of Aquatic Life-Based Water Quality Criteria.

(1) The Department shall reexamine the data used in Rule 62-303.320 to determine exceedances of water quality criteria.

(a) If the exceedances are not due to pollutant discharges and reflect either physical alterations of the water body that cannot be abated or natural background conditions, the water shall not be listed on the verified list. In such cases, the Department shall note for the record why the water was not listed and provide the basis for its determination that the exceedances were not due to pollutant discharges.

(b) If the Department cannot clearly establish that the exceedances are due to natural background or physical alterations of the water body but the Department believes the exceedances are not due to pollutant discharges, it is the Department's intent to determine whether aquatic life use support is impaired through the use of bioassessment procedures referenced in Section 62-303.330. The water body or segment shall not be included on the verified list for the parameter of concern if two or more independent bioassessments are conducted and no failures are reported. To be treated as independent bioassessments, they must be conducted at least two months apart.

(2) If the water was listed on the planning list and there were insufficient data from the last five years preceding the planning list assessment to meet the data distribution requirements of section 303.320(4) and to meet a minimum sample size for verification of twenty samples, additional data will be collected as needed to provide a minimum sample size of twenty. Once these additional data are collected, the Department shall re-evaluate the data using the approach outlined in Rule 62-303.320(1), but using Table 2, which provides the number of exceedances that indicate a minimum of a 10% exceedance frequency with a minimum of a 90%

confidence level using a binomial distribution. The Department shall limit the analysis to data collected during the five years preceding the planning list assessment and the additional data collected pursuant to this paragraph.

Table 2: Verified List

Minimum number of measured exceedances needed to put on the Verified list with at least 90% confidence that the actual exceedance rate is greater than or equal to ten percent.

Sample sizes	Are listed if they have at least this # of exceedances	Sample sizes	Are listed if they have at least this # of exceedances
--------------	--	--------------	--

From	To	
10	11	3
12	18	4
19	25	5
26	32	6
33	40	7
41	47	8
48	55	9
56	63	10
64	71	11
72	79	12
80	88	13
89	96	14
97	104	15
105	113	16
114	121	17
122	130	18
131	138	19
139	147	20
148	156	21
157	164	22
165	173	23
174	182	24
183	191	25
192	199	26
200	208	27
209	217	28
218	226	29
227	235	30
236	244	31

From	To	
245	253	32
254	262	33
263	270	34
271	279	35
280	288	36
289	297	37
298	306	38
307	315	39
316	324	40
325	333	41
334	343	42
344	352	43
353	361	44
362	370	45
371	379	46
380	388	47
389	397	48
398	406	49
407	415	50
416	424	51
425	434	52
435	443	53
444	452	54
453	461	55
462	470	56
471	479	57
480	489	58
490	498	59
499	500	60

(3) If the water was placed on the planning list based on worst case values used to represent multiple samples taken during a seven day period, the Department shall evaluate whether the worst case value should be excluded from the analysis pursuant to subsections (4) and (5). If the worst case value should not be used, the Department shall then re-evaluate

the data following the methodology in Rule 62-303.420(2), using the more representative worst case value or, if all valid values are below acutely toxic levels, the median value.

(4) If the water was listed on the planning list based on exceedances of water quality criteria for metals, the metals data shall be validated to determine whether the quality assurance requirements of Rule 62-303.320(7) are met and whether the sample was both collected and analyzed using clean techniques, if the use of clean techniques is appropriate. If any data cannot be validated, the Department shall re-evaluate the remaining valid data using the methodology in Rule 62-303.420(2), excluding any data that cannot be validated.

(5) Outliers identified through statistical procedures, water quality criteria exceedances due solely to violations of specific effluent limitations contained in state permits authorizing discharges to surface waters, water quality criteria exceedances within permitted mixing zones for those parameters for which the mixing zones are in effect, and water quality data collected following contaminant spills, discharges due to upsets or bypasses from permitted facilities, or rainfall in excess of the 25-year, 24-hour storm, shall be excluded from the assessment. However, the Department shall note for the record that the data were excluded and explain why they were excluded.

(6) Once the additional data review is completed pursuant to paragraphs (1) through (5), the Department shall re-evaluate the data and shall include waters on the verified list that meet the criteria in Rules 62-303.420(2) or 62-303.320(5)(b).

Specific Authority 403.061, 403.067 FS. Law Implemented 403.021(11), 403.062, 403.067 FS. History--New

#### 62-303.430 Biological Impairment.

(1) All bioassessments used to list a water on the verified list shall be conducted in accordance with Chapter 62-160, F.A.C., including Department-approved Standard Operating Procedures. To be used for placing waters on the verified list, any bioassessments conducted before the adoption of applicable SOPs for such bioassessments as part of Chapter 62-160 shall substantially comply with the subsequent SOPs.

(2) If the water was listed on the planning list based on bioassessment results, the water shall be determined to be biologically impaired if there were two or more failed bioassessments within the five years preceding the planning list assessment. If there were less than two failed bioassessments during the last five years preceding the planning list assessment, the Department will conduct an additional bioassessment. If the previous failed bioassessment was a BioRecon, then an SCI will be conducted. Failure of this additional bioassessment shall constitute verification that the water is biologically impaired.

(3) If the water was listed on the planning list based on other information specified in Rule 62-303.330(4) indicating biological impairment, the Department will conduct a bioassessment in the water segment, conducted in accordance with the methodology in Rule 62-303.330, to verify whether

the water is impaired. For streams, the bioassessment shall be an SCI. Failure of this bioassessment shall constitute verification that the water is biologically impaired.

(4) Following verification that a water is biologically impaired, a water shall be included on the verified list for biological impairment if:

(a) There are water quality data specifying the particular pollutant(s) causing the impairment and the concentration of the pollutant(s); and

(b) One of the following demonstrations is made:

1. If there is a numeric criterion for the specified pollutant(s) in Chapter 62-302, F.A.C., but the criterion is met, an identification of the specific factors as to why the numeric criterion is not adequate to protect water quality, or

2. If there is not a numeric criterion for the specified pollutant(s) in Chapter 62-302, F.A.C., the specific factors concerning the particular pollutant(s) shall be identified which connect the specified pollutant to the observed biological effect.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

#### 62-303.440 Toxicity.

(1) A water segment shall be verified as impaired due to surface water toxicity if:

(a) The water segment was listed on the planning list based on acute toxicity data, or

(b) The water segment was listed on the planning list based on chronic toxicity data and the impairment is confirmed with a failed bioassessment that was conducted within six months of a failed chronic toxicity test. For streams, the bioassessment shall be an SCI.

(2) Following verification that a water is impaired due to toxicity, a water shall be included on the verified list if the requirements of paragraph 62-303.430(4) are met.

(3) Toxicity data collected following contaminant spills, discharges due to upsets or bypasses from permitted facilities, or rainfall in excess of the 25-year, 24-hour storm, shall be excluded from the assessment. However, the Department shall note for the record that the data were excluded and explain why they were excluded.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

#### 62-303.450 Interpretation of Narrative Nutrient Criteria.

(1) A water shall be placed on the verified list for impairment due to nutrients if there are sufficient data from the last five years preceding the planning list assessment, combined with historical data (if needed to establish historical chlorophyll a levels or historical TSIs), to meet the data sufficiency requirements of Rule 62-303.350(2). If there are insufficient data, additional data shall be collected as needed to meet the requirements. Once these additional data are collected, the Department shall re-evaluate the data using the

thresholds provided in Rule 62-303.351-.353, for streams, lakes, and estuaries, respectively, or alternative, site-specific thresholds that more accurately reflect conditions beyond which an imbalance in flora or fauna occurs in the water segment. In any case, the Department shall limit its analysis to the use of data collected during the five years preceding the planning list assessment and the additional data collected in the second phase. If alternative thresholds are used for the analysis, the Department shall provide the thresholds for the record and document how the alternative threshold better represents conditions beyond which an imbalance in flora or fauna is expected to occur.

(2) If the water was listed on the planning list for nutrient enrichment based on other information indicating an imbalance in flora or fauna, as provided in Rule 62-303.350(1), the Department shall verify the imbalance before placing the water on the verified list for impairment due to nutrients and shall provide documentation supporting the imbalance in flora or fauna.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

#### 62-303.460 Primary Contact and Recreation Use Support.

(1) The Department shall review the data used by the DoH as the basis for bathing area closures, advisories or warnings and verify that the values exceeded the applicable DoH thresholds and the data meet the requirements of Chapter 62-160. If the segment is listed on the planning list based on bathing area closures, advisories, or warnings issued by a local health department or county government, closures, advisories, or warnings based on red tides, rip tides, sewer line breaks, sharks, medical wastes, hurricanes, or other factors not related to chronic discharges of pollutants shall not be included when verifying primary contact and recreation use support. The Department shall then re-evaluate the remaining data using the methodology in Rule 62-303.360(1)(c). Water segments that meet the criteria in Rule 62-303.360(1)(c) shall be included on the verified list.

(2) If the water segment was listed on the planning list due to exceedances of water quality criteria for bacteriological quality, the Department shall, to the extent practical, evaluate the source of bacteriological contamination and shall verify that the impairment is due to chronic discharges of human-induced bacteriological pollutants before listing the water segment on the verified list. The Department shall take into account the proximity of municipal stormwater outfalls, septic tanks, and domestic wastewater facilities when evaluating potential sources of bacteriological pollutants. For water segments that contain municipal stormwater outfalls, the impairment documented for the segment shall be presumed to be due, at least in part, to chronic discharges of bacteriological pollutants. The Department shall then re-evaluate the data using the methodology in Rule 62-303.320(1), excluding any

values that are elevated solely due to wildlife. Water segments shall be included on the verified list if they meet the requirements in Rule 62-303.420(6).

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

#### 62-303.470 Fish and Shellfish Consumption Use Support.

(1) In order to be used under this part, the Department shall review the data used by the DoH as the basis for fish consumption advisories and determine whether it meets the following requirements:

(a) The advisory is based on the statistical evaluation of fish tissue data from at least twelve fish collected from the specific water segment or water body to be listed.

(b) Starting one year from the effective date of this rule, the data are collected in accordance with DEP SOP FS6000 (General Biological Tissue Sampling) and FS 6200 (Finfish Tissue Sampling), which are incorporated by reference, the sampling entity has established Data Quality Objectives (DQOs) for the sampling, and the data meet the DQOs. Data collected before one year from the effective date of this rule shall substantially comply with the listed SOPs and any subsequently developed DQOs.

(c) There are sufficient data from within the last seven years to support the continuation of the advisory.

(2) If the segment is listed on the planning list based on fish consumption advisories, waters with fish consumption advisories for pollutants that are no longer legally allowed to be used or discharged shall not be placed on the verified list because the TMDL will be zero for the pollutant.

(3) Waters determined to meet the requirements of this section shall be listed on the verified list.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

#### 62-303.480 Drinking Water Use Support and Protection of Human Health.

If the water segment was listed on the planning list due to exceedances of a human health-based water quality criterion and there were insufficient data from the last five years preceding the planning list assessment to meet the data sufficiency requirements of Section 303.320(4), additional data will be collected as needed to meet the requirements. Once these additional data are collected, the Department shall re-evaluate the data using the methodology in Rule 62-303.380(2) and limit the analysis to data collected during the five years preceding the planning list assessment and the additional data collected pursuant to this paragraph (not to include data older than 7.5 years). For this analysis, the Department shall exclude any data meeting the requirements of paragraph 303.420(5). Any water segments that have a mean annual average that exceeds the applicable criterion shall be listed on the verified list.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

#### 62-303.500 Prioritization.

(1) When establishing the TMDL development schedule for water segments on the verified list of impaired waters, the Department shall prioritize impaired water segments according to the severity of the impairment and the designated uses of the segment, taking into account the most serious water quality problems; most valuable and threatened resources; and risk to human health and aquatic life. Impaired waters shall be prioritized as high, medium, or low priority.

(2) The following waters shall be designated high priority:

(a) Water segments where the impairment poses a threat to potable water supplies or to human health.

(b) Water segments where the impairment is due to a pollutant regulated by the CWA and the pollutant has contributed to the decline or extirpation of a federally listed threatened or endangered species, as indicated in the Federal Register listing the species.

(3) The following waters shall be designated low priority:

(a) Water segments that are listed before 2010 due to fish consumption advisories for mercury (due to the current insufficient understanding of mercury cycling in the environment).

(b) Man-made canals, urban drainage ditches, and other artificial water segments that are listed only due to exceedances of the dissolved oxygen criteria.

(c) Water segments that were not on a planning list of impaired waters, but which were identified as impaired during the second phase of the watershed management approach and were included in the verified list, unless the segment meets the criteria in paragraph (2) for high priority.

(4) All segments not designated high or low priority shall be medium priority and shall be prioritized based on the following factors:

(a) The presence of Outstanding Florida Waters.

(b) The presence of water segments that fail to meet more than one designated use.

(c) The presence of water segments that exceed an applicable water quality criterion or alternative threshold with a greater than twenty-five percent exceedance frequency with a minimum of a 90 percent confidence level.

(d) The presence of water segments that exceed more than one applicable water quality criteria.

(e) Administrative needs of the TMDL program, including meeting a TMDL development schedule agreed to with EPA, basin priorities related to following the Department's watershed management approach, and the number of administratively continued permits in the basin.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.



62-303.600 Evaluation of Pollution Control Mechanisms.

(1) Upon determining that a water body is impaired, the Department shall evaluate whether existing or proposed technology-based effluent limitations and other pollution control programs under local, state, or federal authority are sufficient to result in the attainment of applicable water quality standards.

(2) If, as a result of the factors set forth in (1), the water segment is expected to attain water quality standards in the future and is expected to make reasonable progress towards attainment of water quality standards by the time the next 303(d) list is scheduled to be submitted to EPA, the segment shall not be listed on the verified list. The Department shall document the basis for its decision, noting any proposed pollution control mechanisms and expected improvements in water quality that provide reasonable assurance that the water segment will attain applicable water quality standards.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

62-303.700 Listing Cycle.

(1) The Department shall, to the extent practical, develop basin-specific verified lists of impaired waters as part of its watershed management approach, which rotates through the State's surface water basins on a five year cycle. At the end of the first phase of the cycle, which is designed to develop a preliminary assessment of the basin, the Department shall update the planning list for the basin and shall include the planning list in the status report for the basin, which will be noticed to interested parties in the basin. If the specific pollutant causing the impairment in a particular water segment is not known at the time the planning list is prepared, the list shall provide the basis for including the water segment on the planning list. In these cases, the pollutant and concentration causing the impairment shall be identified before the water segment is included on the verified list to be adopted by Secretarial Order. During the second phase of the cycle, which is designed to collect additional data on waters in the basin, interested parties shall be provided the opportunity to work with the Department to collect additional water quality data. Alternatively, interested parties may develop proposed water pollution control mechanisms that may affect the final verified list adopted by the Secretary at the end of the second phase. To ensure that data or information will be considered in the preliminary basin assessment, it must be submitted to the Department or entered into STORET or, if applicable, the DoH database no later than September 30 during the year of the assessment.

(2) Within a year of the effective date of this rule, the Department shall also prepare a planning list for the entire state.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

62-303.710 Format of Verified List and Verified List Approval.

(1) The Department shall follow the methodology established in this chapter to develop basin-specific verified lists of impaired water segments. The verified list shall specify the pollutant or pollutants causing the impairment and the concentration of the pollutant(s) causing the impairment. If the water segment is listed based on water quality criteria exceedances, then the verified list shall provide the applicable criteria. However, if the listing is based on narrative or biological criteria, or impairment of other designated uses, and the water quality criteria are met, the list shall specify the concentration of the pollutant relative to the water quality criteria and explain why the numerical criterion is not adequate.

(2) For waters with exceedances of the dissolved oxygen criteria, the Department shall identify the pollutants causing or contributing to the exceedances and list both the pollutant and dissolved oxygen on the verified list.

(3) For waters impaired by nutrients, the Department shall identify whether nitrogen or phosphorus, or both, are the limiting nutrients, and specify the limiting nutrient(s) in the verified list.

(4) The verified list shall also include the priority and the schedule for TMDL development established for the water segment, as required by federal regulations.

(5) The verified list shall also note any waters that are being removed from the current planning list and any previous verified list for the basin.

(6) The verified basin-specific 303(d) list shall be approved by order of the Secretary.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New \_\_\_\_\_.

PART IV MISCELLANEOUS PROVISIONS

62-303.720 Delisting Procedure.

(1) Waters on planning lists developed under this Chapter that are verified to not be impaired during development of the verified list shall be removed from the State's planning list. Once a water segment is verified to not be impaired pursuant to Part III of this chapter, the data used to place the water on the planning list shall not be the sole basis for listing that water segment on future planning lists.

(2) Water segments shall be removed from the State's verified list only after completion of a TMDL for all pollutants causing impairment of the segment or upon demonstration that the water meets the water quality standard that was previously established as not being met.

(a) For waters listed due to failure to meet aquatic life use support based on water quality criteria exceedances or due to threats to human health based on exceedances of single sample water quality criteria, the water shall be delisted when:

1. The number of exceedances of an applicable water quality criterion due to pollutant discharges is less than or equal to the number listed in Table 3 for the given sample size, with a minimum sample size of 30. This table provides the number of exceedances that indicate a maximum of a 10% exceedance frequency with a minimum of a 90% confidence level using a binomial distribution, or

2. Following implementation of pollution control activities that are expected to be sufficient to result in attainment of applicable water quality standards, evaluation of new data indicates the water no longer meets the criteria for listing established in Section 62-303.420, or

3. Following demonstration that the water was inappropriately listed due to flaws in the original analysis, evaluation of available data indicates the water does not meet the criteria for listing established in Section 62-303.420. New data evaluated under Rule 62-303.720(2)(a)1. must meet the following requirements:

a. They must include samples collected during similar conditions (same seasons and general flow conditions) that the data previously used to determine impairment were collected, with no more than 50% of the samples collected in any one quarter.

b. The sample size must be a minimum of 30 samples, and

c. The data must meet the requirements of paragraphs 62-303.320(4), (6) and (7).

(b) For waters listed due to failure to meet aquatic life use support based on biological data, the water shall be delisted when the segment passes two independent follow-up bioassessments and there have been no failed bioassessments for at least one year. The follow-up tests must meet the following requirements:

1. For streams, the new data may be two BioRecons or any combination of BioRecons and SCIs.

2. The bioassessments must be conducted during similar conditions (same seasons and general flow conditions) under which the previous bioassessments used to determine impairment were collected.

3. The data must meet the requirements of Section 62-303.330(1) and (2), F.A.C.

(c) For waters listed due to failure to meet aquatic life use support based on toxicity data, the water shall be delisted when the segment passes two independent follow-up toxicity tests and there have been no failed toxicity tests for at least one year. The follow-up tests must meet the following requirements:

1. The tests must be conducted using the same test protocols and during similar conditions (same seasons and general flow conditions) under which the previous test used to determine impairment were collected.

2. The data must meet the requirements of Rules 62-303.340(1), and the time requirements of Rules 62-303.340(2) or (3).

(d) For waters listed due to fish consumption advisories, the water shall be delisted following the lifting of the advisory or when data complying with Rule 62-303.470(1)(a) and (b) demonstrate that the continuation of the advisory is no longer appropriate.

(e) For waters listed due to changes in shellfish bed management classification, the water shall be delisted upon reclassification of the shellfish harvesting area to its original or higher harvesting classification. Reclassification of a water from prohibited to unclassified does not constitute a higher classification.

(f) For waters listed due to bathing area closure or advisory data, the water shall be delisted if the bathing area does not meet the listing thresholds in Rule 62-303.360(1) for five consecutive years

(g) For waters listed based on impacts to potable water supplies, the water shall be delisted when applicable water quality criteria are met as defined in Rule 62-303.380(1)(a) and when the causes resulting in higher treatment costs have been ameliorated.

(h) For waters listed based on exceedance of a human health-based annual average criterion, the water shall be delisted when the annual average concentration is less than the criterion for three consecutive years.

(i) For waters listed based on nutrient impairment, the water shall be delisted if it does not meet the listing thresholds in Rule 62-303.450 for three consecutive years.

(j) For any listed water, the water shall be delisted if, following a change in approved analytical procedures, criteria, or water quality standards, evaluation of available data indicates the water no longer meets the applicable criteria for listing.

Table 3: Delisting

<u>Maximum number of measured exceedances allowable to DELIST with at least 90% confidence that the actual exceedance rate is less than ten percent.</u>		
<u>Sample sizes</u>	<u>Maximum # of exceedances allowable for delisting</u>	
<u>From</u>	<u>To</u>	
<u>30</u>	<u>37</u>	<u>0</u>
<u>38</u>	<u>51</u>	<u>1</u>
<u>52</u>	<u>64</u>	<u>2</u>
<u>65</u>	<u>77</u>	<u>3</u>
<u>78</u>	<u>90</u>	<u>4</u>
<u>91</u>	<u>103</u>	<u>5</u>
<u>104</u>	<u>115</u>	<u>6</u>
<u>116</u>	<u>127</u>	<u>7</u>
<u>128</u>	<u>139</u>	<u>8</u>
<u>140</u>	<u>151</u>	<u>9</u>

<u>152</u>	<u>163</u>	<u>10</u>
<u>164</u>	<u>174</u>	<u>11</u>
<u>175</u>	<u>186</u>	<u>12</u>
<u>187</u>	<u>198</u>	<u>13</u>
<u>199</u>	<u>209</u>	<u>14</u>
<u>210</u>	<u>221</u>	<u>15</u>
<u>222</u>	<u>232</u>	<u>16</u>
<u>233</u>	<u>244</u>	<u>17</u>
<u>245</u>	<u>255</u>	<u>18</u>
<u>256</u>	<u>266</u>	<u>19</u>
<u>267</u>	<u>278</u>	<u>20</u>
<u>279</u>	<u>289</u>	<u>21</u>

<u>Sample sizes</u>	<u>Maximum # of exceedances allowable for delisting</u>
---------------------	---

<u>From</u>	<u>To</u>	
<u>290</u>	<u>300</u>	<u>22</u>
<u>301</u>	<u>311</u>	<u>23</u>
<u>312</u>	<u>323</u>	<u>24</u>
<u>324</u>	<u>334</u>	<u>25</u>
<u>335</u>	<u>345</u>	<u>26</u>
<u>346</u>	<u>356</u>	<u>27</u>
<u>357</u>	<u>367</u>	<u>28</u>
<u>368</u>	<u>378</u>	<u>29</u>
<u>379</u>	<u>389</u>	<u>30</u>
<u>390</u>	<u>401</u>	<u>31</u>
<u>402</u>	<u>412</u>	<u>32</u>
<u>413</u>	<u>423</u>	<u>33</u>
<u>424</u>	<u>434</u>	<u>34</u>
<u>435</u>	<u>445</u>	<u>35</u>
<u>446</u>	<u>456</u>	<u>36</u>
<u>457</u>	<u>467</u>	<u>37</u>
<u>468</u>	<u>478</u>	<u>38</u>
<u>479</u>	<u>489</u>	<u>39</u>
<u>490</u>	<u>500</u>	<u>40</u>

(3) Any delisting of waters from the verified list shall be approved by order of the Secretary at such time as the requirements of this section are met.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New

#### 62-303.810 Impairment of Interstate and Tribal Waters.

The Department shall work with Alabama, Georgia, and federally recognized Indian Tribes in Florida to share information about their assessment methodology and share water quality data for waters that form state boundaries or flow into Florida. In cases where assessments are different for the

same water body, the Department shall, to the extent practical, work with the appropriate state, Indian Tribe and EPA to determine why the assessments were different.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Mimi Drew, Director, Division of Water Resource Management, Department of Environmental Protection

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kirby Green, Deputy Secretary, Department of Environmental Protection

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 13, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN THE FAW: August 18, 2000

### **DEPARTMENT OF HEALTH**

#### **Board of Pharmacy**

RULE TITLE: CONSULTANT PHARMACIST REGISTRATION  
RULE NO.: 64B16-26.300

PURPOSE AND EFFECT: The purpose of the rule amendments is to update the requirements for a consultant pharmacist.

SUMMARY: The Board is amending this rule by adding new rule text which will inform licensees of the requirements needed prior to becoming registered as a consultant pharmacist and the responsibilities of the supervising consultant pharmacist.

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: 465.005, 465.0125 FS.

LAW IMPLEMENTED: 465.0125 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Taylor, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

## THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-26.300 Consultant Pharmacist Registration.

(1) through (2) No change.

(3) Upon receipt of proof satisfactory to the Board that the consultant pharmacist meets the requirements of subsection (2), the Board shall issue a consultant pharmacist license and register the applicant as a consultant pharmacist in the official records of the Florida Board of Pharmacy with the proviso that designation as the consultant pharmacist of record for a permitted facility, required by rule to employ a consultant pharmacist, requires that the consultant pharmacist must have completed or immediately begin a period of assessment and evaluation, which may be fulfilled by one of the following as a prerequisite or co-requisite:

(a) The period of assessment and evaluation may be fulfilled by the licensee who is a consultant of record and is responsible to sign all pertinent records by completing assignments and performing various consultant of record activities under the guidance or evaluation of a Florida Consultant Pharmacist who is experienced as a pharmacist of record in a Florida Institutional Pharmacy for a minimum of two years and in good standing with the Board. After a period of not less than six months the supervising consultant certifies to the Board that the licensee has successfully completed the required assignments and experiential activities, OR

(b) The licensee may complete this requirement prior to accepting a position as a consultant of record by assisting a consultant of record who is responsible to sign or co-sign all pertinent records. After a period of not less than six months the supervising consultant certifies to the Board that the licensee has successfully completed the required assignments and experiential activities, OR

(c) Practicing ~~(a) practice~~ under the supervision and evaluation of a consultant pharmacist of record in good standing at the same institution for a period of not less than six months, OR,

(b) through (d) renumbered (d) through (f) No change.

~~(g)(e)~~ The written assignments required by subsections ~~(d), (e), and (f), (b), (c), and (d)~~ above shall be completed and sent to the board office within six months of assuming consultant pharmacist of record responsibilities for the permit.

(4) through (9) No change.

Specific Authority 465.005, 465.0125 FS. Law Implemented 465.0125 FS. History—New 5-19-72, Revised 4-19-74, Repromulgated 12-18-74, Amended 10-17-79, 4-8-80, 7-29-81, 7-1-83, 4-10-84, 4-30-85, Formerly 21S-1.26, 21S-1.026, Amended 7-13-91, 10-14-91, Formerly 21S-26.300, 61F10-26.300, Amended 9-19-94, 3-28-95, 3-10-96, Formerly 59X-26.300, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Pharmacy

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

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: February 5, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: January 26, 2001

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

#### DEPARTMENT OF INSURANCE

##### Division of Insurance Fraud

RULE NO.:	RULE TITLE:
4K-1.003	Review Process and Reward Criteria

#### NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)l., Florida Statutes, published in Vol. 27, No. 8, February 23, 2001, of the Florida Administrative Weekly;

##### 1. 4K-1.003(6)

We would add “and as set forth in Rule 4K-1.003(8),(9), and (10).” Therefore it would read: “(6) The criteria for evaluating the application is based on information submitted to the Division of Insurance Fraud after October 1, 1999, leading to the arrest and conviction of persons committing a complex or organized crime investigated by the Division of Insurance, arising out of a violation of Sections 440.105, 624.15, 626.9541, 626.989, or 817.234, Florida Statutes, and as set forth in Rule 4K-1.003(8),(9), and (10).”

##### 2. 4K-1.003(10)(a)-(e)

We would write as follows:

“(10) Rewards shall be paid pursuant to the following schedule:

(a) A reward of up to \$25,000 for theft or fraud valued at \$1,000,000 or more.

(b) A reward of up to \$10,000 for theft or fraud valued at \$100,000 but less than \$1,000,000.

(c) A reward of up to \$5,000 for theft or fraud valued at \$20,000 but less than \$100,000.

(d) A reward of up to \$1,000 for theft or fraud less than \$20,000 but at least \$5,000.

(e) \$250,000 has been allocated to pay rewards. In the event the allocated \$250,000 has been distributed no further rewards shall be granted.”

The remainder of the rule reads as previously published.

#### STATE BOARD OF ADMINISTRATION

RULE NO.:	RULE TITLE:
19-10.001	Asset Transfer Procedures: Initial Transfers Occurring between 7/1/02 and 3/31/03