(g) Failure to notify the board of a change in a prescription department manager or consultant pharmacist.	Fine based on the length of time prior to notifying board $200 a month to $5,000 maximum.

(4) through (5) No change.

Specific Authority 456.077, 456.073, 465.005 FS. Law Implemented 456.077 FS. History–New 12-22-91, Formerly 21S-30.003, 61F10-30.003, 59X-30.003, Amended 4-3-00, _____.

DEPARTMENT OF HEALTH

Division of Environmental Health

RULE CHAPTER TITLE: RULE CHAPTER NO.:
Standards for Onsite Sewage Treatment and Disposal Systems 64E-6

PURPOSE AND EFFECT: Recently amended Chapter 381, Florida Statutes, and 99-395, Laws of Florida, specifically addresses the requirements for use of onsite sewage treatment and disposal systems. The rule must be modified to incorporate revisions. Rule language that requires technical corrections will also be addressed, as well as areas that are being addressed by the Technical Review and Advisory Panel.

SUBJECT AREAS TO BE ADDRESSED: Areas to be discussed include the following. Construction standards for drainfield mounds, operating permits for aerobic treatment units and performance-based treatment systems, criteria for maintenance entities, aerobic treatment unit inspection and sampling, treatment receptacle testing and construction criteria, contractor continuing education course and course provider approval, interim construction standards for systems in the Florida Keys, contractor registration requirements, contractor registration renewal requirements, certification of partnerships and corporations, fees.

SPECIFIC AUTHORITY: 154.06, 381.0011, 381.006, 381.0065, 489.553, 489.557 FS.

LAW IMPLEMENTED: 154.01, 381.001, 381.0011, 381.0012, 381.0025, 381.006, 381.0061, 381.0065, 381.00655, 381.0066, 381.0067, Part I 386, Part III 489 FS., and 2001-337, Laws of Florida.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Dale Holcomb, Department of Health, Bureau of Onsite Sewage Programs, HSES, 4042 Bald Cypress Way, Bin #A08, Tallahassee, FL 32399-1713

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

Section II
Proposed Rules

DEPARTMENT OF INSURANCE

RULE TITLES:	RULE NOS.:
Purpose	4-157.001
Applicability and Scope	4-157.002
Definitions	4-157.003
Out-of-State Group Long-Term Care Insurance	4-157.004
Pre-existing Conditions	4-157.006
Conditions of Eligibility	4-157.007
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Nonforfeiture Protection Provision	4-157.023
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Prohibition Against Post – Claims Underwriting	4-157.025
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Prohibition Against Preexisting Conditions and Probationary Periods in Replacement Policies or Certificates	4-157.029
Reporting Requirements	4-157.030
Requirement to Deliver Shopper's Guide	4-157.031

PURPOSE AND EFFECT: To adopt NAIC standards applicable to Long Term Care and Certain Limited Benefit Insurance policies.

SUMMARY: The proposed amendments adopt NAIC standards regarding the content, rates, and sales of long term care and limited benefit insurance policies.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 624.308, 627.9407 FS.

LAW IMPLEMENTED: 624.307(1), 624.3161, 626.9541, 627.9403, 627.9405, 627.9406, 627.9407, 627.94072, 626.9641 FS.

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

TIME AND DATE: 2:00 p.m., November 15, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Frank Dino, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, FL 32399-0329, (850)413-5014.

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 the person listed above.

THE FULL TEXT OF THE PROPOSED RULES IS:

LONG-TERM CARE AND CERTAIN LIMITED BENEFIT INSURANCE

4-157.001 Purpose.

Specific Authority 624.308(1), 627.9407(1) FS. Law Implemented 624.307(1), 629.9402, 627.9407(1) FS. History–New 5-17-89 Formerly 4-81.001, Repealed .

4-157.002 Applicability and Scope.

(1) No change.

(2) The provisions of Chapter 4-157 shall apply to such long-term care policies issued or renewed on or after the effective date of Chapter 4-157; however, the provisions of Chapter 4-157 do not apply to any policy that is not subject to the provisions of sections 627.6401-.9408, F.S., ~~as presently existing or as hereafter amended.~~

(3) Pursuant to s. 627.9403, F.S., the provisions of this rule shall also apply to limited benefit policies that limit coverage to care in a nursing home only or to one or more lower levels of care required or authorized to be provided that are issued on or after October 1, 1996.

Specific Authority 624.308(1), 627.9407(1) FS. Law Implemented, 624.307(1), 627.9403, 627.9406, 627.9407(1) FS. History–New 5-17-89, Formerly 4-81.002, Amended .

4-157.003 Definitions.

As used in these rules and as used in long-term care policies, the following terms shall have meanings no more restrictive than the following:

(1) through (3) No change.

(4) "Nursing home" means a facility or distinctly separate part of a hospital or other institution which is licensed by the appropriate licensing agency to engage primarily in providing nursing care and related services to inpatients and provides 24-hour a day nursing service, and has a nurse on duty or on call at all times and maintains clinical records for all patients and as defined and licensed pursuant to the provisions of Chapter 400, Florida Statutes.

(5) through (7) No change.

(8) "Home Health Care" as defined in Chapter 400, Florida Statutes.

(9) "Assisted Living Facility" as defined in Chapter 400, Florida Statutes.

(10) "Adult Day Care Center" as defined in Chapter 400, Florida Statutes.

(11) "Nurse Registry" as defined in Chapter 400, Florida Statutes.

Specific Authority 624.308(1), 627.9407(1) FS. Law Implemented 624.307(1), 627.9407 FS. History–New 5-17-89, Formerly 4-81.003, Amended .

4-157.004 Out-of-State Group Long-Term Care Insurance.

(1) No group long-term care insurance coverage may be offered to a resident of this state under a group policy issued in another state to a group described in s.~~ection~~ 627.9405(1)(c) or (d), F.S., unless this state or such other state having statutory and regulatory long-term care insurance requirements substantially similar to those adopted in this state has made a determination that such requirements have been met. Evidence to this effect shall be filed by the insurer with the department pursuant to the procedures specified in s.~~ection~~ 627.410, F.S. Such evidence shall consist of:

(a) Filing of policy and certificate forms, including rates and rate development information, as though the policy/certificate were issued in this state, which demonstrate that the requirements of ss. ~~sections~~ 627.9401-.9408, F.~~lorida~~ S.~~tatutes~~, and these rules have been met, except s.~~ection~~ 627.9405(2), F.S.; or

(2) In order for a state to be deemed to have statutory and regulatory long-term care insurance requirements substantially similar to those adopted in Florida, that ~~such~~ state shall ~~must~~ require that long-term care policies meet at least all of the following requirements:

(a) ~~A~~ M~~m~~inimum ~~period of~~ coverage ~~of at least 24 consecutive months for each covered person~~ as provided in Rule 4-157.009, F.A.C.

(b) A 60% minimum lifetime loss ratio meeting the standards of 4-157.022, ~~at levels at which benefits are reasonable in relation to premiums and calculated in a manner which provides for adequate reserving of the long-term care insurance risk;~~

(c) A 30-day "free look" period, or longer, within which individual certificateholders ~~policyholders~~ have the right to return the certificate ~~policy~~ after its delivery and to have the premium refunded for any reason;

(d) through (i) No change.

(j) A minimum 30-day grace period for nonpayment of premium with notice and protection requirements as provided by s. 627.94072, F.S.

(k) Pursuant to s. 627.94072, F.S., a mandatory offer to the potential insured policyholder or certificateholder, as applicable, of a nonforfeiture provision meeting the standards of 4-157.023; and

(l) A conversion or continuation privilege at least as favorable as 4-157.010.

(m) A prohibition or limitation on an elimination in excess of 180 days as required by 4-157.013.

(3) No change.

(4)(a) All changes to rates, together with an actuarial memorandum developing and justifying the rate change, shall be filed with the Department pursuant to the procedures specified in s. 627.410, F.S.

(b) For those policies which have been determined to be regulated by a state with substantially similar long term care insurance requirements, pursuant to paragraph (1)(b) above, form and rate changes shall be filed informationally prior to use. ~~To the extent that Section 627.9406, Florida Statutes, and this rule require that an out-of-state group policy form or rate be filed with the department for approval, such form or rate may not be amended or changed prior to approval by the Department pursuant to the procedures specified in Section 627.410, Florida Statutes.~~

Specific Authority 624.308(1), 627.9407(1) FS. Law Implemented 624.307(1), 627.9403, 627.9406 FS. History–New 5-17-89, Formerly 4-81.004, Amended _____.

4-157.006 Pre-existing Conditions.

Specific Authority 624.308(1), 627.9407(1) FS. Law Implemented 624.307(1), 627.9407(1),(4) FS. History–New 5-17-89, Formerly 4-81.006, Repealed _____.

4-157.007 Conditions of Eligibility.

(1) No change.

(2) Subsection 627.9405(2), F.S., does not require the sponsoring policyholder to contribute premiums. However no insurer may establish rules for eligibility, including continued eligibility if the sponsoring policyholder contributes any portion of the premium. ~~No group long-term care policy may be issued or issued for delivery in this state unless all members of the group, or all of any class or classes thereof, are declared eligible and acceptable to the insurer at the time of issuance of the policy, subject to any exception to this requirement expressly authorized by Section 627.9405, Florida Statutes, as presently existing or as hereafter amended.~~

Specific Authority 624.308(1), 627.9407(1) FS. Law Implemented 624.307(1), 627.9407(1), 627.9405(2) FS. History–New 5-17-89, Formerly 4-81.007, Amended _____.

4-157.009 Minimum Coverage.

(1) through (2) No change.

(3) No long-term care policy may provide significantly more coverage for care in a nursing home than coverage for lower levels of care. In furtherance of this requirement, benefits for all lower levels of care~~, in the aggregate,~~ shall provide a level of benefits equivalent to at least 50 percent of the benefits provided for nursing home coverage~~,~~ i.e., if the nursing home benefit amount is $100 per day then the required lower level of care benefit amount shall be at least $50 per day or if more than one lower level of care is provided then each lower level of care shall provide a benefit amount of at least $50 per day. For the purposes of applying this 50 percent equivalency requirement to a policy benefit period, the lower level of care shall be, in the aggregate, at least 50 percent of the benefit period provided for nursing home coverage. If a long-term care policy provides nursing home coverage for an unlimited duration, the nursing home benefit shall be considered to be payable for ten years and the lower level of care shall be payable for 5 years, in the aggregate. A long-term care policy may use an overall lifetime benefit maximum which may be exhausted by any combination of benefits

(4) For the purposes of this rule, "lower level(s) of care" means the following:

(a) No change.

(b) Assisted Living Facility ~~Adult congregate living facility;~~

(c) through (h) No change.

Specific Authority 624.308(1), 627.9407(1) FS. Law Implemented 624.307(1), 627.9407(1), (3) FS. History–New 5-17-89, Formerly 4-81.009, Amended _____.

4-157.016 Requirements for Replacement.

Specific Authority 624.308(1), 626.9611, 627.9407 FS. Law Implemented 624.307(1), 626.9541, 626.9641, 627.9407(1) FS. History–New 5-17-89, Formerly 4-81.016, Repealed _____.

4-157.017 Prior Institutionalization.

Specific Authority 624.308(1), 627.9407(1) FS. Law Implemented 624.307(1), 627.9407(5) FS. History–New 5-17-89, Formerly 4-81.017, Repealed _____.

4-157.018 Right to Return Policy – Free Look.

Specific Authority 624.308(1), 627.9407(1) FS. Law Implemented 624.307(1), 627.9407(1),(7) FS. History–New 5-17-89, Formerly 4-81.018, Repealed _____.

4-157.019 Long-Term Care Policies – Statements Required.

Specific Authority 624.308(1), 627.9407(1) FS. Law Implemented 624.307(1), 627.9407(1),(8) FS. History–New 5-17-89, Formerly 4-81.019, Repealed _____.

4-157.020 Outline of Coverage.

An outline of coverage shall be delivered to an applicant for an individual long-term care insurance policy or certificateholder at the time of application ~~for an individual policy~~. In the case of direct response solicitations, the insurer shall deliver the outline of coverage upon the applicant's request, but regardless of request, shall make such delivery no later than at the time of policy delivery. The content and format of the outline of coverage shall be: ~~Such outline of coverage shall include~~:

(1) The outline of coverage shall be free-standing document, using no smaller than ten point type.

(2) The outline of coverage shall contain no material of an advertising nature.

(3) Text which is capitalized or underscored in the standard format outline of coverage may be emphasized by other means which provide prominence equivalent to such capitalization or underscoring.

(4) Use of the text and sequence of text of the standard format outline of coverage is mandatory, unless otherwise specifically indicated.

(5) Format for outline of coverage:

[COMPANY NAME]
[ADDRESS – CITY & STATE]
[TELEPHONE NUMBER]
LONG-TERM CARE INSURANCE
OUTLINE OF COVERAGE
[Policy Number or Group Master Policy
and Certificate Number]

[Except for policies or certificates which are guaranteed issue, the following caution statement, or language substantially similar, must appear as follows in the outline of coverage.]

Caution: The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are a material misstatement, the company has the right to deny benefits or rescind your policy. The best time to clear up any question is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address]

(a) This policy is [an individual policy of insurance] ([a group policy] which was issued in the [indicate jurisdiction in which group policy was issued]).

(b) PURPOSE OF OUTLINE OF COVERAGE. This outline of coverage provides a very brief description of the important features of the policy. You should compare this outline of coverage to outlines of coverage for other policies available to you. This is not an insurance contract, but only a summary of coverage. Only the individual or group policy contains governing contractual provisions. This means that the policy or group policy sets forth in detail the rights an obligations of both you and the insurance company. Therefore, if you purchase this coverage, or any other coverage, it is important that you READ YOUR POLICY (OR CERTIFICATE) CAREFULLY!

(c) TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE RETURNED AND PREMIUM REFUNDED.

1. [Provide a brief description of the right to return-"free look" provision of the policy.]

2. [Include a statement that the policy contains a provision providing for a refund or partial refund of premium upon the death of an insured or surrender of the policy or certificate.]

(d) THIS IS NOT MEDICARE SUPPLEMENT COVERAGE. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the insurance company.

1. [For agents] Neither [insert company name] nor its agents represent Medicare, the federal government or any state government.

2. [For direct response] [insert company name] is not representing Medicare, the federal government or any state government.

(e) LONG-TERM CARE COVERAGE. Policies of this category are designed to provide coverage for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital, such as in a nursing home, in the community or in the home.

This policy provides coverage in the form of a fixed dollar indemnity benefit for covered long-term care expenses, subject to policy [limitations] [waiting period] and [coinsurance] requirements. [Modify this paragraph if the policy is not an indemnity policy.]

(f). BENEFITS PROVIDED BY THIS POLICY.

1. [Covered services, related deductible(s), waiting periods, elimination periods and benefit maximums.]

2. [Institutional benefits, by skill level.]

3. [Non-institutional benefits, by skill level.]

[Any benefit screens must be explained in this section. If these screens differ for different benefits, explanation of the screen should accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too must be specified. If activities of daily living (ADLs) are used to measure an insured's need for long-term care, then these qualifying criteria or screens must be explained.]

(g) LIMITATIONS AND EXCLUSIONS.

[Describe:

1. Preexisting conditions;

2. Non-eligible facilities/provider;

3. Non-eligible levels of care (e.g., unlicensed providers, care or treatment provided by family member, etc.);

4. Exclusions/exceptions;

5. Limitations.]

[This section should provide a brief specific description of any policy provisions which limit, exclude, restrict, reduce, delay, or in any other manner operate to qualify payment of the benefits descried in (f) above.]

THIS POLICY MAY NOT COVER ALL THE EXPENSES ASSOCIATED WITH YOUR LONG-TERM CARE NEEDS.

(h) RELATIONSHIP OF COST OF CARE AND BENEFITS. Because the costs of long-term care services will likely increased over time, you should consider whether and how the benefits of this plan may be adjusted. [As applicable, indicated the following:

1. That the benefit level will not increase over time;

2. Any automatic benefit adjustment provisions;

3. Whether the insured will be guaranteed the option to buy additional benefits and the basis upon which benefits will be increased over time if not by a specified amount or percentage;

4. And finally, describe whether there will be any additional premium charge imposed, and how that is to be calculated.]

(i) ALZHEIMER'S DISEASE AND OTHER ORGANIC BRAIN DISORDERS.

[State that the policy provides coverage for insureds clinically diagnosed as having Alzheimer's disease or related degenerative and dementing illnesses. Specifically describe each benefit screen or other policy provision which provides preconditions to the availability of policy benefits for such an insured.]

(j) PREMIUM.

[1. State the total annual premium for the policy;

2. If the premium varies with an applicant's choice among benefit options, indicate the portion of annual premium which corresponds to each benefit option.]

(k). ADDITIONAL FEATURES.

[1. Indicate if medical underwriting is used;

2. Describe other important features and other mandatory offers.]

~~(1) The name and principal address of the insurer or service association;~~

~~(2) A statement of identification of the policy or contract;~~

~~(3) A policy form number;~~

~~(4) A description of the principal benefits and coverage provided in the policy;~~

~~(5) A statement of the principal exclusions, reductions, and limitations contained in the policy;~~

~~(6) If the policy is not expected to cover 100 percent of the cost of services for which coverage is provided, as statement clearly describing any such limitations;~~

~~(7) A statement of the renewal provisions, including any reservation in the policy of a right to change premiums;~~

~~(8) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions; and~~

~~(9) A statement that the policy has been approved as a long-term care insurance policy meeting the requirements of Florida Law.~~

Specific Authority 624.308(1), 627.9407(1) FS. Law Implemented 624.307(1), 627.409, 627.9407(1),(9) FS. History–New 5-17-89, Formerly 4-81.020, Amended _____.

4-157.023 Nonforfeiture Protection Provision.

(1)(a) All insurers offering long term care insurance policies or certificates in this state shall offer a nonforfeiture protection provision at the time of issue as required by s. 627.94072, F.S.

(b) If the insurer offers an option other than the shortened benefit period option, the nonforfeiture protection option offered shall be determined such that the benefits provided are determined at time of issue to be at least actuarially equivalent to those provided by the shortened benefit period option.

(2) Other nonforfeiture protection provisions shall not be offered for sale in this state unless they meet the provisions of this rule.

Specific Authority 624.308(1), 627.9407 FS. Law Implemented 624.307(1), 627.9407, 627.94072 FS. History–New _____.

4-157.024 Required Disclosure Provisions.

(1) Renewability. Individual long-term care insurance policies shall contain a renewability provision. Such provision shall be appropriately captioned and shall appear on the first page of the policy.

(2) Riders and Endorsements. Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured under an individual long-term care insurance policy, all riders or endorsements added to an individual long-term care insurance policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the individual insured. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in writing signed by the insured, except if the increased benefits or coverage are required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth in the policy, rider or endorsement.

(3) Payment of Benefits. A long-term care insurance policy which provides for the payment of benefits based on standards described as "mutual and customary," "reasonable and customary" or words of similar import shall include a definition of such terms and the formula or criteria used by the insurer in determining the amount to be paid and an explanation of such terms in its accompanying outline of coverage.

(4) Limitations. If a long-term care insurance policy or certificate contains any limitations with respect to preexisting conditions, such limitations shall appear as a separate paragraph of the policy or certificate and shall be labeled as "Preexisting Condition Limitations."

Specific Authority 624.308(1), 627.9407 FS. Law Implemented 624.307(1), 627.9407 FS. History–New .

4-157.025 Prohibition Against Post – Claims Underwriting.

(1) All applications for long-term care insurance policies or certificates except those which are guaranteed issue shall contain clear and unambiguous questions designed to ascertain the health condition of the applicant.

(2)(a) If an application for long-term care insurance contains a question which asks whether the applicant has had medication prescribed by a physician, it must also ask the applicant to list the medication that has been prescribed.

(b) If any information disclosed in such application were known by the insurer, or should have been known at the time of application, to be directly related to a medical condition for which coverage would otherwise be denied, then the policy or certificate shall not be rescinded for that condition.

(3) Except for policies or certificates which are guaranteed issue:

(a) The following language shall be set out conspicuously and in close conjunction with the applicant's signature block on an application for a long-term care insurance policy or certificate: "Caution: If your answers on this application are a material misstatement, [company] has the right to deny benefits or rescind your policy."

(b) The following language, or language substantially similar to the following, shall be set out conspicuously on the long-term care insurance policy or certificate at the time of delivery: "Caution: The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application. A copy of our [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are a material misstatement, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address]"

(c) Prior to issuance of a long-term care policy or certificate to an applicant age eighty (80) or older, the insurer shall obtain one of the following:

1. A report of a physical examination;

2. An assessment of functional capacity;

3. An attending physician's statement; or

4. Copies of medical records.

(4) A copy of the completed application or enrollment form (whichever is applicable) shall be delivered to the insured no later than at the time of delivery of the policy or certificate unless it was retained by the applicant at the time of application.

Specific Authority 624.308(1), 627.9407 FS. Law Implemented 624.307(1), 627.9407 FS. History–New .

4-157.026 Discontinuance and Replacement.

If a group long-term care policy is replaced by another group long-term care policy issued to the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the previous group policy on its date of termination. Coverage provided or offered to individuals by the insurer and premiums charged to persons under the new group policy:

(1) Shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced; and

(2) Shall not vary or otherwise depend on the individual's health or disability status, claim experience or use of long-term care services;

Specific Authority 624.308(1), 627.9407 FS. Law Implemented 627.307(1), 627.9407 FS. History–New .

4-157.027 Appropriateness of Recommended Purchase.

In recommending the purchase or replacement of any long-term care insurance policy or certificate any agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

Specific Authority 624.308(1), 627.9407 FS. Law Implemented 624.307(1), 627.9407 FS. History–New .

4-157.028 Requirements for Application Forms and Replacement Coverage.

(1) Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other accident and sickness or long-term care policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent, except where the coverage is sold without an agent, containing such questions may be used.

(a) Do you have another long-term care insurance policy or certificate in force (including health care service contract, health maintenance organization contract)?

(b) Did you have another long-term care insurance policy or certificate in force during the last twelve (12) months?

1. If so, with which company?

2. If that policy lapsed, when did it lapse?

(c) Are you covered by Medicaid?

(d) Do you intend to replace any of your medical or health insurance coverage with this policy [certificate]?

(2) Agents shall list any other health insurance policies they have sold to the applicant.

(a) List policies sold which are still in force.

(b) List policies sold in the past five (5) years which are no longer in force.

(3) Solicitations Other than Direct Response. Upon determining that a sale will involve replacement, an insurer, other than an insurer using direct response solicitation methods, or its agent; shall furnish the applicant, prior to issuance or delivery to the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage. One copy of such notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. The required notice shall be provided in the following manner.

NOTICE TO APPLICANT REGARDING REPLACEMENT OF INDIVIDUAL ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with an individual long-term care insurance policy to be issued by [company name] Insurance Company. Your new policy provides thirty (30) days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

STATEMENT TO APPLICANT BY AGENT [BROKER OR OTHER REPRESENTATIVE]:

(Use additional sheets, as necessary.)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention.

(a) Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(b) State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. The insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

(c) If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(d) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all question on the application concerning your medical health history. Failure to include all material medical information on the application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

_____

(Signature of Agent, Broker or Other Representative)

[Typed Name and Address of Agent or Broker]

The above "Notice to Applicant" was delivered to me on:

_____ (Date)

_____ (Applicant's Signature

(4) Direct Response Solicitations. Insurers using direct response solicitation methods shall deliver a notice regarding replacement of accident and sickness or long-term care coverage to the applicant upon issuance of the policy. The required notice shall be provided in the following manner:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with the long-term care insurance policy delivered herewith issued by [company name] Insurance Company.

Your new policy provides thirty (30) days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

(a) Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(b) State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. Your insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

(c) If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the propose replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(d) [To be included only if the application is attached to the policy] If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to [company name and address] within thirty (30) days if any information is not correct and complete, or if any past medical history has been left out of the application.

_____ (Company Name)

(5) Where replacement is intended, the replacing insurer shall notify, in writing, the existing insurer of the propose replacement. The existing policy shall be identified by the insurer, name of the insured and policy shall be identified by the insurer, name of the insured and policy number or address including zip code. Such notice shall be made within five (5) working days from the data the application is received by the insurer or the date the policy is issued, whichever is sooner.

Specific Authority 624.308(1), 627.9407 FS. Law Implemented 624.307(1), 627.9407 FS. History–New _____.

4-157.029 Prohibition Against Preexisting Conditions and Probationary Periods in Replacement Polices or Certificates.

If a long-term care insurance policy or certificate replaces another long-term care policy or certificate, the replacing insurer shall waive any time periods applicable to preexisting conditions and probationary periods in the new long-term care policy for similar benefits to the extent that similar exclusions have been satisfied under the original policy.

Specific Authority 624.308(1), 627.9407 FS. Law Implemented 624.307(1), 627.9407 FS. History–New _____.

4-157.030 Reporting Requirements.

(1) Every insurer shall maintain records for each agent of the agent's amount of replacement sales as a percent of the agent's total annual sales and the amount of lapses of long-term care insurance policies sold by the agent as a percent of the agent's total annual sales.

(2) Every insurer shall report annually by June 30 the ten percent (10%) of its agents with the greatest percentages of lapses and replacements as measured by (1) above.

(3) Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely agent activities regarding the sale of long-term care insurance.

(4) Every insurer shall report annually by June 30 the number of lapsed policies as a percent of its total annual sales and as a percent of its total number of policies in force as of the end of the preceding calendar year.

(5) Every insurer shall report annually by June 30 the number of replacement policies sold as a percent of its total number of policies in force as of the preceding calendar year.

(6) Every insurer shall report annually by June 30 for qualified long-term care insurance contracts the number of claims denied for each class of business, expressed as a percentage of claims denied, in the format prescribed by the National Association of Insurance Commissioners in Appendix B, as adopted September 15, 2000, which is hereby adopted and incorporated by reference.

(7) For purposes of this section, "policy" shall mean only long-term care insurance and "report" means on a statewide basis.

(8) Every insurer or other entity selling or issuing long-term care insurance benefits shall maintain a record of all policy or certificate rescissions, both state and countrywide, except those which the insured voluntarily effectuated, and shall annually furnish by March 1 this information to the Department in the format prescribed by the National Association of Insurance Commissioners in Appendix A, adopted September 15, 2000, which is hereby adopted and incorporated by reference.

(9) Reports shall be filed with the Bureau of Market Conduct, Division of Insurer Services.

Specific Authority 624.308(1), 627.9407 FS. Law Implemented 624.307(1), 624.3161, 627.9407 FS. History–New _____.

4-157.031 Requirement to Deliver Shopper's Guide.

(1) A long term care insurance shopper's guide in the format developed by the National Association of Insurance Commissioners, or a guide developed or approved by the Department, shall be provided to all prospective applicants for a long-term care insurance policy or certificate.

(a) In the case of agent solicitations, an agent must deliver the shopper's guide prior to the presentation of an application or enrollment form.

(b) In the case of direct response solicitations, the shopper's guide must be presented in conjunction with any application or enrollment form.

(2) Life insurance policies or riders containing accelerated long-term care benefits are not required to furnish the above-referenced guide, but shall furnish the policy summary required under s. 626.99, F.S.

(3) At the time of policy delivery, a policy summary shall be delivered for an individual life insurance policy which provides long-term care benefits within the policy or by rider. In the case of direct response solicitations, the insurer shall deliver the policy summary upon the applicant's request, but regardless of request shall make such delivery no later than at the time of policy delivery. In addition to complying with all applicable requirements, the summary shall also include:

(a) An explanation of how the long-term care benefit interacts with other components of the policy, including deductions for death benefits;

(b) An illustration of the amount of benefits, the length of benefit, and the guaranteed lifetime benefits if any, for each covered person;

(c) Any exclusions, reductions and limitations on benefits of long-term care; and

(d) If applicable to the policy type, the summary shall also include:

1. A disclosure of the effects of exercising other rights under the policy;

2. A disclosure of guarantees related to long-term care costs of insurance charges, and

3. Current and projected maximum lifetime benefits.

(4) Any time a long-term care benefit, funded through a life insurance vehicle by the acceleration of the death benefit, is in benefit payment status, a monthly report shall be provided to the policyholder. Such report shall include:

(a) Any long-term care benefits paid out during the month;

(b) An explanation of any changes in the policy, e.g. death benefits or cash values, due to long-term care benefits being paid out; and

(c) The amount of long-term care benefits existing or remaining.

Specific Authority 624.308(1), 627.9407 FS. Law Implemented 624.307(1), 627.9407 FS. History–New .

NAME OF PERSON ORIGINATING PROPOSED RULE: Frank Dino, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Richard Robleto, Bureau Chief, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 26, 2001

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

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: RULE CHAPTER NO.:
Highway Beautification and Landscape Management 14-40

RULE TITLE: RULE NO.:
Application and Permit Issuance 14-40.030

PURPOSE AND EFFECT: Part III Vegetation Management at Outdoor Advertising Signs (Rule 14-40.030) is being amended. The Notice of Rulemaking for Part II Florida Highway Beautification Council already was published. Part I General Provisions (Rule 14-40.003) will be amended by a future Notice of Rulemaking.

SUMMARY: This is an amendment to Part III Vegetation Management at Outdoor Advertising Signs (Rule 14-40.030). Part I and Part II are being amended by separate notices.

SPECIFIC AUTHORITY: 334.044(2), 337.2505 FS.

LAW IMPLEMENTED: 334.044(25), 335.167, 337.2505, 337.405, 339.2405, 479.106 FS.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

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

TIME AND DATE: 2:30 p.m., November 7, 2001

PLACE: Room 250, The Suwannee Room, 605 Suwannee Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE 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 RULE IS:

14-40.030 Application and Permit Issuance.

(1) Permit Required.

(a) No person or entity may remove, cut, or trim, ~~or remove~~ trees, shrubs, or herbaceous plants on the Department's right of way to make visible or to ensure future visibility of off-premise outdoor advertising signs ~~(billboards)~~ without obtaining a Permit for Vegetation Management at Outdoor Advertising Sign, Form 650-050-08, Rev. 07/97, which is incorporated herein by reference, pursuant to this Rule Chapter. For purposes of this R~~r~~ule, the application of

chemical control constitutes removing, cutting, or trimming, ~~or removal,~~ depending on the impact on the tree, shrub, or herbaceous plant. A Permit for Vegetation Management at Outdoor Advertising Sign may be requested by submitting a completed Application for Vegetation Management at Outdoor Advertising Sign, Form 650-050-06, Rev. 01/02 ~~04/98~~, which is incorporated herein by reference, to the Department District Maintenance Engineer or designee with responsibility for the segment of state road to which the subject sign is permitted. Alternatively, t~~T~~he Application for Vegetation Management at Outdoor Advertising Sign may ~~also~~ be submitted to the State ~~District~~ Outdoor Advertising Administrator, with an application for a new sign permit. Form 650-050-06 is available at any Department ~~District Outdoor Advertising Office,~~ District Maintenance Office, ~~or from any Department District Landscape Manager~~. This Rule does not apply to requests to trim or remove vegetation that screens on-premise signs.

(b) An Application~~s~~ for Vegetation Management at Outdoor Advertising Sign must be submitted by the outdoor advertising sign permit holder or the sign owner. A separate application is required for each sign facing. The vegetation management plan and appraisal, described in subsection (c), shall both be prepared by a properly qualified individual. Qualified individuals shall be one of the following:

1. An International Society of Arboriculture (ISA) Certified Arborist ® with Advanced Training in Roadside Vegetation, or an individual with equivalent credentials from a nationally recognized arboricultural organization, or

2. A landscape architect registered pursuant to Chapter 481, Part II, Florida Statutes.

(c) The application shall contain:

1. The name, address, telephone number, facsimile number, and E-Mail address, if available, of the applicant; the Department's current outdoor advertising sign tag ~~permit~~ number; the sign owner's sign ~~company's billboard~~ face number; and the notarized signature of the applicant's authorized representative.

2. The applicant's vegetation management plan (plan). The plan shall be for a period of not less than two years and not greater than five years. The plan shall include a plan for removing vegetation within the vegetation management zone, cutting (removing or altering more than one quarter of any plant's height, spread, or density of branches), or trimming (the shaping or pruning of less than one quarter of any plant's height, spread, or density of branches)~~, or removing vegetation within the vegetation management zone~~. The vegetation management plan shall be a graphic and written document that describes the removal, cutting, trimming, ~~removal,~~ planting, fertilizing, mulching, irrigation, and desired condition and appearance of existing and proposed vegetation, including a plan for disposal of debris, and a schedule and description of the intended vegetation management method(s) ~~of all work to be performed~~ within the vegetation management zone. All vegetation management proposed in the plan shall be in accordance with this Rule and ~~the Florida Highway Landscape Guide, as incorporated by reference into~~ Rule 14-40.003~~(3)~~.

3. Color photographs of the sign and entire view zone taken within six weeks prior to the application being made to the Department. The photographs and accompanying drawings must depict a clear representative overview of the vegetation to be removed, cut, trimmed~~, or removed~~.

4. A photocopy of the qualifying credentials of the person preparing the vegetation management plan, and appraisal for mitigation, if applicable. If herbicides will be used, the application must include a photocopy of the applicator's license in three categories (core curriculum, right of way, and aquatic) by the Florida Department of Agriculture and Consumer Services. ~~A proposed schedule and description of the method(s), and the qualifications of the personnel to be utilized. Personnel must be reasonably qualified and all personnel using herbicides on the Department's right of way must be licensed in three categories (core curriculum, right of way, and aquatic) by the Florida Department of Agriculture and Consumer Services (FDACS). Chemical control of vegetation is limited to the use of United States Environmental Protection Agency approved selective herbicides. Foliar application of herbicides is limited to the control of invasive exotic plants.~~

5. An itemized appraisal of the mitigation value of vegetation to be removed, cut, or trimmed.

6.~~5.~~ A non-refundable application fee of $25.00. The non-refundable application fee shall be a total of ~~not exceed~~ $200.00 for more than eight applications submitted simultaneously, providing that they are within the same Department District. If payment is by check, the fee submitted with an Application for Vegetation Management at Outdoor Advertising Sign must be paid separately from fees for other types of permits. The approved application, including any conditions stated therein, and the approved vegetation management plan, shall become part of the permit. The permit, issued by the Department, shall allow vegetation management within the vegetation management zone for the duration of the approved vegetation management plan. After approval, the permittee must give the Local Maintenance Engineer a minimum of two working days notification prior to ~~any and~~ all permitted vegetation management activity on the Department's right of way, unless otherwise stipulated as a special provision of the permit.

(d) A Permit for Vegetation Management at Outdoor Advertising Sign authorizes the permittee to remove, cut, or trim, ~~or remove~~ trees, shrubs, or herbaceous plants only as provided in the permit, and only within an approved vegetation management zone, which will be determined as follows:

1. The approved vegetation management zone shall be based on a continuous or cumulative 500 foot linear distance along the edge of the travel lane within the 1,000 foot linear view zone (as described below), all within the Department's right of way (see Figures 2 and 3).

2. A sign facing shall have only one view zone, and only within the Department's right of way of the roadway ~~highway~~ to which the sign is permitted.

a. The view zone for a right-view sign (see Figure 2) is a nearly triangular area measured along the right edge of the nearest travel lane on the same side of the highway to which the sign is permitted, which has:

(I) As terminus A, the point on the edge of the travel lane immediately opposite the edge of the outdoor advertising sign face closest to the highway;

(II) As terminus B, the point measured along the edge of pavement 1,000 feet in the direction from which the sign is viewed; and

(III) As a terminus C, the point on the edge of the sign face which is furthest from the road.

INSERT FIGURE 2
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b. The view zone for a left-view sign (see Figure 3) shall be measured as above, except that terminus A and terminus B shall be measured along the left edge of the nearest travel lane on the other side of the highway centerline.

c. The median area will be included in an approved vegetation management zone only for left-read signs legally erected before January 19, 1999, and only as necessary to maintain the view of that sign across the median as it existed before January 19, 1999. Vegetation within the pre-existing view zone that could not be managed prior to the adoption of this Rule may be managed to restore visibility in accordance with this R~~r~~ule.

(e) No Permit for Vegetation Management at Outdoor Advertising Sign will be issued:

1. For applications that are incomplete;

INSERT FIGURE 3
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2. For vegetation control to enhance the view of an outdoor advertising sign which does not have a currently valid state permit.

3. For mowing (nonselective mechanical or chemical control of vegetation) of grass or other vegetation. Mechanical mowing, to a minimum height of 6 inches", will be permitted when no other means of vegetation management is practicable to control vegetation that is less than 18" height and screens or is likely to screen a sign face.

4. To make a sign visible for more than 500 feet within a view zone.

5. To remove, cut, or trim, or remove vegetation that has established historic, cultural, economic, environmental, or aesthetic significance. Such vegetation would may:

a. Form an important part of the setting or landscaping for an historic structure;

b. Possess historic significance through a direct association with an event or person important in history;

c. Contribute strongly to the historic character as well as visual appeal of an historic structure or district;

d. Screen historic structures or residential property from traffic congestion;

e. Serve as memorials;

f. Be directly descended from historically significant trees or plants;

g. Be listed on the National Register of Historic Places, the State Register of Historic Sites, or local historical registries;

h. Be the only vegetation in the immediate vicinity, such that and removal would leave the area barren of any substantial trees;

i. Have reached an age, or size, or and shape that it is known to be a local landmark; or

j. Be in the immediate vicinity of a roadway that has been lined with substantial trees for a lengthy period of time where and removal of such vegetation would significantly diminish the "tree lined" character of the roadway;

6. To remove, cut, or trim, or remove trees, shrubs, or herbaceous plants that are protected by state law.

7. To remove, cut, or trim, or remove trees, shrubs, or herbaceous plants in violation of provisions of Section 479.106(5), Florida Statutes.

8. To remove, cut, or trim, or remove trees, shrubs, or herbaceous plants, when the Department has District Maintenance Engineer or designee and the District Landscape Manager have determined that the proposed vegetation management will significantly disrupt natural systems, roadside aesthetics, or have other negative impacts on the operation of the highway.

9. To create a new view zone by removing, cutting, or trimming, or removing existing vegetation for any sign originally permitted after July 1, 1996, unless the applicant removes at least two approximate comparable size nonconforming signs under valid permits issued pursuant to Section 479.07, Florida Statues, and surrender the permits to the Department., except when all of the following conditions have been met:

a. For any sign permitted after July 1, 1996, the original sign permit application must state that it would be necessary to remove, cut, or trim existing vegetation on the Department's right of way, and a Permit for Vegetation Management at Outdoor Advertising Sign has been issued for the view zone.

b. When the owner of a sign built after July 1, 1996, requests to remove, cut, or trim trees or other vegetation on the Department's right of way that screened the sign face when the sign was first permitted, the sign owner must remove at least two nonconforming signs under valid permits pursuant to Section 479.07, Florida Statutes, that the Department has determined are of the same approximate size as the new sign, and surrender the permits to the Department.

10. To remove, cut, or trim trees that have a circumference, measured at 4 1/2 feet above grade, equal to or greater than 70% of the circumference of the Florida Champion of the same species as listed in the Big Trees, The Florida Register, Florida Native Plant Society, 1997, which is incorporated herein by reference.

11. To remove, cut, or trim vegetation that is part of a beautification project, when the project was approved prior to the permitting of any sign originally permitted after July 1, 1996. For the purpose of this Rule, beautification projects include landscape projects, mitigation projects, and restoration projects. For the purpose of this Rule, a beautification project is approved when it is specifically identified in the Department's five year work program, or is a permitted landscape project, or is part of an executed agreement between the Department and a local government, or has been approved in writing by the Department for installation at a later date by a local government.

(f) Applications will be reviewed and approved or denied within 30 days of receipt of a complete application, though failure to respond within 30 days shall not cause an automatic approval. The Department may request additional information needed to deem the application complete in accordance with Section 120.60, Florida Statutes. Applicants will be notified by mail of the approval or denial of the application. When an application is denied, no application fee will be charged for a revised application submitted within 90 days after the date shown on the notice of denial.

(g) A Permit for Vegetation Management at Outdoor Advertising Sign is valid for the term of the vegetation management plan (two to five years, as represented on the Application of Vegetation Management at Outdoor Advertising Sign and the permit.) The Department District Maintenance Engineer or designee will determine the expiration date of any Permit for Vegetation Management at Outdoor Advertising Sign, based on the safety of all users of

the Department's right of way, and the need to avoid conflict with other permitted activities on the Department's right of way, or changes in roadside conditions.

(h) When a ~~A~~ Permit for Vegetation Management at Outdoor Advertising Sign expires, a new permit may be requested ~~renewed~~ by submitting a new Application for Vegetation Management at Outdoor Advertising Sign in accordance with this Rule.

(i) A permit placard (FDOT Form 650-050-08) must be displayed within the vegetation management zone in clear view from the main traveled way when vegetation management is in progress.

(2) Vegetation Management on the Right of Way.

(a) All work performed pursuant to a Permit for Vegetation Management at Outdoor Advertising Sign shall follow the approved vegetation management plan.

(b) Chemical control of vegetation is limited to the use of United States Environmental Protection Agency approved selective herbicides. Foliar application of herbicides is limited to the control of invasive exotic plants.

(c) Within 10 working days after completion of the removal, cutting, or trimming of vegetation, a qualified individual must inspect the vegetation management zone and adjoining right of way, and submit written notification to the District Maintenance Engineer or designee that the work is complete. The correspondence must indicate the extent and nature of any unauthorized removal, cutting, or trimming.

(3)~~(2)~~ Mitigation. An applicant shall mitigate in accordance with this Rule Chapter for the impact to vegetation from removal, cutting, trimming, ~~removal,~~ or accidental damage of vegetation on the Department's right of way.

(a) Mitigation is required:

1. Where ~~Mitigation is required where~~ cutting or trimming of, or damage to vegetation permanently detracts from the appearance or health of trees (including palm trees), shrubs, or herbaceous plants, or where cutting and trimming of trees or shrubs is not done in accordance with the standards set forth in the following documents: American National Standards Institute Tree Shrub and Other Woody Plant Maintenance-Standard Practices, 1995, and Fertilization, 1999, Publication #A300, and Tree-Pruning Guidelines authored and published by the International Society of Aboriculture, 1995, which are hereby ~~(ANSI A300) publication,~~ incorporated by reference ~~herein~~. Copies of these publications are available for purchase from the International Society of Arboriculture, Post Office Box GG, Savoy, Illinois 61874-9902, phone 217-355-9411, FAX 217-355-9516, or on the Internet at www.flaisa.org. This requirement does not apply to the cutting or trimming of, or damage to invasive exotic plants (plants listed by the Florida Department of Environmental Protection Rule Chapter, 62C-52, Aquatic Plant Importation, Transportation, Non-Nursery Cultivation, Possession, and Collection, and plants listed by the Florida Department of Agriculture and Consumer Services, Rule Chapter 5B-57, Introduction or Release of Plant Pests, Noxious Weeds, Arthropods, and Biological Control Agents, or other plant species determined by the Department to be a nuisance to natural habitats or agriculture, or to have an adverse effect on the maintenance or safety of the Department's right of way).

2. Where trees taller than the surrounding shrubs and herbaceous plants are permanently damaged or removed.

3. Where trees or shrubs of a species that are not likely to grow to interfere with the visibility of displays are damaged or removed.

4. Where trees or shrubs of a species that are likely to grow to interfere with the visibility of displays are trimmed improperly, permanently damaged, or removed.

5. Where herbaceous plants are permanently damaged.

(b) Where mitigation is necessary, the applicant will provide with the Application for Vegetation Management an appraisal prepared by a qualified individual as defined in Section (1)(b) using the appropriate appraisal method found in Determining the Mitigation Value of Roadside Vegetation, Florida Chapter of the International Society of Arboriculture, 2000, which is incorporated herein by reference ~~a mitigation plan, a maintenance plan (including irrigation and establishment for a period of one year from the date of planting), and a schedule for completion for any vegetation planted~~. Copies of this document can be obtained by contacting the International Society of Arboriculture as listed in (3)(a)1, above. Pending approval by the Department, the appraised value of the vegetation to be cut and removed will be the required mitigation. Approval is based on completeness and accuracy of mitigation calculations. ~~These plans are subject to the requirements of this Rule Chapter, the Florida Highway Landscape Guide, and the Highway Landscape, Beautification, and Plan Review Procedure (650-050-001-c). Mitigation must be completed within six months after vegetation is cut, trimmed, or removed.~~

1. The mitigation may be paid as a fee (Option 1) equal to the amount of the mitigation appraisal prepared in accordance with subsection (b) of this Rule. Mitigation fees must be paid to the Department prior to issuance of a Permit for Vegetation Management at Outdoor Advertising Sign.

2. The permittee may design and build a mitigation project equal to the appraised value, at an approved location within the right of way (Option 2). Applicants must contact the District Landscape Manager when preparing to develop a mitigation plan. For mitigation projects, the applicant must submit a mitigation plan which, in addition to the requirements of this Rule, meets the requirements for landscape plans in Rule 14-40.003(2) and (4), to the Department for approval. Mitigation projects must be designed to avoid additional maintenance costs by the Department. The mitigation plan shall include a landscape plan, maintenance plan (including watering for establishment for a period of one year from the

date of planting), and an estimated budget of all expenses to install, establish, and maintain the replacement vegetation. The value of the completed mitigation project must be equal to or greater than the appraised value of the cut and removed vegetation. When a mitigation project does not meet the required mitigation value, the balance is due to the Department as a mitigation fee. When the mitigation plan is approved, the applicant may proceed to construct the mitigation project. Failure to complete the mitigation project within six months after the vegetation is cut or removed will result in a penalty for unauthorized removal, cutting, or trimming as described in subsection (4) of this Rule. The permittee is required, at the permitee's expense, to remove and replace any mitigation materials that have not survived in a healthy condition for the first full year after planting. The replacement materials shall be of like size and variety as the replaced material, or may be other material proposed by the permittee, and determined by the Department, to be more likely to survive. If the mitigation project is not restored to meet the permit requirements, the permittee is subject to enforcement of required mitigation and the penalty for unauthorized removal, cutting, or trimming.

(c) Mitigation ~~of large trees (trees with a mature height likely to be greater than thirty feet)~~ is not required when trimming maintains a plant's ~~the tree's~~ natural habit of growth, and is performed in accordance with professionally accepted arboricultural standards, cited in the documents previously referenced in Section (3)(a)1. of this Rule. ~~The American National Standards Institute (ANSI) Tree Shrub and Other Woody Plant Maintenance Standard Practices, 1995, Publication #A300, and Tree Pruning Guidelines authored and published by the International Society of Aboriculture, 1995, are hereby incorporated by reference. Copies of these publications are available from the International Society of Arboriculture, Post Office Box GG, Savoy, Illinois 61874 9902, Phone 217 355 9411, FAX 217 355 9516.~~ Young trees (immature trees that are no taller than the surrounding shrubs and herbaceous plants) of species that upon their maturity are likely to interfere with the visibility of displays may be removed without mitigation. ~~Mitigation is not required where small trees and herbaceous plants, that upon their maturity will not be large enough to interfere with the visibility of displays in specific on-site situations within the vegetation management zone, are managed to maintain their natural appearance and habit of growth.~~ Invasive exotic plants may be removed without mitigation. Where the Department ~~District Landscape Manager~~ has determined that vegetation is diseased, or structurally damaged through no fault of the applicant, beyond a point where restoration is practicable, the vegetation may be removed without mitigation.

~~(d) On-site mitigation (mitigation provided on or adjacent to the impacted site) for removal or damage of trees shall be at 2:1 ratio measured in inches diameter of the trunk at breast height (DBH). DBH is to be measured 4 1/2 feet high. Multi trunk trees are measured using the cumulative diameter of the three main trunks at breast height. To mitigate for trees with a DBH greater than 2", two or more trees (of one inch caliper or greater) with a combined equivalent diameter to the removed or damaged trees, may be used. Mitigation for removal of shrubs and herbaceous plants shall be at a 1:1 ratio calculating the total plant height per impacted species. Required mitigation is calculated by estimating the number of shrubs of a species impacted within a vegetation management zone, and multiplying by their average height. Mitigation for removal of shrubs and herbaceous plants under 6" in height shall be calculated by measuring the area impacted within the vegetation management zone, and replanting an equivalent area with the same or other approved species. Mitigation shall be completed pursuant to the requirements of the management plan.~~

~~(e) Remote mitigation (mitigation provided away from the impacted site but along the same state highway and within the same county) for removal or damage of trees shall be at a 3:1 ratio measured in inches DBH. Mitigation for trees with a DBH greater than 2" may be provided as described in paragraph (2)(d). Remote mitigation for removal of shrubs and herbaceous plants shall be at a 2:1 ratio. Required mitigation is calculated by estimating the number of shrubs of a species impacted within a vegetation management zone and multiplying by their average height. Mitigation for removal of shrubs and herbaceous plants under 6" in height shall be calculated by measuring the area impacted within the vegetation management zone for replanting an equivalent area with the same or other approved species. A location for remote mitigation must be approved by the District Maintenance Engineer or designee. No vegetation at the sign site will be cut, trimmed, or removed until after remote mitigation has occurred.~~

~~(f) The permittee is required, at his/her expense, to remove and replace any mitigation materials that have not survived in a healthy condition for the first full year after planting. The replacement materials shall be of like size and variety as the replaced material, or may be other material proposed by the permittee and determined by the District Maintenance Engineer or designee to be more likely to survive. The permittee is also required, at his/her expense, to remove and replace any replacement materials that have not survived in a healthy condition for the first full year after planting.~~

~~(g) The permittee may choose, in lieu of mitigation, to contribute funds to a District mitigation program for the beautification, aesthetic, and environmental improvement of the Department's right of way. The remote mitigation ratios shall apply and include wholesale cost of materials, installation, and one year establishment and maintenance. The permittee must contact the District Maintenance Engineer or designee to contribute to such a program(s) as part, or in lieu of other mitigation requirements. No vegetation will be cut, trimmed, or removed until after contribution.~~

(d)~~(h)~~ Special Conditions Affecting Mitigation. The following additional provisions apply only to vegetation management pursuant to a permit issued under this R~~r~~ule:

1. Mitigation is not required for vegetation that the Department normally cuts or removes pursuant to its regular maintenance of the Department's right of way.

2. Mitigation is not required for vegetation when ~~that~~ the Department's roadway plans explicitly show that the vegetation will be removed ~~expects to remove~~ as part of the ~~planned~~ clearing and grubbing for a construction project designed and included in the Department's five-year work program.

3. Mitigation is not required for vegetation that was installed within the approved view zone after July 1, 1996, so long as the sign was permitted prior to the installation of the vegetation. ~~On-site mitigation ratios are applicable for mitigation work at surrendered permit locations when those locations are within or adjacent to a wooded area, such that mitigation would fill in or extend such wooded area.~~

~~4. If the Department approves a landscape/mitigation plan which contains both the maximum feasible on-site mitigation within the view zone (maximum vegetative habitat), and which screens the sign supports and the back of the sign to the maximum extent feasible, the Department will accept monetary donations for the remaining mitigation in the form of donations for off-site mitigation, which covers the cost of materials, installation, and one-year establishment, at the on-site ratio. For purposes of this provision, when the back of the sign is visible from the main traveled way, on-site mitigation is to include plantings of suitable vegetation on the right-of-way reasonably designed to screen the back of the sign.~~

~~5. The on-site mitigation ratio at nonconforming sign sites for the removal of trees with a +DBH of 4" or more, as of the date of January 19, 1999, would be reduced to 1.5:1 when removal of the trees was previously precluded by Chapter 14-13 and the following conditions exist:~~

~~a. The trees were planted in front of the sign after it was erected; or~~

~~b. By the time the sign was screened by the trees, they were 4" DBH or greater and trimming of the trees for visibility has significantly detracted or will significantly detract from the natural habit of growth of the trees.~~

(4)~~(3)~~ Unauthorized Removal, Cutting, or Trimming~~, or Removal~~ of Vegetation. Any person engaged in unauthorized removal, cutting, or trimming~~, or removal~~ of vegetation in violation of Section 479.106, Florida Statutes, or who benefits from such action, is subject to a penalty of $1,000 per incident per sign facing and shall provide ~~on-site or remote~~ mitigation as required by subsection (3) ~~at double the rate set forth in paragraphs (2)(d)&(e)~~. For purposes of this subsection, the application of any chemical compound that kills or injures a tree, shrub, or herbaceous plant constitutes removal, cutting, or trimming, ~~or removal, depending on the impact on the plant~~.

Specific Authority 334.044(2), 337.2505(1) FS. Law Implemented 334.044(25), 335.167, 337.405, 479.106 FS. History–New 1-19-99, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jeff Caster, Environmental Management Office

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ken Morefield, Assistant Secretary for Transportation Policy, for Thomas F. Barry, Jr., P.E., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 3, 2001

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

PUBLIC SERVICE COMMISSION

DOCKET NO.: 010982-EU

RULE TITLE: RULE NO.:

Interconnection of Small Photovoltaic Systems 25-6.065

PURPOSE AND EFFECT: To encourage customers of investor-owned electric utility to use renewable generation for their own needs by enabling the interconnection of small photovoltaic systems with the electric utility and establishing standards to protect the reliability and safety of the electric utility's system.

SUMMARY: Rule 25-6.065 establishes standards for the interconnection of small photovoltaic systems (SPS) with the electric grid and requires investor-owned electric utilities to file an interconnection agreement with the Commission.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Additional costs are expected for activities such as reviewing and processing applications for interconnection, the cost of an engineer to be present at testing and inspecting of the SPS, modification of billing systems to handle customer generated kWh credits, additional meter costs if the utility chooses to install a separate meter, and the cost of developing a new tariff. Although there is an additional cost in lost revenues to the utility under net metering, because the customer is essentially being compensated at the retail rate rather than the avoided cost rate, there are additional administrative costs when a second meter is installed instead of net metering. In addition to the cost of equipment, the customer will be responsible for paying the utility a fee for processing the application. Customers may also have the cost of purchasing and installing a manual disconnect switch if it is required by the host utility.

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: 350.127(2), 366.05(1) FS.

LAW IMPLEMENTED: 366.04(2)(c),(5),(6), 366.041, 366.05(1), 366.81 FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

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

TIME AND DATE: 1:00 p.m., December 5, 2001

PLACE: Room 148, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, (850)413-6245

THE FULL TEXT OF THE PROPOSED RULE IS:

25-6.065 Interconnection of Small Photovoltaic Systems.

(1) A small photovoltaic system (SPS) is a solar powered generating system that uses an inverter rated at no more than 10 kW alternating current (AC) power output and is primarily intended to offset part or all of a customer's current electricity requirements.

(2) Each investor-owned electric utility (utility), within 30 days of the effective date of this rule, shall file for Commission approval a Standard Interconnection Agreement for interconnecting an SPS. Where a utility refuses to interconnect with an SPS or attempts to impose unreasonable standards or conditions, the SPS customer may petition the Commission for relief. The utility shall have the burden of demonstrating to the Commission why interconnection with the SPS should not be required or that the standards or conditions the utility seeks to impose on the SPS are reasonable. The SPS Standard Interconnection Agreement shall, at a minimum, contain the following:

(a) A list of standards approved by nationally recognized professional organizations that address the design, installation, and operation of the SPS. It is the customer's responsibility to ensure compliance with such standards.

(b) A requirement that the SPS must be inspected and approved by local code officials prior to its operation in parallel with an investor-owned electric utility to ensure compliance with applicable local codes.

(c) A requirement for general liability insurance for personal and property damage in the amount of no more than $100,000. A homeowner's policy that furnishes at least this level of liability coverage will meet the requirement for insurance.

(d) Identification of a reasonable charge for processing the application for interconnection.

(e) Provisions that permit the utility to inspect the SPS and its component equipment, and the documents necessary to ensure compliance with subsections (a) through (d). The utility has the right to have personnel present at the initial testing of customer equipment and protective apparatus.

(f) A provision that the customer who operates an SPS is responsible for protecting its generating equipment, inverters, protection devices, and other system components from damage from the normal and abnormal conditions and operations that occur on the utility system in delivering and restoring system power; and is responsible for ensuring that the SPS equipment is inspected, maintained, and tested in accordance with the manufacturer's instructions to insure that it is operating correctly and safely.

(3) The SPS Interconnection Agreement may require the customer to:

(a) Install, at the customer's expense, a manual disconnect switch of the visible load break type to provide a separation point between the AC power output of the SPS and any customer wiring connected to the utility's system. The manual disconnect switch shall be mounted separate from the meter socket and shall be readily accessible to the utility and capable of being locked in the open position with a utility padlock. The utility may open the switch, isolating the SPS, without prior notice to the customer. To the extent practicable, however, prior notice shall be given.

(b) Provide a written agreement to hold harmless and indemnify the utility from all loss resulting from the operation of the SPS, except in those cases where loss occurs due to the negligent actions of the utility.

(4) The utility shall provide the customer with written notice that it has received the documents required by the Standard Interconnection Agreement within 10 business days of receipt. The customer shall not begin parallel operations until the customer has received this written notice.

(5) Any of the following conditions shall be cause for the utility to disconnect the SPS from its system:

(a) Utility system emergencies or maintenance requirements;

(b) Hazardous conditions existing on the utility system due to the operation of the customer's SPS generating or protective equipment as determined by the utility;

(c) Adverse electrical effects (such as power quality problems) on the electrical equipment of the utility's other electric consumers caused by the SPS as determined by the utility; or

(d) Failure of the customer to maintain the required insurance.

The SPS shall be reconnected to the utility grid as soon as practical once the conditions causing the disconnection cease to exist.

(6) The utility may install, at its own expense, an additional meter or metering equipment on the customer's premises capable of measuring any excess kilowatt-hours produced by the SPS and delivered back to the utility. The value of such excess generation shall be credited to the customer's bill based on the host utility's COG-1 tariff, or by other applicable tariffs approved by the Florida Public Service Commission. If the utility does not install such a meter or metering equipment, the utility shall permit the customer to net meter any excess power delivered to the utility by use of a single standard watt-hour meter capable of reversing directions to offset recorded consumption by the customer. If the kilowatt-hour of energy produced by the SPS exceeds the customer's kilowatt-hour consumption for any billing period, such that when the meter is read the value displayed on the register is less than the value displayed on the register when it was read at the end of the previous billing period, the utility shall carry forward credit for the excess energy to the next billing period. Credits may accumulate and be carried forward for a 12-month period specified by the utility in the SPS Interconnection Agreement. In no event shall the customer be paid for excess energy delivered to the utility at the end of the 12-month period.

Specific Authority 350.127(2), 366.05(1) FS. Law Implemented 366.04(2)(c),(5),(6), 366.041, 366.05(1), 366.81 FS. History–New .

NAME OF PERSON ORIGINATING PROPOSED RULE: Roland Floyd

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 26, No. 47, November 22, 2000

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of the Commission Clerk and Administrative Services, (850)413-6770, at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at 1(800)955-8771 (TDD).

DEPARTMENT OF MANAGEMENT SERVICES

Commission on Human Relations

RULE TITLE: RULE NO.:

Housing for Older Persons Registration and Documentation 60Y-9.007

PURPOSE AND EFFECT: To specify the fee, the fine and the forms and procedures to be used for the registration required by s. 760.29(4)(e), F.S.

SUMMARY: Registration and documentation of facilities and communities claiming and exemption under the "housing for older persons" provisions of the Fair Housing Act with respect to the prohibition of discrimination based upon "familial status."

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.

SPECIFY AUTHORITY: 760.31(5) FS.

LAW IMPLEMENTED: 760.29(4)(e) FS.

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

TIME AND DATE: 10:00 a.m., November 8, 2001

PLACE: Florida Commission on Human Relations, Suite 240, Building F, 325 John Knox Road, Tallahassee, Florida 32303-4149

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND A COPY OF THE DRAFT IS: Nina Singleton, Deputy Executive Director, Florida Commission on Human Relations, telephone number (850)488-7082

THE FULL TEXT OF THE PROPOSED RULE IS:

60Y-9.007 Housing for Older Persons Registration and Documentation.

(1) Facilities or communities claiming an exemption under s. 760.29(4), F.S., may register with the commission and submit the statutorily required documentation to the commission in the manner prescribed by the commission. See

FCHR Housing Form s. 760.29(4)(b)1., F.S.; FCHR Housing Form s. 760.29(4)(b)2., F.S.; FCHR Housing Form s. 760.29(b)3., F.S.

(2) The registration and documentation letter shall be mailed certified mail, return receipt requested and shall contain in bold letters on the face of the envelope the words "Registration for Housing for Older Person," and provide the date of mailing.

(3) The registration and documentation shall be submitted biennially on the first day of the month, or up to seven days thereafter, of the anniversary of the initial registration.

(4) The information in the commission's registry is a public record. The information shall also be included in the commission's main website at "http://fchr.info.state.fl.us."

(5) The commission's registry is not admissible in an administrative or judicial proceeding with respect to proving whether or not the facility or community complies with the requirements of s. 760.29(4)(b)1., F.S., s. 760.29(4)(b)2., F.S., or s. 760.29(4)(b)3., F.S.

(6) A facility or community may prove compliance with the requirements of s. 760.29(4)(b)1., F.S, s. 760.29(4)(b)2., F.S, or s. 760.29(4)(b)3., F.S, without participating in the registry pursuant to s. 760.29(4)(e), F.S.

(7) The registration fee must be included within the completed registration letter in order to constitute a valid registration. The biennial registration fee is $20.00. It shall be sent to: Florida Commission on Human Relations, Post Office Box 3388, Tallahassee, Florida 32315-3388.

(8) Any facility or community that knowingly submits false information in the documentation required by s. 760.29(4)(e), F.S., shall be assessed a $500.00 fine to be paid into the commission's trust fund.

Specific Authority 760.29(5) FS. Law Implemented 760.29(4)(e) FS. History–New .

NAME OF PERSON ORIGINATING PROPOSED RULE: Dana Baird

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Nina Singleton, Deputy Executive Director

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 24, 2001

Proposed wording of FCHR Housing Form s. 760.29(4)(b)1., F.S.

[LETTERHEAD OF FACILITY OR COMMUNITY]

[COMPLIANCE LETTER UNDER s. 760.29(4)(b)1., F.S.]

Date

Re: [name of facility or community]/Registration under s. 760.29(4)(b)1., F.S.

FCHR Executive Director

[FCHR Address]

Dear FCHR Executive Director:

Please acknowledge this registration by making it available to the public as well as placing this information on the Commission's website.

In addition, as President of the above-mentioned facility or community, I hereby state that the facility or community complies with the requirements of s. 760.29(4)(b)1., F.S., provides that this facility or community is "housing for older persons" in that the housing is "provided under any state or federal programs that the commission has determined is specifically designed and operated to assist elderly persons."

FCHR Executive Director Correspondence, Registration

Thank you for your prompt assistance in this matter.

Sincerely,

Signature

[title of signatory and name of facility or community]

[notary – for purpose of verification of identity of president]

Proposed wording of FCHR Housing Form s. 760.29(4)(b)3., F.S.

[LETTERHEAD OF FACILITY OR COMMUNITY]

[COMPLIANCE LETTER UNDER s. 760.29(4)(b)3., F.S.]

Date

Re: [name of facility or community]/Registration under s. 760.29(4)(b)3., F.S.

FCHR Executive Director

[FCHR Address]

Dear FCHR Executive Director:

Same as preliminary FCHR Housing Form s. 760.29(4)(b)1., F.S., with the following language being substituted for paragraph two of the letter:

In addition, as President of the above-mentioned facility or community, I hereby state that the facility or community complies with the requirements of s. 760.29(4)(b)2., F.S., as amended. Sub subsection 760.29(4)(b)2., F.S., provides that this facility or community is "housing for older persons" in that the housing is "[I]nteded for, and solely occupied by, person, 62 years of age or older."

Proposed wording of FCHR Housing Form s. 760.29(4)(b)3., F.S.

[LETTERHEAD OF FACILITY OR COMMUNITY]

[COMPLIANCE LETTER UNDER s. 760.29(4)(b)3., F.S.]

Date

Re: [name of facility or community]/Registration under s. 760.29(4)(b)1., F.S.

FCHR Executive Director:

[FCHR Address]

Dear FCHR Executive Director:

Same as preliminary FCHR Housing Form s. 760.29(4)(b)1., F.S., with the following language being substituted for paragraph two of the letter:

In addition, as President of the above-mentioned facility or community, I hereby state that the facility or community complies with the requirements of s. 760.29(4)(b)3., F.S., as amended. Subsubsection 760.29(4)(b)3., F.S., provides in pertinent part that this facility or community is "housing for older persons" in that the housing is "intended and operated for occupancy by persons 55 years of age or older" and meets all requirements for such statutory exemption to Florida's Fair Housing Act, Section 760.20, et seq., Such requirements include in summary. (a) The facility or community must have 80% occupancy by at least one person 55 years or more; (b) The facility or community must publish and adhere to policies and procedures that demonstrate the intent to b "housing for older person;" and (c) The facility or community must comply with the rules made by the Secretary of the United States Department of Housing and Urban Development pursuant to 24 C.F.R. part 100 for verification of occupancy.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Resource Management

DOCKET NO.: 99-53R

RULE CHAPTER TITLE: RULE CHAPTER NO.:
Certification to Administer Reclamation Rules 62C-35

RULE TITLE: RULE NO.:
Petition for Certification 62C-35.003

PURPOSE AND EFFECT: The Department of Environmental Protection (Department) intends to repeal the reference to Florida Department of Transportation from Rule 62C-35.003(1), F.A.C. The Florida Department of Transportation is no longer able to petition the Department to be certified to receive notices of intent to mine and other documents required to carry out Chapters 62C-36 and 62C-39, F.A.C.; to review such notices and documents; and to conduct compliance inspections. This will implement statutory amendments to Chapter 378, F.S., provided in Chapter 99-385, Laws of Florida. The Florida Department of Transportation has not previously petitioned to be certified, prior to repeal of this statutory provision.

SUMMARY: The proposed rulemaking will repeal Department of Transportation's authority to petition the Department for certification to receive notices of intent to mine and other documents required to carry out Chapters 62C-36 and 62C-39, F.A.C., to review such notices and documents, and to conduct compliance inspections.

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

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

SPECIFIC AUTHORITY: 370.021, 378.404, 378.411 FS.

LAW IMPLEMENTED: 378.411 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Howard J. Hayes, Florida Department of Environmental Protection, Division of Water Resource Management, Bureau of Mine Reclamation, Mail Station 715, 2051 East Dirac Drive, Tallahassee, Florida 32310-3760, Telephone (850)488-8217

THE FULL TEXT OF THE PROPOSED RULE IS:

62C-35.003 Petition for Certification.

(1) A local government ~~or the Florida Department of Transportation~~ may petition the executive director to receive notices of intent to mine and other documents required to carry out chapters 62C-36 and 62C-39, F.A.C.; to review such notices and documents; and to conduct compliance inspections.

(2) through (10) No change.

Specific Authority 370.021, 378.404, 378.411 FS. Law Implemented 378.411 FS. History–New 2-22-87, Amended 11-29-90, Formerly 16C-35.003, Amended _____.

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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kirby B. Green, III, Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 14, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 29, 2000

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Resource Management

DOCKET NO.: 99-54R

RULE CHAPTER TITLE: RULE CHAPTER NO.:
Limestone Reclamation Requirements 62C-36

RULE TITLE: RULE NO.:
Definitions 62C-36.002

PURPOSE AND EFFECT: Section 373.421 of the Florida Statutes states that any existing wetlands definition or delineation methodology shall be superseded by the wetland definition and methodology codified by Chapter 373 of the Florida Statutes. The Department of Environmental Protection

(Department) intends to repeal the definition of wetlands contained in Rule 62C-36.002(20), F.A.C., since this rule definition had been based on a conflicting statutory definition contained in Chapter 378 of the Florida Statutes. The wetland definition and methodology to be used in the Department's reclamation programs shall now conform with the standards codified in Chapter 373 of the Florida Statutes. The Department has also identified that it lacks sufficient statutory authority to authorize the Department of Transportation to petition the Department to be certified to receive and review notices of intent to mine and to conduct compliance inspections as set forth in subsection 62C-35.003(1), F.A.C. Chapter 99-385 of the Laws of Florida repealed the statutory authority for such provisions.

SUMMARY: The proposed rulemaking will address the definition of wetlands and the methodology used to delineate the extent of wetlands for purposes of the limestone reclamation program. This rulemaking will also repeal the Department of Transportation's authority to petition the Department to be certified to receive and review notices of intent to mine and to conduct compliance inspections as set forth in subsection 62C-35.003(1), F.A.C.

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

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

SPECIFIC AUTHORITY: 370.021, 378.404 FS.

LAW IMPLEMENTED: 378.403, 378.404 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Howard J. Hayes, Florida Department of Environmental Protection, Division of Water Resource Management, Bureau of Mine Reclamation, Mail Station 715, 2051 East Dirac Drive, Tallahassee, Florida 32310-3760, Telephone (850)488-8217

THE FULL TEXT OF THE PROPOSED RULE IS:

62C-36.002 Definitions.

For the purpose of this chapter, the following words and terms shall have the definitions and meanings ascribed to them in this section:

(1) through (2) No change.

(3) "Certified" means approved by the department ~~executive director~~ to administer the requirements of this chapter. This term shall only apply to ~~the Department of Transportation or~~ a local government.

(4) through (19) No change.

~~(20) "Wetlands" means any area having dominant vegetation as defined and listed in Department of Environmental Protection Rule 62-301.400, Florida Administrative Code, regardless of whether the area is within the Department of Environmental Protection's jurisdiction or whether the water bodies are connected.~~

Specific Authority 370.021, 378.404 FS. Law Implemented 378.403, 378.404 FS. History–New 7-16-87, Formerly 16C-36.002, Amended _____.

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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kirby B. Green, III, Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 14, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 29, 2000

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Resource Management

DOCKET NO.: 99-55R

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Heavy Mineral Reclamation Requirements	62C-37
RULE TITLES:	**RULE NOS.:**
Definitions	62C-37.002
Applications Required	62C-37.003
Document Format and Standards	62C-37.004
Application Procedures	62C-37.005
Application Review Procedures	62C-37.006
Reclamation Standards	62C-37.008
Release Procedures	62C-37.010

PURPOSE AND EFFECT: Section 373.421 of the Florida Statutes states that any existing wetlands definition or delineation methodology shall be superseded by the wetland definition and methodology codified by chapter 373 of the Florida Statutes. The Department of Environmental Protection (Department) intends to repeal the definition of wetlands contained in Rule 62C-37.002(16), F.A.C., since this rule definition had been based on a conflicting statutory definition contained in Chapter 378 of the Florida Statutes. The wetland definition and methodology to be used in the Department's reclamation programs shall now conform with the standards codified in Chapter 373 of the Florida Statutes. The Department also intends to repeal the rule provision in subsection 62C-37.008(11), F.A.C., that allows for the designation of Wildlife Areas where the Department may, on a case-by-case basis, waive or modify reclamation requirements for slopes, revegetation, and erosion control. The Department

lacks authority to waive mine reclamation requirements in this manner. To date, no Wildlife Areas have been designated within any mines regulated by Chapter 62C-37, F.A.C.

The Department intends to repeal provisions for the submittal of reclamation program documents and amendments to these documents. This will be in conformance with the repeal from Chapter 378, F.S., of the requirements for these documents. The Department intends to revise the requirements for the mine conceptual plans to take into account that proposed, detailed, reclamation designs will no longer be provided in separate reclamation programs.

The Department has replaced the phrase "Executive Director" with the word "Department" everywhere the phrase appears to reflect the agency head's current title. In addition, the Department has replaced the phrase "Florida Game and Fresh Water Fish Commission" with the phrase "Florida Fish and Wildlife Conservation Commission" everywhere the phrase appears to reflect the agency's current title.

SUMMARY: The proposed rulemaking will modify the definition of wetlands and the methodology used to delineate the extent of wetlands to be used in the mine reclamation program; will repeal the designation of Wildlife Areas within a mine where reclamation standards may be waived or modified; will repeal the requirement to provide a reclamation program and modify the documentation requirements for conceptual plans; and will modify phrases to reflect changes to agency names and the title to the Department's agency head.

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

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

SPECIFIC AUTHORITY: 370.021, 378.404, 378.601 FS.

LAW IMPLEMENTED: 378.403, 378.404, 378.405, 378.601 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Howard J. Hayes, Florida Department of Environmental Protection, Division of Water Resource Management, Bureau of Mine Reclamation, Mail Station 715, 2051 East Dirac Drive, Tallahassee, Florida 32310-3760, Telephone (850)488-8217

THE FULL TEXT OF THE PROPOSED RULES IS:

62C-37.002 Definitions.

For the purpose of this chapter, the following words and terms shall have the definitions and meanings ascribed to them in this section:

(1) through (3) No change.

~~(4) "Executive director" means the chief administrative officer of the department or his designee.~~

(5) through (15) renumbered (4) through (14) No change.

~~(16) "Wetlands" means any area having dominant vegetation as defined and listed in Department of Environmental Protection Rule 62-301.400, Florida Administrative Code, regardless of whether the area is within the Department of Environment Regulation's jurisdiction or whether the water bodies are connected.~~

Specific Authority 370.021, 378.404, 378.601 FS. Law Implemented 378.403, 378.404, 378.601 FS. History–New 2-22-87, Formerly 16C-37.002, Amended _____.

62C-37.003 Applications Required.

(1) Conceptual Plan. Prior to July 1, 1987, no operator may begin the process of heavy mineral extraction at a new mine without filing an application for a conceptual plan with the department at least six months prior to the beginning of mining operations. After July 1, 1987, no operator may begin the process of heavy mineral extraction at a new mine without receiving approval of a conceptual reclamation plan from the department. The conceptual plan application shall include the following information to allow documentation, review, and evaluation of proposed reclamation activities and to allow determination of compliance with the standards in this chapter.

(a) No change.

(b) Premining information. The plan shall include descriptions of the following, as they existed prior to mining:

1. No change.

2. The presence and location of plant and animal species listed as threatened or endangered by the Florida Fish and Wildlife Conservation Commission ~~Florida Game and Fresh Water Fish Commission~~ or the U. S. Fish and Wildlife Service.

(c) No change.

(d) A description of the activities to be undertaken to comply with each of the standards in Section 62C-37.008, F.A.C. The information provided shall be sufficient to determine whether or not each standard will be met.

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

(f) Cross sections shall be provided for each area to be reclaimed as a water body and wetland.

(g) A description of any temporary land use requested, including the estimated dates the temporary land use will be in effect, what reclamation activities will be needed when the temporary land use ceases, and a time schedule for the reclamation activities.

(h)~~(e)~~ No change.

(2) Modification to an Approved Conceptual Plan. An operator shall submit applications for modifications, as needed, for all changes to approved conceptual plans.

(a) through (e) No change.

(f) Changes required by permit conditions or requirements imposed by other agencies, including federal agencies, shall not be considered significant when such changes are consistent with the reclamation standards in Section 62C-37.008.

(g) Requests for temporary land uses on approved conceptual plans shall be filed as modifications.

~~(3) Program. Each operator shall have an approved program prior to beginning reclamation activities upon any site which is subject to the requirements of this chapter. Program applications shall include the following information:~~

~~(a) General information.~~

~~1. Operator's name, mailing address, business address, and phone number.~~

~~2. Name of parent company, corporation, etc., mailing address, business address, and phone number.~~

~~3. Mine name, mailing address, business address, and phone number.~~

~~4. Authorized agent's name, mailing address, business address, and phone number.~~

~~5. Date mining operations began or are to begin within the application area.~~

~~6. Program area location by county, township, range, section, and quarter-section.~~

~~(b) A detailed description of the activities to be undertaken to comply with each of the standards in Section 62C-37.008. The information provided shall be sufficient to determine whether or not each standard will be met.~~

~~(c) Separate maps shall be provided that show the:~~

~~1. Postreclamation topography and drainage.~~

~~2. Postreclamation vegetation.~~

~~3. Area to be mined and area to be disturbed, but not mined.~~

~~(d) Cross-sections shall be provided for each water body and wetland.~~

~~(e) A description of any temporary land use requested, including the estimated dates the temporary land use will be in effect, what reclamation activities will be needed when the temporary land use ceases, and a time schedule for the reclamation activities.~~

~~(4) Amendment to an Approved Program. Each operator shall have an approved amendment for all changes to a program before initiating such changes.~~

~~(a) An amendment application shall include the following information:~~

~~1. Name of mine.~~

~~2. Name of operator.~~

~~3. Permit identification code for approved program.~~

~~4. What change is requested.~~

~~5. Why the change is requested.~~

~~6. What alternatives were considered.~~

~~7. Why the requested change was chosen.~~

~~(b) Significant changes to approved programs are changes that affect or result in a cumulative change of more than 100 acres or more than 20 percent, whichever is smaller, of the area covered by the program, as originally approved or most recently amended by the executive director.~~

~~(c) Changes required by permit conditions or requirements imposed by other agencies, including federal agencies, shall not be considered significant when such changes are consistent with the reclamation standards in section 62C-37.008.~~

~~(d) Requests for temporary land uses on approved programs shall be filed as amendments.~~

(3)~~(5)~~ No change.

(4)~~(6)~~ An operator shall notify the department ~~executive director~~ of any changes of land ownership or operators at a mine within at least 30 days after such changes.

(5)~~(7)~~ An operator shall notify the department ~~executive director~~ no later than six months after the temporary cessation and 30 days after the permanent cessation of mining at a mine.

Specific Authority 370.021, 378.404, 378.601 FS. Law Implemented 378.404, 378.601 FS. History–New 2-22-87, Formerly 16C-37.003, Amended _____.

62C-37.004 Document Format and Standards.

(1) All applications ~~for conceptual plans, modifications, programs, and amendments~~ shall be submitted in accordance with the document format and standards in this section.

(2) through (6) No change.

(7) All maps, drawings, and cross sections shall be of a scale suitable to show the required information. The original map scale for conceptual plans and modifications shall be one inch equals 1000 ~~2000~~ feet. ~~The original map scale for programs and amendments shall be no smaller than one inch equals 500 feet, unless the application area will not fit within the format requirements of subsections (5) and (6) above.~~

(8) No change.

Specific Authority 370.021, 378.404, 378.601 FS. Law Implemented 378.404, 378.601 FS. History–New 2-22-87, Formerly 16C-37.004, Amended _____.

62C-37.005 Application Procedures.

(1) No change.

(2) Filing. Applications shall be filed with the bureau in accordance with the following deadlines:

(a) through (b) No change.

~~(c) Programs. Program applications shall be filed at least six months, but no more than two years, prior to the anticipated commencement of extraction in the application area.~~

~~(d) Amendments. Amendment applications shall be filed at least 90 days prior to beginning activities which are significant changes to an approved program and at least 30 days prior to beginning activities which are not significant changes to an approved program.~~

Specific Authority 370.021, 378.404, 378.601 FS. Law Implemented 378.404, 378.601 FS. History–New 2-22-87, Formerly 16C-37.005, Amended _____.

62C-37.006 Application Review Procedures.

All applications shall be reviewed in accordance with the following procedures:

(1) Within 30 days after receipt of an operator's application ~~for a conceptual plan, modification, program, or amendment,~~ the department ~~executive director~~ shall review the application ~~plan, modification, program, or amendment~~ and shall request the submittal of all additional information the agency is permitted by law to require.

(2) The operator shall provide the requested additional information within 45 days of receipt of the request or request an extension to the 45-day period. The extension request shall include the date by which the information can be provided and the reason for the extension. The department ~~executive director or his designee~~ shall approve reasonable requests that are based on a need to complete data collection. If the operator does not provide the requested information within the 45-day period or request an extension, the department ~~executive director~~ may proceed to final action.

(3) No change.

(4) Within 30 days after receipt of the requested additional information, the department ~~executive director~~ shall review it and may request only such information needed to clarify the received additional information.

(5) If the operator believes the request of the department ~~executive director~~ for such additional information, requested pursuant to subsection (4) above, is not authorized by law or department rule, the department, at the operator's request, shall proceed to process the application.

(6) Applications shall be approved, approved with conditions, or denied by the department within 90 days after receipt of the original application, the last item of timely requested additional information, or the operator's written request to begin processing the application~~, as follows:~~

~~(a) The department shall take final action on conceptual plans and any application that includes significant changes to an approved conceptual plan.~~

~~(b) The executive director shall take final action on all applications that do not require final action by the department.~~

Specific Authority 370.021, 378.404, 378.601 FS. Law Implemented 378.405, 378.601 FS. History–New 2-22-87, Formerly 16C-37.006, Amended _____.

62C-37.008 Reclamation Standards.

The following standards shall apply to areas mined or disturbed by mining operations ~~each program area~~, unless otherwise specified:

~~(1) The program area shall be delineated based on the following:~~

~~(a) All acres shall be contiguous.~~

~~(b) The program area shall have simple boundaries and, therefore, may include areas which will not be disturbed by mining activities.~~

~~(c) The program area must be large enough to include appropriate drainage features, such as lakes, wetlands, and streams and enough of the surrounding uplands to evaluate the function of each feature.~~

~~(d) The program area shall consist of a logical unit which has a boundary that is based on a consideration of the standards in this section. The bureau may request alterations in the originally submitted boundary as part of the bureau's evaluation of the completeness of the application.~~

~~(e) The program area shall include at least one year of mining and shall not exceed 640 acres, unless an area of 640 acres or less would not constitute a logical unit pursuant to the other standards in this subsection.~~

~~(f) The program area for waste disposal sites must include the entire waste disposal site, if such site includes slurried wastes contained by a dam.~~

(2) through (5) renumbered (1) through (4) No change.

(5)~~(6)~~ Wetlands and Water Bodies. The design of artificially created wetlands and water bodies shall be consistent with health and safety practices, maximize beneficial contributions within local drainage patterns, provide aquatic and wetland wildlife habitat values, and maintain downstream water quality by preventing erosion and providing nutrient uptake. Water bodies should incorporate a variety of emergent habitats, a balance of deep and shallow water, fluctuating water levels, high ratios of shoreline length to surface area and a variety of shoreline slopes.

(a) At least 25% of the highwater surface area of each water body shall consist of an annual zone of water fluctuation to encourage emergent and transition zone vegetation. This area will also qualify as wetlands under the requirements of (4)~~(5)~~ above if requirements in 62C-37.008(9) ~~62C-37.008(9)(d)~~ are met. In the event that sufficient shoreline configurations, slopes, or water level fluctuations cannot be designed to accommodate this requirement, this deficiency shall be met by constructing additional wetlands adjacent to and hydrologically connected to the water body.

(b) through (c) No change.

(7) through (10) renumbered (6) through (9) No change.

(10)~~(11)~~ Wildlife.

~~(a)~~ The operator shall identify what measures have been incorporated into the conceptual plan ~~or program~~ to offset fish and wildlife values lost as a result of mining activities and shall identify special programs to restore, enhance, or reclaim particular habitats, especially for endangered and threatened species, as identified by the Florida Fish and Wildlife Conservation Commission ~~Florida Game and Fresh Water Fish Commission~~ or the U. S. Fish and Wildlife Service.

~~(b) The operator may designate specific locations within the mine as "Wildlife Areas" and include a plan for reclamation and management for sites so designated. Slopes, revegetation, and erosion control requirements may be waived or modified by the department in such areas on a case-by-case basis where such changes will benefit the overall plan for the propagation of wildlife.~~

(11)~~(12)~~ Time Schedule.

(a) No change.

(b) Completion dates.

1. through 3. No change.

4. Reclamation and restoration shall be completed within three years of the actual completion of mining operations, inclusive of a one-year period after planting the required vegetation to allow for establishment. ~~The required completion date may vary within a program, depending upon the specific sequence of mining.~~

5. through 6. No change.

(12)~~(13)~~ Exceptions and Innovations. Exceptions to the standards contained in this section may be granted by the department ~~executive director~~ for experimental or innovative techniques.

(13)~~(14)~~ No change.

Specific Authority 370.021, 378.404, 378.601 FS. Law Implemented 378.404, 378.601 FS. History–New 2-22-87, Formerly 16C-37.008, Amended _____.

62C-37.010 Release Procedures.

(1) Upon completion of reclamation requirements in an ~~a program~~ area, the operator shall notify the department ~~executive director~~.

(2) Within 60 days after receipt of the notification, the department ~~executive director~~ shall notify the operator in writing whether or not in inspection will be made within one year after receipt of the operator's notification. The department's ~~executive director's~~ notification shall include the date the inspection will occur, if an inspection is scheduled.

(3) Within 30 days after the inspection, the department ~~executive director~~ shall notify the operator in writing that the ~~program~~ area is released or what work must be done before release can be granted.

(4) If the department ~~executive director~~ notifies the operator that the ~~program~~ area will not be inspected, the ~~program~~ area shall be released from reclamation requirements at the end of the second year after receipt of the operator's notification.

(5) If an operator wishes to resume mining operations within a released ~~program~~ area, the area to be disturbed shall be considered to be an undisturbed area for the purposes of this chapter and application shall be made in accordance with the full provisions of this chapter.

Specific Authority 370.021, 378.404, 378.601 FS. Law Implemented 378.404, 378.601 FS. History–New 2-22-87, Formerly 16C-37.010, Amended _____.

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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kirby B. Green, III, Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 14, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 29, 2000

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Resource Management

DOCKET NO.: 99-56R

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Fuller's Earth Reclamation Requirements	62C-38
RULE TITLES:	**RULE NOS.:**
Definitions	62C-38.002
Reclamation Standards	62C-38.008

PURPOSE AND EFFECT: Section 373.421 of the Florida Statutes states that any existing wetlands definition or delineation methodology shall be superseded by the wetland definition and methodology codified by Chapter 373 of the Florida Statutes. The Department of Environmental Protection (Department) intends to repeal the definition of wetlands contained in Rule 62C-38.002(15), F.A.C., since this rule definition had been based on a conflicting statutory definition contained in Chapter 378 of the Florida Statutes. The wetland definition and methodology to be used in the Department's reclamation programs shall now conform with the standards codified in Chapter 373 of the Florida Statutes. The Department also intends to repeal the rule provision in subsection 62C-38.008(7), F.A.C., that allows for the designation of Wildlife Areas where the Department may, on a case-by-case basis, waive or modify reclamation requirements for slopes, revegetation, and erosion control. The Department lacks authority to waive mine reclamation requirements in this manner. To date, no Wildlife Areas have been designated within any mines regulated by Chapter 62C-38, F.A.C.

SUMMARY: The proposed rulemaking will modify the definition of wetlands and the methodology used to delineate the extent of wetlands to be used in the mine reclamation program, and will repeal the designation of Wildlife Areas within a mine where reclamation standards may be waived or modified.

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

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

SPECIFIC AUTHORITY: 211.32, 370.021, 378.404 FS.

LAW IMPLEMENTED: 211.32, 378.403, 378.404, 378.703 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Howard J. Hayes, Florida Department of Environmental Protection, Division of Water Resource Management, Bureau of Mine Reclamation, Mail Station 715, 2051 East Dirac Drive, Tallahassee, Florida 32310-3760, Telephone (850)488-8217

THE FULL TEXT OF THE PROPOSED RULES IS:

62C-38.002 Definitions.

For the purpose of this chapter, the following words and terms shall have the definitions and meanings ascribed to them in this section:

(1) through (14) No change.

~~(15) "Wetland" means any area having dominant vegetation as defined and listed in Department of Environmental Protection Rule 62-301.400, Florida Administrative Code, regardless of whether the area is within the Department of Environmental Protection's jurisdiction or whether the water bodies are connected.~~

Specific Authority 370.021, 378.404 FS. Law Implemented 378.403, 378.404 FS. History–New 3-19-87, Amended 11-29-90, Formerly 16C-38.002, Amended _____.

62C-38.008 Reclamation Standards.

The following standards shall apply to any original surface area that is initially disturbed by mining operations on or after October 1, 1986, and is not covered by an approved conceptual reclamation plan. The standards in section 62C-16.0051, as existing on September 30, 1986, shall apply to any area mined or disturbed from July 1, 1975, to October 1, 1986, except where any standard in Section 62C-38.008 is less strict, then the standard in 62C-38.008 shall apply.

(1) through (6) No change.

(7) Revegetation.

(a) No change.

(b) The plans for revegetation shall incorporate measures to offset wildlife habitat lost as a result of fuller's earth extraction.

~~1.~~ The operator shall identify what measures have been incorporated into the conceptual plan to offset fish and wildlife values lost as a result of mining activities and shall identify special programs to restore, enhance, or reclaim particular habitats, especially for endangered and threatened species, as identified by the Florida Fish and Wildlife Conservation Commission ~~Florida Game and Fresh Water Fish Commission~~ or the U. S. Fish and Wildlife Service.

~~2. The operator may designate specific locations within the mine as "Wildlife Areas" and include a plan for reclamation and management for sites so designated. Slopes, revegetation, and erosion control requirements may be waived or modified by the department in such areas on a case-by-case basis where such changes will benefit the overall plan for the propagation of wildlife.~~

(8) No change.

Specific Authority 211.32, 370.021, 378.404 FS. Law Implemented 211.32, 378.404(8), 378.703 FS. History–New 3-19-87, Amended 11-29-90, Formerly 16C-38.008, Amended _____.

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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kirby B. Green, III, Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 14, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 29, 2000

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Resource Management

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Reclamation Requirements for Solid Resources	62C-39
RULE TITLES:	RULE NOS.:
Definitions	62C-39.002
Severance Taxpayers and Multiple Resource Operators	62C-39.013

PURPOSE AND EFFECT: Section 373.421 of the Florida Statutes states that any existing wetlands definition or delineation methodology shall be superseded by the wetland definition and methodology codified by Chapter 373 of the Florida Statutes. The Department of Environmental Protection (Department) intends to repeal the definition of wetlands contained in Rule 62C-39.002(21), F.A.C., since this rule definition had been based on a conflicting statutory definition contained in Chapter 378 of the Florida Statutes. The wetland

definition and methodology to be used in the Department's reclamation programs shall now conform with the standards codified in Chapter 373 of the Florida Statutes. The Department has also identified that it lacks sufficient statutory authority to authorize the Department of Transportation to petition the Department to be certified to receive and review notices of intent to mine and to conduct compliance inspections as set forth in subsection 62C-35.003(1), F.A.C. Accordingly, the Department intends to repeal the reference in subsection 62C-39.002(3), F.A.C., to the Department of Transportation under the definition of "certified." Chapter 99-385 of the Laws of Florida repealed the statutory authority for such provisions. The Department also intends to repeal the procedures and additional review requirements contained in subsection 62C-39.013(1), F.A.C., for mining operators who are subject to the severance tax provisions of Part II of Chapter 211 of the Florida Statues. There are no severance taxpayers subject to the requirements of this chapter.

SUMMARY: The proposed rulemaking will repeal the definition of wetlands and the methodology used to delineate the extent of wetlands to be used in the mine reclamation program. This rulemaking will also repeal the Department of Transportation's authority to petition the Department to be certified to receive and review notices of intent to mine and to conduct compliance inspections as set forth in subsection 62C-35.003(1), F.A.C., and referenced in subsection 62C-39.002(3), F.A.C. Lastly, the rulemaking will repeal the procedures and additional review requirements when reviewing reclamation plans for mining operators who are subject to the severance tax provisions of part II of Chapter 211 of the Florida Statutes.

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

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

SPECIFIC AUTHORITY: 211.32, 370.021, 378.404 FS.

LAW IMPLEMENTED: 211.32, 378.403, 378.404 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Howard J. Hayes, Florida Department of Environmental Protection, Division of Water Resource Management, Bureau of Mine Reclamation, Mail Station 715, 2051 East Dirac Drive, Tallahassee, Florida 32310-3760, telephone (850)488-4522

THE FULL TEXT OF THE PROPOSED RULES IS:

62C-39.002 Definitions.

For the purpose of this chapter, the following words and terms shall have the definitions and meanings ascribed to them in this section:

(1) through (2) No change.

(3) "Certified" means approved by the department ~~executive director~~ to administer the requirements of this chapter. This term shall only apply to ~~the Department of Transportation or~~ a local government.

(4) through (20) No change.

~~(21) "Wetlands" means any area having dominant vegetation as defined and listed in Department of Environmental Protection Rule 62-301.400, Florida Administrative Code, regardless of whether the area is within the Department of Environmental Protection's jurisdiction or whether the water bodies are connected.~~

Specific Authority 370.021, 378.404 FS. Law Implemented 378.403, 378.404 FS. History–New 1-19-89, Formerly 16C-39.002, Amended _____.

62C-39.013 Severance Taxpayers and Multiple Resource Operators.

~~(1) Severance Taxpayers. Any operator who is subject to the severance tax pr ovision of chapter 211, part II, Florida Statutes, shall meet or be subject to the following additional requirements or provisions:~~

~~(a) Reclamation and restoration plans previously approved by the department shall be carried out, as approved, unless the operator seeks changes pursuant to this chapter.~~

~~(b) All applications, except conceptual reclamation plans, required by chapter 62C-16, F.A.C., received prior to October 1, 1986, that are on file with the department and not required by this chapter shall be considered withdrawn on the effective date of this chapter.~~

~~(c) The review of unapproved conceptual reclamation plans filed under chapter 62C-16, F.A.C., shall be completed in accordance with section 62C-39.006, F.A.C., unless withdrawn by the applicant.~~

~~(d) For the purposes of this section, the following definitions shall apply:~~

~~1. "Program" shall mean a reclamation plan that is approved by the executive director and is consistent with the reclamation standards in section 62C-39.008.~~

~~2. "Other qualified sites" shall mean sites other than the site of severance that meet the following qualifications:~~

~~a. The restoration or reclamation of the site and the program to be instituted are in the public interest; and~~

~~b. The location of the site is in an area where economic considerations would not be conducive to immediate restoration or reclamation of the site.~~

~~(e) On or before April 1 of each year, each operator shall submit to the executive director a report for the previous calendar year for each mine under its control that is subject to the severance tax. Each report shall be submitted on the DNR~~

~~Form 53-034(16), incorporated by reference in Section 62C-39.014, F.A.C., and shall include the following for the report period:~~

~~1. Name and address of the operator, name of the mine, and year covered by the report.~~

~~2. The number of acres upon which resource extraction occurred which was subject to the severance tax.~~

~~3. The total number of acres for which refunds are being requested for reclamation activities.~~

~~4. A map that shows the location of the site of severance and the area where reclamation activities occurred for which refunds are being sought.~~

~~5. A description of the reclamation activities for which a refund is being sought.~~

~~(f) As part of accomplishing the reclamation of any site that is eligible for refunds under Section 211.32, Florida Statutes, an operator may request that the department accept a portion or portions of the site as state land. Such a request shall be in writing to the executive director and shall be accompanied by an offer to transfer to the state title to the land involved and suitable ingress thereto and egress therefrom.~~

~~(2)~~ Multiple Resource Operators. If an operator is engaged in extracting more than one resource from the same mine, the operator shall be subject to the requirements of the rule chapter, specifically, 62C-16, 16C-36, 62C-37, 16C-38, or 16C-39, that regulates the particular mineral resource which was extracted in the largest volume.

Specific Authority 370.021, 211.32, 378.404 FS. Law Implemented 211.32, 378.404(1) FS. History–New 1-19-89, Formerly 16C-39.013, Amended _____.

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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kirby B. Green, III, Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 14, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 29, 2000

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE: RULE NO.:

Scope of Practice Relative to Specialty of Licensure 64B3-10.005

PURPOSE AND EFFECT: The Board proposes to update the existing rule.

SUMMARY: The Board proposes to add other automated immunoassays to the types of analyses performed under the specialty of clinical chemistry.

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: 483.805(4) FS.

LAW IMPLEMENTED: 483.813, 483.823, 483.825 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: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-10.005 Scope of Practice Relative to Specialty of Licensure.

(1) through (6) No change.

(7) The purpose of the specialty of clinical chemistry is to perform qualitative and quantitative analyses on body fluids such as blood, urine, spinal fluid, feces, tissue, calculi and other materials to measure the chemical constituents including but not limited to carbohydrates, proteins, lipids, enzymes, non-protein nitrogenous substances, electrolytes, blood gases, trace elements, inorganic compounds, therapeutic and drugs of abuse, hormones, vitamins, tumor markers, other automated immunoassays and other analyses. The specialty also encompasses urine microscopics and the chemical evaluation of liver, renal, lung, cardiac, neuromuscular, reproductive, bone, endocrine and other organ function and pathology and all testing included in the specialties of radioassay as defined in Subsection (9) and blood gas analysis as defined in Subsection (10). Individuals employed in plasmapheresis centers who perform only total protein by refractometer are not required to hold a license in clinical chemistry if they meet the requirements of 42 CFR 493.1423, and can document appropriate training.

(8) through (18) No change.

Specific Authority 483.805(4) FS. Law Implemented 483.813, 483.823, 483.825 FS. History–New 2-7-95, Amended 3-28-95, 7-12-95, 12-4-95, Formerly 59O-10.005, Amended 3-19-98, 1-28-99, 11-24-99, 2-15-01, _____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 13, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 28, 2001

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: RULE NO.:

Performance of Pro Bono Services 64B8-45.005

PURPOSE AND EFFECT: The Board proposes to amend the existing rule by updating the rule text.

SUMMARY: The rule amendment is for the purpose of updating the performance of pro bono services.

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: 456.013(8), 468.507 FS.

LAW IMPLEMENTED: 468.514 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Dietetics and Nutrition Practice Council, 4052 Bald Cypress Way, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-45.005 Performance of Pro Bono Services.

(1) Up to four hours per biennium of continuing education credit may be fulfilled by the performance of pro bono services to the indigent~~,~~ as provided in § 456.013(9), or to underserved populations, or in areas of critical need within the state where the licensee practices. ~~The standard for determining indigency shall be that recognized by the Federal Poverty Income Guidelines produced by the Department of Health and Human Services found in 45 CFR § 206 and § 234 and incorporated herein by reference~~.

(2) No change.

Specific Authority 456.013(9), 468.507 FS. Law Implemented 468.514, 456.013(9) FS. History–New 9-28-93, Amended 2-8-94, Formerly 61F6-51.005, 59R-45.005, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dietetics and Nutrition Practice Council

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 9, 2001

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: RULE NO.:

Requirements for Approval of Continuing Education Training Courses for Laser and Light-based Hair Removal or Reduction 64B8-52.004

PURPOSE AND EFFECT: The purpose of the rule amendments is to update the rule text with regard to the Continuing Education Training Courses.

SUMMARY: The Board proposes to update the rule text by clarifying the area of Continuing Education Training Courses.

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: 478.43 FS.

LAW IMPLEMENTED: 478.42(5), 478.43(3), 478.50 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Electrolysis Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-52.004 Requirements for Approval of Continuing Education Training Courses for Laser and Light-based Hair Removal or Reduction.

Laser and Light-based Hair Removal or Reduction. The Electrolysis Council will approve laser and light-based hair removal or reduction continuing education training courses upon application if the following requirements are met:

(1) Continuing education providers seeking initial approval by the Council shall pay a fee of $250, and shall complete and submit to the Council the application form entitled "Application for Laser and Light Based Hair Removal or Reduction Continuing Education Provider", form number DOH/MQA/EO/LASER/CEU/07/23/01, which is hereby incorporated by reference and will be effective July 23, 2001, copies of which may be obtained from the Council office. Continuing education providers seeking renewal of provider status shall also pay a $250 fee each biennium. To receive Council approval, a continuing education program:

(a) through (b) No change.

(2) No change.

Specific Authority 478.43 FS. Law Implemented 478.42(5), 478.43(3), 478.50 FS. History–New 10-3-00, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrolysis Council

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 5, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 24, 2001

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: RULE NO.:
Mediation 64B8-55.004

PURPOSE AND EFFECT: The proposed rule will set forth the requirements for mediation.

SUMMARY: The proposed rule is to identify the meaning of mediation.

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: 456.078, 478.43 FS.

LAW IMPLEMENTED: 456.078 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Electrolysis Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B6-55.004 Mediation.

(1) "Mediation" means a process whereby a mediator appointed by the Department acts to encourage and facilitate resolution of a legally sufficient complaint. It is an informal and nonadversarial process with the objective of assisting the parties to reach a mutually acceptable agreement.

(2) For purposes of Section 456.078, F.S., the Board designates as being appropriate for mediation, failure to respond timely to a continuing education audit.

Specific Authority 456.078, 478.43 FS. Law Implemented 456.078 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrolysis Council

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 5, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 24, 2001

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF BANKING AND FINANCE

Division of Securities and Finance

RULE NO.: RULE TITLE:
3E-500.017 Compensatory Benefit Plan Exemption

NOTICE OF CHANGE

Notice is hereby given that the Department has made the following changes to the above referenced rule, which was published in the July 20, 2001, Vol. 27, No. 29, issue of the Florida Administrative Weekly, based on public comments received by the Department.

The rule has been changed to read:

(1) Transactions involving the offer or sale of a security pursuant to a written ~~pension plan, stock plan, profit sharing plan,~~ compensatory benefit plan (or a written compensation contract) or similar plan established by the issuer, its parents, its majority-owned subsidiaries or majority-owned subsidiaries of the issuer's parent, for the participation of their employees, directors, general partners, trustees, officers, or consultants and advisors, and their family members who acquire such securities from such persons through gifts or domestic relations orders, are exempt from the registration provisions of Section 517.07, F.S., if:

(a) through (c) No change.

(2) through (4) No change.

(a) All sales of securities are made by a partner, officer, director, trustee of the issuer, its parents, its majority-owned subsidiaries or majority-owned subsidiaries of the issuer's parent, or any person employed by any of the foregoing ~~the issuer~~ who primarily performs substantial duties for, or on behalf of any of the foregoing, ~~the issuer~~ other than in connection with transactions in securities; and

(b) No change.

DEPARTMENT OF INSURANCE

RULE NOS.: RULE TITLES:
4-186.001 Disclosure; Mortgage Policyholders
4-186.002 Approved Form