IF REQUESTED IN WRITING AND DEEMED NECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP(S) WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., July 2, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: John Bowman, Acting Coordinator for Special Programs, 1317 Winewood Boulevard, Building 3, Room 417, Tallahassee, Florida 32399-0700, Telephone (850)921-5549

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

Section II
Proposed Rules

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

DOCKET NO.: 98-08R

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Sovereignty Submerged Lands Management	18-21
RULE TITLES:	**RULE NOS.:**
Definitions	18-21.003
Management Policies, Standards, and Criteria	18-21.004
Applications for Letter of Consent	18-21.007
Applications for Lease	18-21.008
Applications for Public Easement	18-21.009
Applications for Private Easement	18-21.010
Forms	18-21.900

PURPOSE AND EFFECT: The proposed amendments clarify the nature of interest in riparian uplands necessary to make application for a Board of Trustees' authorization for activities on sovereign submerged lands. These amendments are needed to ensure that DEP deals with the person or entity having sufficient interest in the riparian uplands and the riparian rights necessary to conduct activities on sovereign submerged lands. The current rule requires a warranty deed, title insurance, or an attorney's opinion of title but does not require documentation of riparian rights. The proposed rule adds a certificate of title issued by a clerk of the court; a lease; an easement; and condominium, homeowners or similar association documents to the list of acceptable forms of title and requires that the documentation clearly demonstrate that the holder has control and interest in the riparian uplands adjacent to the project area and the riparian rights necessary to conduct the proposed activity. Other forms of documentation may be accepted if they clearly demonstrate that the holder has control and interest in the riparian uplands adjacent to the project area and the riparian rights necessary to conduct the proposed activity. An exception is provided for public utilities and the Department of Transportation that requires these entities to obtain satisfactory evidence of upland interest prior to construction but does not require that such evidence be submitted as part of the application or authorization process. The proposed amendments also conform the terms used to refer to the type of upland interest required for different forms of authorizations.

The proposed amendments provide that, where an applicant has less than fee simple interest in the uplands, the term of the applicable sovereign submerged lands authorization shall be limited to the term allowed by rule or the term of the upland interest, whichever is less, unless the fee simple title owner agrees to be a co-holder of the sovereign submerged lands authorization.

The proposed amendments provide that for the construction of docks or piers, when the upland interest is less than fee simple title, the upland interest must cover the entire shoreline of the upland parcel or 65 feet of shoreline, whichever is less.

The proposed rule clarifies the riparian line setback provisions for shared single-family docks; situations where riparian lines converge to less than 65 feet apart; and shoreline protection structures and clarifies the requirement for concurrence of the adjacent property owner to a waiver of the setback provision. In addition, a provision has been added enabling the Board of Trustees (or staff to the Trustees) to authorize a structure within the setback area if such location is necessary to avoid or minimize impacts to natural resources.

SUMMARY: Clarification of the types of interest in riparian uplands required to make application to conduct activities on sovereign submerged lands.

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

Any person who wishes to provide information regarding a 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: 253.03, 253.03(7), 253.0345, 253.73, 370.021 FS.

LAW IMPLEMENTED: 253.002, 253.02, 253.03, 253.034, 253.0345, 253.04, 253.115, 253.12, 253.1221, 253.141, 253.47, 253.51, 253.512, 253.52-.54, 253.61, 253.67-.75, 253.77, 370.16 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., (Tuesday), July 10, 2001

PLACE: Department of Environmental Protection, Room 609, 2600 Blair Stone Road, Tallahassee, Florida

If accommodation for a disability is needed to participate in this activity, please notify the Personnel Services Specialist in the Bureau of Personnel, (850)488-2996 or 1(800)955-8771 (TDD), at least seven days before the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Alice Heathcock, Department of Environmental Protection, 2600 Blair Stone Road, MS 2500, Tallahassee, Florida 32399-2400, telephone (850)921-9899, or e-mail Alice.Heathcock@dep.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULES IS:

18-21.003 Definitions.

When used in these rules, the following definitions shall apply unless the context clearly indicates otherwise:

(1) through (48) No change.

(49) "Satisfactory evidence of sufficient upland interest ~~title~~" ~~means~~ may be demonstrated by documentation, such as a warranty deed; a certificate of title issued by a clerk of the court; a lease; an easement; or condominium, homeowners or similar association documents that clearly demonstrate that the holder has control and interest in the riparian uplands adjacent to the project area and the riparian rights necessary to conduct the proposed activity. Other forms of documentation may be accepted if they clearly demonstrate that the holder has control and interest in the riparian uplands adjacent to the project area and the riparian rights necessary to conduct the proposed activity ~~or a current title insurance policy issued by a title insurance company authorized to do business in the State of Florida, or an opinion of title prepared by a member of the Florida Bar, covering title to lands involved and indicating, at least, such minimum interest in the applicant which may entitle the applicant to the relief sought, or such affidavits as may be required by the department to establish the currency of title status of an applicant~~.

(50) through (57) No change.

Specific Authority 253.03(7), 253.0345 FS. Law Implemented 253.002, 253.02, 253.03, 253.0345, 253.1221, 253.67, 253.77 FS. History–New 9-26-77, Formerly 16C-12.01, 16Q-17.01, Amended 3-27-82, 8-1-83, 2-25-85, Formerly 16Q-21.03, 16Q-21.003, Amended 12-25-86, 1-25-87, 3-15-90, 7-21-92, 3-20-94, 10-15-98, _____.

18-21.004 Management Policies, Standards, and Criteria.

The following management policies, standards, and criteria shall be used in determining whether to approve, approve with conditions or modifications, or deny all requests for activities on sovereign submerged lands.

(1) General Proprietary

(a) through (b) No change.

(c) When satisfactory evidence of sufficient upland interest is not fee simple title, the term of the sovereign submerged lands authorization will be determined by Rule 18-21.008, .009, or .010, F.A.C., if applicable. However, in no case shall the term exceed the remaining term of the sufficient upland interest unless the fee simple title holder agrees to become a co-holder of the sovereign submerged lands authorization.

(d) For construction of docks and piers when satisfactory evidence of sufficient upland interest is not fee simple title, the applicant's interest must cover the entire shoreline of the adjacent upland fee simple parcel or 65 feet, whichever is less.

(c) through (j) renumbered (e) through (l) No change.

(2) No change.

(3) Riparian Rights

(a) None of the provisions of this rule shall be implemented in a manner that would unreasonably infringe upon the traditional, common law riparian rights, as defined in s. 253.141, F.S., of upland property owners adjacent to sovereign~~ty~~ submerged lands.

(b) ~~Applications~~ Satisfactory evidence of sufficient upland interest is required for activities on sovereign~~ty~~ submerged lands riparian to uplands, ~~can only be made by and approved for the upland riparian owner, their legally authorized agent, or persons with sufficient title interest~~ unless otherwise specified in this chapter ~~in uplands for the intended purpose~~. Public utilities and state and other governmental agencies proposing activities such as utility lines, roads or bridges must obtain satisfactory evidence of sufficient upland interest prior to beginning construction, but need not provide such evidence as part of any required application. Satisfactory evidence of sufficient upland interest is not required for activities on sovereign submerged lands that are not riparian to uplands, or when a governmental entity conducts restoration and enhancement activities, provided that such activities do not unreasonably infringe on riparian rights.

(c) All structures and other activities must be ~~within the riparian rights area of the applicant and must be~~ designed and conducted in a manner that will not unreasonably restrict or ~~otherwise~~ infringe upon the riparian rights of adjacent upland riparian owners.

(d) Except as provided herein, a~~A~~ll structures, including mooring pilings, breakwaters, jetties and groins, and ~~other~~ activities must be set back a minimum of 25 feet inside ~~from~~ the applicant's riparian rights lines. Marginal docks, however, must ~~may~~ be set back a minimum of ~~only~~ 10 feet. ~~There shall be no~~ Eexceptions to the setbacks are: private residential single-family docks or piers associated with a parcel that has a ~~unless the applicant's~~ shoreline frontage of ~~is~~ less than 65 feet, where portions of such structures are located between riparian lines less than 65 feet apart, or where such structure is shared by two adjacent single-family parcels; ~~or a sworn affidavit of no objection is obtained from the affected adjacent upland riparian owner, or the proposed structure is a subaqueous~~ utility lines; bulkheads, seawalls, riprap or similar shoreline protection structures located along the shoreline; structures and activities previously authorized by the Board; structures and activities built or occurring prior to any requirement for Board

authorization; when a letter of concurrence is obtained from the affected adjacent upland riparian owner; or when the Board determines that locating any portion of the structure or activity within the setback area is necessary to avoid or minimize adverse impacts to natural resources.

(e) No change.

(4) through (5) No change.

Specific Authority 253.03, 253.73 FS. Law Implemented 253.03, 253.034, 253.04, 253.041, 253.141, 253.51, 253.61, 253.68, 253.72, 253.74, 253.75, 253.77 FS. History–New 3-27-82, Amended 8-1-83, Formerly 16Q-21.04, 16Q-21.004, Amended 12-25-86, 1-25-87, 3-15-90, 7-21-92, 10-15-98, _____.

18-21.007 Applications for Letter of Consent ~~of Use~~.

(1) Applications for a letter of consent ~~of use~~ shall include the following:

(a) through (b) No change.

(c) Satisfactory evidence of sufficient upland interest to the extent required by Rule 18-21.004(3)(b), F.A.C. ~~title in subject riparian upland property or demonstration of sufficient title interest in uplands for the intended purpose~~;

(d) through (g) No change.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.12, 253.77 FS. History–New 3-27-82, Formerly 16Q-21.07, 16Q-21.007, Amended _____.

18-21.008 Applications for Lease.

Applications for the following categories of leases are found in this section: standard, extended term, aquaculture, and oil and gas. Special event leases are addressed in Section 18-21.0082, F.A.C. ~~divided into four categories. All leases, except extended term, aquaculture, and oil and gas, are handled under the standard lease provisions~~.

(1) Standard Lease.

The term for standard leases shall be 5 years. However, the term for leases for marinas where at least 90 percent of the slips are maintained for rent to the public on a first-come, first-served basis shall be 10 years.

(a) Applications for leases shall include the following:

1. through 2. No change.

3. Satisfactory evidence of sufficient upland interest to the extent required by Rule 18-21.004(3)(b), F.A.C. ~~title in applicant's riparian upland property.~~

4. through 10. No change.

(b) No change.

(2) Extended Term Leases

(a) through (b) No change.

(c) Applications for extended term leases shall be made using t~~T~~he criteria of Rule 18-21.008(1)(a), F.A.C. ~~shall be used to apply for extended term leases~~.

(d) No change.

(3) through (4) No change.

Specific Authority 253.03(7), 253.73, 370.021 FS. Law Implemented 253.03, 253.04, 253.115, 253.12, 253.47, 253.512, 253.52-.54, 253.61, 253.67-.75, 370.16 FS. History–New 12-20-78, Formerly 16C-12.14, 16Q-17.14, Amended 3-27-82, 8-1-83, 2-25-85, 3-19-85, Formerly 16Q-21.08, 16Q-21.008, Amended 1-25-87, 10-11-98, _____.

18-21.009 Applications for Public Easement.

(1) Applications for easements across sovereign~~ty~~ submerged land for public purposes such as public utilities, bridges, and roads, shall include the following:

(a) through (b) No change.

(c) Satisfactory evidence of sufficient upland interest to the extent required by Rule 18-21.004(3)(b), F.A.C. ~~title or extent of interest of the applicant to the riparian uplands or consent of upland owners for proposed use~~;

(d) through (h) No change.

(2) through (3) No change.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.12 FS. History–New 9-26-77, Formerly 16C-12.09, 16Q-17.09, Revised 3-27-82, Formerly 16Q-21.09, 16Q-21.009, Amended _____.

18-21.010 Applications for Private Easement.

(1) Applications for easements across sovereign~~ty~~ submerged lands for private purposes shall include the following:

(a) through (b) No change.

(c) Satisfactory evidence of sufficient upland interest to the extent required by Rule 18-21.004(3)(b), F.A.C. ~~title or extent of interest of the applicant to the riparian uplands or consent of upland owners for proposed use~~;

(d) through (l) No change.

(2) though (4) No change.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.12 FS. History–New 12-20-78, Formerly 16C-12.10 and 16Q-17.10, Revised 3-27-82, Formerly 16Q-21.10, 16Q-21.010, Amended _____.

18-21.900 Forms.

Applications for activities, other than for aquaculture, on sovereign submerged lands shall be made on the Joint Application for Environmental Resource Permit/Authorization to Use Sovereign Submerged Lands/Federal Dredge and Fill Permit [Form 62-343.900(1), F.A.C.], except in the area under the jurisdiction of the DEP Northwest Florida District Office, where application shall be made using the forms provided in 62-312.900(1), F.A.C. In both cases, the required forms shall be submitted together with the additional information required in Sections 18-21.007-.010, F.A.C., as applicable. Other ~~The~~ forms used by the Board are adopted and incorporated by reference in this section. The forms are listed by rule number, which also is the form number, and with the subject title and effective date. Copies of forms may be obtained on the Internet at http://www.myflorida.com or by writing to the Department of Environmental Protection, Division of Water Resource Management ~~Facilities~~, Bureau of Submerged Lands and Environmental Resources, ~~M.S. 2500,~~ 2600 Blair Stone Road,

MS 2500, Tallahassee, Florida 32399-2400, or any local district or branch office of the Department or water management district.

(1) through (2) No change.

Specific Authority 253.03(7), 253.0345, 253.73 FS. Law Implemented 253.03, 253.0345, 253.77 FS. History–New 10-15-98, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mimi Drew, Director, Division of Water Resource Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Eric Bush, Chief, Bureau of Submerged Lands and Environmental Protection

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 9, 1999

STATE BOARD OF ADMINISTRATION

RULE TITLE: RULE NO.:

2001 Reimbursement Premium Formula 19-8.028

PURPOSE AND EFFECT: This rule is promulgated to implement Section 215.555, Florida Statutes, regarding the Florida Hurricane Catastrophe Fund, for the 2001-2002 contract year.

SUMMARY: Proposed amended Rule 19-8.028, F.A.C., provides definitions, an exclusion for "specialized fine arts risks," establishes the premium formula, and adopts the rates 2001-2002 contract year.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Board has prepared a statement and found the cost to be minimal.

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: 215.555(3) FS.

LAW IMPLEMENTED: 215.555(2),(3),(4),(5),(6),(7) FS.

REGARDLESS OF WHETHER OR NOT REQUESTED, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 a.m. – 12:00 Noon, Eastern Standard Time, Monday, July 9, 2001

PLACE: Room 116 (Hermitage Conference Room), 1801 Hermitage Blvd., Tallahassee, FL 32308

Any person requiring special accommodations to participate in this proceeding is asked to advise Patti Elsbernd at least five (5) calendar days before such proceeding. Patti Elsbernd may be reached by telephone at (850)413-1346 or by mail at P. O. Box 13300, Tallahassee, FL 32317-3300

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jack E. Nicholson, Chief Operating Officer of the Florida Hurricane Catastrophe Fund, State Board of Administration, P. O. Box 13300, Tallahassee, FL 32317-3300, telephone (850)413-1340

THE FULL TEXT OF THE PROPOSED RULE IS:

19-8.028 2001 Reimbursement Premium Formula.

(1) The purpose of this rule is to adopt the Premium Formula to determine the actuarially indicated reimbursement premium to be paid to the FHCF, as required by Section 215.555(5)(b), Florida Statutes.

(2) Definitions.

(a) Actuarially Indicated Premium. This term refers to premiums which are derived according to or consistent with accepted actuarial standards of practice. Actuarially indicated means an amount determined according to principles of actuarial science to be adequate, but not excessive, in the aggregate, to pay current and future obligations and expenses of the fund, and determined according to principles of actuarial science to reflect each insurer's relative exposure to hurricane losses.

(b) Independent Consultant. This term means the independent individual, firm, or organization with which the SBA contracts to prepare the premium formula and any other actuarial services for the FHCF, as determined under the contract with the consultant.

(c) Excess Insurance. This term means insurance protection for large commercial policy risks that provide a layer of coverage above a primary layer that acts much the same as a very large deductible. The primary layer is insured through another policy. The excess policy does not reimburse losses unless the losses exceed the primary layer. Several excess policies may be used to cover high value properties, each with different but coordinating primary layers ~~any direct insurance policy written by an authorized insurer or a Joint Underwriting Association for a Covered Policy which provides coverage above the policy limits of an underlying policy covering the same property~~.

(d) Formula or the Premium Formula. This term means the formula approved by the SBA for the purpose of determining the Actuarially Indicated Premium to be paid to the FHCF. The Premium Formula is defined as an approach or methodology which leads to the creation of premium rates. The resulting rates are therefore incorporated as part of the Premium Formula, and are the result of the approach or methodology employed.

~~(e) High Deductible. This term means any direct insurance policy written by an authorized insurer or a Joint Underwriting Association for a Covered Policy which provides coverage with a deductible or self-insured retention of $50,000 or greater.~~

(e)~~(f)~~ New Companies. The term means all Companies which write Covered Policies and which are granted a certificate of authority by the Department of Insurance after the beginning of the FHCF's Contract Year on June 1; or which already have a certificate of authority but begin writing Covered Policies on or after the beginning of the FHCF's Contract Year on June 1 and did not or was not required to enter into a contract on June 1 of the contract year. A Company is writing new business if it writes Covered Policies after the beginning of the FHCF's Contract Year on June 1 and did not do so prior to the beginning of the Contract Year, or if it removes exposure from the RPCJUA pursuant to an assumption agreement effective after June 1 and had written no other Covered Policies on or before June 1.

(f)~~(g)~~ Premium. This term means the same as Reimbursement Premium, which is the premium which is determined by multiplying each $1,000 of insured value reported by the Company in accordance with subsection (5)(b) of the Statute, by the rate as derived from the Premium Formula.

(g)~~(h)~~ Section I as described in the Data Call. This term means policies other than Excess policies, as ~~Insurance or High Deductible policies, as those policies are~~ defined herein.

(h)~~(i)~~ Section II as described in the Data Call. This term means Excess Insurance policies as ~~or High Deductible policies, as those terms are~~ defined herein.

(3) The Premium Formula.

(a) Because of the diversity of the insurers and the risks they insure which are affected by Section 215.555, Florida Statutes, the Premium Formula is adopted in this subsection and special circumstances are addressed in subsection (4), below. The Formula for determining the actuarially indicated premium to be paid to the Fund, as required by Section 215.555(5)(b), Florida Statutes, is the rate times the exposure per $1,000 of insured value and this equals the premium to be paid in dollars. The rates adopted below were determined by taking into account four factors: geographic location by zip code; construction type; policy deductible; and type of insurance. The Formula is developed by an independent consultant selected by the Board, as required by Section 215.555(5)(b), Florida Statutes.

(b) For the 1999-2000 contract year, the Formula developed by the Board's independent consultant, "Florida Hurricane Catastrophe Fund: 1999 Ratemaking Formula Report to the Florida State Board of Administration, March 5, 1999," which is supplemented by the "Florida Hurricane Catastrophe Fund Addendum to the March 5, 1999 Ratemaking Report, May 26, 1999," both of which are hereby adopted and incorporated by reference. The basic premium rates developed in accordance with the premium formula methodology approved by the Board on 5/11/99, are hereby adopted and incorporated by reference in Form FHCF-Rates 1999, "Florida Hurricane Catastrophe Fund/1999-2000 Rates," rev. 8/99.

(c) For the 2000-2001 contract year, the Formula developed by the Board's independent consultant, "Florida Hurricane Catastrophe Fund: 2000 Ratemaking Formula Report to the Florida State Board of Administration, March 2, 2000," and the addendum thereto, "Florida Hurricane Catastrophe Fund: Addendum to the March 2, 2000 Ratemaking Report, April 6, 2000," are hereby adopted and incorporated by reference. The basic premium rates developed in accordance with the premium formula methodology approved by the Board on 4/25/00, are hereby adopted and incorporated by reference in Form FHCF-Rates 2000, "Florida Hurricane Catastrophe Fund/2000-2001 Rates," rev. 5/00.

(d) For the 2001-2002 contract year, the Formula developed by the Board's independent consultant, "Florida Hurricane Catastrophe Fund: 2001 Ratemaking Formula Report to the Florida State Board of Administration, March 15, 2001, as revised May 4, 2001" and the "Addendum to the March 15, 2001 Ratemaking Report," are hereby adopted and incorporated by reference. The basic premium rates developed in accordance with the premium formula methodology approved by the Board on 5/30/01, are hereby adopted and incorporated by reference in Form FHCF-Rates 2001, "Florida Hurricane Catastrophe Fund/2001-2002 Rates."

(4)(a) Special Circumstances. The premium formula for Section II exposure will be based on the use of computer modeling for each individual company for which it is applicable. Because of the difference in potential loss exposure between Section I and Section II, it is not equitable to apply FHCF rates developed for Section I exposures to Section II exposures. Because of the wide variations in attachments, retentions, limits, and participation levels for excess insurance, it is not practical to develop separate rates for all the potential combinations of per policy excess/high deductible exposures. Therefore, the Independent Consultant will recommend guidelines for individual company Section II portfolio modeling to estimate individual company FHCF expected losses. Individual company FHCF expected losses for Section II exposures will be loaded for investments and expenses on the same basis as the FHCF premium rates used for Section I exposures, but will also include a loading for the additional cost of individual company modeling. The minimum exposure threshold for FHCF Section II rating will be sufficient to generate FHCF premium greater than the cost of modeling and other considerations. Upon the Board's approval of the FHCF rates, the Independent Consultant will calculate the minimum threshold of Section II exposure required for the separate coverage levels of 45%, 75%, and 90%. This methodology will be based on sound actuarial principles to establish greater actuarial equity in the premium structure.

The calculated thresholds will be included in the Data Call, as adopted and incorporated by reference in Rule 19-8.029, F.A.C. Companies with exposure meeting the definition of Section II, but with an aggregate of such exposure under the applicable threshold, shall report the said exposure under Section I using Section I reporting specifications.

(b)1. Insurers which have forfeited their certificates of authority or which have withdrawn from the state or discontinued writing all kinds of insurance in this state after the beginning of the contract year shall have their premiums determined in accordance with subsection (3), above. Special recognition is not given to insurers which do not have exposure for covered policies for an entire contract year, except for new companies as described in paragraph (c) of this subsection (4).

2. Any insurer which has forfeited its certificate of authority or which has discontinued writing in accordance with an order issued by the Department of Insurance effective prior to June 1 of each calendar year shall not be required to execute a Reimbursement Contract with the Board provided that the insurer has no exposure to hurricane loss after June 1.

(c)1. For purposes of this rule, the term "new companies" refers to:

a. All companies which write covered policies, as that term is defined in Section 215.555(2)(c), Florida Statutes, and,

b. Which are granted a certificate of authority by the Department of Insurance on or after the beginning of the Fund's contract year on June 1; or which already have a certificate of authority but begin writing covered policies on or after the beginning of the Fund's contract year on June 1 and did not or was not required to enter into a contract on June 1 of the contract year.

2. For purposes of this rule, a company is writing new business if it writes covered policies on or after the beginning of the Fund's contract year on June 1 and did not do so prior to the beginning of the contract year, or if it removes exposure from the RPCJUA pursuant to an assumption agreement on or after June 1 and had written no other covered policies before June 1.

3. All new companies shall enter into a reimbursement contract with the Fund.

4. All new companies shall pay a reimbursement premium to the Fund in accordance with the applicable subparagraphs below and in accordance with the applicable provisions of the reimbursement contract adopted in rule 19-8.010, F.A.C.

5. This subparagraph applies to companies writing new business after June 1 but prior to December 1 of the contract year.

a. All new companies writing new business during the period specified above shall pay a provisional premium of $1,000 to provide consideration for the contract.

b. On or before March 1 of the contract year, the company shall report its actual exposure as of December 31 of the contract year to the Administrator on Forms FHCF-D1B, "Florida Hurricane Catastrophe Fund Data Call" and in accordance with the FHCF computer validation software provided on diskette, which are hereby adopted and incorporated by reference in Rule 19-8.029, F.A.C., and are available from the Administrator as described in subsection (5), below. The Administrator shall calculate the company's actual reimbursement premium for the period specified in paragraph c.2. based on its actual exposure. To recognize that new companies have limited exposure during this period, the actual premium as determined by processing the company's exposure data shall then be divided in half, the provisional premium shall be credited, and the resulting amount shall be the total premium due for the company for the remainder of the contract year. However, if that amount is less than $1,000.00, then the insurer shall pay $1,000.00. The premium payment is due no later than May 1 of the contract year. The company's retention and coverage will be determined based on the total premium due which is the premium calculated based on the company's 12/31 exposure and divided in half as described in this sub-subparagraph.

6. This subparagraph applies to companies writing new business on or after December 1 but up to and including May 31. All new companies writing new business during this period shall pay a premium of $1,000 to provide consideration for the contract. The company shall pay no other premium for the remainder of the contract year. The company shall not report its exposure data for this period to the Board. The premium shall be paid upon signing the reimbursement contract.

7. For purposes of this subparagraph, the requirement that a report is due on a certain date means that the report shall be in the physical possession of the Fund's Administrator in Minneapolis no later than 5 p.m., Central Time, on the due date applicable to the particular report. If the applicable due date is a Saturday, Sunday or legal holiday, and if the due date's being a Saturday, Sunday or legal holiday means that neither the United States Postal Service nor private delivery services are operating that day, then the applicable due date will be the day immediately following the applicable due date which is not a Saturday, Sunday or legal holiday. For purposes of the timeliness of the submission, neither the United States Postal Service postmark nor a postage meter date is in any way determinative. Reports sent to the Board in Tallahassee, Florida, will be returned to the sender. Reports not in the physical possession of the Fund's Administrator by 5 p.m., Central Time, on the applicable due date are late.

(d) Any policy or endorsement exclusively covering specialized fine arts risks and not covering any residential structure and/or contents thereof other than such specialized fine arts items covered in the fine arts policy, shall be exempt from the Fund as a risk meeting specialized loss control requirements if the insurer employs underwriting criteria and requires its policyholders to adhere to sub-subparagraphs a. through g., immediately below. For purposes of the exemption

in this subparagraph, a "specialized fine arts risk" is a policy or endorsement which insures paintings, works on paper, etchings, art glass windows, pictures, statuary, sculptures, tapestries, antique furniture, antique silver, antique rugs, rare books, and other bona fide works of art, of rarity, of historic value, or artistic merit; which charges a minimum premium of $500.00; which insures scheduled items valued, in the aggregate, at no less than $100,000; and which requires an investment by the insured in loss control measures to protect the fine arts risks being insured.

a. The policyholder must demonstrate a willingness and determination to reduce the probability of loss.

b. The insurer must perform a periodic and thorough specialized inspection and must provide a specialized loss prevention service designed to prevent or minimize loss.

c. Insurable values must be sufficient to produce a premium amount to warrant the furnishing of special inspection and loss prevention service by the insurer. For purposes of this rule, the insurable value of the scheduled items must be, in the aggregate, no less than $100,000 and the minimum premium amount must be no less than $500.00.

d. The structural design of the residence and the degree of protection, together with efficient specialized inspection and loss protection service, must have the effect of reducing the relative importance of such otherwise applicable rating factors as exposure and quality of public fire protection.

e. The structure in which the fine arts being insured are housed must be fire-resistive or incombustible, made of heavy timber or other approved construction, and in good state of preservation and repair.

f. The structure and its fine arts contents must be provided with satisfactory watchman or alarm service or its equivalent where necessary.

g. The insurer must maintain a force of trained and competent loss prevention specialists, who perform the following tasks:

i. Make complete loss prevention surveys of each specialized fine arts risk;

ii. Make available specialized loss prevention service for the purpose of providing consultation regarding hazards to the fine arts being insured;

iii. Confirm through periodic and unannounced inspections that loss prevention devices are properly maintained;

iv. Investigate reported losses; and

v. Confer with the policyholder and confirm through periodic and unannounced inspections that recommended safety and loss control improvements are actually made.

(5) All the forms adopted and incorporated by reference in this rule may be obtained from: Administrator, Florida Hurricane Catastrophe Fund, Paragon Reinsurance Risk Management Services, Inc., 3600 West 80th Street, Minneapolis, Minnesota 55431.

Specific Authority 215.555(3) FS. Law Implemented 215.555(2),(3),(4),(5),(6),(7) FS. History–New 9-20-99, Amended 7-3-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jack E. Nicholson, Chief Operating Officer, Florida Hurricane Catastrophe Fund, State Board of Administration

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: The Trustees of the State Board of Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 22, 2000

DEPARTMENT OF CITRUS

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Payment of Excise Taxes	20-9
RULE TITLES:	RULE NOS.:
Fresh Form	20-9.001
Processed Form	20-9.002
Fruit Shipped Out-of-State to Government Agencies, or to a Packinghouse, or Processing Plant or to a Fresh Fruit Juice Distributor	20-9.003
Fruit Handled by Express and Gift Package Shippers	20-9.004
Requirements to Guarantee Payment of Excise Tax	20-9.005
Late Filing of Returns and Inadequacy of Bond	20-9.006
Mixing of Oranges	20-9.007
Utilization of Certificate of Deposit in Lieu of Bond	20-9.008

PURPOSE AND EFFECT: Amendment to clarify payment procedures currently followed by the Department regarding the payment and collection of excise taxes.

SUMMARY: Clarifying payment procedures of excise taxes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of 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: 601.10(1),(7), 601.15(1),(5),(6),(10)(a), 601.155(3),(7), 601.25 FS.

LAW IMPLEMENTED: 601.15(1),(3),(5),(6),(9), 601.152, 601.154, 601.155, 601.27 FS.

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

TIME AND DATE: 9:00 a.m., July 18, 2001

PLACE: Department of Citrus Building, 1115 East Memorial Boulevard, Lakeland, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Alice P. Wiggins, Administrative Assistant, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

THE FULL TEXT OF THE PROPOSED RULES IS:

20-9.001 Fresh Form ~~Fruit~~.

(1) Filing excise tax returns: All excise tax returns required to be filed by handlers of ~~fresh~~ citrus entering the primary channel of trade in fresh form shall be filed with the Department of Citrus each week stating the number of standard shipping boxes of 4/5 bushels, or equivalent, of each variety of citrus fruit handled during the preceding week. Excise taxes shall be filed on forms furnished by the Department of Citrus (incorporated by reference in Section 20-100.004, Florida Administrative Code) and shall be due and payable ~~and shall be paid~~, or the amount guaranteed as hereinafter provided, when the citrus fruit is first handled in the primary channels of trade. Payment of taxes shall be remitted with the excise tax return for a period reported unless other payment schedules are prescribed in 20-9, Florida Administrative Code.

(2) Payment guaranteed by bond or deposit: To guarantee payment of excise taxes, handlers shall post a surety bond, cash bond or certificate of deposit, as provided in either Section 20-9.005 or 20-9.008, Florida Administrative Code.

Specific Authority 601.10(1), 601.15(1),(10)(a) FS. Law Implemented 601.15(5),(6) FS. History–Formerly 105-1.15(1), Revised 1-1-75(2), Amended 2-1-81, Formerly 20-9.01, Amended 7-21-92, _____.

20-9.002 ~~Fruit to be~~ Processed Form.

(1) Filing excise tax returns: All excise tax returns required by law to be filed by handlers of citrus fruit sold or delivered for processing in the State shall be filed on forms furnished by the Department of Citrus (incorporated by reference in Section 20-100.004~~102.005~~, Florida Administrative Code ~~Department of Citrus rules~~), and shall be filed with the Department of Citrus each week stating the number of standard packed boxes of 1-3/5 bushels, or equivalent thereof in other containers or in bulk, received during the preceding week. Excise taxes shall be due and payable at the time of delivery of such fruit to the handler.

(2) All persons or entities required to file excise tax returns pursuant to s. 601.155, Florida Statutes, ~~The first person having title or possession of processed orange or processed grapefruit who exercises the following privileges relating to citrus products made in whole or in part from citrus fruit grown outside the United States~~ shall file, each week, an excise tax return on forms furnished by the Department of Citrus (incorporated by reference in section 20-100.004~~102.005~~, Florida Administrative Code ~~Department of Citrus rules~~). ~~An equalizing excise tax shall be levied on the exercise of privileges including processing, reprocessing, blending or mixing citrus products, or packing, repacking citrus products into retail or institutional containers or storing or removing the citrus product from its original container~~.

(a) All persons liable for the excise tax imposed by this section shall file with the Department of Citrus equalizing excise tax returns, certified as true and correct. The return, as furnished by the Department of Citrus, shall report information as to the number of units of processed orange or grapefruit products subject to this section upon which any taxable privilege was exercised during the period of time covered by the return, in addition to the status of inventoried product. Each handler shall maintain records and documentation supporting declarations made on the excise tax return filed with the Department of Citrus. Unless the actual number of boxes is known to the processor and can be substantiated by appropriate records in his possession, the following table shall be used in determining the equivalent number of boxes:

	Conversion Unit		
Product	Oranges	Grapefruit	Number of Equivalent 1-3/5 Bushel Boxes
Concentrate	6.26 solids	4.56 solids	1
Single Strength Sections, canned	6.15 gallons	5.18 gallons	1
	4.93 gallons	4.27 gallons	1

(b) Equalizing excise taxes shall be due and payable within 61 days after the first of the taxable privileges is exercised in this state.

(c) The excise tax levied by this section shall be at the same rate per box of oranges or grapefruit utilized in the initial production of the processed citrus products so handled as that imposed, at the time of exercise of the taxable privilege, by Section 601.15, Florida Statutes.

(d) All credits and refunds will be provided by Department of Citrus in accordance with s. 601.155, Florida Statutes. ~~When any processed orange or grapefruit product is stored or removed from its original container as provided in subsection (2), the equalizing excise tax is levied on such storage or removal, and such product is subsequently shipped out of the state in a vessel, tanker, or tank car, or container having a capacity greater than 10 gallons, the person who is liable for the tax shall be entitled to a tax refund if such tax has been paid or to a tax credit, provided that he can provide satisfactory proof that such product has been shipped out of the state and that no privilege taxable other than storage or removal from the original container was exercised prior to such shipment out of the state.~~

(3) Payment of taxes shall be remitted with the excise tax return for the period reported unless other payment schedules are prescribed in Section 20-9, Florida Administrative Code.

~~(4)~~(3) Payment guaranteed by bond or deposit: Every handler of citrus shall, prior to opening each season, deposit with the Department of Citrus a surety bond, cash bond or certificate of deposit, as provided in either Section 20-9.005 or 20-9.008, Florida Administrative Code, to guarantee payment of excise taxes.

Specific Authority 601.10(1), 601.15(1),(10)(a), 601.155(3),(7) FS. Law Implemented 601.15(5),(6), 601.155 FS. History–Formerly 105-1.15(2), Revised 1-1-75, Amended 11-21-77, 8-1-80, 2-1-81, 8-1-83, Formerly 20-9.02, Amended 7-21-86, 8-30-89, 8-27-91, 7-13-94, 10-22-95, 8-1-97, 8-3-00, _____.

20-9.003 Fruit Shipped Out-of-State to Government Agencies, or to a Packinghouse, or Processing Plant or to a Fresh Fruit Juice Distributor.

The excise taxes on citrus fruit to be shipped outside the State of Florida to government agencies, or to a packinghouse or processing plant, or to a fresh fruit juice distributor, shall be paid by the person shipping or causing such fruit to be shipped outside the state and payment shall be evidenced on the permit under which said fruit is shipped. Persons who qualify with the Department of Citrus under Section 20-9.005, Florida Administrative Code, may stamp on the permit the name of the shipper together with the words "Payment of excise taxes guaranteed to the Department of Citrus." Returns for such shipments shall be made as provided for in Section 20-9.001, Florida Administrative Code.

Specific Authority 601.10(1), 601.15(1),(10)(a) FS. Law Implemented 601.15(5),(6), ~~601.151,~~ 601.152, 601.154, ~~601.156, 601.157, 601.158~~ FS. History–Formerly 105-1.15(3), Revised 1-1-75, Formerly 20-9.03, Amended _____.

20-9.004 Fruit Handled by Express and Gift Package Shippers.

(1) Filing excise tax returns:

(a) Every shipper of express or gift packages shall file, as directed by the Department of Citrus, weekly returns of all fruit shipped in the preceding week with remittance attached for total excise taxes due.

(b) A gift shipper qualifying under the following criteria may make returns for longer periods by applying in writing to the Department of Citrus and receiving prior written approval:

1. Quarterly payments – if estimated annual tax payment does not exceed $6,900 maximum.

2. Monthly payments – if estimated annual tax payment does not exceed $30,000 maximum.

3. Weekly payments are required if estimated annual tax is greater than $30,000.

4. Calculation of estimated tax payment is based upon a 7-month season using the total boxes estimated to be shipped and an average tax rate established annually by the Department of Citrus based on tax rates set by the Florida Citrus Commission.

(c) All returns shall be made in terms of standard packed boxes of 1-3/5 bushels or equivalent.

(d) Any shipper who qualifies with the Department of Citrus under Section 20-9.005 may file returns as therein provided.

(e) The advertising excise taxes shall be due and payable at the time of offering such fruit for shipment.

(2) Fresh Squeezed Juice: ~~Advertising~~ Eexcise taxes on fresh squeezed citrus juice that is subject to the provisions of Rule 20-49, Florida Administrative Code, shall be due and payable as provided in 20-9.004, Florida Administrative Code, ~~subsection (1)~~. However, no tax shall be due if subsection (3) below is applicable.

(3) No tax shall be due on:

(a) Fresh fruit used in store demonstrations or promotions, or

(b) Fresh squeezed juice that is offered without charge to store customers, or

(c) Fresh fruit or juice offered at no cost to nonprofit organizations for use exclusively by the organization and not for resale. Dealer shall maintain in his files a record of the donation and a signed statement from a representative of the organization that the fruit or juice will not be used for resale.

Specific Authority 601.10(1), 601.15(1),(10)(a) FS. Law Implemented 601.15(3),(5),(6), 601.152, 601.154 FS. History–Formerly 105-1.15(4), Revised 1-1-75, Formerly 20-9.04, Amended 12-10-95, 4-14-96, _____.

20-9.005 Requirements to Guarantee Payment of Excise Tax.

To qualify to guarantee to the Department of Citrus payment of any excise tax imposed by law:

(1) Each handler of citrus fruit shall deposit with the Department of Citrus a good and sufficient

(a) Cash bond, or

(b) Surety bond executed by the handler as principal and by a surety company qualified and authorized to do business in this State as surety, to be approved by the Department of Citrus, or

(c) Certificate of deposit in accordance with the provisions of Section 20-9.008, Florida Administrative Code.

(2) The total amount of such cash bond, surety bond or certificate of deposit shall be in an amount based upon the following formula:

(a) To determine the total estimated tax liability of the handler, multiply the number of boxes or equivalent boxes utilized in the prior season, or estimated utilization during the current season, including the exercised privileges of imported products, whichever is greater, times the total average tax rate for fresh form and processed form ~~excise tax rate for each variety as provided by law~~ for the period covered by the bond.

(b) Divide the total estimated tax by the number of weeks for which tax returns were required to be filed during the previous season to determine the estimated weekly tax due. Department has the discretion to reduce the number of weeks used in this calculation due to late payments received during

the prior season. ~~If returns are filed monthly, as approved by the Department of Citrus, divide the total estimated tax by the number of months for which tax returns were required to be filed during the previous season to arrive at the estimated monthly tax due.~~

(c) Multiply by two the estimated weekly ~~or monthly~~ excise tax due, as computed by such formula, to determine the amount of surety bond, cash bond or certificate of deposit, required.

~~(3) Each handler shall furnish, as directed by the Department of Citrus, weekly returns of total fruit handled during the preceding week, with remittance attached for total excise taxes thereby due for the period reported.~~

Specific Authority 601.10(1), 601.15(1),(5),(6),(10)(a) FS. Law Implemented ~~601.12(1),~~ 601.15(1),(5),(6), ~~601.151,~~ 601.152, 601.154, 601.155, ~~601.156, 601.157, 601.158~~ FS. History–Formerly 105-1.15(5), Revised 1-1-75, Amended 11-21-77, 8-1-80, 2-1-81, 8-1-83, Formerly 20-9.05, Amended _____.

20-9.006 Late Filing of Returns and Inadequacy of Bond.

All excise taxes levied and imposed on citrus fruit or product shall be paid or the amount thereof guaranteed at the time the fruit is first handled in the primary channel of trade. Payments not made the week following entry into the primary channel of trade become delinquent. Payment shall be made in accordance with Sections 20-9.001, 20-9.002, 20-9.003 and 20-9.004, Florida Administrative Code.

(1)(a) When any citrus fruit handler becomes delinquent in filing returns or paying citrus excise taxes, the Department of Citrus shall demand payment of such taxes and give written notice of the delinquency to the handler ~~and to his surety, where applicable~~, including notice of the rights of affected parties under Chapter 120, Florida Statutes. Such notice shall be mailed to the address supplied by the handler to the Department of Citrus in the application for citrus fruit dealer license ~~and, where applicable, to the address of the surety as indicated on the face of the bond agreement~~.

(b) If the taxes are not paid within 28 days of delinquency by the citrus fruit handler and there is no request for hearing under Chapter 120, Florida Statutes, the Department of Citrus shall notify the Department of Agriculture to immediately suspend inspection service to the reported handler. This suspension will remain in force until returns have been filed and excise taxes plus any penalties are paid to the Department of Citrus. The Department of Citrus shall notify the Department of Agriculture when such payment has been made and inspection services may resume. If payment is not made after suspension of inspection services, the Department of Citrus may ~~shall~~ impose a 5% late penalty pursuant to Section 601.15(9)(a), Florida Statutes, demand immediate payment from the surety of such taxes and penalty, and provide the handler with a copy of such demand. Where the handler has deposited with the Department of Citrus a cash bond or certificate of deposit, the Department shall immediately proceed against such bond or certificate of deposit for the amount of indebtedness. ~~Upon such demand of the surety or securing payment from the cash bond or certificate of deposit, the Department of Citrus shall notify the Department of Agriculture to immediately suspend inspection service to the reported handler. This suspension will remain in force until returns have been filed and excise taxes plus any penalties are paid to the Department of Citrus. The Department of Citrus shall notify the Department of Agriculture when such payment has been made and inspection services may resume.~~

(2)(a) When the Department of Citrus determines that the handler's surety bond, cash bond, or certificate of deposit is inadequate to guarantee tax payment for any 28-day period ~~box utilization is in excess of the handler's estimated utilization for the season~~, the Department of Citrus shall provide written notice to the handler that the amount of guarantee is inadequate, and shall request the handler to furnish an increased bond in accordance with the provisions of Section 20-9.005(2), Florida Administrative Code, and give notice of the handler's rights under Chapter 120, Florida Statutes.

(b) If the increased bond is not furnished within 14 days of mailing such written notice to the handler or no request for a hearing under Chapter 120, Florida Statutes, is received, the Department of Citrus shall notify the Department of Agriculture to immediately suspend inspection service to the reported handler. This suspension shall remain in force until an adequate guarantee is furnished and the Department of Citrus notifies the Department of Agriculture to that effect.

Specific Authority 601.10(1),(7), 601.15(1),(5),(6),(10)(a) FS. Law Implemented 601.15(5),(6),(9), 601.152, 601.154, 601.155(6),(7),(9), ~~601.156(2),~~ 601.27 FS. History–Formerly 105-1.15(6), Revised 1-1-75, Formerly 20-9.06, Amended 12-13-92, 10-17-93, _____.

20-9.007 Mixing of Oranges.

Because of the difference in excise tax rates for round oranges (Citrus sinensis, Osbeck) and other types of oranges, such as Temples and tangelos, round oranges shall not be delivered to processing plants mixed with other varieties.

Specific Authority 601.10(1),(7), 601.15(1),(5),(6),(10)(a) FS. Law Implemented 601.15~~, 601.156~~ FS. History–Formerly 105-1.15(7), Revised 1-1-75, Formerly 20-9.07, Amended 7-21-92.

20-9.008 Utilization of Certificate of Deposit in Lieu of Bond.

(1) A handler wishing to post a certificate of deposit in lieu of a cash or surety bond to guarantee the payment of citrus excise taxes to the Department of Citrus, shall purchase such certificate in an amount to be determined according to the criteria as set forth in Section 20-9.005(2), Florida Administrative Code. The certificate of deposit shall have the same face principal value as if a surety bond had been posted.

(2) Any certificate of deposit offered under this provision shall be issued either by a national or Florida chartered bank or savings and loan association and the face amount of such certificate shall be fully insured by the appropriate federal insurance corporation.

(3) The certificate of deposit shall be issued in the name of the licensed handler and the State of Florida, Department of Citrus. The handler shall present a certificate of deposit and ~~with the certificate of deposit~~ an executed assignment of such handler's interest in the certificate in favor of the State of Florida, Department of Citrus on a form to be provided by the Department of Citrus. Such assignment shall be irrevocable for the period from the beginning of the citrus season for which the certificate is submitted or from the date of submission of the certificate of deposit if occurring after commencement of the season, through September 1 of the following citrus season. The certificate of deposit may be reassigned by the Department of Citrus to such handler providing that all citrus excise taxes due and payable to the Department of Citrus by such handler during the term covered by the certificate shall have been paid to the Department in full. The conditions of the assignment from the handler to the Department of Citrus shall be that if the handler shall well and truly comply with the provisions of Florida law and Department of Citrus rules regarding the payment of citrus excise taxes, then the certificate of deposit subject to such assignment shall be reassigned by the Department of Citrus to the handler, otherwise said assignment to remain in full force and effect.

(4) All interest accruing on such certificate of deposit shall be paid directly to the handler and the handler shall register his federal employer tax number or other federal tax identification number with the financial institution issuing such certificate.

(5) A separate certificate of deposit for the required amount of the bond otherwise called for must be assigned to the Department of Citrus for each citrus shipping season for which the handler desires to utilize this alternate procedure.

Specific Authority 601.10(1), 601.15(1) FS. Law Implemented 601.15(6)(b) FS. History–New 2-1-81, Formerly 20-9.08, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mia L. McKown, General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mia L. McKown, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 18, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 4, 2001

DEPARTMENT OF CITRUS

RULE CHAPTER TITLE: RULE CHAPTER NO.:
Loading Manifest to be Furnished to the Inspector – Fresh Citrus Fruit 20-40

RULE TITLE: RULE NO.:
Mandatory Automated Reporting 20-40.005

PURPOSE AND EFFECT: Would provide exemption to mandatory automated reporting for small shippers, who would be required to report the information on forms to be submitted to Florida Department of Agriculture and Consumer Services.

SUMMARY: Exempting small shippers from mandatory electronic reporting.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Regulatory Cost has been prepared.

Any person who wishes to provide informaiton 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: 601.10(1),(8), 601.15(1),(2),(4),(10), 601.155(7), 601.28(4), 601.69, 601.701 FS.

LAW IMPLEMENTED: 601.10(8), 601.15(1), 601.155(7), 601.69 FS.

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

TIME AND DATE: 9:00 a.m., July 18, 2001

PLACE: Department of Citrus Building, 1115 East Memorial Boulevard, Lakeland, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alice P. Wiggins, Administrative Assistant, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

THE FULL TEXT OF THE PROPOSED RULE IS:

20-40.005 Mandatory Automated Reporting.

As of February 1, 2001 and thereafter, each shipper shall provide to the Department of Agriculture and Consumer Services, Division of Fruit and Vegetables an automated loading manifest containing all of the information required by this chapter in a form and manner prescribed by the Division. Shippers that shipped less than 10,000 cartons the previous shipping season are not required to provide information via the automated loading manifest for the current shipping season, but shall provide said information in a written form and manner prescribed by the Division. The Division shall then input and update the manifests from the smaller shippers into the database.

Specific Authority 601.10(1),(8), 601.15(1),(2),(4),(10), 601.155(7), 601.28(4), 601.69, 601.701 FS. Law Implemented 601.10(8), 601.15(1), 601.155(7), 601.69 FS. History–New 3-11-01, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mia L. McKown, General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mia L. McKown, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 18, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 4, 2001

DEPARTMENT OF CITRUS

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Standards for Fresh Squeezed Citrus Juices	20-49
RULE TITLES:	RULE NOS.:
Purpose	20-49.001
Definitions	20-49.002
Large Wholesale Producers – Testing	20-49.004
Large Producers – Testing	20-49.0041
Large Wholesale Producers – Inspections	20-49.005
Large Producers – Inspections	20-49.0051
Small and Very Small Wholesale Producers – Testing	20-49.006
Small Producers – Testing	20-49.0061
Small and Very Small Wholesale Producers – Inspections	20-49.007
Small Producers – Inspections	20-49.0071

PURPOSE AND EFFECT: Would bring language into conformity with Food and Drug Administration's rule 21CFR Part 120. Additionally, the amendment modifies the original prohibition of manure as a fertilizer on citrus to be used in making fresh squeezed juices.

SUMMARY: Language of Food and Drug Administration's rule 21CFR Part 120 and modification of prohibition of manure as a fertilizer.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Regulatory Cost has been prepared.

Any person who wishes to provide informaiton 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: 601.10(7), 601.11 FS.

LAW IMPLEMENTED: 601.10(7), 601.11, 601.29, 601.33, 601.38 FS.

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

TIME AND DATE: 9:00 a.m., July 18, 2001

PLACE: Department of Citrus Building, 1115 East Memorial Boulevard, Lakeland, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Alice P. Wiggins, Administrative Assistant, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

THE FULL TEXT OF THE PROPOSED RULES IS:

20-49.001 Purpose.

The purpose of this chapter ~~section~~ is to regulate all fresh squeezed citrus juices in the State of Florida. On January 19, 2001, the Food & Drug Administration adopted final regulations to ensure the safe and sanitary processing of fruit and vegetable juices. This chapter does address categories of the fresh juice industry that will be governed by 21CFR120. However, the federal rule is not effective until January 22, 2002, and also has staggered compliance dates based upon the size of the business. Until the Food & Drug Administration's rule is effective and all compliance dates have occurred, this rule will regulate those categories to ensure there is no lapse in regulatory authority.

Specific Authority 601.10(7), 601.11 FS. Law Implemented 601.10(7), 601.11 FS. History–New 3-15-01, Amended _____.

20-49.002 Definitions.

(1) Fresh – The term fresh, when used on the label or in labeling of a food in a manner that suggests the food is unprocessed, means the food is in its raw state and has not been frozen or subjected to any form of thermal processing or any other form of preservation. At all times this definition and its application to fresh citrus juice must be consistent with the definition established by the Food and Drug Administration, 21 CFR 101.95, revised April 1, 2000, incorporated herein by reference.

(2) Large Wholesale Producer – ~~A~~ Large Wholesale Producer includes all Florida producers of fresh squeezed citrus juices that employ more than 500 persons and are engaged in commercial, custom or institutional production of fresh squeezed juice, including fresh squeezed juice products that are intended for use as market or consumer tests ~~each season process juice from 30,000 boxes or more of citrus fruit~~. This chapter shall govern this category until January 21, 2002, (11:59 p.m.), at which time federal rule 21CFR120 becomes effective as to this category.

(3) Small Wholesale Producer – Small Wholesale Producer includes all Florida producers of fresh squeezed juice that employ fewer than 500 persons and are engaged in commercial, custom or institutional production of fresh squeezed juice, including fresh squeezed juice products that are intended for use as market or consumer tests. This chapter shall govern this category until January 20, 2003, (11:59 p.m.), at which time federal rule 21CFR120 becomes effective as to this category.

(4) Very Small Wholesale Producer – Very Small Wholesale Producer includes all Florida producers of fresh squeezed juice that have total annual sales of less than $500,000.00; or their total annual sales are greater than $500,000.00, but their total food sales are less than $50,000.00; or they employ fewer than an average of 100 full-time equivalent employees, sell fewer than 100,000 units of juice, and are engaged in commercial, custom or institutional production of fresh squeezed juice, including fresh squeezed juice products that are intended for use as market or consumer tests. This chapter shall govern this category until January 19, 2004, (11:59 p.m.), at which time federal rule 21CFR120 becomes effective as to this category.

(5) Large Producer – Large Producer includes all Florida producers of fresh squeezed citrus juices that each season process juice from 30,000 boxes or more of citrus fruit. These establishments provide juice directly to consumers and do not include establishments that sell or distribute fresh squeezed citrus juice to other business entities as well as consumers.

(6)~~(3)~~ Small Producer – Gift Fruit Shippers as defined in ss. 601.03(20), Florida Statutes, and roadside retail fruit stand operators, as defined in Rule 20-44.006, F.A.C., engaged in the production of fresh squeezed citrus juices and process less than 30,000 boxes of citrus fruit per season. These establishments provide juice directly to consumers and do not include establishments that sell or distribute fresh squeezed citrus juices to other business entities as well as consumers. All producers in the category shall possess a food permit issued by the Florida Department of Agriculture and Consumer Services (hereafter "FDACS") pursuant to the provisions of Chapter 5K-4, F.A.C.

(7) Producer – The term shall collectively reference the Large Wholesale Producer, Small Wholesale Producer, Very Small Wholesale Producer, Large Producer and Small Producer.

(8)~~(4)~~ Establishment – The term establishment shall reference the Wholesale Producers' ~~and Small Producer and/or~~ place of business.

(9) Provide – The term "provide" shall mean storing, preparing, packaging, serving and vending.

(10)~~(5)~~ Product – The term "Product" shall mean fresh squeezed citrus juices. The words "fresh squeezed" or "freshly squeezed" or "fresh" may be used to describe Product conforming to this rule.

(11) Shall – The term "shall" is used to state mandatory requirements.

Specific Authority 601.10(7), 601.11 FS. Law Implemented 601.10(7), 601.11, 601.29, 601.33, 601.38 FS. History–New 3-15-01, Amended _____.

20-49.004 Large Wholesale Producers – Testing.

This section regarding testing shall be applicable to Wholesale Producers of fresh citrus juice until January 21, 2002, at 11:59 p.m.

(1) All Large Wholesale Producers must document compliance with all applicable state and federal food safety and labeling requirements.

(2) All Large Wholesale Producers must have, maintain and follow a ~~food safety plan that is based on~~ Hazard Analysis Critical Control Point (HACCP) plan ~~principles~~. This plan must be reviewed by FDACS, the applicable regulatory agency or a firm accredited by the International HACCP Alliance. Such plan shall incorporate a microbiological testing program. Such documentation must be on file at each producer's facility. These plans must be reviewed every 12 months or each time an operational modification changes the producing establishment's hazard analysis.

(3) All Large Wholesale Producers must abide by all applicable Good Manufacturing Practices contained in Chapter 5K-4, F.A.C. and 21 CFR 110, revised April 1, 2000, and incorporated herein by reference.

(4) All Large Wholesale Producers must test for *Salmonella, E. coli* and other pathogenic microorganisms as required by applicable regulatory agencies. Microbiological results must be available for each production lot or day's production, whichever is less. Microbiological testing records must be maintained on the producing establishment's premises for one year, and shall be available for review by FDACS or United States Department of Agriculture (hereafter "USDA") during normal operating hours.

(5) Any positive detection of *Salmonella, E. coli* or other pathogenic microorganisms in a wholesale operation shall require notification to USDA and FDACS, Division of Food Safety, within 24 hours of the positive detection. If Product is still located in the producing establishment, it shall be placed on hold pending appropriate response from FDACS.

Specific Authority 601.10(7), 601.11 FS. Law Implemented 601.10(7), 601.11, 601.29, 601.33, 601.38 FS. History–New 3-15-01, Amended _____.

20-49.0041 Large Producers – Testing.

This section regarding testing shall be applicable to Large Producers of fresh citrus juice.

(1) All Large Producers must document compliance with all applicable state and federal food safety and labeling requirements.

(2) All Large Producers must have, maintain and follow a Hazard Analysis Critical Control Point (HACCP) plan. This plan must be reviewed by FDACS, the applicable regulatory agency or a firm accredited by the International HACCP Alliance. Such plan shall incorporate a microbiological testing program. Such documentation must be on file at each producer's facility. These plans must be reviewed every 12 months or each time an operational modification changes the producing establishment's hazard analysis.

(3) All Large Producers must abide by all applicable Good Manufacturing Practices contained in Chapter 5K-4, F.A.C., and 21 CFR 110, revised April 1, 2000, and incorporated herein by reference.

(4) All Large Producers must test for *Salmonella, E. coli* and other pathogenic microorganisms as required by applicable regulatory agencies. Microbiological results must be available for each production lot or day's production, whichever is less. Microbiological testing records must be maintained on the producing establishment's premises for one year, and shall be available for review by FDACS or United States Department of Agriculture (hereafter "USDA") during normal operating hours.

(5) Any positive detection of *Salmonella, E. coli* or other pathogenic microorganisms in a large establishment shall require notification to USDA and FDACS, Division of Food

Safety, within 24 hours of the positive detection. If Product is still located in the producing establishment, it shall be placed on hold pending appropriate response from FDACS.

Specific Authority 601.10(7), 601.11 FS. Law Implemented 601.10(7), 601.11, 601.29, 601.33, 601.38 FS. History–New _____.

20-49.005 Large Wholesale Producers – Inspections.

This section regarding the inspections shall be applicable to Large Wholesale Producers of fresh squeezed citrus juices.

(1) All inspections and audits shall be performed by or under the authority of FDACS.

(2) All wholesale production establishments shall be inspected according to Sections 2.2.1 through 2.2.58, July 1996, and 3.2.7a through 3.2.7o, June 1996, of the Citrus Handbook of the Processed Citrus Branch, Fruit and Vegetable Division, United States Department of Agriculture, incorporated herein by reference.

(3) All Large Wholesale Producers shall be subject to full-time inspection by FDACS or its agent.

(4) The following specific Good Manufacturing Practices, in addition to those contained in Chapter 5K-4, F.A.C., and 21 CFR 110, revised April 1, 2000, incorporated herein by reference, shall be applicable:

(a) All soil, debris, stems, leaves, etc. must be removed from the fruit.

(b) All whole and intact fruit shall be washed, sanitized and/or surface heat-treated immediately prior to extraction. If the whole and intact fruit is washed, sanitized and/or surface heat-treated, but is not immediately extracted, the fruit may be maintained in a sanitary storage room or container for forty-eight (48) hours prior to extraction, so long as the temperature of the room or container is maintained at 40° Farenheit or less.

(c) All fruit that has been in cold storage at a temperature of 40° Farenheit or less in excess of forty-eight (48) hours shall be resanitized and regraded. All soft or unwholesome fruit shall be discarded.

(d) All belts and rollers must be maintained free of soil, wax, dirt and extraneous material.

(e) The entire wash area shall, at all times, be maintained free of excess debris, pests and standing water.

(f) Grading must eliminate damaged, defective, soft or decayed fruit.

(g) Drops, fruit from the ground, may not be used in the production of fresh citrus juice.

~~(h) Any fruit which originated in a grove fertilized with manure products (human, poultry or otherwise) shall not be accepted for extraction to be made into fresh citrus juice.~~

(h)~~(i)~~ The processing and filling area shall be completely enclosed and meet the structural requirements for food processing areas as defined in Chapter 5K-4, F.A.C. and 21 CFR 110, revised April 1, 2000, incorporated herein by reference.

(i)~~(j)~~ All fruit contact surfaces must be cleaned and sanitized after production and prior to startup. Appropriate cleaning and sanitizing agents must be used as prescribed by the equipment manufacturer for the specific use.

(j)~~(k)~~ If product residues or buildup of organic matter remain on equipment, additional chemical treatment shall be used to remove such residues or buildup.

(k)~~(l)~~ All lubricants must be food grade only, as found in 21 CFR 178.3570, revised April 1, 2000, incorporated herein by reference.

(l)~~(m)~~ Back-siphonage protection devices must be provided on any water outlet where a hose can be connected.

(m)~~(n)~~ A contingency plan for in-line and surge tank juice during breakdowns must be in place. Cleaning and sanitizing procedures must be performed prior to restarting operation after extended breakdowns.

(n)~~(o)~~ All juice containers must, at all times, be sanitarily handled and protected from contamination. Containers must be covered when removed from protection if not used immediately.

(o)~~(p)~~ Certificates for a potable water supply shall be obtained from the Florida Department of Health (hereafter "DOH") approved laboratory on an annual basis prior to the start of the season.

(p)~~(q)~~ As to personnel and sanitary establishments, Wholesale Producers shall meet all applicable state and federal regulations with respect to cleanliness and disease and pest control.

(q)~~(r)~~ All Large Wholesale Producers shall establish and maintain records that:

1. Identify the source of the fruit used in the juice production by date and variety; and

2. Identify microbiological test results to date of production, fruit source and juice type; and

3. Implement a corrective action plan for unsafe products.

Specific Authority 601.10(7), 601.11 FS. Law Implemented 601.10(7), 601.11, 601.29, 601.33, 601.38 FS. History–New 3-15-01, Amended _____.

20-49.0051 Large Producers – Inspections.

This section regarding the inspections shall be applicable to Large Producers of fresh squeezed citrus juices.

(1) All inspections and audits shall be performed by or under the authority of FDACS.

(2) All Large production establishments shall be inspected according to Sections 2.2.1 through 2.2.58, July 1996, and 3.2.7a through 3.2.7o, June 1996, of the Citrus Handbook of the Processed Citrus Branch, Fruit and Vegetable Division, United States Department of Agriculture, incorporated herein by reference.

(3) All Large Producers shall be subject to full-time inspection by FDACS or its agent.

(4) The following specific Good Manufacturing Practices, in addition to those contained in Chapter 5K-4, F.A.C., and 21 CFR 110, revised April 1, 2000, incorporated herein by reference, shall be applicable:

(a) All soil, debris, stems, leaves, etc. must be removed from the fruit.

(b) All whole and intact fruit shall be washed, sanitized and/or surface heat-treated immediately prior to extraction. If the whole and intact fruit is washed, sanitized and/or surface heat-treated, but is not immediately extracted, the fruit may be maintained in a sanitary storage room or container for forty-eight (48) hours prior to extraction, so long as the temperature of the room or container is maintained at 40° Farenheit or less.

(c) All fruit that has been in cold storage at a temperature of 40° Farenheit or less in excess of forty-eight (48) hours shall be resanitized and regraded. All soft or unwholesome fruit shall be discarded.

(d) All belts and rollers must be maintained free of soil, wax, dirt and extraneous material.

(e) The entire wash area shall, at all times, be maintained free of excess debris, pests and standing water.

(f) Grading must eliminate damaged, defective, soft or decayed fruit.

(g) Drops, fruit from the ground, may not be used in the production of fresh citrus juice.

(h) The processing and filling area shall be completely enclosed and meet the structural requirements for food processing areas as defined in Chapter 5K-4, F.A.C., and 21 CFR 110, revised April 1, 2000, incorporated herein by reference.

(i) All fruit contact surfaces must be cleaned and sanitized after production and prior to startup. Appropriate cleaning and sanitizing agents must be used as prescribed by the equipment manufacturer for the specific use.

(j) If product residues or buildup of organic matter remain on equipment, additional chemical treatment shall be used to remove such residues or buildup.

(k) All lubricants must be food grade only, as found in 21 CFR 178.3570, revised April 1, 2000, incorporated herein by reference.

(l) Back-siphonage protection devices must be provided on any water outlet where a hose can be connected.

(m) A contingency plan for in-line and surge tank juice during breakdowns must be in place. Cleaning and sanitizing procedures must be performed prior to restarting operation after extended breakdowns.

(n) All juice containers must, at all times, be sanitarily handled and protected from contamination. Containers must be covered when removed from protection if not used immediately.

(o) Certificates for a potable water supply shall be obtained from the Florida Department of Health (hereafter "DOH") approved laboratory on an annual basis prior to the start of the season.

(p) As to personnel and sanitary establishments, Large Producers shall meet all applicable state and federal regulations with respect to cleanliness and disease and pest control.

(q) All Large Producers shall establish and maintain records that:

1. Identify the source of the fruit used in the juice production by date and variety; and

2. Identify microbiological test results to date of production, fruit source and juice type; and

3. Implement a corrective action plan for unsafe products.

Specific Authority 601.10(7), 601.11 FS. Law Implemented 601.10(7), 601.11, 601.29, 601.33, 601.38 FS. History–New _____.

20-49.006 Small and Very Small Wholesale Producers – Testing.

This section regarding testing shall be applicable to Small and Very Small Wholesale Producers of fresh citrus juices.

(1) All Small and Very Small Wholesale Producers must document compliance with all applicable state and federal food safety and labeling requirements. The Small and Very Small Wholesale Producers must possess a current food permit issued by FDACS, Division of Food Safety.

(2) All Small and Very Small Wholesale Producers shall have, maintain and follow a ~~food safety plan that is based on~~ Hazard Analysis Critical Control Point (HACCP) plan ~~principles~~. This plan must be reviewed by FDACS, the applicable regulatory agency or a firm accredited by the International HACCP Alliance. Such plan shall incorporate a microbiological testing program. Such documentation must be on file and a certificate shall be displayed at each Producer's establishment. The plans must be reviewed every 12 months or each time an operational modification changes the Producer's hazard analysis.

(3) All Small and Very Small Wholesale Producers must abide by all applicable Good Manufacturing Practices contained in Chapter 5K-4, F.A.C and 21 CFR 110, revised April 1, 2000, incorporated herein by reference.

(4) As to microbiological testing the following shall apply:

(a) All Small and Very Small Wholesale Producers shall test the juice for *E. coli* as an indicator of process control minimally once weekly. This test may be:

1. A rapid test approved by, FDACS; or

2. An internal laboratory test (using a FDOC approved testing method as defined in Chapter 20-14, F.A.C.); or

3. A test conducted by an outside laboratory (using a FDOC approved method as defined in Chapter 20-14, F.A.C.).

Records of all microbiological testing, including *E. coli* testing, must be maintained on the producing establishment's premises for one year and shall be available for review by FDACS or its agent during normal operating hours.

(b) Any positive detection of *E. coli* or other pathogenic microorganism in a Small Producer's product shall require notification to FDACS within twenty-four (24) hours of the positive detection.

(c) All Small and Very Small Wholesale Producers shall be subject to additional microbiological testing by FDACS.

(5) Any Small and Very Small Wholesale Producer, which wholesales any quantity of fresh citrus juice, is required to conduct two forms of microbiological testing. These producers must test for *E. coli* on each production lot or day's production, whichever is less. These *E. coli* tests may be the same rapid *E. coli* tests mentioned in Rule 20-49.006(4), F.A.C. Additionally, these producers must test for *Salmonella*, using an outside laboratory (using an FDOC approved method as defined in Chapter 20-14, F.A.C.) minimally monthly. Microbiological testing records must be maintained on the producing establishment's premises for one year, and shall be available for review by FDACS during normal operating hours.

(6) This section shall be applicable to Small Wholesale Producers until January 20, 2003, at 11:59 p.m.

(7) This section shall be applicable to Very Small Wholesale Producers until January 19, 2004, at 11:59 p.m.

Specific Authority 601.10(7), 601.11 FS. Law Implemented 601.10(7), 601.11, 601.29, 601.33, 601.38 FS. History–New 3-15-01, Amended _____.

20-49.0061 Small Producers – Testing.

This section regarding testing shall be applicable to Small Producers of fresh citrus juices.

(1) All Small Producers must document compliance with all applicable state and federal food safety and labeling requirements. The Small Producers must possess a current food permit issued by FDACS, Division of Food Safety.

(2) All Small Producers shall have, maintain and follow a Hazard Analysis Critical Control Point (HACCP) plan. This plan must be reviewed by FDACS, the applicable regulatory agency or a firm accredited by the International HACCP Alliance. Such plan shall incorporate a microbiological testing program. Such documentation must be on file and a certificate shall be displayed at each Producer's establishment. The plans must be reviewed every twelve (12) months or each time an operational modification changes the Producer's hazard analysis.

(3) All Small Producers must abide by all applicable Good Manufacturing Practices contained in Chapter 5K-4, F.A.C., and 21 CFR 110, revised April 1, 2000, incorporated herein by reference.

(4) As to microbiological testing the following shall apply:

(a) All Small Producers shall test the juice for *E. coli* as an indicator of process control minimally once weekly. This test may be:

1. A rapid test approved by, FDACS; or

2. An internal laboratory test (using a FDOC approved testing method as defined in 20-14, F.A.C.); or

3. A test conducted by an outside laboratory (using a FDOC approved method as defined in Chapter 20-14, F.A.C.).

Records of all microbiological testing, including *E. coli* testing, must be maintained on the producing establishment's premises for one year and shall be available for review by FDACS or its agent during normal operating hours.

(b) Any positive detection of *E. coli* or other pathogenic microorganism in a Small Producer's product shall require notification to FDACS within 24 hours of the positive detection.

(c) All Small Producers shall be subject to additional microbiological testing by FDACS.

Specific Authority 601.10(7), 601.11 FS. Law Implemented 601.10(7), 601.11, 601.29, 601.33, 601.38 FS. History–New _____.

20-49.007 Small and Very Small Wholesale Producers – Inspections.

This section regarding inspections shall be applicable to Small and Very Small Wholesale Producers of fresh citrus juices.

(1) Sanitation inspections will be performed by FDACS, Division of Food Safety. Small and Very Small Wholesale Producers may receive three or more complete sanitation inspections during their season of operation. Prior to September 15 of each season, each Small and Very Small Wholesale Producer shall notify FDACS, Division of Food Safety, of its months of operation and the typical time of day that fresh juice is made.

(2) FDACS or an approved agent of FDACS will perform monthly audits of Small and Very Small Wholesale Producers. Such audits will cover quality control records (HACCP or otherwise) and food safety check points (supplied by the FDACS, Division of Food Safety). The purpose of these audits is to verify that procedures are being followed and recorded. FDACS or the approved agent of FDACS shall report any deviation of rule compliance or suspect situation to FDACS, Division of Food Safety.

(a) The cost of audits shall be the responsibility of the Small and Very Small Wholesale Producer. Audit contract services may be negotiated by trade groups and operated with notification to FDACS.

(b) For the first year, a fee structure through FDACS, Division of Fruits and Vegetables shall be established. Division HACCP trained inspectors shall perform the audits. This program shall be evaluated on a yearly basis. To fund this effort a fee shall be paid on all volume of fruit sold in fresh form and fresh juice form by each Small and Very Small Wholesale Producer.

(3) The following specific General Manufacturing Practices, in addition to those contained in Chapter 5K-4, F.A.C., and 21 CFR 110 revised, April 1, 2000, incorporated herein by reference, shall apply:

(a) All soil, debris, stems, leaves, etc. must be removed from the fruit.

(b) All whole and intact fruit shall be washed, sanitized and/or surface heat-treated immediately prior to extraction. If the whole and intact fruit is washed, sanitized and/or surface heat-treated, but is not immediately extracted, the fruit may be maintained in a sanitary storage room or container for forty-eight (48) hours prior to extraction so long as the temperature of the room or container is maintained at 40° Farenheit or less.

(c) All fruit that has been in cold storage at a temperature of 40° Farenheit or less in excess of forty-eight (48) hours shall be resanitized and regraded. All soft or unwholesome fruit shall be discarded.

(d) All whole and intact fruit shall be washed, sanitized and/or surface heat-treated in accordance with the Florida Department of Citrus Guidance Document for Retail and Roadside Fresh Citrus Juice Producers.

(e) If s~~S~~anitized fruit is not immediately extracted, the sanitized fruit must be maintained in a sanitary storage room or container until extraction, so long as the temperature of the room or container is maintained at 40° Farenheit or less. Extraction shall occur at least forty-eight (48) hours after fruit has been sanitized.

(f) All belts and rollers must be maintained free of soil, wax, dirt and extraneous material.

(g) The entire wash area shall be at all times maintained free of excess debris, pest and potential pest harborage – including standing water.

(h) Grading must eliminate damaged, defective, soft or decayed fruit.

(i) Drops, fruit from the ground, may not be used in the production of fresh juice.

~~(j) Any fruit that originated in a grove fertilized with manure products (poultry or otherwise) shall not be accepted for extraction.~~

(j)~~(k)~~ The extraction and filling areas shall be completely enclosed and meet the structural requirements for food processing area as required by Chapter 5K-4, F.A.C. and 21 CFR 110, revised April 1, 2000, incorporated herein by reference.

(k)~~(l)~~ A roof must cover all fruit conveyances.

(l)~~(m)~~ All lubricants must be food grade only, as found in 21 CFR 178.3570, revised April 1, 2000, incorporated herein by reference.

(m)~~(n)~~ All fruit contact surfaces must be cleaned and sanitized after production and prior to startup. Appropriate cleaning and sanitizing agents must be used as prescribed by the equipment manufacturer for the specific use.

(n)~~(o)~~ Back-siphonage protection devices must be provided on any water outlet where a hose can be connected.

(o)~~(p)~~ All juice containers must be sanitarily handled and protected from contamination, at all times. When removed from protective wrap, containers must be covered, if not used immediately.

(p)~~(q)~~ A trained employee of the producing establishment must administer the extraction and sanitation processes. Customers shall not be permitted to produce and bottle juice under any circumstance.

(q)~~(r)~~ Water certificates shall be obtained from a DOH approved laboratory on an annual basis prior to start of the citrus season.

(r)~~(s)~~ As to personnel and sanitary facilities, the Small and Very Small Wholesale Producer shall meet all GMP's and applicable state and federal regulations with respect to cleanliness and disease and pest control.

~~(t) All Small Producers, which wholesale any quantity of fresh citrus juice, shall be inspected according to Sections 2.2.1 through 2.2.58, July 1995, and 3.2.7a through 3.2.7o, June 1996, of the Citrus Handbook of the Processed Citrus Branch, Fruit and Vegetable Division, United States Department of Agriculture, incorporated herein by reference.~~

(s)~~(u)~~ Small and Very Small Wholesale Producers shall establish and maintain records that

1. Identify the source of the fruit used in the juice production by date and variety; and

2. Identify microbiological test results to date of production, fruit source, and juice type; and

3. Implement a corrective action plan for unsafe products.

Specific Authority 601.10(7), 601.11 FS. Law Implemented 601.10(7), 601.11, 601.29, 601.33, 601.38 FS. History–New 3-15-01, Amended _____.

20-49.0071 Small Producers – Inspections.

This section regarding inspections shall be applicable to Small Producers of fresh citrus juices.

(1) Sanitation inspections will be performed by FDACS, Division of Food Safety. Small Producers may receive three or more complete sanitation inspections during their season of operation. Prior to September 15 of each season, each Small Producer shall notify FDACS, Division of Food Safety, of its months of operation and the typical time of day that fresh juice is made.

(2) FDACS or an approved agent of FDACS will perform monthly audits of Small Producers. Such audits will cover quality control records (HACCP or otherwise) and food safety check points (supplied by the FDACS, Division of Food Safety). The purpose of these audits is to verify that procedures are being followed and recorded. FDACS or the approved agent of FDACS shall report any deviation of rule compliance or suspect situation to FDACS, Division of Food Safety.

(a) The cost of audits shall be the responsibility of the Small Producer. Audit contract services may be negotiated by trade groups and operated with notification to FDACS.

(b) For the first year, a fee structure through FDACS, Division of Fruits and Vegetables shall be established. Division HACCP trained inspectors shall perform the audits. This program shall be evaluated on a yearly basis. To fund this effort a fee shall be paid on all volume of fruit sold in fresh form and fresh juice form by each Small Producer.

(3) The following specific General Manufacturing Practices, in addition to those contained in Chapter 5K-4, F.A.C., and 21 CFR 110 revised, April 1, 2000, incorporated herein by reference, shall apply:

(a) All soil, debris, stems, leaves, etc. must be removed from the fruit.

(b) All whole and intact fruit shall be washed, sanitized and/or surface heat-treated immediately prior to extraction. If the whole and intact fruit is washed, sanitized and/or surface heat-treated, but is not immediately extracted, the fruit may be maintained in a sanitary storage room or container for forty-eight (48) hours prior to extraction so long as the temperature of the room or container is maintained at 40° Farenheit or less.

(c) All fruit that has been in cold storage and maintained at a temperature of 40° Farenheit or less in excess of forty-eight (48) hours shall be resanitized and regraded. All soft or unwholesome fruit shall be discarded.

(d) All whole and intact fruit shall be washed, sanitized and/or surface heat-treated in accordance with the Florida Department of Citrus Guidance Document for Retail and Roadside Fresh Citrus Juice Producers.

(e) If sanitized fruit is not immediately extracted, the sanitized fruit must be maintained in a sanitary storage room or container until extraction, so long as the temperature of the room or container is maintained at 40° Farenheit or less. Extraction shall occur at least forty-eight (48) hours after fruit has been sanitized.

(f) All belts and rollers must be maintained free of soil, wax, dirt and extraneous material.

(g) The entire wash area shall be at all times maintained free of excess debris, pest and potential pest harborage – including standing water.

(h) Grading must eliminate damaged, defective, soft or decayed fruit.

(i) Drops, fruit from the ground, may not be used in the production of fresh juice.

(j) The extraction and filling areas shall be completely enclosed and meet the structural requirements for food processing area as required by Chapter 5K-4, F.A.C., and 21 CFR 110, revised April 1, 2000, incorporated herein by reference.

(k) A roof must cover all fruit conveyances.

(l) All lubricants must be food grade only, as found in 21 CFR 178.3570, revised April 1, 2000, incorporated herein by reference.

(m) All fruit contact surfaces must be cleaned and sanitized after production and prior to startup. Appropriate cleaning and sanitizing agents must be used as prescribed by the equipment manufacturer for the specific use.

(n) Back-siphonage protection devices must be provided on any water outlet where a hose can be connected.

(o) All juice containers must be sanitarily handled and protected from contamination, at all times. When removed from protective wrap, containers must be covered, if not used immediately.

(p) A trained employee of the producing establishment must administer the extraction and sanitation processes. Customers shall not be permitted to produce and bottle juice under any circumstance.

(q) Water certificates shall be obtained from a DOH approved laboratory on an annual basis prior to start of the citrus season.

(r) As to personnel and sanitary facilities, the Small Producer shall meet all GMP's and applicable state and federal regulations with respect to cleanliness and disease and pest control.

(s) Small Producers shall establish and maintain records that:

1. Identify the source of the fruit used in the juice production by date and variety; and

2. Identify microbiological test results to date of production, fruit source, and juice type; and

3. Implement a corrective action plan for unsafe products.

Specific Authority 601.10(7), 601.11 FS. Law Implemented 601.10(7), 601.11, 601.29, 601.33, 601.38 FS. History–New .

NAME OF PERSON ORIGINATING PROPOSED RULE: Mia L. McKown, General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mia L. McKown, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 21, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 13, 2001

DEPARTMENT OF CORRECTIONS

RULE TITLE: RULE NO.:

Restoration of Forfeited Gain Time 33-601.105

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify provisions related to the criteria and process for restoration of forfeited gain time.

SUMMARY: The proposed rule provides procedures for the restoration of gain time that has been forfeited under the current commitment and sets forth eligibility criteria for

restoration. The proposed rule deletes obsolete terms and corrects references to position titles for employees involved in this process.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 20.315, 944.09, 944.275 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.275, 944.28 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.105 Restoration of Forfeited Gain Time.

~~(1) Adjusted disciplinary action. Forfeited gain time shall be restored on the recommendation of the warden when it is determined that the gain time was improperly forfeited or where it appears an error was made which should be corrected. When it is discovered through a review of the inmate's record at the time of routine progress reports that inappropriate disciplinary procedures were used or additional facts reveal the disciplinary charge was improper or where the disciplinary report should not have been written against the inmate, the warden will prepare a recommendation documenting the circumstances surrounding the request for the restoration of the gain time. The warden will forward the request to the Director of the Adult Services Program Office or Youthful Offender Program Office who will act as final reviewing authority and shall approve, disapprove, or return the recommendation in cases of this type to the institution for additional information. If approved, the appropriate program office will make the changes in the record.~~

(1)~~(2) Exceptional adjustment.~~ Restoration of gain time ~~is to be used~~ as a positive management tool. Gain time that has been ~~previously~~ forfeited under the current commitment as a result of disciplinary action or revocation ~~violation of the conditions~~ of parole, provisional release, supervised community release, conditional medical release, control release, or conditional release shall be subject to restoration ~~considered~~ when the restoration would produce the same or greater benefits as those derived from the forfeiture in the first place. Only those inmates whose ~~who have shown exceptional~~ adjustment and ~~outstanding~~ performance since their last disciplinary report or revocation ~~violation~~ of ~~the conditions of~~ parole, provisional release, supervised community release, conditional medical release, control release, or conditional release has exceeded that which is required to comply with all the behavioral objectives are eligible for consideration ~~to be considered~~. The restoration shall only be considered ~~near the end of the sentence or~~ when the inmate has clearly performed positively over a period of time and it appears the inmate will continue this positive adjustment without further violating the rules of the department or the laws of the state and the inmate is serving that portion of the sentence which, but for the forfeiture of gain time, would have been completed.

(a) Eligibility.

1. Restoration of gain time due to loss by disciplinary action:

a. There must be an elapsed time of at least one year since the last disciplinary action occurred.

b. The inmate must be serving that portion of the sentence which, but for the forfeiture of gain time, would have been completed ~~inmate's institutional adjustment must be considered as outstanding by the classification team as established by rule 33-601.210, Florida Administrative Code. "Outstanding" is defined in rule 33-601.101(3)(c)4~~.

c. The inmate's institutional adjustment and performance exceed that which is required to comply with all the behavioral objectives and t~~T~~he inmate must have completed or be participating in all available programs recommended by the classification team.

d. Inmates who have been convicted in judicial ~~outside~~ court or been found guilty after they have received disciplinary reports for the offenses listed below will not be eligible to have gain time reinstated on these specific charges:

1-1 Assault or battery or attempted assault or battery with a deadly weapon

1-2 Unarmed Assault, where a physical attack was made against department staff

1-5 Sexual Battery

2-1 Participating in riots, strikes, mutinous acts or disturbances

3-1 Possession of weapons, ammunition, or explosives

3-4 Trafficking in Drugs

4-1 Escape or attempted escape

e. Once an inmate has gain time restored, subsequent losses of gain time due to disciplinary action will make the inmate ineligible for further restoration.

f. Gain time that is lost prior to an inmate receiving an additional commitment for an offense committed while in custody of the department will not be considered for restoration.

2. Restoration of gain time forfeited by violation of the conditions of parole, provisional release, supervised community release, conditional medical release, control release, or conditional release may be considered only when there have been no new convictions for offenses that occurred during the period of release.

a. There must be a minimum of one year from the effective date of the parole revocation or violation of the conditions of provisional release, supervised community release, conditional medical release, control release, or conditional release;

b. The inmate must be discipline free (formal reports) since return as a parole, provisional release, supervised community release, conditional medical release, control release, or conditional release violator;

c. The inmate's ~~institutional~~ adjustment and performance must exceed that which is required to comply with all behavioral objectives ~~be considered as outstanding by the classification team~~ since return as a parole, provisional release, supervised community release, conditional medical release, control release, or conditional release violator;

d. The inmate must have completed or be participating in all available programs recommended ~~by the classification team~~; ~~and~~

e. Any inmate who receives restoration of gain time forfeited due to parole, provisional release, supervised community release, conditional medical release, control release, or conditional release violation will not be eligible for restoration on any subsequent parole, provisional release, supervised community release, conditional medical release, control release, or conditional release violation while serving the same commitment;

f. The inmate must be serving the portion of the sentence which, but for the forfeiture of gain time, would have been completed.

(b) How processed. Restoration of gain time will be considered only when the inmate has met the criteria specified in (1)(a) of this rule. There is no entitlement for consideration based upon an inmate's request. The final approving authority for restoration of forfeited gain time will be the Deputy Director of Institutions. The institution where the inmate is assigned will be notified and the facility staff will notify the inmate of the decision. ~~at regularly scheduled progress review times. The classification review recommending the restoration of forfeited gain time must document facts that would show that restoration of gain time would produce the same or greater benefits than those derived from forfeiture of the gain time. Otherwise a recommendation shall not be submitted. Upon approval of the warden, the progress review with its recommendations will be forwarded to the Director of Adult Services Program Office or Youthful Offender Program Office for review and recommendation prior to final action by the secretary or deputy secretary. If approved, the report will be forwarded to the appropriate program office for entry into the records. The warden will receive notification of approval or denial by the office making the recommendation.~~

(2) Adjusted disciplinary action. Forfeited gain time shall be restored on the recommendation of the warden when it is determined that the gain time was improperly forfeited or where it appears that an error was made which should be corrected. When it is discovered through a review of the inmate's record at the time of routine progress reports that inappropriate disciplinary procedures were used or additional facts reveal that the disciplinary charge was improper or where the disciplinary report should not have been written against the inmate, the classification officer shall prepare a recommendation documenting the circumstances of the incorrect or inappropriate forfeiture of gain time. The classification officer shall forward the request through the institutional classification team, Chief, Bureau of Classification and Central Records, to the Deputy Director of Institutions who will act as final reviewing authority and shall approve, disapprove, or return the recommendation in cases of this type to the institution for additional information. If approved, the Bureau of Classification and Central Records will make the changes in the record and notify the institution where the inmate is assigned.

Specific Authority 20.315, 944.09, 944.275 FS. Law Implemented 20.315, 944.09, 944.275, 944.28 FS. History–New 11-27-84, Formerly 33-11.15, Amended 10-12-89, 8-29-91, 10-13-93, Formerly 33-11.015, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard Dugger

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 25, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 22, 1999

DEPARTMENT OF CORRECTIONS

RULE TITLE: RULE NO.:
Inmate Property 33-602.201

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to revise and clarify the procedures for handling inmate's lost property claims.

SUMMARY: The proposed rule sets forth the process for filing and disposition of inmates' claims of missing property.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.201 Inmate Property.

(1) through (12) No change.

(13) Missing Inmate Property.

(a) When an inmate's property is being returned after being stored for any reason and items documented on the inmate property list, form DC6-224, ~~If items of impounded property~~ cannot be located ~~when the property is returned to an inmate~~, ~~a written report of~~ this fact shall be documented on the form. Any request for compensation or replacement of missing items shall be initiated via the inmate grievance process by the inmate whose property is missing.

(b) If the grievance is approved, ~~listing the missing items and their possible value, with attached property records documenting ownership, shall be given to~~ the assistant warden or other designee of the warden shall~~, who will~~ conduct an ~~or initiate a thorough~~ investigation of the loss. The investigation shall be completed and forwarded within thirty (30) days.

~~(a) The Assistant warden or other designee shall complete the investigation and forward the findings to the warden or Officer-in-Charge within thirty (30) days.~~

~~(b) The Assistant warden's or designee's report will identify any employee determined by the investigation to be responsible for the loss.~~

~~(c) If the lost or stolen property cannot be located and returned, the inmate suffering the loss shall be advised to pursue the loss through the inmate grievance procedure.~~

(c)~~(d)~~ If the loss is ~~claims are~~ substantiated by the investigation, the warden or designee shall forward to the Department of Corrections Environmental Health, Safety and Risk Management Office a cover letter with recommendation of payment amount, ~~along with~~ a copy of the investigation with supporting documentation including proof ~~and verification~~ of ownership (Form DC6-224), and a completed Department of Insurance Lien Disclosure ~~through inmate property records to the Regional Director or his designee outlining reasons for recommending reimbursement~~.

~~(e) The Regional Director or his designee shall:~~

~~1. Ensure that the claim has been properly investigated and contains all supporting documents.~~

~~2. Ensure that supporting documents provide evidence of ownership of lost or destroyed property.~~

~~3. Return the claim to the institution for further investigation or action if the claim is incomplete or if there is insufficient evidence available to support the claim.~~

~~4. Forward the claim and supporting documents to the Office of the Inspector General, Risk Management Section, for processing if the claim is complete.~~

(d)~~(f)~~ The Department of Corrections Environmental Health, Safety and Risk Management ~~Section of the~~ Office ~~of the Inspector General~~ shall review and forward the claim to the Department of Insurance, Division of Risk Management, for review and reimbursement consideration. Form DC6-238, Report of Risk Management Claim for Inmate Property, shall be used to notify the regional office of action taken on the claim by the Department of Corrections Environmental Health, Safety and Risk Management Office ~~for this purpose~~.

(e)~~(g)~~ In the event that the Department of Insurance, Division of Risk Management, decides to pay any or all of the inmate's claim, the following procedure will be followed:

1. The Department of Corrections Bureau of Finance and Accounting, Inmate Bank Section, will receive the check for deposit ~~and payment package will be received by the Risk Management Section of the Office of the Inspector General~~.

2. The Department of Corrections Bureau of Finance and Accounting, Inmate Bank Section, will notify the Environmental Health, Safety and ~~check will be retained in the~~ Risk Management ~~Section of the~~ Office via memo or e-mail of the deposit of the inmate's claim check ~~of the Inspector General and the lien disclosure form provided by the Department of Insurance and the property release form will be forwarded to the regional office servicing the institution where the inmate is currently housed~~.

~~3. The regional office will forward the lien disclosure and property release for signature to the institution where the inmate is currently housed.~~

~~4. After the inmate signs the forms, the original documents will be sent to the Department of Insurance, Division of Risk Management, with copies sent to the Risk Management Section of the Office of the Inspector General, and to the regional office. If the inmate refuses to sign any of the documents, the refusal shall be documented in writing and returned to the Department of Insurance, Division of Risk Management, with copies sent to the Risk Management Section of the Office of the Inspector General, and to the regional office.~~

~~5. When the Inspector General's Office receives its copy from the institution (provided the inmate has signed the documents), the check will be forwarded to the inmate bank for deposit and distribution as directed by the Department of Insurance. If the inmate has refused to sign the documents, the check will be returned to the Department of Insurance along with the refusal documents.~~

(14) through (15) No change.

(16) Forms. The following forms referenced in this rule are hereby incorporated by reference. Copies of any of these forms are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. ~~Requests for forms to be mailed must be accompanied by a self-addressed stamped envelope.~~

(a) through (e) No change.

(f) DC6-238, Report of Risk Management Claim for Inmate Property, effective date _____ ~~November 21, 2000~~.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History–New 6-4-81, Formerly 33-3.025, Amended 11-3-87, 11-13-95, 5-20-96, 1-8-97, 6-1-97, 7-6-97, 10-15-97, 2-15-98, 3-16-98, 8-4-98, 12-7-98, Formerly 33-3.0025, Amended 11-21-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard Dugger

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 5, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 18, 2001

METROPOLITAN PLANNING ORGANIZATION

Orlando Urban Area

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Procedure	35I-1
RULE TITLES:	RULE NOS.:
Authority, Creation	35I-1.001
Definition	35I-1.002
Purpose and Functions	35I-1.003
Membership, Appointments, Terms of Office and Vacancies	35I-1.004
General Policies	35I-1.007
Procedures for Amending the Long Range Transportation Plan and the Transportation Improvement Plan (TIP)	35I-1.009
Procedures for Revising Orlando Urban Area Boundary	35I-1.011
Procedures for MPO Public Involvement Process	35I-1.012

PURPOSE AND EFFECT: The Metropolitan Planning Organization (MPO) is amending Rules 35I-1.001, 35I-1.002, 35I-1.003, 35I-1.004, 35I-1.007, 35I-1.009, 35I-1.011, and 35I-1.012 in order to: change the name of Orlando Urban Area Metropolitan Planning Organization to the Orlando Urbanized Area Metropolitan Planning Organization, doing business as, Metroplan Orlando; to make grammatical changes and typographical errors; and to delete unnecessary language and requirements no longer needed under Florida Statutes.

SUMMARY: Amend Rules 35I-1.001, 35I-1.002, 35I-1.003, 35I-1.004, 35I-1.007, 35I-1.009, 35I-1.011, and 35I-1.012 in order to: change the name of Orlando Urban Area Metropolitan Planning Organization to the Orlando Urbanized Area Metropolitan Planning Organization, doing business as, Metroplan Orlando; to make grammatical changes and typographical errors; and to delete unnecessary language and requirements no longer needed under Florida Statutes.

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: 339.175 FS.

LAW IMPLEMENTED: 339.175 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., Wednesday, July 11, 2001

PLACE: Metroplan Orlando, 315 East Robinson Street, Suite 355, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ms. Muffet Robinson, Director of Communications & Public Outreach, Metroplan Orlando, 315 East Robinson Street, Suite 355, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULES IS:

351-1.001 Authority, Creation.

In accordance with the 1962 Federal Aid Highway Act requiring that transportation planning must be comprehensive, cooperative and continuing in nature, Section 339.175, Florida Statutes, providing for the creation, designation and apportionment of Metropolitan Planning Organizations, and action by the Governor of Florida in response to the joint FHWA/FTA Guidelines, Title 23 of the Code of Federal Regulations (C.F.R.) Chapter I, Part 450 (hereinafter referred to as the FHWA/FTA Guidelines), and Section 339.175, Florida Statutes, a metropolitan planning organization known as the METROPOLITAN PLANNING ORGANIZATION FOR THE ORLANDO URBANIZED AREA (d/b/a METROPLAN ORLANDO) has been created.

Specific Authority 163.01 FS. Law Implemented 120.53, 120.54, 339.175 FS. History–New 10-16-78, Amended 7-29-80, Formerly 351-1.01, Amended 5-31-89, 1-23-95, _____.

351-1.002 Definition.

For the purpose of these rules, the term "MPO" shall mean the Metropolitan Planning Organization for the Orlando Urbanized Area (d/b/a METROPLAN ORLANDO), and the term "Study" shall mean the continuing Orlando Urbanized Area Transportation Study.

Specific Authority 163.01 FS. Law Implemented 120.53 FS. History–New 10-16-78, Amended 2-18-79, Formerly 351-1.02, Amended _____.

351-1.003 Purpose and Functions.

(1) Purpose.

Representatives of cities, counties, special authorities, and the State Department of Transportation shall be involved in the transportation planning process by the establishment of an MPO. Its purpose shall be to provide effective leadership in the initiation and development of transportation plans and programs and the establishment of transportation priorities and

strategies. As such, it shall set transportation policy for the Orlando Urbanized Area, provide guidance of the Area's transportation planning process, and review, approve and adopt the Orlando Urbanized Area Transportation Study and all plans and programs which are developed by the Study. As the body most directly responsible for the guidance of the transportation planning process, the MPO shall ensure that the recommendations made therein are in keeping with the goals and standards of the Federal government, the State, the counties and the jurisdictions within the counties.

(2) Functions.

The functions of the MPO shall include, but not be limited to, the following:

(a) Take an active role in providing leadership and guidance in the transportation planning process for the Study area.

(b) Bear the overall responsibility as the policy body for the review and approval of the Study and the plans and programs developed by the Study, including the following specific functions:

1. Develop an acceptable procedure for modifying the transportation plan when it becomes necessary.

2. Ensure that all modes are considered in the planning process.

3. Ensure that the transportation needs of all persons, including senior citizens and people with disabilities, are considered in the planning process.

4. Approve the techniques to be used in developing and evaluating alternate plans.

5. Review and comment on various alternative plans and finally adopt a plan for implementation.

6. Review the adopted plan annually and either modify or reaffirm the adopted plan.

7. Coordinate transportation planning between the various governmental units in the Study area.

8. Ensure that the transportation planning process is adequately financed.

(c) Be responsible for making progress reports, presenting the Study and summarizing the findings and results of related Study elements to the members' respective agencies, councils and/or commissions.

(d) Ensure the dissemination of information to the general public regarding the Study's objectives, findings and results.

(e) Establish meaningful procedures to assure citizen involvement. The citizens of the area shall be involved in the transportation planning progress through the establishment of a Citizens' Advisory Committee. The Committee shall seek reaction to planning proposals and shall provide comment with respect to the concerns of various segments of the population regarding their transportation needs. The opportunity shall be given at each of the MPO's meetings for interested citizens to comment or be heard on any matter pertinent to the transportation planning process.

(f) Approve the organization and structure of the Citizens' Advisory Committee.

(g) Establish in cooperation with the Florida Department of Transportation a Transportation Technical Committee that shall be responsible for the technical portions of the transportation planning process. The organization and structure of the Transportation Technical Committee shall be approved by the MPO.

(h) Establish a Bicycle and ~~/~~ Pedestrian Advisory Committee which will assist in the development and implementation of a comprehensive bicycle and pedestrian program for the Orlando Urban Area and advise the MPO concerning regional bicycle and pedestrian issues and prioritization of bicycle and pedestrian projects.

(i) Establish a Municipal Advisory Committee which will give those municipalities that are not voting members of the MPO a method to express their objectives and concerns relative to the decisions and issues addressed by the MPO.

(j)~~(i)~~ Create other special purpose committees as may be determined to be necessary by the MPO.

(k)~~(j)~~ Establish priorities for plan and program implementation based upon the needs determined by technical studies.

(l)~~(k)~~ Promote implementation of capital improvements in compliance with the adopted transportation plans and consistent with anticipated development in the area.

(m)~~(l)~~ Determine the consistency of the adopted transportation plan with the State Air Implementation Plan.

Specific Authority 163.01 FS. Law Implemented 339.175 FS. History–New 10-16-78, Amended 2-18-79, Formerly 351-1.03, Amended 1-23-95, 1-5-97, _____.

351-1.004 Membership, Appointments, Terms of Office and Vacancies.

(1) In accordance with Section 339.175, Florida Statutes, the Governor of Florida apportions the membership among the various governmental entities within the Orlando Urbanized Area on the basis of equitable population ratio and geographic factors. The governing body of each governmental entity so designated appoints the appropriate number of members to the MPO from eligible officials. Representatives of the Florida Department of Transportation and the Chairpersons of the Transportation Technical Committee and the Citizens' Advisory Committee serve as non-voting members of the MPO. Other non-voting members may be appointed by the MPO.

(2) The MPO, as designated by the Governor of Florida and by Interlocal Agreement, consists of members who are representatives of:

(a) City of Orlando

Office of Mayor (1)
City Commission (1)
(b) Orange County (6)
(c) Orlando/Orange County Expressway Authority (1)
(d) City of Altamonte Springs
Office of Mayor (1)
(e) Seminole County (2)
(f) Osceola County (1)
(g) City of Winter Park
Office of Mayor (1)
(h) City of Kissimmee
Office of Mayor (1)
(i) City of Sanford
Office of Mayor (1)
(j) Central Florida Regional Transportation Authority (1)
(k) Greater Orlando Aviation Authority (1)
(l) West Orange Airport Authority

(3) An MPO member entity may appoint, by action taken at an official meeting of the entity, an alternate for one or more of its appointed MPO members.

(a) An alternate voting member's term shall be for no longer than the term of the voting member they represent as specified in s. 339.175(3)(b), Florida Statutes.

(b) The MPO member entity shall notify the MPO chairman in writing that the appointed individual may act as an alternate member in accordance with s. 339.175(3)(a), Florida Statutes, if the regular member cannot attend a meeting.

~~(c) The MPO shall acknowledge the appointment of each alternate member by reading the notification of appointment into the minutes of the first MPO meeting following notification by the member entity.~~

Specific Authority 163.01 FS. Law Implemented 120.54, 339.175 FS. History–New 10-16-78, Amended 2-18-79, 7-29-80, Formerly 35I-1.04, Amended 5-31-89, 4-14-92, 10-24-93, 1-5-97, _____.

35I-1.007 General Policies.

(1) The MPO shall establish the following standing committees:

(a) A Transportation Technical Committee (TTC) composed of planners, engineers and other appropriate disciplines from agencies and governments within the Orlando Urbanized Area.

(b) A Citizens' Advisory Committee (CAC) composed of lay citizens within the Orlando Urbanized Area.

(c) A Bicycle and ~~/~~ Pedestrian Advisory Committee composed of both representatives from local governments participating in the Orlando Urban Area Bicycle and ~~/~~ Pedestrian Program as well as representatives from local bicycling, walking, skating and running organizations and interested citizens.

(2) The purpose and functions of these Committees shall be as follows:

(a) Transportation Technical Committee.

1. Be responsible for the development and review of transportation studies, reports, plans and/or programs and recommending action pertinent to the subject documents to the MPO.

2. Develop priority recommendations to the MPO or other agencies responsible for plan and program implementation based upon the needs as determined by technical studies.

3. Be responsible for assisting ~~to~~ the MPO with ~~for~~ coordinating public information activities ~~relations matters~~ concerning the studies.

4. Serve as an advisory committee for the completion of all required transportation studies, plans' development, and programming recommendations required under the Public Laws pertaining to all modes of transportation and transportation support facilities.

5. Serve as an advisory committee to any and all duly constituted areawide transportation authorities or boards, as well as areawide planning boards or councils for physical development, health, social or comprehensive planning upon direct request of such authorities, boards or councils.

6. Assist in other functions as deemed desirable by the MPO.

(b) Citizens' Advisory Committee.

1. Advise the MPO as to public opinion in formulating goals and objectives for shaping the urban environment.

2. Participate in public information programs.

3. Provide an effective citizens' review of the preliminary findings and recommendations of the continuing study.

4. Assist in other functions as deemed desirable by the MPO.

(c) Bicycle and ~~/~~ Pedestrian Advisory Committee.

1. Review, amend, comment and recommend bicycle and pedestrian facilities implementation plans to the MPO to guide in making road construction and improvement decisions.

2. Study, pursue and encourage public and private funding for future bicycle and pedestrian related projects to further the implementation of the bicycle and pedestrian plans.

3. Develop programs based on the four "E's" of bicycle and ~~/~~ pedestrian planning (Engineering, Education, Enforcement and Encouragement) to encourage and foster the increased use of bicycling and walking as transportation throughout the Orlando Urban Area.

4. Carry out bicycle and pedestrian related tasks requested by the MPO.

(3) Both the Transportation Technical Committee and the Citizens' Advisory Committee shall maintain a broad perspective covering the range of all modes of transportation and associated facilities in all recommended planning work programs, so that proper study and evaluation of transportation

needs shall result in a multi-model transportation system plan, balanced with respect to areawide needs and properly related to area wide comprehensive plans, goals and objectives.

(4) The MPO shall establish a special purpose committee known as the Municipal Advisory Committee (MAC). The purpose and function of the MAC shall be to involve those municipalities that are not voting members of the MPO in the transportation planning process, and to provide a forum for those municipalities to assess reaction to transportation planning proposals and to provide comment to the MPO Board with respect to the concerns of the various municipalities transportation needs. The MAC will consist of Mayors, or Mayors' appointees, of such municipalities. The Chairman of the MAC will be a non-voting member of the MPO. The MAC may adopt bylaws and internal operating procedures.

(5) Reports, studies, plans and programs and data bases shall be approved or endorsed by the MPO after review by the Transportation Technical Committee. The Citizens' Advisory Committee and the Municipal Advisory Committee shall also review and comment on said reports, plans and programs prior to MPO adoption. If requested by an MPO member, a resolution may be noted as officially adopted by the MPO Chairperson and placed into effect upon signature by the MPO Chairperson without waiting for the minutes of the entire meeting to be officially approved at the next MPO meeting. ~~The process of adoption of any reports, studies, plans or programs which are "rules" as defined in Chapter 120, Florida Statutes, The Administrative Procedure Act, or which otherwise require the formal adoption process of that Act, shall be in compliance with that Act.~~

Specific Authority 163.01 FS. Law Implemented 339.175 FS. History–New 10-16-78, Amended 2-18-79, Formerly 351-1.07, Amended 1-23-95, 1-5-97, _____.

351-1.009 Procedures for Amending the Long Range Transportation Plan and the Transportation Improvement Program (TIP).

(1) The process for amending the adopted Orlando Urbanized Area Long Range Transportation Plan is established as follows:

(a) Amendments to the Long Range Transportation Plan may be requested for consideration by the MPO at any time.

(b) Amendments shall be requested in writing and shall be addressed to the MPO Chairperson with a sufficient number of ~~115~~ copies for the following ~~to~~:

1. Metropolitan Planning Organization Board members ~~(18)~~;

2. Transportation Technical Committee members ~~(42)~~;

3. Bicycle and ~~/~~ Pedestrian Advisory Committee members ~~(25)~~;

4. Citizens' Advisory Committee members ~~(28)~~; and

5. MPO Staff ~~(2)~~.

(c) Projects subject to the amendment request and review process:

1. Any transportation project, funded either entirely or in part by Federal or State funds, that is proposed to be added to or deleted from the adopted Long Range Transportation Plan shall be subject to the amendment request and review process.

2. Any proposed transportation project that is of a new or prototype technology, and will impact the adopted Long Range Transportation Plan, shall be subject to the amendment request and review process.

3. Any privately or locally funded proposed transportation project that has an impact on the transportation system shall be reported to the MPO by the person requesting an amendment for incorporation in or deletion from the Long Range Transportation Plan.

(d) Who may submit an amendment request:

1. Amendment requests may be initiated by either a government or quasi-government agency such as the State, a city or county or a transportation or expressway authority.

2. Amendment requests originating from the private sector shall be sponsored by the local government of jurisdiction.

(e) Who shall approve an amendment request:

1. The Transportation Technical Committee shall review the requested amendment based upon a technical evaluation of its merit and shall recommend approval or disapproval to the MPO.

2. The Citizens' Advisory Committee shall review the requested amendment and shall recommend approval or disapproval to the MPO.

3. The Bicycle and ~~/~~ Pedestrian Advisory Committee shall review the requested amendments that impact existing or proposed bicycle and ~~/~~ pedestrian facilities and shall recommend approval or disapproval to the MPO through the Transportation Technical Committee.

4. The recommendations of either the Citizens' Advisory Committee or the Bicycle and ~~/~~ Pedestrian Advisory Committee shall be reported in writing to the Transportation Technical Committee.

5. The MPO shall consider the recommendations of its subsidiary committees and shall exercise final approval or disapproval of the amendment request.

(f) Amendment requests shall describe the project and its location and shall include an analysis of the project impacts, as follows:

1. Traffic

a. Current year and future year consistent with current adopted Long Range Transportation Plan

b. Average daily traffic (ADT) and peak-hour

c. Directional traffic load

d. Level of Service and roadway capacity

2. Environmental and social impacts

a. Minimal, moderate, or major impact on air quality

b. Minimal, moderate, or major impact on wetlands displaced

c. Minimal, moderate, or major impact on homes and businesses displaced

d. Minimal, moderate or major impact on public facilities

3. Compatibility with all applicable local comprehensive plans and programs

a. Existing and future land use

b. Capital Improvement Programs

c. Traffic Circulation and Transit Elements

4. Compatibility with MPO adopted Long Range Transportation Plan and ECFRPC Strategic Regional Plan

5. Financial impact

a. Project capital cost subdivided according to preliminary engineering and design, right-of-way acquisition, and construction

b. Identification of the funding source, time period and impact on other projects

6. Contribution to implementation of multi-modal transportation system

a. Potential for inclusion of future transit facilities; such as, but not limited to, ~~i.e.~~ light rail transit~~,~~ and exclusive bus lanes~~, etc~~.

b. Proximity to existing or proposed transit routes, transit centers and/or multi-modal facilities, and major activity centers

c. Inclusion of transit passenger amenities

d. Inclusion of bicycle and ~~/~~ pedestrian facilities based on the following criteria:

I. Expected facility usage

II. Contribution to regional bicycle and pedestrian systems

III. Accident reduction

IV. Linkage with other transportation modes

V. Improvement to school access

VI. Inclusion in adopted Growth Management Plans

(g) Process of Evaluation:

1. As used in this rule, the term one month shall constitute the period between regularly scheduled meetings.

2. The following checklist of evaluation criteria developed by the MPO will be utilized to evaluate each amendment request.

a. Have the categories of information required in MPO Rule 35I-1.009 been provided in sufficient detail?

I. Traffic

II. Environmental and Social Impacts

III. Compatibility with Local Comprehensive Plans

IV. Compatibility with ECFRPC Strategic ~~Regional Policy~~ Plan and MPO Plan

V. Financial Impact

VI. Contribution to implementation of multi-modal transportation system

b. Has an adequately-sized impact area been identified which includes the major arterials affected?

c. Has the applicant used officially adopted Levels of Service tables (FDOT) in preparing its report on traffic impacts?

d. Has the applicant assumed various transportation projects which may be of benefit to its project to be funded and constructed in the immediate time period when there may be no commitments for doing so?

e. Has the applicant used an acceptable method for measuring impacts to air quality. ~~(MOBILE IV, etc.)?~~

f. Will the applicant prepare a mitigation plan for environmental (wetlands, etc.) impacts?

g. Has the applicant identified not only the project costs, but also the sources of funding?

h. Has the applicant provided evidence of funding commitments, both from itself and other parties if involved?

i. Does the project incorporate mobility improvements that address capacity or concurrency improvements?

j. If it is a transit project, is it compatible with the adopted Transit Development Plan or Regional Systems Plan?

k. Does the project add to the connectivity of the current transportation system, and/or enhance the movement toward a seamless transportation system?

3. Within 30 days of receipt of the amendment request, MPO staff will review the request to determine if it contains sufficient information upon which to base an analysis of the project.

a. If the MPO staff finds that the amendment request contains insufficient information upon which to rule, the staff shall identify and request in writing from the applicant, prior to the expiration of the 30 day examination period, the additional information needed.

b. If the MPO staff finds that the amendment request contains sufficient information upon which to rule, the staff shall notify the applicant in writing that the ~~his~~ amendment request has been accepted for review.

4. Upon determination that the amendment request contains sufficient information upon which to rule, the MPO staff shall distribute the amendment request copies to all members of the MPO Board and its subsidiary committees. The MPO staff shall initiate a justification analysis of the amendment request three months prior to formal action being requested of the Transportation Technical Committee, Citizens' Advisory Committee and ~~or~~ Bicycle and ~~/~~ Pedestrian Advisory Committee.

5. The applicant and the MPO staff will present the amendment request and the staff justification analysis findings to the Transportation Technical Committee, Citizens' Advisory Committee and ~~or~~ Bicycle and ~~/~~ Pedestrian Advisory Committee, one month prior to the regularly scheduled meeting at which this committee will present its formal recommendations to the MPO. The applicant will be advised in writing by the MPO when the amendment request has been placed on the MPO meeting agenda. The Transportation

Technical Committee, Citizens' Advisory Committee and ~~or~~ Bicycle and ~~/~~ Pedestrian Advisory Committee shall present their ~~its~~ formal recommendations to the MPO within three months from the date the applicant is notified that the ~~his~~ amendment request has been accepted for review.

6. The applicant and the MPO staff also will present the amendment request and the staff justification analysis findings to the MPO, one month prior to the regularly scheduled meeting at which the MPO will take formal action on the amendment request, approving or disapproving the request. The applicant will be advised in writing by the MPO when the amendment request has been placed on the MPO meeting agenda. The MPO shall exercise final approval or disapproval of the amendment request within three months from the date the applicant is notified that the ~~his~~ amendment request has been accepted for review.

7. Upon approval of the requested amendment, MPO staff will initiate appropriate network changes to the Long Range Transportation Plan.

~~8. All approval of the requested amendment, MPO staff will initiate appropriate network changes to the Long Range Transportation Plan.~~

(2) The process for amending the adopted Orlando Urban Area Transportation Improvement Program (TIP) is established as follows:

(a) When amendments may be requested:

1. Amendments involving Federal and/or State funded projects may be accomplished at any time.

2. Projects funded locally are included in the TIP for information purposes and may be amended at any time by the local government or transportation agency.

(b) Amendments requesting additions, deletions or rescheduling must be requested in writing and shall be addressed to the MPO Chairperson with 5 copies to:

1. Transportation Technical Committee Chairperson;

2. Bicycle and ~~/~~ Pedestrian Advisory Committee Chairperson;

3. Citizens' Advisory Committee Chairperson; and

4. MPO Staff.

(c) Project Requirements:

1. If the amendment request involves a major improvement, either widening an existing road or constructing a new transportation facility, it must also be included as part of the MPO's adopted Long Range Transportation Plan and an amendment to the Long Range Transportation Plan must be requested in accordance with this rule.

2. If the amendment request involves a Transportation Systems Management (TSM) improvement, it must have had a:

a. Traffic Study completed, if it is a turning lane project, or

b. Signal Warrant completed, if it is a signalization project.

3. Amendment requests must include the project's location, description, the reason for its addition, deletion or rescheduling, source of funds and its impact on other projects.

(d) Process for approval:

1. Upon receipt of an amendment request, the MPO staff shall include the request on the agenda of the next regularly scheduled meeting of the Transportation Technical Committee, Citizens' Advisory Committee, Bicycle and ~~/~~ Pedestrian Advisory Committee and the MPO.

2. The Transportation Technical Committee, Citizens' Advisory Committee and Bicycle and ~~/~~ Pedestrian Advisory Committee shall review the requested amendment at their next regularly scheduled meeting and shall recommend approval or disapproval to the MPO.

3. Upon MPO approval of requested amendments involving highway transportation projects, MPO staff will send copies of the MPO action to FDOT for submittal to the Florida Department of Community Affairs (DCA) and the Federal Highway Administration (FHWA).

4. Upon MPO approval of requested amendments involving mass transit projects, MPO staff will send copies of the MPO action directly to the Federal Transit Administration ~~Authority~~ (FTA).

5. Upon MPO approval of requested amendments involving mass transit projects, MPO will send copies of the MPO action directly to all private providers of transportation in the Central Florida area who have requested to be placed on the mailing list for such copies.

Specific Authority 163.01 FS. Law Implemented 339.175 FS. History–New 10-16-78, Amended 2-18-79, Formerly 351-1.09, Amended 9-2-90, 4-14-92, 1-23-95, 1-5-97, _____.

35I-1.011 Procedures for Revising Orlando Urban Area Boundary.

(1) The process for revising the Orlando urban area boundary is established as follows:

(a) When revisions may be requested:

1. The MPO may consider revisions to its urban area boundary during the 10 year interim period between each decennial census taken by the Federal Bureau of Census in order to include areas anticipated to become medium and high density residential developments within the 10 year period.

2. The MPO will consider requests for revision of an established urban area boundary for comprehensive plan purposes only.

(b) Who may submit a request for revision:

1. Requests for revisions to the urban area boundary may only be initiated by the local government having primary jurisdiction over the area to be added to or deleted from the urban area boundary.

2. The request for revision must have the endorsement of all other local governments within the area to be added to or deleted from the urban boundary prior to submittal to the MPO.

(c) Revisions shall be requested in writing and shall be addressed to the MPO Chairperson with a sufficient number of ~~61~~ copies for the following ~~to~~:

1. Metropolitan Planning Organization Board members;

2. Transportation Technical Committee members; and

3. MPO staff ~~Metropolitan Planning Organization Executive Director~~.

(d) Process for approval of a request for revision:

1. Upon receipt of a requested revision, the MPO staff shall include the request on the agenda of the next regularly scheduled meeting of the Transportation Technical Committee (TTC) and the MPO.

2. The TTC shall review the requested revision at its next regularly scheduled meeting and shall recommend the approval or disapproval to the MPO based upon a technical evaluation of its merit.

3. The MPO shall consider the recommendation of TTC and shall exercise final approval or disapproval of the requested revision.

4. Upon MPO approval of the requested revision, MPO staff will send copies to the Florida Department of Transportation (FDOT) and the Federal Highway Administration (FHWA).

5. Upon FDOT and FHWA approval of the requested revision, the FDOT and FHWA shall prepare a revised urban boundary map in Mylar original for signature by the MPO Chairperson ~~officers~~.

(2) The urban boundary of the Orlando Urbanized Area may be revised to include the following types of land area:

(a) Territory that is made up of one or more contiguous census blocks having a population density of at least 1,000 persons per square mile and that is either:

1. Contiguous and directly connected by road to the existing urban area;

2. Noncontiguous with the existing urban area boundary but is within 1 1/2 road miles of the existing urban boundary and connected to it by one or more census blocks that are adjacent to the connecting road. The combination of these intervening census blocks with the census blocks within the territory to be added to the existing urban boundary must have an average total population density of at least 500 persons per square mile; or

3. Territory meeting the population density criterion but that is noncontiguous with the existing urban area boundary by reason of being separated by water or undevelopable territory. It must, however, be within five (5) road miles of the urban area boundary, those five (5) miles including no more than 1 1/2 miles of developable territory.

a. The term "undevelopable territory", as stated in Urbanized Areas for the 1990 Census-Final Criteria, 55 Federal Register, 42592 (1990) is defined as including only mud flats, marshlands, steep slopes, and other terrain on which development is virtually impossible because of physical limitations. To be classified as undevelopable, the territory must not contain any existing housing or commercial structures. Military installations, parks, and forest preserves shown on the Census Bureau's maps at the time of the decennial or special census also may be classified as undevelopable territory. The land use zoning of an area is not considered when applying this criterion.

(b) Territory that has a population density of less than 1,000 persons per square mile provided that it either:

1. Eliminates an enclave of no more than five (5) square miles in the territory surrounding it when that surrounding territory qualifies for inclusion within the urban boundary on the basis of population density (i.e., the surrounding territory would have in excess of 1,000 persons per square mile), or:

2. Closes or eliminates an indentation in the urban boundary created when the contiguous territory around it does qualify on the basis of population density (i.e., 1,000 persons per square mile). However, the indentation must:

a. Measure no more than one (1) mile across the open end,

b. Have a depth at least two times greater than the distance across the open end, and

c. Encompass no more than 5 square miles.

(3) The local government initiating the revisions to the urban area boundary shall provide the following information to the MPO and the Transportation Technical Committee:

(a) Physical Description:

1. Size of the revision area in square miles

2. Identification of the revision area boundary, generally roads, power line easements, or other easily recognizable physical features.

(b) Demographic Characteristics:

1. Population within the revision area, both permanent and temporary, and a determination whether the population density of the revision area is greater or less than the current urban area as a whole.

2. Identification of the employment base size within the revision area.

(c) Transportation System Characteristics:

1. Lane miles of functional classification changes and federal system changes specified in section 6 below and identified by specific links.

2. Identification of changes by specific links in Levels of Service ratings as a result of reclassification.

3. Identification of existing peak-hour and daily traffic volumes on the road links.

4. A comparison of the peak-hour to daily traffic volumes and a determination if they fall within the FDOT "K" factor utilized for that category of urban road facility.

(d) Financial Considerations:

1. Identification of the effect that an urban boundary expansion will have on current federal aid funds.

2. Identification of the effect that an urban boundary expansion will have on current Federal Transit Act (FTA) Section 8 and 9 funds (because of reduced overall population density).

(e) Other Considerations:

1. Identify existing "planned" (within adopted Long Range Transportation Plan) and "programmed" (within current Transportation Improvement Program) transportation facility improvements.

2. Identify if a change to existing road improvement priorities is proposed as a result of the urban boundary revisions.

(4) Territory that contains a large concentration of non-residential urban land use, such as an industrial park, office complex, or major airport, may not be used solely as justification for a requested revision to the urban area boundary unless the territory also will qualify under section (2)(a) or (2)(b) above.

(5) Urbanized Areas for the 1990 Census-Final Criteria, 55 Federal Register, 42592 (1990) is incorporated by reference in this MPO Rule.

(6) Revising the urban area boundary also affects the categorization of road systems. When the urban area boundary is expanded, the following changes are mandatory to the highway system as it is presently categorized:

(a) Functional classification changes.

1. Rural Minor and Rural Principal Arterials become Urban Minor and Urban Principal Arterials respectively.

2. Minor and Major Collectors become Urban Collector.

(b) Federal system changes.

1. Rural Federal Aid Interstate and Rural Federal Aid Primary become Urban Federal Aid Interstate and Urban Federal Aid Primary respectively.

2. Federal Aid Secondary become Federal Aid Urban.

Specific Authority 163.01 FS. Law Implemented 339.175, 120.54 FS. History–New 4-14-92, Amended 1-23-95, 1-5-97, _____.

35I-1.012 Procedures for MPO Public Involvement Process.

(1) Continuing the provisions set forth in the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, the 1998 Transportation Efficiency Act for the 21st Century (TEA-21) requires all Metropolitan Planning Organizations to establish a public involvement process in conjunction with the overall transportation planning process occurring within their respective urban areas. The Orlando Urbanized Area MPO shall have a policy to ensure that the requirements and criteria established under the TEA-21 legislation are met. ~~The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) requires all Metropolitan Planning Organizations to establish a public involvement process in conjunction with the overall transportation planning process occurring within their respective urban areas. The ISTEA legislation states that the metropolitan transportation planning process shall include a proactive public involvement process that provides complete information, timely public notice, full public access to key decisions, and supports early and continuing involvement of the public, including private providers of transportation, in developing plans and TIPs. The Orlando Urban Area MPO shall implement a public involvement process that meets the following requirements and criteria established under the ISTEA legislation:~~

~~(a) The MPO shall require a minimum public comment period of 45 days before the public involvement process is initially adopted or revised.~~

~~(b) The MPO shall provide timely information about transportation issues and processes to citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, other interested parties, and segments of the community affected by transportation plans, programs, and projects (including, but not limited to, central city and other local jurisdiction concerns).~~

~~(c) The MPO shall provide reasonable public access to technical and policy information used in the development of plans and TIPs, and provide open public meetings where matters related to the Federal aid highway and transit programs are being considered.~~

~~(d) The MPO shall require adequate public notice of public involvement activities and time for public review and comments at key decision points, including, but not limited to, approval of plans and TIPs.~~

~~(e) The MPO shall demonstrate explicit consideration and response to public input received during the planning and program development process.~~

~~(f) The MPO shall seek out and consider the needs of those traditionally underserved by existing transportation systems, including, but not limited to, low income and minority households.~~

~~(g) When significant written and oral comments are received on the draft transportation plan or TIP (including the financial plan) as a result of the public involvement process or the interagency consultation process required under the U.S. EPA's conformity regulations, a summary, analysis, and report on the disposition of comments shall be made part of the final plan and TIP.~~

~~(h) If the final transportation plan or TIP differs significantly from the one which was made available for public comment by the MPO and raises new material issues which~~

~~interested parties could not reasonably have foreseen form the public involvement efforts, an additional opportunity for public comment on the revised plan or TIP shall be made available.~~

~~(i) The public involvement process shall be periodically reviewed by the MPO to determine its effectiveness in assuring that the process provides full and open access to the public, including private providers of transportation.~~

~~(j) These procedures will be reviewed by the FHWA and FTA during certification reviews for Transportation Management Areas (TMA), and as otherwise necessary for all MPOs, to assure that full and open access is provided to MPO decision-making processes.~~

~~(k) The MPO's public involvement process shall be coordinated with the statewide public involvement process wherever possible to enhance public consideration of the issues, plans, and programs, and reduce redundancies and costs.~~

~~(2) In complying with the ISTEA public involvement requirements listed above, the Orlando Urban Area MPO shall specifically implement the following procedures for Federal-aid highway and transit programs.~~

~~(a) All meetings of the MPO, Transportation Technical Committee (TTC), Citizens' Advisory Committee (CAC), Bicycle/Pedestrian Advisory Committee (BPAC), and Transportation Disadvantaged Coordinating Board (TDCB), shall be open to the public, and opportunities for public comments shall be provided at each meeting. All public meetings, and hearings, etc., shall be held in locations that are accessible to people with disabilities.~~

~~(b) The primary function of the MPO's Citizens' Advisory Committee (CAC) shall be to enable private citizens in the Orlando Urban Area to participate in the area's transportation planning process. Voting members of the CAC must have their residences and/or places of business within the jurisdictions they represent, and may not be elected officials or technical staff directly involved in the transportation planning process. The CAC shall be provided with information on transportation plans, programs, and issues at their monthly meetings by the MPO staff, FDOT, various transportation authorities, and consultants, as required. In addition, the individual CAC members shall inform the MPO and its staff of the concerns of their respective jurisdictions regarding transportation-related issues. The CAC shall also assist the MPO in developing transportation-related goals and objectives for the area and shall provide citizens' input (including private providers of transportation), to the MPO on transportation plans, programs, and issues through the use of letters, resolutions, presentations, etc., as well as through having the CAC Chairperson serve as a nonvoting member of the MPO. The voting membership of the CAC shall be as follows:~~

~~1. Six at-large representatives from Orange County;~~

~~2. Six at-large representatives from Seminole County;~~

~~3. Two at-large representatives from Osceola County;~~

~~4. One representative each from the Cities of Altamonte Springs, Apopka, Casselberry, Kissimmee, Longwood, Maitland, Ocoee, Orlando, Oviedo, St. Cloud, Sanford, Winter Garden, Winter Park, and Winter Springs. The membership of the CAC may be expanded to include representatives from various environmental groups, minority communities civic organizations, etc., as deemed appropriate by the CAC and MPO. Minorities, the elderly, and the handicapped must be adequately represented.~~

~~(c) Prior to the adoption of the Long Range Transportation Plan, at least one public hearing on the Plan shall be held in each county within the Orlando Urban Area. Notices of the public hearings shall be published in the Orlando Sentinel, as well as in other local newspapers published for minority communities. The comments received from the public at these hearings shall be taken into consideration by the MPO and its subsidiary committees before the Long Range Transportation Plan is adopted.~~

~~(d) A public hearing shall be held at the beginning of the TIP development process, i.e., at the time of the preparation of the Sixth Year TIP Prioritized Project List. Any comments received from the public will be taken into consideration by the MPO and its subsidiary committees before the Project List is adopted.~~

~~(e) Copies of both the Sixth Year TIP Prioritized Project List and the final adopted TIP shall be made available for review by the public at the MPO staff offices, the local government planning departments, and public libraries in the Orlando Urban Area. The locations where the Sixth Year and final TIPS may be reviewed shall be shown in a legal notice that shall be published in the Orlando Sentinel, as well as in other local newspapers published for minority communities.~~

~~(f) Copies of notices of the public hearings referred to herein and notices of the plans and reports referred to herein shall be provided to all persons, including private providers of transportation who have requested to be provided with copies of such notices, proposed plans and reports.~~

~~(g) The MPO staff shall make presentations to various groups, civic organizations, Chambers of Commerce, etc. regarding the transportation plans and programs occurring within the Orlando Urban Area.~~

~~(h) The Transportation Annual Report may be distributed in the Sunday Orlando Sentinel at the time of the Annual Report's publication in order to inform a larger portion of the public of the transportation-related activities occurring in the Orlando Urban Area. The Annual Report shall include, but not be limited to, the following elements:~~

~~1. A list of the goals and objectives of the Orlando Urban Area Transportation Study and their status of implementation;~~

~~2. A review of all the transportation related activities occurring in the Orlando Urban Area over the previous fiscal year, including status reports on the implementation of major~~

~~highway, transit, aviation, bicycle and pedestrian projects, as well as updates on the status of the Long Range Transportation Plan and other transportation plans and studies;~~

~~3. A set of maps for each county in the Orlando Urban Area showing the highway projects from the currently adopted Long Range Transportation Plan's Cost Feasible and Needs Plans and from the currently adopted TIP, as well as maps of the Orlando Urban Area showing the latest expressway projects and transit projects and routes;~~

~~4. A list of the voting and nonvoting members of the MPO;~~

~~(i) From time to time, surveys may be conducted to obtain a sample of public opinions on the transportation issues affecting the Orlando Urban Area, and to help the MPO determine what goals and objectives to pursue in planning for the future development of the Orlando Urban Area's transportation system. The surveys may include, but not be limited to questions related to such issues as:~~

~~1. The types of growth desired for the area;~~

~~2. The location and direction of future growth;~~

~~3. The role of the MPO in determining how transportation investments will influence future growth;~~

~~4. The political viability of increasing gas taxes, sales taxes etc. to help fund transportation improvements;~~

~~5. The types of transportation system improvements desired for the area.~~

~~(j) Periodic newsletters on transportation issues may be published by the MPO and distributed on a quarterly basis. The information contained in this newsletter may include, but not be limited to:~~

~~1. The status of the area's major highway, transit, aviation, and bicycle/pedestrian projects, including maps, implementation schedules, etc;~~

~~2. The status of the ongoing transportation plans under development in the area, including the Long Range Transportation Plan, TIP, Congestion Management System Plan, and Transit Development Plan, as well as status reports on other major transportation plans;~~

~~3. The explanations of transportation related terms, abbreviations, acronyms, etc.;~~

~~4. A postage paid self-addressed form which members of the public may use to write their ideas or comments on transportation issues and mail them to the MPO. The MPO shall take the ideas and comments received into account in dealing with these issues.~~

~~(k) The MPO may hold news conferences to discuss current transportation plans, projects and issues. The local television, radio, and print media shall be invited to send representatives to these news conferences. The MPO shall also contact local radio stations to obtain air time for public service announcements regarding the news conferences. Media representatives and members of the public attending the news conferences shall be provided an opportunity to ask questions and make comments pertaining to the issues under discussion. A record of the public comments made at each news conference shall be kept by the MPO staff, and these comments shall be considered by the MPO in making decisions on various transportation issues.~~

~~(1) The MPO may provide other various means for the public to obtain information regarding transportation planning activities. These means may include, but not be limited to, the Internet, public information videos, public service announcements display boards in public buildings, and brochures. The MPO shall also coordinate with all affected local governments during the development and amending of their respective comprehensive plan traffic circulation and/or mass transit elements, and shall encourage local governments to present information and receive input on state and Federal transportation projects and programs.~~

Specific Authority 163.01 FS. Law Implemented 339.175 FS. History–New 1-23-95, Amended 1-5-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Harry Barley, Executive Director, Metroplan Orlando, 315 East Robinson Street, Suite 355, Orlando, Florida 32801

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Harry Barley, Executive Director, Metroplan Orlando, 315 East Robinson Street, Suite 355, Orlando, Florida 32801

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 10, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 4, 2001

METROPOLITAN PLANNING ORGANIZATION

Orlando Urban Area

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Minority Business Enterprise Program	35I-2
RULE TITLES:	**RULE NOS.:**
Definition and Purposes	35I-2.001
Affirmative Action Techniques to Assure MBE Participation	35I-2.002
Use of Banks Owned and Controlled by Minorities	35I-2.003
MBE Directory	35I-2.004
Certification Procedures to Determine Eligibility of MBE and Joint Ventures	35I-2.005
Appeals	35I-2.006
Percentage Goals for the Dollar Value of Work to be Awarded to MBE	35I-2.007
Identification of MBE by Competitors for Special Contracts	35I-2.008
Award Selection Procedures	35I-2.009

PURPOSE AND EFFECT: The Metropolitan Planning Organization (MPO) is repealing Rules 35I-2.001, 35I-2.002, 35I-2.003, 35I-2.004, 35I-2.005, 35I-2.006, 35I-2.007, 35I-2.008 and 35I-2.009 because they are no longer needed under Florida Statutes.

SUMMARY: Repeal Rules 35I-2.001, 35I-2.002, 35I-2.003, 35I-2.004, 35I-2.005, 35I-2.006, 35I-2.007, 35I-2.008 and 35I-2.009.

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: 339.175 FS.

LAW IMPLEMENTED: 339.175 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., Wednesday, July 11, 2001

PLACE: Metroplan Orlando, 315 East Robinson Street, Suite 355, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ms. Muffet Robinson, Director of Communications and Public Outreach, Metroplan Orlando, 315 East Robinson Street, Suite 355, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULES IS:

35I-2.001 Definitions and Purposes.

Specific Authority 163.568 FS. Law Implemented 120.53, 120.54 FS. History–New 11-14-84, Formerly 35I-2.01, Repealed _____.

35I-2.002 Affirmative Action Techniques to Assure MBE Participation.

Specific Authority 163.568 FS. Law Implemented 120.53, 120.54 FS. History–New 11-14-84, Formerly 35I-2.02, Repealed _____.

35I-2.003 Use of Banks Owned and Controlled by Minorities.

Specific Authority 163.568 FS. Law Implemented 120.53, 120.54 FS. History–New 11-14-84, Formerly 35I-2.03, Repealed _____.

35I-2.004 MBE Directory.

Specific Authority 163.568 FS. Law Implemented 120.53, 120.54 FS. History–New 11-14-84, Formerly 35I-2.04, Repealed _____.

35I-2.005 Certification Procedures to Determine Eligibility of MBE and Joint Ventures.

Specific Authority 163.568 FS. Law Implemented 120.53, 120.54 FS. History–New 11-14-84, Formerly 35I-2.05, Repealed _____.

35I-2.006 Appeals.

Specific Authority 163.568 FS. Law Implemented 120.53, 120.54 FS. History–New 11-14-84, Formerly 35I-2.06, Repealed _____.

35I-2.007 Percentage Goals for the Dollar Value of Work to be Awarded to MBE.

Specific Authority 163.568 FS. Law Implemented 120.53, 120.54 FS. History–New 11-14-84, Formerly 35I-2.07, Repealed _____.

35I-2.008 Identification of MBE by Competitors for Special Contracts.

Specific Authority 163.568 FS. Law Implemented 120.53, 120.54 FS. History–New 11-14-84, Formerly 35I-2.08, Repealed _____.

35I-2.009 Award Selection Procedures.

Specific Authority 163.568 FS. Law Implemented 120.53, 120.54 FS. History–New 11-14-84, Formerly 35I-2.09, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Harry Barley, Executive Director, Metroplan Orlando, 315 East Robinson Street, Suite 355, Orlando, Florida 32801

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Harry Barley, Executive Director, Metroplan Orlando, 315 East Robinson Street, Suite 355, Orlando, Florida 32801

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 10, 2001

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE: RULE NO.:
Technician 64B3-5.004

PURPOSE AND EFFECT: With regard to technicians, the Board proposes to amend the histology qualifications and to set forth qualifications in the area of molecular genetics.

SUMMARY: The proposed rule changes the qualifications needed for licensure as a histology technician by requiring either examination certification in histology by the American Society of Clinical Pathologists or completion of a Board approved training program which includes a written and practical examination. The rule creates qualifications for a molecular genetic technician.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement was prepared.

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

SPECIFIC AUTHORITY: 483.805(4), 483.811(2), 483.823 FS.

LAW IMPLEMENTED: 381.0034, 483.800, 483.809, 483.811(2), 483.815, 483.823 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN FLORIDA ADMINISTRATIVE WEEKLY. (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe R. Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-5.004 Technician.

(1) through (2) No change.

(3) Qualifications for Histology Technicians. For the category of histology, applicants for technician licensure ~~In order to be licensed as a histology technician, an applicant~~ shall have four ~~(4)~~ hours of Board approved HIV/AIDS continuing education and~~,~~ a minimum of a high school diploma or its equivalent ~~a high school equivalency diploma~~ and one of the following:

(a) Examination certification in histology by the American Society of Clinical Pathologists ~~successfully completed a Board approved histology training program at technician level~~.

(b) Any individual completing a Board approved histology technician program which includes the successful completion of a written and practical examination administered by that program at the completion of the training shall be granted a technician histology license by endorsement ~~successfully completed an accredited program in histology at the technician level~~.

~~(c) successfully completed a military clinical laboratory personnel training program in histology which shall consist of 1500 clock hours of study within 12 calendar months.~~

~~(d) five (5) years of pertinent clinical laboratory experience in histology accrued within 10 years immediately preceding application for licensure.~~

(4) Qualifications for Molecular Genetic Technicians. To be licensed as a molecular genetic technician, an applicant shall have four hours of Board approved HIV/AIDS continuing education, a minimum of a high school diploma or high school equivalent, and be licensed as a clinical laboratory technologist or technician in any specialty area.

(5)~~(4)~~ Qualifications for Technicians Who Perform High Complexity Testing. Technicians performing high complexity testing as defined in 42 C.F.R. 493.5 ~~10~~ and 493.17, and who have been licensed after September 1, 1997, shall meet the minimum educational and training qualifications provided in 42 C.F.R. 493.1489 (March, 1999), incorporated herein by reference, including a minimum of an associate degree in laboratory science, medical laboratory technology, or equivalent education and training.

(6)~~(5)~~ Responsibilities of Technicians. The technician shall:

(a) Perform tests classified as highly complex pursuant to 42 CFR 493.17 (September 7, 1999), incorporated by reference herein, only when under direct supervision of a licensed technologist, supervisor, or director unless the technician meets the minimum qualifications contained in 42 CFR 493.1489 (September 7, 1999), incorporated by reference herein and the requirements contained in Rule 64B3-5.004(5).

(b) Follow the clinical laboratory's procedures for specimen handling, processing, test analyses, and reporting and maintaining records of patient test results.

(c) Notify a licensed technologist or supervisor whenever test systems are not within the clinical laboratory's defined acceptable levels of performance.

(d) Adhere to the clinical laboratory's quality control policies and document quality control activities, instrument and procedural calibrations and maintenance performed.

(e) Identify problems that may adversely affect test performance or reporting of test results and immediately notify a licensed technologist or supervisor.

(f) Document the corrective actions taken when test systems deviate from the clinical laboratory's established performance specifications.

Specific Authority 483.805(4), 483.811(2), 483.823 FS. Law Implemented 381.0034, 483.800, 483.809, 483.811(2), 483.815, 483.823 FS. History–New 12-6-94, Amended 7-12-95, 12-4-95, Formerly 59O-5.004, Amended 5-26-98, 9-20-98, 1-11-99, 8-31-99, 9-27-00, 12-26-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Laboratory Personnel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 6, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 18, 2001

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: RULE NO.:

List of Approved Forms; Incorporation 64B5-1.021

PURPOSE AND EFFECT: The purpose of the rule amendments is to update the rule text with regard to the address and a new form is being incorporated.

SUMMARY: The purpose of the rule amendments is to change the address for the Board office and incorporate a new form to address a limited licensure for dentists and dental hygienists.

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: 466.004 FS.

LAW IMPLEMENTED: 120.52(15), 456.015 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: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-1.021 List of Approved Forms; Incorporation.

The following forms used by the Board in its dealings with the public are listed as follows and are hereby adopted and incorporated by reference, and can be obtained from the Board office at 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256 ~~1940 North Monroe Street, Tallahassee, Florida 32399-0756~~:

(1) through (9) No change.

(10) Application for Dentist/Dental Hygienist Limited Licensure, DOH/MQA/DN-DH LL APP/new, effective _____.

Specific Authority 466.004 FS. Law Implemented 120.52(15) FS. History–New 8-19-97, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 28, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 8, 2000

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: RULE NO.:

Standard of Care for Office Surgery 64B8-9.009

PURPOSE AND EFFECT: The proposed rule amendment is intended to delete the reference to OSHA guidelines in the rule.

SUMMARY: The proposed rule amendment deletes the reference to OSHA guidelines as there are no written OSHA guidelines with regard to sterilization.

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

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

SPECIFIC AUTHORITY: 458.309(1), 458.331(1)(v) FS.

LAW IMPLEMENTED: 458.331(1)(g),(t),(v),(w), 458.351 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., July 11, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-9.009 Standard of Care for Office Surgery.

NOTHING IN THIS RULE RELIEVES THE SURGEON OF THE RESPONSIBILITY FOR MAKING THE MEDICAL DETERMINATION THAT THE OFFICE IS AN APPROPRIATE FORUM FOR THE PARTICULAR PROCEDURE(S) TO BE PERFORMED ON THE PARTICULAR PATIENT.

(1) No change.

(2) General Requirements for Office Surgery.

~~(a) For all surgical procedures, the level of sterilization shall meet current OSHA requirements.~~

(b) through (f) renumbered (a) through (e) No change.

(f)~~(g)~~ A policy and procedure manual must be maintained in the office, updated annually, and implemented. The policy and procedure manual must contain the following: duties and responsibilities of all personnel, quality assessment and improvement systems comparable to those required by Rule 59A-5.019; cleaning, sterilization and infection control, and emergency procedures. This applies only to physician offices at which Level II and Level III procedures are performed.

(h) through (i) renumbered (g) through (h) No change.

(3) through (6) No change.

Specific Authority 458.309(1), 458.331(1)(v) FS. Law Implemented 458.331(1)(g),(t),(v),(w), 458.351 FS. History–New 2-1-94, Amended 5-17-94, Formerly 61F6-27.009, Amended 9-8-94, 11-15-94, Formerly 59R-9.009, Amended 2-17-00, 12-7-00, 2-27-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Surgical Care Committee, Board of Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 2, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 4, 2001

FISH AND WILDLIFE CONSERVATION COMMISSION

RULE CHAPTER TITLE: Stone Crabs

RULE TITLE: RULE NO.:

Licenses, Endorsements, and Permits for Experimental, Scientific and Exhibitional Purposes 68B-13.006

PURPOSE AND EFFECT: The purpose of this rule amendment is to effect a one-year delay in the implementation of the stone crab trap limitation program, by extending the moratorium on issuance of new stone crab endorsements currently in place from July 1, 2001, to July 1, 2002. Other rules in the rule chapter were amended to accomplish the delay, in rulemaking concluded in the Commission's May 23, 2001 regular meeting. The moratorium rule was not before the Commission at that time. The effect of this rulemaking will be to conform this rule to others in the chapter and accomplish the economic and environmental benefits of the program after the one-year delay.

SUMMARY: Paragraph (1)(b) of Rule 68B-13.006, F.A.C., is amended to extend the moratorium on issuance of new stone crab endorsements from July 1, 2001, to July 1, 2002, and the deadline for renewal of existing endorsements from September 1, 2000, to September 1, 2001.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Has not been prepared regarding these proposed rules.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF PUBLICATION OF THIS NOTICE, A HEARING ON THE PROPOSED RULES WILL BE HELD AT A TIME, DATE AND PLACE TO BE LATER NOTICED IN THIS PUBLICATION.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting Andrena Knicely at (850)487-1406. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

All written material received by the Commission within 21 days of the date of publication of this notice shall be made a part of the official record.

Section 286.0105, Florida Statutes, provides that, if a person decides to appeal any decision made by the commission with respect to any matter considered at this hearing, he will need a record of proceedings, and for such purposes, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-13.006 Licenses, Endorsements, and Permits for Experimental, Scientific and Exhibitional Purposes.

(1)(a) Except as provided in Rule 68B-13.010(5), F.A.C., in addition to a saltwater products license, a stone crab endorsement is required in order to harvest stone crabs for commercial purposes. This endorsement shall only be issued to a person, firm or corporation that possess a valid restricted species endorsement on their saltwater products license issued pursuant to s. 370.06, Florida Statutes.

(b) Until July 1, 2002 ~~2001~~, no stone crab endorsements shall be renewed or replaced except those endorsements that were active during the 2000-2001 ~~1999-2000~~ fiscal year. Renewal of such endorsements shall be made by the endorsement holder or an immediate family member on the endorsement holder's behalf, prior to September 30, 2001 ~~2000~~. Failure to renew by September 30, 2001 ~~2000~~, shall lead to the deactivation of the holder's endorsement.

(2) In accordance with Section 370.10(2), Florida Statutes, the Fish and Wildlife Conservation Commission may issue permits to collect and possess whole stone crabs, dead or alive, solely for experimental, scientific, educational or exhibitional purposes.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art IV, Sec. 9, Fla. Const. History–New 7-1-00, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Allan L. Egbert, Ph.D., Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 23, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 8, 2001