

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Audrey Mitchell, Program Administrator, Building 3, Room 421, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700, telephone (850)488-3090

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

Section II Proposed Rules

DEPARTMENT OF LEGAL AFFAIRS

Division of Victim Services and Criminal Justice Programs

RULE TITLE: Claims RULE NO.: 2A-2.002

PURPOSE AND EFFECT: The proposed rule amendment is intended to revise an existing form utilized by the Division of Victim Services and Criminal Justice Programs in its domestic violence assistance program and to incorporate two additional forms into the rule.

SUMMARY: The proposed rule amendment revises an existing form utilized by the Division of Victim Services and Criminal Justice Programs in its domestic violence assistance program and incorporates two additional forms into the rule.

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: 960.045(1) FS.

LAW IMPLEMENTED: 960.065, 960.07, 960.13(1)(b), 960.198 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., September 25, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ellen Winslow, Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050

THE FULL TEXT OF THE PROPOSED RULE IS:

2A-2.002 Claims.

Application and benefit payment criteria, limitations and procedures for victim assistance are provided in the publication entitled "Victim Compensation Assistance," BVC-P001

(January 2000), effective 2-3-00, which is incorporated into these rules by reference. In addition, the following documents are incorporated into this rule by reference:

(1) through (5) No change.

(6) BVC 105, entitled "Domestic Violence Relocation Certification" (8/01) (~~4/99~~), effective 2-3-00.

(7) BVC 105A, entitled "Domestic Violence Relocation Expense Worksheet," (8/01), effective _____.

(~~7~~) through (10) renumbered (8) through (11) No change.

(12) BVC 421, entitled "Notification of Possible Recoupment and/or Prosecution for Fraud" (8/01), effective _____.

Specific Authority 960.045(1) FS. Law Implemented 960.065, 960.07, 960.13(1)(b), 960.198 FS. History--New 1-1-92, Amended 11-1-92, 9-13-94, 1-8-96, 6-25-96, 10-1-96, 9-24-97, 8-17-99, 2-3-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rodney Doss, Director, Division of Victim Services and Criminal Justice Programs

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Richard Doran, Deputy Attorney General

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 1, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 10, 2001

DEPARTMENT OF LEGAL AFFAIRS

Florida Elections Commission

RULE CHAPTER TITLE: Practice and Procedure RULE CHAPTER NO.: 2B-1

RULE TITLES: Complaints RULE NOS.: 2B-1.0025

Minor Violations 2B-1.003

Hearings Before the Commission 2B-1.004

Fine Imposed; Timely Filed Reports 2B-1.0052

PURPOSE AND EFFECT: Rule 2B-1.0025 is amended to provide: (1) that for a complaint to be considered legally sufficient, it must contain credible evidence supporting specific facts that a person violated election laws over which the Commission has jurisdiction; and (2) that when determining the legal sufficiency of a complaint, the executive director shall consider any document referred to in the complaint, and when determining the legal sufficiency of a complaint alleging a violation of the campaign finance laws, the executive director shall also consider campaign treasurer's reports on file with the filing officer. Rule 2B-1.0025 also is amended to state that the complaint form, Complaint Form FEC 001, is available on the Commission's website and the complaint form, Complaint Form FEC 001, is amended and incorporated by reference to indicate that the Commission now has jurisdiction over violations of Section 105.071, F.S., dealing with prohibitions on political activities by judicial candidates.

Rule 2B-1.003 is amended to provide that the following three offenses can be considered minor offenses: (1) an alleged violation of the political advertising requirements which occurred less than 14 days before an election and the complaint does not contain an allegation that the political advertising was either deceptive or influenced the outcome of the election; (2) a candidate or person represents in a political advertisement that a person or an organization supports the candidate before obtaining the written approval of the organization or person; or (3) a person accepts a contribution in excess of the limits prescribed by Section 106.08, F.S., and the excessive contribution was returned to the donor with 14 days of receipt. Rule 2B-1.003 also is amended to delete (2)(q) which implemented minor violations of Section 106.085, F.S., which was found unconstitutional in *Florida Right to Life, Inc. v. Crotty*, No. 98-770-CIV-ORL-19A (M.D. Fla. 1998).

Rule 2B-1.004 dealing with hearings before the Commission is amended to comply with the Uniform Rules and is amended to provide that when a Commissioner or Commissioners hear a case which is not heard by the full Commission, those Commissioners who heard the case shall not participate in the deliberation or vote of the full Commission. Rule 2B-1.004 also is amended to provide that a clerical mistake in a final order arising from oversight or omission may be corrected by the Commission at any time on its own initiative or on the motion of any party.

SUMMARY: The subject of the rules is procedures regarding complaints; minor violations of Chapter 106, Florida Statutes; hearings held before the Commission; and evidence that may be presented at a hearing on the late-filing of a campaign treasurer's report.

SPECIFIC AUTHORITY: 106.26(1), 106.26(12), 106.24(5) FS.

LAW IMPLEMENTED: 106.25, 106.26(12), 106.24(5), 106.26, 106.26(1) FS.

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

TIME AND DATE: 10:00 a.m., September 17, 2001

PLACE: Room 2002, The Capitol, Tallahassee, Florida 32399-1050

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Phyllis Hampton, General Counsel, Florida Elections Commission, Room 2002, The Capitol, Tallahassee, Florida 32399-1050, telephone (850)922-4539

THE FULL TEXT OF THE PROPOSED RULES IS:

2B-1.0025 Complaints.

(1) Any complaint of alleged violations of the Florida Election Code over which the Florida Elections Commission has jurisdiction shall be filed with the Commission. A complaint form, Complaint Form FEC 001, effective 12-3-01

~~4-12-99~~, which is hereby adopted and incorporated by reference, may be obtained by calling the Commission office during normal business hours or by writing to the Commission. The complaint form may also be obtained from the Commission's website www.fec.state.fl.us.

(2) Within five working days of receipt of a sworn complaint, the executive director shall send a copy of the complaint to the person against whom the complaint was made, the respondent.

(3) Upon receipt of a complaint, the executive director shall determine whether the complaint is legally sufficient, unless the executive director determines that the identity of the parties or witnesses or other factual or legal basis would prevent his or her determination due to an appearance of impropriety or a conflict as defined by Section 112.312(8), Florida Statutes. Upon the executive director's determination that he or she has a conflict or that action on the complaint would present an appearance of impropriety, the executive director shall refer the complaint to the Commission for a determination of legal sufficiency.

(4) A complaint is legally sufficient if it meets the following criteria.

(a) The complaint alleges a violation of Chapter 104 or 106, Florida Statutes;

(b) The complaint was made under oath in the presence of a notary public or other person authorized by law to administer oaths;

(c) The complaint contains specific facts supported by credible evidence upon which the complainant bases the allegation of a violation of law; and

(d) The complaint alleges a violation that occurred within two years of the date the complaint is filed with the Commission.

(5) A complaint is not required to list every section of the Election Code that a respondent could have violated or to specify facts that support every element of the violations alleged.

(6) In determining the legal sufficiency of a complaint, the executive director shall consider any document referred to in the complaint. In determining the legal sufficiency of a complaint alleging a violation of the campaign finance laws, the executive director shall also consider campaign treasurer's reports on file with the filing officer.

~~(7)(6)~~ When the executive director or the Commission determines that a complaint is legally insufficient, the complaint shall be dismissed.

~~(8)(7)~~ The complainant and the respondent shall be notified of the dismissal of the complaint. The notice shall include the reason the complaint is legally insufficient and notify the complainant of the right to seek the Commission's review of the dismissal.

~~(9)(8)~~ A complainant seeking the Commission’s review of the dismissal of a complaint shall file a written request for review with the Commission clerk stating with specificity the reasons the complainant believes that the complaint is legally sufficient within 21 days of receipt of the notice of dismissal.

Specific Authority 106.26(1) FS. Law Implemented 106.25 FS. History—New 2-17-91, Amended 11-14-93, 3-19-96, 8-19-96, Formerly 1D-1.0025, Amended 1-12-98,_____.

2B-1.003 Minor Violations.

(1) The Commission shall consider a violation of Chapter 106, Florida Statutes, a minor violation under the following circumstances:

(a) The violation is one of those identified in this rule;

(b) The complaint alleging the violation contains no legally sufficient violation other than those identified in this rule;

(c) The respondent against whom the complaint was filed has not been notified of an allegation of the same violation before the conduct about which the complaint was filed;

(d) The respondent against whom the complaint was filed agrees to correct, if feasible, the conduct that resulted in a violation identified in this rule; and

(e) If the violation involves political advertising, the violation must have occurred more than 14 days before the election in which the candidate or committee named in the political advertising is participating and the person, candidate, or committee that paid for the political advertisement must be named in the political advertisement. If the violation occurred less than 14 days before the election, the complaint must not contain an allegation that the political advertising was either deceptive or influenced the outcome of the election.

(2) The following violations are minor violations so long as the requirements of subsection (1) of this rule have been met:

(a) Section 106.021(1)(b), Florida Statutes, failure of a candidate or political committee to properly designate a separate interest-bearing campaign account, so long as the account is identified as the campaign account of the candidate or political committee. A fine of \$100 shall be imposed for each a violation;

(b) Section 106.023, Florida Statutes, failure of a candidate to file a statement that says the candidate has read and understands the requirements of Chapter 106, within ten days after filing his or her appointment of campaign treasurer and designation of campaign depository. A fine of \$100 shall be imposed for each a violation;

(c) Section 106.025(1)(c), Florida Statutes, failure of a person who holds a campaign fund raiser to include the statement required by this section on tickets or advertising. A fine of \$250 shall be imposed for each violation;

(d) Section 106.071(1), Florida Statutes, failure of a person to include the proper disclaimer in a political advertisement paid for by an independent expenditure. A fine of \$250 shall be imposed for each violation.

(e) Section 106.143(1), Florida Statutes, failure of a person to mark all political advertisements as a “pd. pol. adv.” or a “paid political advertisement” or to identify the sponsor. A fine of \$200 shall be imposed for each violation;

(f) Section 106.143(2), Florida Statutes, failure of a person to mark the political advertisement of a candidate running for partisan office with the candidate’s political party affiliation or to indicate that he or she is running with no party affiliation. A fine of \$200 shall be imposed for each violation;

(g) Section 106.143(3), Florida Statutes, prohibiting a candidate or any person on behalf of a candidate from representing in a political advertisement that a person or an organization supports the candidate before obtaining the written approval of that person or organization, so long as written approval was obtained. A fine of \$200 shall be imposed for each violation;

(h) Section 106.143(4)(a), Florida Statutes, failure of a person offering a political advertisement on behalf of a candidate to obtain approval from the candidate before circulating the advertisement. A fine of \$200 shall be imposed for each violation;

(i) Section 106.143(4)(a), Florida Statutes, failure of a candidate or a person on behalf of a candidate to state on the candidate’s political advertisement that the content of the advertisement was approved by the candidate or the identity of the person who paid for the advertisement. A fine of \$250 shall be imposed for each violation;

(j) Section 106.143(4)(a), Florida Statutes, failure of a candidate to provide the news media with a written statement authorizing the content of each political advertisement submitted to the media for distribution. A fine of \$250 shall be imposed for each violation;

(k) Section 106.143(4)(b), Florida Statutes, failure of a person making an independent expenditure for a political advertisement submitted to the news media for distribution to provide the media with a written statement that no candidate approved of the advertisement. A fine of \$200 shall be imposed for each violation;

(l) Section 106.143(4)(b), Florida Statutes, failure of a person making an independent expenditure for a political advertisement to state on the advertisement that no candidate approved the advertisement. A fine of \$200 shall be imposed for each violation;

(m) Section 106.143(5), Florida Statutes, prohibiting a person who is not the incumbent from including the word “re-elect” in a political advertisement. A fine of \$200 shall be imposed for each violation;

(n) Section 106.143(5), Florida Statutes, failure of a person in a political advertisement of a candidate who is not the incumbent to use the word “for” between the candidate’s name and the office for which the candidate is running, unless incumbency is implied. A fine of \$100 shall be imposed for each violation;

(o) Section 106.1435(3), Florida Statutes, prohibiting a person from placing or locating a political advertisement on or above any state or county road right-of-way. A fine of \$100 shall be imposed for each a violation;

(p) Section 106.1437, Florida Statutes, failure of a person sponsoring a political advertisement intended to influence public policy or the vote of a public official to include a statement of sponsorship. A fine of \$200 shall be imposed for each violation;

~~(q) Section 106.144, Florida Statutes, failure of a group, club, association or other organization that endorses or opposes a candidate or referendum by means of political advertisements to file a statement of endorsement or opposition with the filing officer before distributing the advertisement. A fine of \$250 shall be imposed for each violation; and~~

~~(q)(r) Section 106.148, Florida Statutes, failure of a candidate, political party, political committee, or committee of continuous existence or an agent of a candidate, political party, political committee or committee of continuous existence to include a political disclaimer on a message placed on an information system accessible by computer by more than one person. A fine of \$200 shall be imposed for each violation; and~~

(r) Section 106.19(1)(a), Florida Statutes, prohibiting a person from accepting a contribution in excess of the limits prescribed by Section 106.08, Florida Statutes, if the excessive contribution is returned to the donor within 14 days of receipt. A fine of \$200 shall be imposed for each violation.

~~(3)(2)~~ Upon the executive director’s determination that an alleged violation is a minor violation as defined by this rule, the executive director shall offer the respondent an opportunity to enter into a consent order to pay the fine or fines designated above. The consent order shall provide that the respondent neither admits nor denies the allegations.

~~(4)(3)~~ The Commission shall approve the consent order unless it determines that the requirements of this rule have not been met.

Specific Authority 106.26(12) FS. Law Implemented 106.26(12) FS. History—New 1-12-99, Amended 2-14-00,_____.

2B-1.004 Hearings Before the Commission.

(1) If a respondent who is entitled to a formal hearing does not elect to proceed before the Division of Administrative Hearings, and the Commission does not refer the case to Division of Administrative Hearings, the executive director shall schedule the formal hearing before the Commission.

(2) At the time the hearing is scheduled, the Chairman shall issue a pre-hearing order, Pre-hearing Order Form FEC 002, effective 1-12-99, which is hereby adopted and incorporated by reference. The order shall require the parties to file a joint pre-hearing statement at least five working days before the scheduled hearing date. The pre-hearing order shall provide the date of the hearing and the date the pre-hearing statement must be filed. The pre-hearing order shall require the parties to confer and file a joint pre-hearing statement that provides the following information:

(a) The name, address and telephone number of each person intended to be called as a witness by either party.

(b) A stipulation by the parties setting forth:

1. The facts that are not in dispute;

2. The facts that are in dispute;

3. A list of all exhibits that the parties agree should be admitted into evidence;

4. A list of exhibits to which either party objects, the nature of the objection and a response to the objection; and

5. An estimate of the time that each party believes shall be necessary to present the formal hearing to the Commission.

(c) Should the parties fail to reach a joint pre-hearing statement, each party shall be required to file a unilateral pre-hearing statement that also includes the reasons that a joint pre-hearing statement was not filed.

(3) When necessary to expedite the processing of agency matters on behalf of the public, the Chairman shall designate one or more Commissioners to hear any motion filed by a party that is not dispositive of the case pending before the Commission.

(4) Upon the request of any party, the commission clerk shall schedule a motion hearing on any pending motion, so long as the motion is not dispositive of the matter pending before the Commission, a designated Commissioner is available to hear the motion, and adequate notice and opportunity to appear in person or by telephone can be provided to the parties.

(5) When necessary to secure the just, speedy, and inexpensive determination of a case, the Chairman shall direct that one or more Commissioners hear any formal hearing, informal hearing or dispositive motion hearing.

(a) Designation of the specific Commissioner or Commissioners to hear a formal hearing, informal hearing or dispositive motion shall be made only by a majority of the Commissioners voting.

(b) The Commission clerk shall notify the parties of the designation of a Commissioner or Commissioners and shall notice the hearing.

(c) The designated Commissioner or Commissioners shall hear the evidence and argument presented by the parties during a formal hearing, informal hearing or dispositive motion hearing.

(d) The designated Commissioner or Commissioners hearing the case shall file a report with the commission clerk within 30 days of receiving any post hearing submissions from the parties. The report shall contain a recommended order that includes findings of fact, conclusions of law, a recommended disposition or penalty, if applicable, and any exceptions and responses filed by the parties. The report shall be served upon the parties.

(e) The Commission shall review the report, deliberate and reach a decision in the case. The designated Commissioner or Commissioners hearing the case shall not participate in the deliberation or vote of the Commission.

(6) Upon the Commission's determination of the outcome of a case after formal hearing or after reviewing the report of the designated Commissioner or Commissioners, the Commission's counsel shall prepare a proposed final order. ~~The order shall be served upon the parties. The parties shall have 15 days from service of the proposed final order to file any exceptions. After consideration of the proposed final order and any exceptions filed, the Commission shall enter a final order.~~

(7) A clerical mistake in a final order arising from oversight or omission may be corrected by the Commission at any time on its own initiative or on the motion of any party.

Specific Authority 106.24(5), 106.26 FS. Law Implemented 106.24(5), 106.26 FS. History--New 1-12-99, Amended.

2B-1.0052 Fine imposed; Timely Filed Reports.

(1) Campaign treasurer's reports are required to be filed in the office of the filing officer by 5 p.m. on the due date. A report is deemed timely filed if it is postmarked before midnight on the due date.

(2) If a report is received after the due date and there is no postmark or the postmark is illegible, it shall not be deemed timely filed unless the appealing party submits a copy of a proof of mailing or at a hearing before the Commission, presents the oral testimony of the person who timely mailed the report. The proof of mailing submitted shall reflect that it was obtained from the United States Postal Service or other mail delivery service at the time of mailing and shall reflect that the report was mailed before midnight on the due date. The testimony presented shall indicate that the report was mailed so that it would have received a postmark or a legible postmark on the report's due date but for the failure of the United States Postal Service to properly mark the report.

(3) A metered postage mark does not constitute a postmark or a proof of mailing.

Specific Authority 106.26(1) FS., Ch. 97-13, Sec. 52, Laws of Florida. Law Implemented 106.04(8), 106.07(8) FS. History--New 1-12-98, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Phyllis Hampton

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Barbara Linthicum

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2001

DEPARTMENT OF INSURANCE

RULE TITLES:	RULE NOS.:
Approval Procedures	4-144.002
Credit for Reinsurance	4-144.005
Accounting Requirements; Life and Health	

Reinsurance Agreements 4-144.010

PURPOSE AND EFFECT: The proposed amendment incorporates the 2000 legislative changes to Section 624.610, F.S. to include deleting, modifying and adding new forms.

SUMMARY: To incorporate the 2000 legislative changes in Section 624.610, F.S.

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

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

SPECIFIC AUTHORITY: 624.308, 624.610(14) FS.

LAW IMPLEMENTED: 624.307(1), 624.316, 624.317, 624.318, 624.321, 624.324, 624.34, 624.401, 624.404, 624.407, 624.413, 624.424, 624.501(20)(c), 624.5091, 624.610, 628.051, 628.801, 629.081 FS.

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

TIME AND DATE: 9:30 p.m., September 28, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Bob Norris, Financial Administrator, Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, FL 32399-0300, phone number (850)413-5054

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Bob Norris, 413-5054.

THE FULL TEXT OF THE PROPOSED RULES IS:

4-144.002 Approval Procedures.

~~(1) A retaliatory application fee shall be submitted pursuant to Section 624.5091, Florida Statutes. The retaliatory fee is the greater of:~~

~~(a) the amount that the applicant's domiciliary state or country would charge a Florida domestic insurer making application in the applicant's state or country of domicile, or~~

~~(b) the Florida application fee pursuant to Section 624.501(20)(c), Florida Statutes.~~

~~(1)(2) An insurer seeking the status of an accredited approved reinsurer pursuant to Sections 624.610(3)(b)1, 624.610(2)(a)2., Florida Statutes, shall comply with the instructions contained in Form DI4-923, "Application For Accredited Approved Reinsurer Or Satisfactory Non-Approved Reinsurer Status." rev. 8/00 3/93 and submit the following forms. Forms relating to specific types of insurance are to be submitted only by companies issuing policies relating to the type of insurance specified on the form.~~

~~(a) Form DI4-927, "Application To Conduct Business In The State of Florida Accredited Reinsurer Status." rev 8/00 8-91;~~

~~(b) Form DI4 841, "Invoice, Request For Payment of Application Fees," rev. 8-91;~~

~~(b)(e) Form DI4-903, "Invoice, Request For Payment of Fingerprint Charges," rev. 4/97 4/94;~~

~~(c)(d) Form DI4-144, "Consent and Agreement in Re Service of Process Consent and Agreement." rev. 1/97 11-90;~~

~~(e) Form DI4 514, "Resolution Form," rev. 11-90;~~

~~(f) Form DI4 414, "Paid Representative Registration," rev. 6/01/89;~~

~~(d)(g) Form DI4-516, "Insurance Holding Company System Registration Statement," rev. 4/97 11-90;~~

~~(e)(h) Form DI4-1298 ~~DI4~~ 844, "Management Information Form," rev. 4/97 10-91;~~

~~(f)(i) Form DI4-1423 ~~DI4~~ 422, "Biographical Statement and Affidavit." rev. 8/00 11-90;~~

~~(g)(j) Form DI4-450, "Authority For Release of Information," rev. 8-91;~~

~~(h)(k) Fingerprint cards furnished by the Florida Department of Insurance, according to instructions in Form DI4-938, "Fingerprint Card Instructions," rev. 7/99 4/94;~~

~~(i)(l) The material required by Form DI4-905 "Instructions for Furnishing Background Investigative Reports," rev. 2/01 8/93;~~

~~(m) DI4 904, "Proformas, Life Companies, pages 1-4 (Exhibits 1A, 1B, 2A, and 2B)," rev. 5-91;~~

~~(n) DI4 896, "Proformas, Property and Casualty Companies, pages 1-18," rev. 5-91; and~~

~~(o) DI4 901, "Life, Accident and Health Insurer Lines of Business by Company Code," rev. 5/91.~~

~~(p) DI4 877, "Property and Casualty Insurer Lines of Business by Company Code," rev. 5/91.~~

~~(j) DI4-1464, "FORM AR-1 Certificate of Assuming Insurer", rev. 8/2000:~~

~~(k)(q) In addition, prior to a final decision on whether to approve the reinsurer status, the Department shall request such other information as is necessary, depending on the facts and circumstances of the specific insurer, pursuant to Section 624.610, to determine whether the insurer meets the standards and the financial standards to ensure adequate protection for those to whom they owe obligations. The financial standards used in making this determination shall be substantially as high as those applicable to an authorized insurer., as found in Part III of Chapter 624, Chapter 628, or Chapter 629, Florida Statutes. The Department shall make no final decision on reinsurer status without complete information.~~

~~(2) The cost and expenses incurred by the Florida Department of Insurance to review a reinsurer's request for accreditation shall be charged for and collected from the requesting reinsurer. Costs are defined as the sum of the time spent by Department personnel calculated at payroll rates inclusive of personnel benefit expenses and overhead expenses for each Florida Department of Insurance employee, and other Department expenses related to processing the application; or, the actual charges incurred by a third party retained to review the application. Should it become necessary to hire an outside consultant in the process of the review, the reinsurer shall be contacted in advance to consent to this and agree to the cost. In the event that the Department and the reinsurer agree to utilize the services of an outside consultant to conduct the review the following applies:~~

~~(a) The acceptability of a person or firm to the Department shall be determined based on consideration of the person or firm's professional competence, objectivity, and cost.~~

~~(b) Consent of the reinsurer shall be demonstrated by written confirmation from an officer of the reinsurer agreeing to an examination or the specific services to be performed by the person or firm, and acknowledgment that the person or firm is acceptable to the reinsurer and that the cost will be paid by the applicant.~~

~~(c) All payments for services under this provision shall be made directly to the person or firm in accordance with the rates and terms agreed to by the Department, the insurer, and the person or firm performing the examination.~~

~~(3) An insurer seeking the status of a trusteed satisfactory non-approved reinsurer pursuant to Section 624.610, Florida Statutes, shall comply with the instructions contained in Form DI4-1466, "Application for Trusteed Reinsurer Status For Single Assuming Reinsurer", rev. 8/2000 and submit the following: submit all of the forms listed in subsection (2)(a) (m) in addition to all of the items indicated on Page 2 of~~

Form DI4-923, "Satisfactory Non-Approved Reinsurer Status Instructions," rev. 8/91, to the extent not duplicated in subsection (2)(a)(n), above.

(a) A copy of its annual statement with information substantially the same as that required to be filed in and with the National Association of Insurance Commissioners convention blank in the same format required by such form and including all supporting documents.

(b) A certified copy of the trust agreement and any trust amendments.

(c) A certified copy of the approval of the trust and trust amendments by the commissioner of the state in which the trust is domiciled or of the commissioner of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

(d) A notarized statement from the trustee of the trust to the commissioner having regulatory oversight of the trust certifying the balance of the trust and the trust's investments at the preceding year end with certification that the trust will not expire prior to the following December 31.

(e) Form DI4-144, "Service of Process Consent Agreement," rev. 1/97.

(f) Form DI4-1298, "Management Information Form," rev. 4/97.

(g) Form DI4-1423, "Biographical Affidavit," rev. 8/00 for all individuals listed on Form DI4-1298.

(h) Form DI4-450, "Authority For Release of Information," rev. 8/91.

(i) Fingerprint cards furnished by the Florida Department of Insurance, according to instructions in Form DI4-938, "Fingerprint Card Instructions," rev 7/99.

(j) Form DI4-903, "Invoice, Request For Payment of Fingerprint Charges," rev. 4/97.

(k) The material required by Form DI4-905 "Instructions for Furnishing Background Investigative Reports," rev. 2/01, and

(l) Form DI4-1469 rev. 8/00, "Certificate of Assuming Insurer to Submit to Examination and Bear the Cost of Examination".

(m) "Checklist Trust Agreement for Trusteed Reinsurer" in included in Form DI4-1466, rev. 8/00.

(4) All forms listed in subsections (2) and (3), above, are hereby adopted and incorporated by reference. All forms may be obtained from and shall be submitted to the Applications Coordination Section, Division of Insurer Services, Department of Insurance, Larson Building, 200 East Gaines Street, Tallahassee, FL 32399-0300. All checks shall be made payable to the Florida Department of Insurance.

Specific Authority 624.308, 624.610(14) FS. Law Implemented 624.307(1), (2), (3), (5), 624.316, 624.317, 624.318, 624.321, 624.324, 624.34, 624.401, 624.404, 624.407, 624.413, 624.424, 624.501(20)(c), 624.5091, 624.610, 628.051, 628.061, 628.801, 629.081 FS. History--New 1-30-91, Formerly 4-108.002, Amended 5-12-94, _____.

4-144.005 Credit for Reinsurance Allowed a Domestic Ceding Insurer.

(1) Credit for reinsurance by a domestic insurer shall be allowed when the reinsurance is ceded to an assuming insurer which is licensed to transact that line of insurance or reinsurance both in this state and its state, place, or country of domicile as of the ceding insurer's statutory financial statement.

(2) Credit for reinsurance by a domestic insurer shall be allowed when the reinsurance is ceded to an assuming insurer which is accredited ~~approved~~ as a reinsurer in this state pursuant to Section 624.610(3)(b), ~~624.610(2)(a)2~~, Florida Statutes, and Rule 4-144.002, Florida Administrative Code, as of any date on which statutory financial statement credit for reinsurance is claimed. An accredited ~~approved~~ reinsurer pursuant to Section ~~624.610(2)(a)2~~, 624.610(3)(b), Florida Statutes:

(a)1. through (a)2.(b) No change.

(c) Files annually and quarterly with the Department a copy of its annual and quarterly statements filed on the National Association of Insurance Commissioners convention blank with the insurance department of its state of domicile or, in the case of a U.S. branch of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement and maintains a surplus as regards policyholders in accordance with Section 624.610(3)(b)d, ~~624.408~~, Florida Statutes, and whose approval has been granted by the Department. If quarterly statements are not required by the state of domicile, the Department may specifically require such filings upon written request.

(3)(a) No credit for reinsurance shall be allowed a domestic ceding insurer:

1. If the assuming insurer's approval has been revoked by the Department; or

2. In the case of an assuming insurer that is not a licensed or accredited ~~approved~~ reinsurer, unless the assuming insurer agrees in the reinsurance agreements:

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

(4) Credit for Reinsurance – Reinsurers Maintaining Trust Funds.

(a)1. Pursuant to Sections 624.610(3)(c)1, ~~624.610(2)(a)4~~, and ~~624.610(2)(b)4~~, Florida Statutes, the Department shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which, as of any date on which statutory financial statement credit for reinsurance is claimed, and thereafter for so long as credit for reinsurance is claimed, maintains a trust fund in an amount prescribed below in a qualified financial institution as defined in Section 624.610(5)(b), Florida Statutes ~~bank or trust company that is subject to supervision by any state of the United States or that~~

is a member of the Federal Reserve System, for the payment of the valid claims of its U.S. domiciled ceding insurers, their assigns and successors in interest.

2. through (II) No change.

(III) In addition to these trusts, the group shall maintain a trusteed surplus of which ~~\$100,000,000~~ \$50,000,000 shall be held jointly for the benefit of the U.S. domiciled ceding insurers of any member of the group for all the years of account.

b.(I) The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members.

(II) The group shall, within ninety (90) days after its financial statements are due to be filed with the group's domiciliary regulator, provide to the Department:

(A) An annual certification by the group's domiciliary regulator of the solvency of each underwriter member of the group; or

(B) If a certification is unavailable, a financial statement, prepared by independent public accountants, of each underwriter member of the group.

~~3.a. The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholders surplus of \$10,000,000,000 (calculated and reported in substantially the same manner as prescribed by the Annual Statement Instructions and Accounting Practices and Procedures Manual of the NAIC, adopted and incorporated by reference in Rule 4-137.001(4), Florida Administrative Code) and which has continuously transacted an insurance business outside the United States for at least three (3) years immediately prior to making application for accreditation in any state of the United States, shall:~~

~~(I) Consist of funds in trust in an amount not less than the assuming insurers' several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group; and~~

~~(II) Maintain a joint trusteed surplus of which \$50,000,000 shall be held jointly for the benefit of U.S. domiciled ceding insurers of any member of the group; and~~

~~(III) File a properly executed Form AR-1, adopted and incorporated by reference in paragraph (2)(a), as evidence of the submission to this state's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination.~~

~~b. Within ninety (90) days after the statements are due to be filed with the group's domiciliary regulator, the group shall file with the Department an annual certification of each~~

~~underwriter member's solvency by the member's domiciliary regulators, and financial statements, prepared by independent public accountants, of each underwriter member of the group.~~

(c)1.a. through (V) No change.

(VI) That any amendment to the trust shall be filed with the Department no later than 30 days after approval of the amendment by the commissioner who has the regulatory oversight of the trust.

2.a. through (d)d. No change.

(e) Assets deposited in the trust and the trusteed surplus of a single assuming insurer shall consist of assets of a quality and limitation substantially similar to that required in Part II of Chapter 625, Florida Statutes, and shall be valued according to their fair market value.

(f) Assets deposited in the trust and the trusteed surplus of a group including incorporated and individual unincorporated underwriters shall be of the type and subject to limitations of the following:

1. through 5.g. No change.

(5) Trust agreements qualified under Section 624.610(4) 624.610(2)(b)2-, Florida Statutes.

(a) No change.

(b) Required conditions.

1. The trust agreement shall be entered into between the beneficiary, the grantor and a trustee, which shall be a qualified United States financial institution as defined in Section 624.610(5)(b), Florida Statutes. As used in this subsection (5), a qualified United States financial institution is one which is a member of the Federal Reserve System.

2. through 10. No change.

11. Notwithstanding other provisions of this rule, when a trust agreement is established to meet the requirements of Section 624.610(4) 624.610(2)(b)2-, Florida Statutes, in conjunction with a reinsurance agreement covering risks other than life, annuities, and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

a. through c. No change.

12. Notwithstanding other provisions of this rule, when a trust agreement is established to meet the requirements of Section 624.610(4) 624.610(2)(b)2-, Florida Statutes, in conjunction with a reinsurance agreement covering life, annuities, or accident and health risks, where it is customary to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

a. through c. No change.

13. The reinsurance agreement may, but need not, contain the provisions required in ~~(d)1-b.~~ of this subsection (5), so long as these required conditions are included in the trust agreement.

a. through c. No change.

(c) No change.

(d) A reinsurance agreement may contain provisions that stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by a United States bank and payable in United States dollars, and investments permitted by Part II of Chapter 625 of the Florida Insurance Code or any combination of the above, provided investments in or issued by an entity controlling, controlled by or under common control with either the grantor or the beneficiary of the trust shall not exceed five percent (5%) of total investments. The reinsurance agreement may further specify the types of investments to be deposited. Where a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, then the trust agreement may contain the provisions required by this paragraph in lieu of including such provisions in the reinsurance agreement.

(6) Letters of credit qualified under Section 624.610(4)(c) 624.610(2)(b)3., Florida Statutes.

(a)1. through 5. No change.

6.a. As used in this subsection (6), "beneficiary" means the domestic insurer for whose benefit the letter of credit has been established and any successor ~~of the beneficiary~~ by operation of law of the named beneficiary, including without limitation any liquidator, rehabilitator, receiver or conservator.

b. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver, including conservator, rehabilitator, or liquidator.

(b)1. through (e)1. No change.

2. All drafts drawn on the letter of credit shall be presentable at an office in the United States of a qualified United States financial institution.

(f) The letter of credit shall be issued or confirmed by a qualified United States financial institution authorized to issue letters of credit, pursuant to Section 624.610(5)(a), Florida Statutes.

(g) No change.

(7) Credit shall be allowed foreign and alien insurers when the reinsurance is ceded to an assuming insurer which is domiciled or licensed in, or, in the case of a U.S. branch of an alien assuming insurer is entered through, a state which employs standards regarding credit for reinsurance substantially similar to those applicable under these rules and the assuming insurer and the reinsurance agreement meets the

requirements established by this rule and Section 624.610, Florida Statutes, and the assuming insurer or U.S. branch of an alien assuming insurer:

~~(a) Maintains a surplus as regards policyholders in an amount not less than \$2,500,000; and~~

~~(b) Submits to the authority of this state to examine its books and records; provided, however,~~

~~(c) The requirement of paragraph (a), above, does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.~~

Specific Authority 624.308 FS. Law Implemented 624.307(1), 624.610 FS. History--New 1-30-91, Formerly 4-108.005, Amended 12-25-97, _____.

4-144.010 Accounting Requirements: Life and Health Reinsurance Agreements.

(1) through (2)(a)7.b. No change.

c. In determining the reserve interest rate adjustment, the formula must reflect the ceding company's investment earnings and incorporate all realized and unrealized gains and losses reflected in the statutory statement. The following is an acceptable formula. Note that the line references are for the ~~1999~~ 1994 National Association of Insurance Commissioners (NAIC) Annual Statement and are supplied as a convenient reference. Line references may be different in subsequent annual statements.

$$\text{Rate} = 2 * (\text{I} + \text{CG}) \div (\text{X} + \text{Y} - \text{I} - \text{CG})$$

Where: I is the net investment income (Exhibit 2, Line ~~15~~ 16, Column 7)

CG is capital gains less capital losses
(Exhibit 3, Line ~~40~~ 2, Column 4 plus Exhibit 4, Line ~~2~~ 40, Column 4)

X is the current year cash and invested assets (Page 2, Line ~~11~~ 10A, Column 1) plus investment income due and accrued (Page 2, Line ~~17~~ 16, Column 1) less borrowed money (Page 3, Line 22, Column 1)

Y is the same as X but for the prior year

8. through (5) No change.

Specific Authority 624.308(1), 624.424(1), 624.610(12)(14), FS. Law Implemented 624.307(1), 624.424(1), 624.610(4), (6), (10), (11), (12), 625.012(8), 626.9641(1)(d), (h), 631.051, 631.061, 631.071, 631.081 FS. History--New 1-30-91, Formerly 4-108.010, Amended 3-28-96, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Bob Norris, Financial Administrator, Insurer Services, Department of Insurance

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 9, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 25, 2000

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Adult Family Care Homes	4A-57
RULE TITLES:	RULE NOS.:
Definitions	4A-57.002
Standards of the National Fire Protection Association Adopted	4A-57.003
Evacuation Capability	4A-57.005
Inspections	4A-57.007

PURPOSE AND EFFECT: To provide an alternative to the three minute evacuation capability by permitting those adult family care homes with greater than three minutes but less than thirteen minutes evacuation time to substitute a sprinkler system in place of the three minutes evacuation capability. Also, the Department of Insurance in Rule 4A-57.007, F.A.C., is taking over the responsibility of the Agency for Health Care Administration for the conduct of firesafety inspections if there is no local authority having jurisdiction to perform such inspections.

SUMMARY: Provides alternative of fire sprinkler system for evacuation capability of adult family care homes and sprinklers with more than three minutes but less than thirteen minutes evacuation capability, and substitutes Division of State Fire Marshal for Agency for Health Care Administration for firesafety inspections of adult family care homes.

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

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

SPECIFIC AUTHORITY: 400.621(2), 633.01(1) FS.

LAW IMPLEMENTED: 400.621(2), 633.022(1)(b) 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., September 27, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jim Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, Bureau of Fire Prevention, 200 East Gaines Street, Tallahassee, FL 32399-0342, (850)922-3171, Fax (850)922-2553

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Millicent King, (850)922-3171.

THE FULL TEXT OF THE PROPOSED RULES IS:

4A-57.002 Definitions.

As used in these rules:

(1) through (10) No change.

(11) "Slow" means more than three minutes but not more than 13 minutes for an adult family care home and refers to the ability of a group to move reliably to a point of safety in a timely manner that is equivalent to the capacity of a household in a general population.

Specific Authority 633.01(1), 400.621(2) FS. Law Implemented 633.022, 400.621(2) FS. History--New 2-7-01, Amended.

4A-57.003 Standards of the National Fire Protection Association Adopted.

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

(c) Each AFCH which does not meet the evacuation capability of prompt but which does meet an evacuation capability of slow shall also comply with the requirements of Subdivisions 32.2.3.5.1, 32.2.3.5.2, and 32.2.3.5.3, Chapter 32, National Fire Protection Association (NFPA) 101, 2000 edition, to be considered to have met the firesafety requirements under Section 4A-57.005, Florida Administrative Code. Subdivisions 32.2.3.5.1, 32.2.3.5.2, and 32.2.3.5.3, Chapter 32, NFPA 101, 2000 edition, are hereby adopted and incorporated by reference.

(d) During each fire exit drill, all occupants should evacuate the building on their own or with staff assistance or any other available assistance, as needed.

(2) No change.

Specific Authority 400.621(2), 633.01(1) FS. Law Implemented 400.621(2), 633.022(10)(b) FS. History--New 2-7-01, Amended.

4A-57.005 Evacuation Capability.

(1) The evacuation capability for each AFCH shall be determined by a series of fire exit drills as "prompt" or "slow".

(a) An evacuation capability of "prompt" shall measure the ability of a group to move to a point of safety outside the AFCH within a drill time of three minutes or less.

(b) An evacuation capability of "slow" shall measure the ability of a group to move to a point of safety outside the AFCH within a drill time of more than three minutes but less than 13 minutes.

(2) Subject to subsection (4), if ~~H~~ the AFCH does not achieve an evacuation capability of "prompt" during the fire exit drill, a second fire exit drill must be performed within 30 days of the fire exit drill in which the AFCH did not achieve an evacuation capability of "prompt."

(3) Subject to subsection (4), if ~~H~~ the AFCH does not achieve an evacuation capability of "prompt" during the second fire exit drill, the inspector shall notify the agency that the AFCH can no longer meet the required safety requirements.

(4) If the AFCH does not achieve an evacuation capability of "prompt" during the first fire drill, but the AFCH does receive an evacuation capability of "slow," and the AFCH is in compliance with Subdivisions 32.2.3.5.1, 32.2.3.5.2, and 32.2.3.5.3, Chapter 32, NFPA 101, 2000 edition, the AFCH shall be deemed to have met the required firesafety requirements and no notification under subsection (3) shall be provided to the agency.

Specific Authority 400.621(2), 633.01(1) FS. Law Implemented 400.621(2), 633.022(1)(b) FS. History--New 2-7-01, Amended.

4A-57.007 Inspections.

(1) through (2) No change.

(3) The AHJ or the Division agency is permitted to require additional firesafety inspections.

(4) through (5) No change.

(6) Any time there is no AHJ to perform a firesafety inspection, the provider shall notify the Division agency in writing. The Division agency shall inspect or cause the facility to be inspected in accordance with Section 633.022, Florida Statutes.

(7) No change.

Specific Authority 400.621(2), 633.01(1) FS. Law Implemented 400.621(2), 633.022(1)(b) FS. History--New 2-7-01, Amended.

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

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 20, 2001

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards

RULE TITLES:	RULE NOS.:
Documentation of Training, General	5F-11.060
Master Qualifier Examinations;	
Applicant Qualifications	5F-11.061
Approved Courses of Continuing Education	5F-11.062
Approval of Outside Vendor Training Programs	5F-11.063
Renewal of Qualifier and Master	
Qualifier Certificates	5F-11.064
Examination Procedures	5F-11.065

PURPOSE AND EFFECT: Applicable laws, Section 527.02(2),(4)(c), Florida Statutes, requires the Department to identify, by rule, approved courses of continuing education. Section 527.066, Florida Statutes, and Section 527.06, Florida Statutes, allows the Department to identify, by rule, reasonable standards of competency and qualification for persons engaged

in the liquefied petroleum gas business. The purpose and the effect of this rule is to define continuing education programs which will be recognized as acceptable to the department for the qualification of Category I LP Gas Dealer and LP Gas Installer qualifiers and master qualifiers.

SUMMARY: The proposed rules set forth criteria for acceptable continuing education programs and methodologies for documentation of said training as required by law. The rules also provide for procedures relating to examinations and determination of competency.

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

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

SPECIFIC AUTHORITY: 527.02(2),(4)(c), 527.066, 527.06 FS.

LAW IMPLEMENTED: 527.02(2),(4)(c), 527.066, 527.06 FS.

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

TIME AND DATE: 10:00 a.m., October 9, 2001

PLACE: George Eyster Auditorium, Doyle Conner Administration Building, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Vicki O'Neil, Bureau Chief, Bureau of LP Gas Inspection, (850)921-8001

THE FULL TEXT OF THE PROPOSED RULES IS:

PART VI
EXAMINATIONS, TRAINING AND
CONTINUING EDUCATION

5F-11.060 Documentation of Training, General.

(1) Documentation of employee training, as required in Section 1-5, NFPA 58, shall include the following:

- (a) Employee's Name;
- (b) Employees primary job responsibilities and duties;
- (c) Date of completed employee training;
- (d) Description, copy or location of the materials used to conduct the training, including the topics covered by the training;
- (e) Name, address and phone number of the person or organization conducting the training;
- (f) Certification by the employer that the employee has been trained and evaluated.

(2) Documentation shall be maintained at the employee's place of business and shall be available for inspection by the bureau upon request.

Specific Authority 527.02(2)(4)(c), 527.066, 527.06 FS. Law Implemented 527.02(2)(4)(c), 527.066, 527.06 FS. History–New

5F-11.061 Master Qualifier Examinations; Applicant Qualifications.

(1) As evidence of reasonable competency and qualification, Master Qualifier applicants must be a Category I LP Gas Dealer or LP Gas Installer qualifier and shall have a minimum of one year’s practical experience in the liquefied petroleum gas industry. Practical experience is defined as work with a liquefied petroleum gas company and which activities which fall within one or more of the following categories:

- (a) Maintenance of LP gas facilities and equipment.
- (b) LP gas storage and distribution facility operations and safety.
- (c) LP gas transportation, delivery, product transfer.
- (d) LP gas tanks, cylinders and equipment.
- (e) LP gas liquid and vapor distribution systems and equipment.
- (f) LP gas equipment and appliance service, installation and repair.
- (g) LP gas carburetion.

(2) Each applicant for Master Qualifier examination shall provide documentation to the department certifying eligibility as a Master Qualifier for a licensed Category I LP Gas Dealer or LP Gas Installer in the State of Florida. Documentation shall be provided on a department form and shall include the following:

- (a) Applicants Name;
- (b) Mailing Address;
- (c) Name and license number of employer, or date of application if pending;
- (d) Notarized affidavit of eligibility as a supervisor, manager, owner, or other person primarily responsible for the daily operations of the licensee;
- (e) Verification of Employment with a Licensed Category I LP Gas Dealer or LP Gas Installer;
- (f) Copy of the applicants examination qualification card as a Category I LP Gas Dealer or LP Gas Installer qualifier.

Specific Authority 527.02(2)(4)(c), 527.066, 527.06 FS. Law Implemented 527.02(2)(4)(c), 527.066, 527.06 FS. History–New

5F-11.062 Approved Courses of Continuing Education.

(1) Courses, which cover one or more of the following topics, shall be approved for continuing education credit as required in Section 527, Florida Statutes, for Category I LP Gas Dealer, Installer and Master Qualifiers:

- (a) Inspections and maintenance of LP gas facilities and equipment.
- (b) State and federal LP gas laws, rules and regulations, codes and standards.
- (c) LP gas emergency procedures, fire protection, risk management planning.

(d) LP gas storage and distribution facility operations and safety.

- (e) LP gas transportation and delivery.
- (f) LP gas liquid transfer.
- (g) LP gas tanks, cylinders and equipment.
- (h) LP gas liquid and vapor distribution systems and equipment.
- (i) LP gas equipment and appliance service, installation and repair.

(j) LP gas carburetion.
(2) Continuing education credits will be granted on an hour-for-hour basis for up to 4 hours credit per class. For each 12 hours of continuing education credits, a minimum of two hours shall be from items (a), (b) or (c) in Section (1) above.

(3) Continuing education classes provided by the employer shall be documented as outlined in Section 5F-11.060 and records shall be maintained at the employee’s work location. These records shall be available for inspection by the bureau upon request.

Specific Authority 527.02(2)(4)(c), 527.066, 527.06 FS. Law Implemented 527.02(2)(4)(c), 527.066, 527.06 FS. History–New

5F-11.063 Approval of Outside Vendor Training Programs.

(1) Outside vendors providing training to industry personnel for the purposes of continuing education credits shall submit the following documentation to the bureau for review and approval:

- (a) Name and qualifications of each instructor
- (b) Course Title as it is to appear on any advertisements or in internal company records.
- (c) Course Time Table, which outlines the approximate schedule for the course, specifying the total number of training hours for the course.

(d) Course Description, which shall relate to the inspection and technical skills required for students and meet the criteria set forth in Section 5F-11.062.

(e) Course Objectives and Goals, which clearly and specifically state what skills or knowledge the applicants should be able to demonstrate when the course is successfully completed.

(f) Method of Course Presentation, which shall describe how the content will be presented, such as lecture, discussion, multimedia presentations, computer based training, or other specified methods.

(g) Method of Evaluation of Course Participants, which shall specify how students will be evaluated, such as written examination, demonstration of skills, observation, or other specified method.

(h) Topical Outline of the Course, which indicates the order in which the course subject matter will be presented to the course participants.

(i) A copy of course materials to be used during training.

(2) Courses which fail to meet the criteria of this section shall not be eligible for continuing education credits.

(3) The outside vendor shall immediately notify the bureau of any revisions to course materials or documents and shall provide copies of such revisions or documents to the bureau for review.

Specific Authority 527.02(2)(4)(c), 527.066, 527.06 FS. Law Implemented 527.02(2)(4)(c), 527.066, 527.06 FS. History—New

5F-11.064 Renewal of Qualifier and Master Qualifier Certificates.

(1) All category I LP gas dealers qualifiers, LP gas installer qualifiers and Master shall submit a renewal form, fee, affidavit of eligibility and documentation of a minimum of 12 continuing education hours in order to renew their qualification.

(2) Master Qualifiers who wish to renew their qualification but who are not the designated Master Qualifier for a license holder or license applicant, may renew their qualification and maintain the qualification on inactive status.

Specific Authority 527.02(2)(4)(c), 527.066, 527.06 FS. Law Implemented 527.02(2)(4)(c), 527.066, 527.06 FS. History—New

5F-11.065 Examination Procedures.

An applicant who fails any part of an examination may be reexamined on those parts failed upon reapplication and payment of the required examination fee. Re-examinations must be completed within 45 calendar days of the original examination, however, no examinee may retake the failed examination more than two times within the 45-day period. If the applicant does not successfully complete the examination within the 45-day period, the examinee shall be given a failing grade. After a 30-day period, the applicant may reapply to retake the entire examination.

Specific Authority 527.02(2)(4)(c), 527.066, 527.06 FS. Law Implemented 527.02(2)(4)(c), 527.066, 527.06 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Vicki O’Neil, Bureau Chief, Bureau of Liquefied Petroleum Gas Inspection, 3125 Conner Blvd., Suite N, Tallahassee, Florida 32399-1650, (850)921-8001

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ben Faulk, Director of Standards, 3125 Conner Blvd., Suite N, Tallahassee, Florida 32399-1650

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 14, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 23, 2001

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Food Safety

RULE TITLE:

Food Permits; Requirements and Fees

RULE NO.:

5K-4.020

PURPOSE AND EFFECT: The rule amendment creates new definitions for food establishments and changes the fee schedule for annual permit fees charged to food establishments.

SUMMARY: The rule amendment increases the permit fees charged to supermarkets, grocery stores and firms that have various types of food preparation, food processing and food service. The increase in fees is more consistent with the time spent inspecting the respective firm categories and the risk generated by the firm’s food service activities. The amendment creates new food establishment firm types that more accurately describe the variety of food service that may take place at convenience stores, minor food outlets, bakeries and health food stores.

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: 500.09, 500.12(1)(b), 570.07(23) FS.

LAW IMPLEMENTED: 500.04, 500.10, 500.12(1)(a), (b), (c), (d), 500.171, 500.172, 500.177 FS.

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

TIME AND DATE: 10:00 a.m., October 1, 2001

PLACE: Florida Department of Agriculture and Consumer Services, Conner Complex, George Eyster Auditorium, 3125 Conner Boulevard, Tallahassee, FL, telephone (850)488-3951

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. John Fruin, Chief, Bureau of Food and Meat Inspection, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650, telephone (850)488-3951

THE FULL TEXT OF THE PROPOSED RULE IS:

5K-4.020 Food Permits; Requirements and Fees.

(1) As used in this rule, the following definitions shall apply in determining food permit fees:

(a) Bottling plant. A processor or packer or both of juices, drinks, carbonated beverages or non-carbonated beverages in hermetically sealed containers (excluding bottled water).

(b) Canning plant. A processor or packer or both of fruit, vegetables, seafoods or other foods in hermetically sealed containers.

(c) Convenience store. A business that is engaged primarily in the retail sale of groceries or motor fuels or special fuels and may offer food services limited to coffee from urns, or iced or frozen drinks to the public, with no significant food service or retail food processing. ~~A business which provides motor fuel or special fuel to the public which also offers groceries or food service is included in this definition.~~

(d) Convenience store with limited food service. A convenience store where food is prepared and intended for individual portion service, but limited to the display of snack foods or pastries, and/or heating or cooking of hot dogs, sausages, prepackaged pizza or meat pastries, and includes the site at which individual portions are provided; regardless of whether consumption is on or off the premises or whether there is a charge for the food, but without retail food processing.

(e) Convenience store with significant food service. A convenience store that has retail food processing activities consisting of on-site cooking or other preparation of hot entrees, chicken (fried, roasted or grilled), sandwiches, salads, or desserts for consumption on or off the premises. The term also applies to such foods brought to a location for sale on individual customer order or by buffet-style display. Fish or seafood processor. A processor of fresh water or salt water fish, shellfish or crustaceans, primarily for wholesale distribution.

(f) Food salvage center. A firm specializing in sorting, segregating and re-working damaged foods, primarily for wholesale distribution.

(g) Food storage warehouse. A cold storage warehouse, a dry storage warehouse, or a commercial food distribution center.

(h) Grocery store. A retail food store stocking a wide variety of foods and engaged in retail food processing which contains four or fewer check-out registers and less than 15,000 total square footage, including display, preparation and storage areas.

(i) Health food store. A retail food store engaged primarily in the sale of prepackaged vitamins, minerals, nutritional supplements and foods intended for health conscious persons but with which contains no food service or retail food processing.

(j) Health food store with food service. A health food store where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided, regardless of whether consumption is on or off the premises, or whether there is a charge for the food, but with no retail food processing.

(k)(+) Limited Sales. Any business fitting any of the definitions in this subsection with gross food sales less than \$15,000.00 ~~10,000.00~~ annually.

(l)(*) Meat market. A retail food store engaged primarily in the cutting, processing and selling of meats or poultry or both. A limited number of other foods may be stocked, but inventory and sales are predominantly meat or poultry or both.

(m)(+) Minor food outlet. Any retail establishment that sells groceries and may offer food service to the public limited to coffee from urns, or iced or frozen drinks, but neither the grocery sales nor the food service business activity is a major retail function based on allocated space or gross sales. No retail food processing may be performed.

(n)(~~+~~) Minor food outlet with limited food service. A minor food outlet where food is prepared and intended for individual portion service, but limited to the display of snack foods or pastries, and/or heating or cooking of hot dogs, sausages, prepackaged pizza or meat pastries, regardless of whether consumption is on or off the premises or whether there is a charge for the food, and without and includes the site at which individual portions are provided, but with no retail food processing.

(o) Minor food outlet with significant food service. A minor food outlet that has retail food processing activities consisting of on-site cooking or other preparation of hot entrees, chicken (fried, roasted or grilled), sandwiches, salads, or desserts for consumption on or off the premises. The term also applies to such foods brought to a location for sale on individual customer order or by buffet-style display.

(p)(~~+~~) Mobile vendor. Persons selling foods other than fresh fruits or vegetables from trucks, trailers or similar self-propelled conveyances, or at flea markets, roadside stands or other semi-permanent, transient, or temporary location.

(q)(~~+~~) Processor, other non-perishable foods. A processor or packager of grain products, snack foods, candy, table syrup, honey, coffee, tea, spices or other non-perishable foods not defined elsewhere in this section.

(r)(~~+~~) Processor, other perishable foods. A processor of cheese, packaged sandwiches, bulk or packaged salads, or other perishable foods not defined elsewhere in this section.

(s)(~~+~~) Rabbit or game processor. A processor of rabbits, quail, deer, or other bird or animal species normally considered game, excepting any equine, bovine, goat, sheep, swine, or chickens, turkeys, ducks, geese, squab, ratites or guineas.

(t)(~~+~~) Retail bakery. A food establishment that bakes baker ~~of~~ breads, pastries or other similar baked goods, primarily for retail sale on the premises.

(u) Retail bakery with food service. A retail bakery where food other than breads, pastries or other similar baked goods is prepared and intended for individual portion service, and includes the site at which individual portions are provided, regardless of whether consumption is on or off the premises, or whether there is a charge for the food.

(v)(~~+~~) Retail food processing. The cutting, grinding, or slicing of meats or cheeses for bulk or packaged display; the preparation and wrapping or packaging of sandwiches, salads, or other foods for retail display; the smoking or cooking of meat, poultry, or fish for retail display or on customer request; the steaming, cracking, or cooking of crustaceans or shellfish for retail display or on customer request; the on-premises baking of breads or pastries; or the peeling, cutting, or trimming and packing of fruit or vegetables for retail display.

(w)(~~+~~) Salvage store. A retail food store specializing in salvage foods.

~~(x)(*)~~ Seafood market. A retail food store engaged primarily in the sale of seafood fish, crustaceans, and shellfish. A limited number of other foods may be stocked, but inventory and sales are predominantly fish, crustaceans, or shellfish.

~~(v)~~ Significant food service. ~~The on-site cooking or other preparation of hot entrees, sandwiches, salads, snack foods or desserts for consumption on or off the premises. The term also applies to such foods brought to a location for sale on individual customer order or by buffet style display. The term does not apply when food service is limited to coffee urns, the sale of frozen desserts or iced drinks, or the sale of non-hazardous foods in bulk containers for customer self-service.~~

(y) Seafood processor. A processor of fresh or saltwater finfish, crustaceans, other forms of aquatic animal life (including, but not limited to, alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, where such animal life is intended for human consumption, primarily for wholesale distribution.

(z) Semi-permanent vendor. Persons selling foods other than fresh fruits and vegetables from a pushcart flea market stand roadside stand kiosk or similar structure and which may offer ancillary food service.

~~(aa)(*)~~ Supermarket. A retail food store stocking a wide variety of foods and engaged in retail food processing which contains five or more check-out registers or 15,000 or greater total square footage, including display, preparation and storage areas.

~~(bb)(*)~~ Wholesale bakery. A food establishment that bakes baker of breads, pastries or other similar baked goods, primarily for wholesale distribution.

(2) No food permit shall be issued until an inspection has been made of the establishment and its equipment and methods of operation, and these found to comply with the provisions of the Florida Food Safety Act and rules adopted thereunder. A permit number will be assigned by the department following receipt of the Annual Food Permit Application, DACS-1403-06, (Rev. 10/94), herein incorporated by reference, a copy of which can be obtained from the Florida Department of Agriculture and Consumer Services, Bureau of Food and Meat Inspection, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650. The above application shall bear the signature of the applicant or applicant's agent, a satisfactory report of inspection, and a fee in the amount specified in subsection 5K-4.020(5), F.A.C. Said permit number shall not be used on any label or in any advertisement of food. Permits shall be conspicuously displayed at locations for which issued and are not transferable. The provisions of this section do not apply to public food service establishments as defined in Chapter 509, F.S.

(3) Any agent of the department shall have access to any factory or establishment which holds a permit from the department, for the purpose of ascertaining whether or not the conditions of the permit are being complied with. Denial of access for such inspection shall be grounds for suspension of the permit.

(4) Any person violating this rule shall be subject to the injunction procedures of Section 500.171, Florida Statutes, and to the penalties provided in Section 500.177, Florida Statutes.

(5) Food Permit Fees.

(a) One food permit shall be issued to and one fee shall be charged to a person for all food operations at a single location, regardless of whether the location may qualify under the definitions of this subsection for two or more permits. If a location qualifies for two or more permits, only the largest applicable fee shall be charged to that location, except that any location qualifying for a Limited Sales permit shall only be charged the fee applicable to a Limited Sales permit. If the ownership of a firm changes during a calendar year, a new food permit application, a satisfactory report of inspection, and a fee in the amount specified in subsection 5K-4.020(5), F.A.C., is required before a food permit shall be issued. Other license or permit fees as may apply to a business, however, are not voided by payment of the food permit fee. Fees charged new food permit applicants shall be the entire applicable fee if the completed application is submitted January 1 through June 30, and shall be 60 percent ~~1/2~~ of the applicable fee if the completed application is submitted July 1 through December 31.

(b) The following schedule of ~~fees~~ charges is established for each food permit.

<u>Bottled Water Plant</u>	<u>\$500</u>
<u>Bottling Plant</u>	<u>350</u>
<u>Canning Plant</u>	<u>375</u>
<u>Convenience Store</u>	<u>300</u>
<u>Convenience Store with Limited Food Service</u>	
<u>Convenience Store with Significant Food Service</u>	
<u>Food Salvage Center</u>	<u>400</u>
<u>Food Storage Warehouse</u>	<u>325</u>
<u>Grocery Store</u>	<u>425</u>
<u>Health Food Store</u>	<u>275</u>
<u>Health Food Store with Food Service</u>	<u>350</u>
<u>Limited Sales</u>	<u>75</u>
<u>Meat Market</u>	<u>350</u>
<u>Minor Food Outlet</u>	<u>275</u>
<u>Minor Food Outlet with Limited Food Service</u>	<u>325</u>
<u>Minor Food Outlet with Significant Food Service</u>	<u>400</u>
<u>Mobile Vendor</u>	<u>275</u>
<u>Packaged Ice Plant</u>	<u>250</u>
<u>Processor, Other Non-perishable Foods</u>	<u>300</u>
<u>Processor, Other Perishable Foods</u>	<u>375</u>
<u>Rabbit or Game Processor</u>	<u>300</u>

<u>Retail Bakery</u>	<u>325</u>
<u>Retail Bakery with Food Service</u>	<u>400</u>
<u>Salvage Store</u>	<u>375</u>
<u>Seafood Market</u>	<u>325</u>
<u>Fish or Seafood Processor</u>	<u>400</u>
<u>Semi-permanent Vendor</u>	<u>200</u>
<u>Supermarket</u>	<u>500</u>
<u>Wholesale Bakery</u>	<u>425</u>
<u>Retail Bakery</u>	<u>\$325</u>
<u>Wholesale Bakery</u>	<u>350</u>
<u>Canning Plant</u>	<u>350</u>
<u>Bottling Plant</u>	<u>350</u>
<u>Rabbit or Game Processor</u>	<u>350</u>
<u>Fish or Seafood Processor</u>	<u>350</u>
<u>Processor, Other Perishable Foods</u>	<u>350</u>
<u>Processor, Other Non-perishable Foods</u>	<u>275</u>
<u>Food Storage Warehouse</u>	<u>325</u>
<u>Food Salvage Center</u>	<u>350</u>
<u>Salvage Store</u>	<u>350</u>
<u>Convenience Store</u>	<u>275</u>
<u>Convenience Store with Food Service</u>	<u>350</u>
<u>Meat Market</u>	<u>350</u>
<u>Seafood Market</u>	<u>350</u>
<u>Grocery Store</u>	<u>350</u>
<u>Supermarket</u>	<u>350</u>
<u>Minor Food Outlet</u>	<u>275</u>
<u>Minor Food Outlet with Food Service</u>	<u>325</u>
<u>Health Food Store</u>	<u>275</u>
<u>Mobile Vendor</u>	<u>275</u>
<u>Limited Sales</u>	<u>75</u>

(6) Late Fees.

(a) The renewal fee for all food permits shall be the same as the food permit fee required by subsection 5K-4.020(5), F.A.C., and shall be due annually on January 1. If the renewal fee is not received by the department within thirty days after its due date, a late fee must be paid in addition to the food permit fee required by subsection 5K-4.020(5), F.A.C., before the department will issue the food permit.

(b) If a renewal fee is not paid in full by February 1, a late fee of \$100 shall be assessed against the establishment.

(c) No establishment shall be issued a food permit until all applicable fees, including late fees, are received by the department.

Specific Authority 500.09, 500.12(1)(b), 570.07(23) FS. Law Implemented 500.04, 500.10, 500.12(1)(a), (b), (c), (d), 500.171, 500.172, 500.177 FS. History--New 1-10-93, Formerly 5E-6.020, Amended 8-8-95, 3-11-98.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Dr. John Fruin, Chief, Bureau of Food and Meat Inspection,
3125 Conner Boulevard, Tallahassee, Florida 32399-1650,
telephone (850)488-3951
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Dr. Marion Fuller, Director,
Division of Food Safety
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: August 21, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: August 3, 2001

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Highway Traffic Safety Program	14-98
RULE TITLES:	RULE NOS.:
Purpose	14-98.001
Definitions	14-98.002
Policy	14-98.003
Funds Availability	14-98.004
Application and Award Procedures	14-98.005
Funds Distribution	14-98.006
Grant Conditions	14-98.007
Forms	14-98.008

PURPOSE AND EFFECT: The rule chapter is being amended to include repeal of Rules 14-98.006 and 14-98.007, revise policy and procedures, revise purpose and definitions, and adopt revised forms.

SUMMARY: The rule chapter is amended to include procedural amendments, clarification, repeal of two rules, revised definitions, and the adoption of revised forms related to the Highway Traffic Safety Program.

SPECIFIC AUTHORITY: 334.044(2),(25) FS.

LAW IMPLEMENTED: 334.044(25) FS.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: (If one has been prepared).

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

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

14-98.001 Purpose.

Section 334.044(24), Florida Statutes, transferred the Highway Traffic Safety Program from the Department of Community Affairs to the Florida Department of Transportation in 1991. The purpose of the Highway Traffic Safety Program is to develop, implement, and manage a data-driven comprehensive traffic safety program aimed at saving lives, preventing injuries, and reducing related costs associated with traffic crashes on Florida's roadways ~~assist other State and local agencies in the management of the diverse array of activities comprising the State's total traffic safety resources in a manner that achieves the most effective focus on critical crash problems in accordance with the standards of the National Highway Safety Act of 1966, as amended. The Highway Traffic Safety Program provides for the acceptance of State and Community Highway Safety Funds grant funds provided through the United States Department of Transportation under Section 402, Title 23, United States Code, and Public Law 89-564, as amended, for the State's implementation of the provisions of the National Highway Safety Act of 1966, as amended. The law statutes establishes broad objectives for the purpose of funds allocation. This Rule Chapter These rules shall be liberally construed by the Department to effectuate the purposes of the statutes, and the National Highway Safety Act of 1966, as amended. It is the intent of the Department that these rules permit maximum flexibility within the limits of the statutes, yet define procedures consistent with sound public funds management principles and consistent with the need to apprise potential applicants, fund recipients, and the public of the Department's policy governing administration of the program. Funding for the Highway Traffic Safety program is based on the Federal Fiscal Year, from October 1 of each year through September 30 of the following year.~~

Specific Authority ~~420.53(1),~~ 334.044(2) FS. Law Implemented 334.044(25)(24) FS. History—New 12-30-84, Amended 6-10-85, Formerly 9B-32.01, 9B-32.001, 9G-15.001, Amended 12-7-93, _____.

14-98.002 Definitions.

As used in these rules, except where the context clearly indicates a different meaning:

(1) "Activity" means elements of work that accumulate to accomplish subgrant objectives, such as hiring of personnel, purchasing of equipment or materials, conducting surveys, performing specific duties, and ~~or~~ any other duties or acts designated in the subgrant agreement.

(2) "Actual" means ~~the attained level of resources expended or accomplishments, as opposed to planned expenditures or accomplishments.~~

(2)(3) "Applicant" means a ~~unit of local government entity~~ as defined in Section 11.45, Florida Statutes; or state agency as defined in Section 216.011, Florida Statutes; sheriff; special district; corporation not for profit; or a Florida university that

meets the minimum standards established in Rule 6E-1.0045, F.A.C., and is accredited by the Southern Association of Colleges and Schools or some other nationally recognized accreditation board, that requests approval of a Subgrant Application for Highway Safety Funds requesting highway safety funds or a non-governmental not-for-profit or non-profit agency requesting funding for a pilot project.

(3) "Corporation Not for Profit" means as defined in Section 617.01401, Florida Statutes, and shall include foreign corporations defined in that section. For purposes of this rule, the corporation must list in Article III of its Articles of Incorporation at least one purpose related to traffic safety or injury prevention.

(4) "DBE" means ~~disadvantaged business enterprise as defined in rule chapter 14-78.~~

(5) "CFR" means Code of Federal Regulations.

(4) "Chief Financial Officer" means the employee of the subgrantee agency or the implementing agency who has overall fiscal responsibility for the subgrant.

(5) "Concept Paper" means an initial request for highway safety funding, which includes a statement of the highway safety problem that the applicant has identified, a statement of proposed activities that the applicant will take to address the problem, an estimated budget for conducting the activities, and the name of a contact. Concept papers must be accompanied by a letter of support from the head of the agency that will implement the project, if funded.

(6) "Cost Incurred" means costs are considered incurred on the date that goods or services are received and accepted.

(7) "Department" means Florida Department of Transportation.

(8) "Office" means State Safety Office.

(9) "U.S. DOT" means ~~U.S. Department of Transportation.~~

(8)(10) "Evaluation" means a process that involves measuring the success or failure of a project in achieving predetermined objectives.

(9)(11) "FFY" means Federal Fiscal Year, the period beginning October 1 and ending September 30 the following year.

(10)(12) "FHWA" means Federal Highway Administration.

(13) "Unit of Local Government" means ~~any municipality, special district, or board of county commissioners or other governing body of a county, however styled, including that of a consolidated or metropolitan government.~~

(14) "State Agency" means ~~any official, officer, commission, board, authority, council, committee, or department of the executive branch, or the judicial branch of state government as defined in Section 216.011, Florida Statutes.~~

~~(11)~~(15) “Governor’s Highway Safety Representative” means the State official appointed by the Governor of Florida, who is responsible to and represents the Governor in the conduct of the Statewide Highway Traffic Safety Program.

~~(12)~~(16) “HSP” means Highway Safety Plan. ~~The HSP is a program document between the U.S. DOT National Highway Traffic Safety Administration, Federal Highway Administration, and the State of Florida. It is a plan to which available federal funds may be obligated. It is the overall funding plan for a given fiscal year.~~

~~(13)~~(17) “Implementing Agency” means the subgrantee’s designee for performing the activity defined in agency responsible for implementation and management of the subgrant.

~~(18) “Pilot Project” means a special project implemented by either a governmental agency or non-governmental not for profit agency to demonstrate, evaluate, or enhance a specific countermeasure.~~

~~(14) “MBE” means minority business enterprise, which is a small business concern that is owned or controlled by one or more minorities as defined in 49 C.F.R. Part 23.~~

~~(15)~~(19) “Milestone” means the development of a specific activity within a specific period of time.

~~(16)~~(20) “NHTSA” means National Highway Traffic Safety Administration.

~~(17) “Office” means State Safety Office.~~

~~(18)~~(21) “OMB” means Federal Office of Management and Budget.

~~(22) “P. L.” means Public Law.~~

~~(19)~~(23) “Program” means the Highway Traffic Safety Program or two one or more consecutive traffic safety projects implemented by the same agency in consecutive years, with the succeeding projects being a continuation of the initial project.

~~(20)~~(24) “Program Manager” means a staff member of the State Safety Office authorized by the Governor’s Highway Safety Representative to act as the liaison between the State Safety Office, and the subgrantee, and implementing agencies in all matters pertaining to a subgrant agreement.

~~(25) “Program Period” means the total of one or more project periods not to exceed 36 months without specific written approval from the Department.~~

~~(21)~~(26) “Project” means a specific plan of action being undertaken to improve an identified traffic highway safety problem.

~~(22)~~(27) “Project Director” means the person responsible to the implementing agency for the management and operation of the subgrant or contract.

~~(23)~~(28) “Project Number” means the identification a number assigned by the State Safety Office to each subgrant or contract.

~~(29) “Project Period” means the estimated length of time to complete a highway safety project. The project period cannot exceed twelve consecutive months or September 30th, whichever is earlier, without specific written approval from the Department.~~

~~(24)~~(30) “Subgrant” means the approved Subgrant Application for Highway Safety Funds, which constitutes a contract written agreement between the Department and the applicant, unit of local government, state agency, or other eligible recipient in which the applicant recipient agrees to perform certain specified activities toward reaching certain specified objectives in return for certain specified compensation from the Department.

~~(25)~~(31) “Subgrantee” means the unit of local government, state agency, or other eligible applicant to whom the Department awards a subgrant or contract.

~~(26)~~(32) “Subgrant Period” means the effective time between the beginning and ending date of the subgrant.

~~(27) “U.S. DOT” means United States Department of Transportation.~~

~~(33) “WBE” means Women-owned Business Enterprise.~~

Specific Authority 334.044(2) FS. Law Implemented 334.044(25)(24) FS. History—New 12-30-84, Amended 6-10-85, Formerly 9B-32.02, 9B-32.002, Amended 11-19-89, Formerly 9G-15.002, Amended 12-7-93, _____.

14-98.003 Policy.

(1) Subgrant Applications. Each pProject proposals must be designed to impact one or more address a range of services and activities having a measurable and potentially major impact on the causes of traffic crashes, injuries, and/or fatalities; to evaluate or identify traffic crash problems in Florida; or to increase public awareness of the state’s crash problem. Each project must be capable of producing measurable results, which will be used to determine the effectiveness of the project.

(2) Annual Highway Safety Plan. The Department shall formulate an annual HSP which identifies projects that will be funded during the FFY Highway Safety Plan to define programs to achieve goals and objectives for improving highway safety and allocation of federal funds which will most economically and efficiently carry out the assigned mission.

(3) Technical Assistance. The Office Department will provide, within limitations of staff time and budget, training and technical assistance, within limitations of staff time and budget to all eligible applicants, subgrantees and members of other governmental units upon request, or upon a determination by the Department of a subgrantee’s need.

(4) Monitoring and Evaluation. The Office Department will perform such activities as may be necessary to monitor subgrantee compliance with sState and sFederal laws, rules, and regulations, to evaluate the fiscal and programmatic effectiveness of the subgrantee’s activities, and to confirm the status of fiscal and program activities.

(5) Annual Report. The Office shall prepare an Annual Report that summarizes the activities which took place during the previous FFY. The report shall include a financial summary that shows funds awarded and expended.

(6) Public Awareness. The Office will promote public awareness of traffic safety issues affecting the State by distributing educational and public awareness materials through law enforcement agencies, public health departments, and other traffic safety organizations.

Specific Authority 334.044(2) FS. Law Implemented 334.044(25)(24) FS. History—New 12-30-84, Formerly 9B-32.03, 9B-32.003, Amended 11-19-89, Formerly 9G-15.003, Amended 12-7-93,_____.

14-98.004 Funds Availability.

(1) The amount of federal funds available shall be that amount allocated each FFY to the State of Florida by the Federal Government under the National Highway Safety Act of 1966, as amended, and all other applicable sections of Section 402, Title 23, United States Code.

(2) ~~The Office Department shall attempt to distribute all of the funds available in the current FFY, but may distribute part of the funds in a later FFY, when permitted by Federal law and Florida law Statutes to do so, and if such action, in the judgment of the Department, will meet best carry out the program objectives.~~

Specific Authority ~~420.53(1)~~, 334.044(2) FS. Law Implemented 334.044(25)(24) FS. History—New 12-30-84, Formerly 9B-32.04, 9B-32.004, 9G-15.004, Amended 12-7-93,_____.

14-98.005 Application and Award Procedures.

(1) ~~The Office Department will conduct an annual problem analysis of the traffic crash history of the sState by April 30th of each year, based on the most currently available crash data from the Department of Highway Safety and Motor Vehicles, identifying those counties geographic areas with the most severe traffic problems, in a Traffic Safety Matrix ranked listing.~~

(2) The selection of ~~potential~~ subgrant recipients will be based, in part, on their position on the Traffic Safety Matrix ranked list for the particular type of highway safety problem. Data from the Department of Highway Safety and Motor Vehicles' annual Uniform Traffic Citation Statistics Report, the Office's annual observational survey of safety belt use, and past subgrant history will also be considered when selecting potential subgrant recipients.

(3) ~~To be eligible for funding, an applicant; to be considered as a potential subgrant recipient, the potential recipient~~

(a) Cannot have been previously funded for an the proposed activity in the same priority area of the Highway Safety Plan during the three consecutive fiscal years prior to the start of the fiscal year for which funds are being requested in excess of 36 months nor can the proposed activity supplant funds allocated or appropriated for the same activity. The three fiscal year limitation may be exceeded where NHTSA

approves exceeding the limitation or Congress directs funds to be spent for a specific activity. In addition, if the Office funds the start of a program involving positions over two years because of funding availability, a fourth year of funding, limited to partial funding of the position(s) created in year two, may be awarded. Statewide programs for training, coordination, evaluation, or public awareness may exceed the three year limit.

(b) Cannot request funding that would supplant funds previously allocated or appropriated by the applicant for the same activity, nor can funding replace equipment previously purchased with local or federal funds.

(c) Shall not be eligible for funding if it has violated a condition of a previous subgrant.

~~(3) Each ranking is based on three components:~~

~~(a) Magnitude. "Magnitude" is the absolute number of injuries and fatalities in each of four categories: Total Crashes, Alcohol-Related, Pedestrian, and Bicycle. The injuries and fatalities are totaled for a three-year period.~~

~~(b) Rate. "Rate" is calculated by dividing the "Magnitude" by a normalizing variable. The total number of vehicle miles travelled in each of the three years is used to normalize "Total Crashes" and "Alcohol-Related" crashes, and average annual population estimates are used to normalize the statistics for "Pedestrian" and "Bicycle" crashes.~~

~~(c) Trend. "Trend" is the ratio of a short term to a long term moving averages of the "Magnitude" over a seven year period.~~

~~(4) Indices are calculated to represent how each county compares to others in each factor. The rankings are based on the composite of these three components: magnitude, rate, and trend.~~

(4)(5) The Office Department will provide, upon request, information on how to prepare a concept paper for highway safety funding an application package (Instructions for Highway Safety Subgrant Application for Highway Safety Funds, and Subgrant Application for Highway Safety Funds, FDOT Form 500-065-01, 09/94) to any potential local government, state agency, or other eligible applicant. Concept papers will be accepted annually from January 1 through March 31 for the upcoming fiscal year.

(5) The Office will review all concept papers for compliance with state and federal rules and regulations. Concept papers that comply with state and federal rules and regulations will be prioritized on the basis of:

(a) The Concept Paper Evaluation Form, FDOT Form 500-065-17,

(b) Subgrant history,

(c) The Traffic Safety Matrix, and

(d) Analysis of relevant crash data, citation data, and survey results.

The Highway Safety Subgrant Scoring Sheet, FDOT Form 500-065-18 will be used to prioritize all eligible concept papers.

(6) The Office will consider the following factors in determining to what extent concept papers will be funded:

- (a) Total federal funds available for the fiscal year,
- (b) Amount of funding available for each priority area of the HSP,
- (c) Fundability of each request,
- (d) Statewide coverage of programs, and
- (e) Funding activities in as many counties as possible.

No implementing agency of a government entity, as defined in Section 11.45, Florida Statutes, sheriff, special district, or corporation not for profit shall receive funding in more than three priority areas of the HSP. Further, no implementing agency of a governmental entity, as defined in Section 11.45, Florida Statutes, sheriff, special district, or corporation not for profit shall receive funding in more than two priority areas of the HSP if the total amount of its two highest ranked concept papers exceed \$250,000.

(7) Two copies of the application form, Subgrant Application for Highway Safety Funds, FDOT Form 500-065-01, Rev. 07/01, will be sent to those applicants whose concept papers are selected for funding.

(8)(6) Applicants shall forward one copy ~~three copies~~ of the completed application and a minimum of three signature pages, containing all ~~each with an~~ original signatures, to the Office Department.

(9) Each corporation not for profit applicant shall attach a financial statement to its application form which shows that it has funds equal to the amount of the subgrant award on deposit in a special account designated for project activities only.

(10)(7) The Office Department shall review all applications and will reject any applications not meeting the requirements of these rules and applicable Federal and State laws, within ten working days of receipt of said applications. In the event that an applicant submits a Subgrant Application for Highway Safety Funds, FDOT Form 500-065-01, Rev. 07/01, for an activity that is not included in the Highway Safety Plan, the application shall be rejected. Failure to reject any application within ten days shall not result in automatic grant of an application. All subgrants are subject to funds availability.

(11)(8) Notice of denial of grant award. Notice of the Office's Department's intended action will be provided in accordance with Rule 28-106.111, F.A.C. The Department's action to deny will become final unless a timely petition for a hearing is filed in accordance with Rules 28-106.104, 28-106.201, and 28-106.301, F.A.C. In order to be timely, the petition must be filed with the Department's Clerk of Agency Proceedings within 21 days after receipt of the Department's notice, in accordance with Rule 28-106.111. Provisions of any notice, denial, revocation, or notice of Administrative Hearing

Rights by the Department under this rule shall not constitute, or create, entitlement to an administrative hearing where such right does not otherwise exist.

~~(9) The Department is authorized to select applicants for funding pilot projects for the purpose of demonstrating, evaluating or enhancing the effectiveness of highway traffic safety programs. The National Highway Traffic Safety Administration (NHTSA) shall review each pilot project for compliance with NHTSA program guidelines. No more than 10% of the highway safety funds allocated to the State of Florida under the State and Community Highway Traffic Safety Program in any fiscal year may be awarded to pilot projects in that year. A nongovernmental not-for-profit or non-profit agency may qualify as recipient for a pilot project.~~

~~Specific Authority 334.044(2) FS. Law Implemented 334.044(25)(24) FS. History--New 12-30-84, Amended 6-10-85, Formerly 9B-32.05, 9B-32.005, 11-19-89, Formerly 9G-15.005, Amended 12-7-93, 11-29-94, 1-17-99, _____.~~

14-98.006 Funds Distribution.

~~Specific Authority 120.53(1), 334.044(2) FS. Law Implemented 334.044(25)(24) FS. History--New 12-30-84, Amended 6-10-85, Formerly 9B-32.06, 9B-32.006, 9G-15.006, Repealed _____.~~

14-98.007 Grant Conditions.

~~Specific Authority 334.044(2) FS. Law Implemented 334.044(25)(24) FS. History--New 12-30-84, Amended 6-10-85, Formerly 9B-32.07, Amended 6-3-86, Formerly 9B-32.007, Amended 11-19-89, Formerly 9G-15.007, Amended 12-7-93, Repealed _____.~~

14-98.008 Forms.

The following forms used in the Highway Traffic Safety Program are hereby incorporated by reference:

- (1) Non-Expendable Property Accountability Record – FDOT Form 500-065-09, Rev. 07/01 8/93.
- (2) Statement of Highway Safety Project Costs – FDOT Form 500-065-04, Rev. 07/01 09/94.
- (3) Summary Statement of Personnel Personal Services Cost – FDOT Form 500-065-05, Rev. 07/01 08/93.
- (4) Personnel Personal Services Time Sheet – FDOT Form 500-065-06, Rev. 07/01 08/93.
- (5) Detail of Costs Expense (Except Personal Services Cost) – FDOT Form 500-065-07, Rev. 07/01 08/93.
- (6) Subgrant Application for Highway Safety Funds – FDOT Form 500-065-01, Rev. 07/01 09/94.
- (7) Concept Paper Evaluation Form – FDOT Form 500-065-17, Rev. 07/01.
- (8) Highway Safety Subgrant Scoring Sheet – FDOT Form 500-065-18, Rev. 07/01.

Copies of these forms may be obtained by writing or calling the Florida Department of Transportation, State Safety Office, 605 Suwannee Street, MS-17, Tallahassee, Florida 32399-0450; Telephone ~~(850)(904)~~488-5455.

inmate for consideration for placement by the institutional classification team (ICT) and shall ensure consideration of the inmate's institutional adjustment and previous work history.

5. The ICT shall review the recommendation and shall approve or disapprove the recommendation for placement as a peer facilitator based upon criteria set forth in this rule.

(d) Training. The program director, clinical supervisor or designated counselor shall ensure that each peer facilitator receives training regarding the peer facilitator's role, functions and the expectations regarding the peer facilitator's performance in the program.

Specific Authority 397.754, 944.09 FS. Law Implemented 397.754, 944.09 FS. History--New 1-18-95, Formerly 33-37.002, Amended 7-1-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Dr. E. Jerome Kapnek
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore, Secretary, Department of Corrections
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 13, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 27, 2001

**DEPARTMENT OF HEALTH
Board of Dentistry**

RULE TITLE: Fee for Inactive Status
RULE NO.: 64B5-15.010
PURPOSE AND EFFECT: The Board proposes to repeal this rule because the rule is no longer necessary.
SUMMARY: Repeal of Rule 64B5-15.010, F.A.C.
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, 466.015 FS.
LAW IMPLEMENTED: 456.036, 466.015 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:

64B5-15.010 Fee for Inactive Status.

Specific Authority 466.004, 466.015 FS. Law Implemented 456.036, 466.015 FS. History--New 1-18-87, Amended 11-16-89, 8-13-92, Formerly 21G-15.010, 61F5-15.010, Amended 7-12-95, 5-6-96, Formerly 59Q-15.010, Repealed _____.

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: August 18, 2001

**DEPARTMENT OF HEALTH
Board of Hearing Aid Specialists**

RULE TITLE: Examiners for Practical Examination
RULE NO.: 64B6-2.006
PURPOSE AND EFFECT: The Board proposes to repeal the existing rule text.
SUMMARY: The purpose of this repeal is because the Department of Health will no longer be administering a practical exam.
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: 456.017(1)(b) FS.
LAW IMPLEMENTED: 456.017(1)(b) FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE TO BE PUBLISHED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Board Executive Director, Board of Hearing Aid Specialists, Department of Health, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B6-2.006 Examiners for Practical Examination.

Specific Authority 456.017(1)(b) FS. Law Implemented 456.017(1)(b) FS. History--New 9-13-94, Formerly 61G9-2.007, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Hearing Aid Specialists
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Board of Hearing Aid Specialists
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: July 2, 2001

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Examination Fee
PURPOSE AND EFFECT: The Board proposes the repeal of this rule in light of the repeal of Section 458.31151, F.S., setting forth the examination fee.

SUMMARY: The rule is no longer authorized and is being repealed.

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: 458.311(1)(a), 458.309 FS.

LAW IMPLEMENTED: 458.311(1)(a), 458.3124 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., September 25, 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:

64B8-3.001 Examination Fee.

Specific Authority 458.311(1)(a), 458.309 FS. Law Implemented 458.311(1)(a), 458.3124 FS. History—New 12-5-79, Amended 11-10-82, 11-29-84, 12-4-85, Formerly 21M-19.01, Amended 12-4-86, 11-11-90, Formerly 21M-19.001, 61F6-19.001, Amended 9-8-94, 12-11-95, 9-1-96, Formerly 59R-3.001, Amended 8-18-98, 11-24-99, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Rules Committee, Board of Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Board of Medicine
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: August 4, 2001

DEPARTMENT OF HEALTH

Board of Optometry

RULE TITLE: Certified Optometrist Examination
RULE NO.: 64B13-10.0015

PURPOSE AND EFFECT: The proposed rule amendment is intended to incorporate the certification examination criteria recommended by the Office of Examination Services.

SUMMARY: The proposed rule amendment incorporates the certification examination criteria as recommended to the Board by the Office of Examination Services for the August 2002 exam administration.

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

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

SPECIFIC AUTHORITY: 463.005(1), 456.017(1), (2) FS.

LAW IMPLEMENTED: 463.0055, 456.017(1), (2) FS.

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

TIME AND DATE: 10:00 a.m., September 25, 2001

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-10.0015 Certified Optometrist Examination.

The Certified Optometrist Examination shall be the Board approved examination developed and administered by the Department of Health Office of ~~Testing Examination~~ Services.

(1) The examination shall consist of 80 questions which test the applicant's knowledge of systemic general and ocular pharmacology with particular emphasis on the topical application ~~and side effects~~ of pharmaceutical agents. All questions on the certification examination must test the applicant to ensure his or her ability to use ocular pharmaceutical agents and systemic medications that have ocular implications. Each question on the examination shall be given equal weight. A score of 70 percent shall be required to pass the certification examination.

(a) The emphasis on topical application of pharmaceutical agents is defined as 85 percent of all questions on the examination. A total of 15 percent of the examination shall focus on systemic medications with ocular implications.

(b) The 80 items on the certification examination are distributed according to the following six content areas:

- 1. Group A: Basic Pharmacology (Route of Delivery, Drug Interaction or Side Effects, or Mechanism of Action) Number of Items on the Examination: 8
- 2. Group B: Diagnostics (Mydriatics, Cycloplegics, Anesthetics, Dyes, or Neurological Testing Agents.) Number of Items on the Examination: 8
- 3. Group C: Anti-Glaucomas (Topicals or Systemics with Ocular Implications.) Number of Items on the Examination: 20
- 4. Group D: Anti-Infectives (Anti-Bacterials, Anti-Virals, Topicals, or Systemics with Ocular Implications.) Number of Items on the Examination: 20
- 5. Group E: Anti-Inflammatory/ Anti-Allergy Steroidal and Non-Steroidal (Topicals, or Systemics with Ocular Implications.) Number of Items on the Examination: 20
- 6. Group F: Miscellaneous (Any otherwise unclassified drug, Topicals or Systemics with Ocular Implications.) Number of Items on the Examination: 4

(c) Each question on the examination shall be given equal weight. A score of 70 percent shall be required to pass the certification examination.

(2) through (4) No change.

Specific Authority 463.005(1), 456.017(1),(2) FS. Law Implemented 463.0055, 456.017(1),(2) FS. History--New 3-16-89, Amended 5-29-90, 7-10-91, Formerly 21Q-10.0015, 61F8-10.0015, Amended 10-4-94, Formerly 59V-10.0015, Amended 3-21-00, 7-12-00, 2-7-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Office of Examination Services
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Optometry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 8, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 26, 2001

**DEPARTMENT OF HEALTH
Board of Physical Therapy Practice**

RULE TITLE: RULE NO.:
Initial Licensure Fee for Physical Therapists 64B17-2.002
PURPOSE AND EFFECT: The Board proposes to raise the initial licensure fees.
SUMMARY: The Board is amending this rule by changing the initial licensure fee during the first year of the biennial renewal period and deleting a fee reference for the second year of the biennial renewal period.
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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.013(2), 486.025, 486.061 FS.
LAW IMPLEMENTED: 456.013(2), 486.081(2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT A TIME, DATE AND PLACE TO BE PUBLISHED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY. THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Board Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-2.002 Initial Licensure Fee for Physical Therapists.

(1) An applicant who has been certified by the Board during the first year of the biennial renewal period as having satisfied the licensure requirements of either Rule 64B17-3.001 or 64B17-3.004, Florida Administrative Code, shall not be issued a license until he remits to the Department an initial licensure fee in the amount of ~~\$100~~ \$55.

~~(2) An applicant who has been certified by the Board during the second year of the biennial renewal period as satisfying requirements of Rule 64B17-3.001 or 64B17-3.003, Florida Administrative Code, shall not be issued a license until he remits to the Department an initial licensure fee in the amount of \$30.~~

Specific Authority 456.013(2), 486.025, 486.061 FS. Law Implemented 456.013(2), 486.081(2) FS. History--New 8-6-84, Formerly 21M-7.35, Amended 6-20-89, Formerly 21M-7.035, Amended 10-17-90, Formerly 21MM-2.002, 61F11-2.002, 59Y-2.002, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Physical Therapy Practice
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 30, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 15, 2001

**DEPARTMENT OF HEALTH
Board of Physical Therapy Practice**

RULE TITLE: RULE NO.:
Initial Licensure Fee for Physical Therapist Assistants 64B17-2.004
PURPOSE AND EFFECT: The Board proposes to raise the initial licensure fees.

SUMMARY: The Board is amending this rule by changing the initial licensure fee during the first year of the biennial renewal period and deleting a fee reference for the second year of the biennial renewal period.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 486.025 FS.

LAW IMPLEMENTED: 456.013(2), 486.106, 486.107(2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT A TIME, DATE AND PLACE TO BE PUBLISHED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Board Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-2.004 Initial Licensure Fee for Physical Therapist Assistants.

(+) An applicant who has been certified by the Board during the first year of the biennial renewal period as having satisfied the licensure requirements of either Rule 64B17-2.001 or 64B17-2.004, Florida Administrative Code, shall not be issued a license until he remits to the Department an initial licensure fee in the amount of \$100 \$55.

~~(2) An applicant who has been certified by the Board during the second year of the biennial renewal period as satisfying the licensure requirements of Rule 64B17-2.001 or 64B17-2.004, Florida Administrative Code, shall not be issued a license until he remits to the Department an initial licensure fee in the amount of \$30.~~

Specific Authority 486.025 FS. Law Implemented 456.013(2), 486.106, 486.107(2) FS. History--New 8-6-84, Formerly 21M-10.35, Amended 4-12-87, 9-22-87, 6-20-89, Formerly 21M-0.035, Amended 10-17-90, Formerly 21MM-2.004, 61F11-2.004, 59Y-2.004, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Physical Therapy Practice

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 15, 2001

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE TITLE: Biennial Renewal Fee for Physical Therapists and Physical Therapist Assistants

RULE NO.: 64B17-2.005

PURPOSE AND EFFECT: The Board proposes to raise the biennial renewal fees.

SUMMARY: Biennial Renewal Fee for Physical Therapists and Physical Therapist Assistants.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 486.025, 486.085(1) FS.

LAW IMPLEMENTED: 486.085, 486.108(1) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT A TIME, DATE AND PLACE TO BE PUBLISHED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Board Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-2.005 Biennial Renewal Fee for Physical Therapists and Physical Therapist Assistants.

Each licensed physical therapist and physical therapist assistant shall submit a biennial fee for the renewal of his or her license no later than the last day of each biennial period, as defined by the Department.

(1) The biennial renewal fee for physical therapists shall be \$100 \$55.

(2) The biennial renewal fee for physical therapist assistants shall be \$100 \$55.

Specific Authority 486.025, 486.085(1) FS. Law Implemented 486.085, 486.108(1) FS. History--New 8-6-84, Formerly 21M-8.10, Amended 9-22-87, 6-20-89, Formerly 21M-8.010, Amended 10-17-90, Formerly 21MM-2.005, 61F11-2.005, 59Y-2.005, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Physical Therapy Practice

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 15, 2001

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE TITLE: RULE NO.:
Licensure Examination Subjects and Passing
Score; Additional Requirements 64B17-3.002
After Third Failure

PURPOSE AND EFFECT: The Board proposes to provide the applicant with greater flexibility in preparing to re-take the examination for the fourth time.

SUMMARY: The Board proposes to amend this rule for Licensure Examination Subjects and Passing Score to allow the applicant to determine what remedial assistance he or she needs to be successful.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 486.025 FS.

LAW IMPLEMENTED: 456.109 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT A TIME, DATE AND PLACE TO BE PUBLISHED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Board Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-3.002 Licensure Examination Subjects and Passing Score; Additional Requirements After Third Failure.

(1) through (2) No change.

(3) An applicant must reapply in order to retake the examination. If an applicant wishes to take the examination for the fourth time, the applicant must submit to the Board for approval satisfactory evidence of having successfully completed the following since the last taking of the examination: successful completion of a course of study or internship ~~designed by a physical therapy program accredited by the American Physical Therapy Association.~~ An applicant who has completed these additional requirements may take the examination on two more occasions. An applicant who has failed the Department administered examination after five attempts is no longer eligible to take the examination.

Specific Authority 456.017, 486.025, 486.051 FS. Law Implemented 456.017, 486.051 FS. History—New 8-6-84, Formerly 21M-7.22, Amended 3-16-88, 6-20-89, Formerly 21M-7.022, Amended 6-6-90, 6-3-92, 3-24-93, Formerly 21MM-3.002, 61F11-3.002, Amended 12-22-94, Formerly 59Y-3.002, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Physical Therapy Practice

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 15, 2001

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE TITLE: RULE NO.:
Licensure Examination Subjects and Passing
Score; Additional Requirements 64B17-4.002
After Third Failure

PURPOSE AND EFFECT: The Board proposes to provide the applicant with greater flexibility in preparing to re-take the examination for the fourth time.

SUMMARY: The Board proposes to amend this rule for Licensure Examination Subjects and Passing Score to allow the applicant to determine what remedial assistance he or she needs to be successful.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 486.025 FS.

LAW IMPLEMENTED: 456.109 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT A TIME, DATE AND PLACE TO BE PUBLISHED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Board Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-4.002 Licensure Examination Subjects and Passing Score; Additional Requirements After Third Failure.

(1) through (2) No change.

(3) An applicant must reapply in order to retake the examination. If an applicant wishes to take the examination for the fourth time, the applicant must submit to the Board for approval satisfactory evidence of having successfully completed the following since the last taking of the examination: successful completion of a course of study or internship ~~designed by a physical therapist or physical therapist assistant program accredited by the American Physical~~

SUMMARY: The proposed rule repeal eliminates obsolete rules regarding the Comprehensive Health Improvement Projects.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The proposed rule repeal will not result in additional regulatory costs. Because the proposed rule repeal is technical in nature and does not substantively change what is required by existing statutes, there will be no significant economic impact; the overall reduction in administrative rules will, however, have a positive economic impact by streamlining the operation of government.

SPECIFIC AUTHORITY: 385.103(2)(f) FS.

LAW IMPLEMENTED: 385.103 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED IN THE F.A.W.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Janet W. Baggett, Medical/Health Care Program Analyst, 4025 Esplanade Way, Bureau of Chronic Disease Prevention, Room 130T, Tallahassee, FL 32399-1744

THE FULL TEXT OF THE PROPOSED RULES IS:

64F-8.001 Definition.

Specific Authority 385.103(2)(f) FS. Law Implemented 385.103 FS. History--New 8-31-87, Amended 4-25-96. Formerly 10D-97.003, Repealed.

64F-8.002 Minimum Requirements.

Specific Authority 385.103(2)(f) FS. Law Implemented 385.103 FS. History--New 8-31-87, Amended 4-25-96. Formerly 10D-97.003, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet W. Baggett, Medical/Health Care Program Analyst, Bureau of Chronic Disease Prevention

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Susan Allen, Program Administrator, Bureau of Chronic Disease Prevention

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 16, 2001

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE NO.:	RULE TITLE:
5BER01-1	Citrus Canker Eradication

NOTICE OF WITHDRAWAL/CANCELLATION

Notice is hereby given that the above rule, as noticed in Vol. 27, No. 33, August 17, 2001, Florida Administrative Weekly, has been withdrawn/cancelled.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE NO.:	RULE TITLE:
12B-8.001	Premium Tax; Rate and Computation

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed amendments to Rule 12B-8.001, F.A.C., in accordance with subparagraph 120.54(3)(d)1., F.S., as originally published in the Florida Administrative Weekly on July 6, 2001 (Vol. 27, No. 27, pp. 3112-3115). These changes are in response to written comments received from the Joint Administrative Procedures Committee of the Florida Legislature.

A technical revision based on these comments changes the word "difference" in sub-subparagraph (3)(a)2.a. of Rule 12B-8.001, F.A.C., to "different." Two other changes based on comments from the Committee were addressed by revising sub-sub-paragraph b. of Rule 12B-8.001(3)(a)2., F.A.C., and sub-paragraph 1. of Rule 12B-8.001(3)(d), F.A.C. to read as follows:

b. For example, a Florida corporate income tax return for tax year ending August 31, 2000, is due, without extension, on December 1, 2000. Since the Florida corporate income tax return is due on or before December 31, 2000, the insurer should include the amount of tax due on the return in computation of the corporate income tax and emergency excise tax credit on its 2000 insurance premium tax return, the 2000 DR-908, which is due March 1, 2001. If, however, the insurer extended the due date of the Florida corporate income tax return to June 1, 2001, and did not file and pay the return on or before December 31, 2000, the amount of tax due on the return is included in the computation of the corporate income tax and emergency excise tax credit on its 2001 insurance premium tax return, the 2001 DR-908, which is due March 1, 2002. For example, if the insurer paid intangible personal property tax (IPPT) February 1, 1995, on intangible assets managed or controlled in Florida on January 1, 1995, the amount paid should be claimed as a credit against its 1995 insurance premium tax (IPT) which was due March 1, 1996. However, if the insurer paid IPPT February 1, 1995, on intangible assets managed or controlled in Florida on January 1, 1994, the amount paid should be claimed as a credit against its 1994 IPT which was due March 1, 1995. In this situation, an amended 1994 IPT return must be filed provided the insurer had previously filed its original 1994 IPT return.

(d) Community Contribution Tax Credit.