

**Section I**  
**Notices of Development of Proposed Rules**  
**and Negotiated Rulemaking**

**DEPARTMENT OF LEGAL AFFAIRS**

**Florida Elections Commission**

RULE TITLE: Complaints  
 RULE NO.: 2B-1.0025

PURPOSE, EFFECT AND SUBJECT AREA TO BE ADDRESSED: On May 16, 2003, the Florida Elections Commission received a Petition to Initiate Rulemaking to amend Rule 2B-1.0025 to require that all complaints filed with the Commission must raise all violations of the Florida Election Code that arise from the facts alleged on the face of the complaint at the time the complaint is filed. The Complainant would be barred from filing subsequent complaints based upon these alleged facts. If a Complainant did file a subsequent complaint based upon identical facts, the executive director would dismiss such subsequent complaints. The Petitioner requests that the rule take effect immediately and apply to all complaints pending before the Commission.

SPECIFIC AUTHORITY: 106.26(1) FS.

LAW IMPLEMENTED: 105.071, 106.25 FS.

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

TIME AND DATE: 1:00 p.m., Friday, July 11, 2003

PLACE: Room 129, Haydon Burns Bldg., 605 Suwannee St., Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY TEXT, IF AVAILABLE, IS: Phyllis Hampton, General Counsel, Florida Elections Commission, 107 W. Gaines St., 223 Collins Bldg., Tallahassee, FL 32399-1050, (850)922-4539

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

**DEPARTMENT OF BANKING AND FINANCE**

**Division of Securities and Finance**

RULE TITLE: Books and Records Requirements  
 RULE NO.: 3E-600.014

PURPOSE AND EFFECT: The purpose of this rule amendment is to update the rule to reference the updated SEC Rules 17a-3 (17 CFR 240.17a-3) and 17a-4 (17 CFR 240.17a-4) or MSRB Rules G-7 and G-8, as well as NASD Conduct rule 3000, as published in the NASD Manual.

SUBJECT AREA TO BE ADDRESSED: Dealer, investment adviser, branch office, and associated person books and records requirements.

SPECIFIC AUTHORITY: 517.03(1), 517.121(1) FS.

LAW IMPLEMENTED: 517.121(1) FS.

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

The procedure for requesting a hearing is governed by subsection 28-103.004(2), F.A.C., as follows: a request for a public hearing must be in writing and filed with the Agency Clerk during normal business hours, at the address below, within 21 days of publication of this notice. The request must specify how the requestor would be affected by the proposed rule. Any affected person who fails to timely file a request for hearing waives the right to request a hearing on the proposed rule.

Although Rule Development Workshops may be recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based.

Persons with disabilities or handicaps who need assistance may contact Mary Howell, Agency Clerk, (850)410-9896, at least two business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: William F. Reilly, Financial Administrator, Office of Financial Institutions and Securities Regulation, 200 E. Gaines Street, Fletcher #604, Tallahassee, Florida 32399, (850)410-9805

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

3E-600.014 Books and Records Requirements.

Except as otherwise provided herein, every dealer, investment adviser, branch office, and associated person conducting business in this state shall prepare and maintain on a current basis, and preserve for the periods of time specified, such records, prescribed herein, as are appropriate for said dealer's, investment adviser's, branch office's, or associated person's course of business, and are sufficient to provide an audit trail of all business transactions by said dealer, investment adviser, associated person, or branch office. Associated persons who conduct business from a registered branch office in this state shall be exempt from the provisions of this rule.

(1) All dealers are required to prepare and maintain appropriate books and records relating to their business as described in either SEC Rules 17a-3 (17 CFR 240.17a-3) and 17a-4 (17 CFR 240.17a-4) or MSRB Rules G-7 and G-8, as such rules existed on May 2, 2003 ~~March 1, 1999~~; and records evidencing compliance with NASD Conduct rule 3000, as published in the NASD Manual as of July 2002 ~~1998~~ and any amendments as existed on May 2, 2003.

(2) All issuer/dealers are required to maintain at least the following records:

(a) Ledgers, journals (or other records) reflecting all assets, liabilities, income and expenses, and capital accounts properly maintained in accordance with generally accepted accounting principals;

(b) Copies of all promotional sales materials and correspondence used in connection with the sales of all securities as distributed;

(c) A record of all sales of securities made by, or on behalf of, said issuer, including but not necessarily limited to name and address of purchaser, date of transaction, money amount involved, and name of agent or principal executing such transaction;

(d) Securities certificate and securities holder records reflecting names and addresses of all holders of record, certificates issued to such holders, number of shares or bonds issued, and full details as to transfers or cancellations;

(e) In lieu of the issuer/dealer preparing and maintaining such records as detailed in paragraph (d) above, a qualified transfer agent/registrar may be appointed, provided such information is accessible to the issuer/dealer.

(3) All investment advisers, notwithstanding the fact that the investment adviser is not registered or required to be registered under the Investment Advisers Act of 1940, shall prepare and maintain true, accurate and current records relating to their business as described in SEC Rule 204-2 (17 CFR 275.204-2) as it existed on March 1, 1999, and general rules and regulations promulgated by the Securities and Exchange Commission; and have available for the Department at least the following records;

(a) All trial balances, financial statements prepared in accordance with generally accepted accounting principles, and internal audit working papers relating to the investment adviser's business as an investment adviser. For purposes of this paragraph, "financial statements" means balance sheets, income statements, cash flow statements and net worth computations as required by Rule 3E-300.002, F.A.C.

(b) A list or other record of all accounts with respect to the funds, securities, or transactions of any client.

(c) A copy in writing of each agreement entered into by the investment adviser with any client.

(d) A file containing a copy of each record required by SEC Rule 204-2(11) (17 CFR 275.204-2(11)) as it existed on March 1, 1999 including any communication by electronic media that the investment adviser circulates or distributes, directly or indirectly, to two or more persons, other than persons connected with the investment adviser.

(e) A copy of each written statement and each amendment or revision given or sent to any client or prospective client of the investment adviser in accordance with the provisions of SEC Rule 204-3 (17 CFR 275.204-3) as it existed on March 1, 1999 and a record of the dates that each written statement, and

each amendment or revision was given or offered to be given to any client or prospective client who subsequently becomes a client.

(f) For each client that was obtained by the adviser by means of a solicitor to whom a cash fee was paid by the adviser, records required by SEC Rule 206(4)-3 (17 CFR 275.206(4)-3) as it existed on March 1, 1999.

(g) All records required by SEC Rule 204-2(16) (17 CFR 275.204-2(16)) as it existed on March 1, 1999, including but not limited to electronic media that the investment adviser circulates or distributes, directly or indirectly, to two or more persons, other than persons connected with the investment adviser.

(h) A file containing a copy of all communications received or sent regarding any litigation involving the investment adviser or any investment adviser representative or employee, and regarding any customer or client complaint.

(i) Written information about each investment advisory client that is the basis for making any recommendation or providing any investment advice to such client.

(j) Written procedures to supervise the activities of employees and investment adviser representatives that are reasonably designed to achieve compliance with applicable securities laws and regulations.

(k) A file containing a copy of each document, other than any notices of general dissemination, that was filed with or received from any state or federal agency or self regulatory organization and that pertains to the registrant or its investment adviser representatives. Such file should contain, but is not limited to, all applications, amendments, renewal filings, and correspondence.

(4) No provisions of this rule, unless specifically designated as a required form, shall be deemed to require the preparation, maintenance, or preservation of a dealer's or investment adviser's books and records in a particular form or system, provided that whatever form or system utilized by such dealer's or investment adviser's course of business is sufficient to provide an audit trail of all business transactions.

(5) Every investment adviser that has its principal place of business in a state other than this state shall be exempt from the requirements of this rule, provided the investment adviser is licensed in such state and is in compliance with that state's record keeping requirements.

(6) All books and records described in this rule shall be preserved in accordance with the following:

(a) Those records required under subsection (1) of this rule shall be preserved for such periods of time as specified in either SEC Rule 17a-4 (17 CFR 240.17a-4), or MSRB Rule G-9, as such rules existed on March 1, 1999.

(b) Those records required under subsections (2) of this rule shall be preserved for a period of not less than five (5) years while effectively registered with the Department, nor for less than five (5) years after withdrawal or expiration of registration in this State.

(c) Books and records required to be prepared under the provisions of subsection (3) shall be maintained and preserved in an easily accessible place for a period of not less than five years from the end of the fiscal year during which the last entry was made on such record, the first two years in the principal office of the investment adviser.

(d) Books and records required to be made under the provisions of subsection (3), shall be maintained and preserved for a period of not less than five years from the end of the fiscal year during which the last entry was made on such record or for the time period during which the investment adviser was registered or required to be registered in the state, if registered less than five years.

(e) Each investment adviser registered or required to be registered in this state and which has a business location in this state shall maintain at such business location:

1. The records or copies required under the provisions of paragraphs (a)(3), (a)(7)-(10), (a)(14)-(15), (b), and (c) of SEC Rule 204-2 (17 CFR 275.204-2); and

2. The records or copies required under the provisions of paragraphs (3)(a)-(j) above related to customers or clients for whom the investment adviser representative provides or has provided investment advisory services; and,

3. The records or copies required under the provisions of paragraphs (a)(11) and (a)(16) of SEC Rule 204-2 (17 CFR 275.204-2) which records or related records identify the name of the investment adviser representative or which identify the business locations' physical address, mailing address, electronic mailing address, or telephone number. The records will be maintained for the period described in subsections (d) and (e) of SEC Rule 204-2 (17 CFR 275.204-2). The investment adviser shall be responsible for ensuring compliance with the provision of this subsection.

(7) To the extent that the U.S. Securities and Exchange Commission promulgates changes to the above-referenced rules of the Investment Advisers Act of 1940, investment advisers in compliance with such rules as amended shall not be subject to enforcement action by the Department for violation of this rule to the extent that the violation results solely from the investment adviser's compliance with the amended rule.

Specific Authority 517.03(1), 517.121(1) FS. Law Implemented 517.121(1) FS. History--New 12-5-79, Amended 9-20-82, Formerly 3E-600.14, Amended 10-14-90, 8-1-91, 6-16-92, 1-11-93, 9-9-96, 6-22-98, 1-25-00,\_\_\_\_\_.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLE: Florida Comprehensive Assessment Test Requirements  
RULE NO.: 6A-1.09422

PURPOSE AND EFFECT: The purpose of this rule development is to add the FCAT developmental scores for each grade and subject, to change the effective date for implementing new achievement level scores, to add the FCAT developmental scores required for graduation, and to update the date for subsequent review of existing passing scores. The effect of this rule amendment is that achievement levels using the new FCAT developmental scores will be codified and the implementation of achievement level standards will be delayed.

SUBJECT AREA TO BE ADDRESSED: Florida Comprehensive Assessment Test scores for reading and mathematics.

SPECIFIC AUTHORITY: 1008.22(3)(c) FS.

LAW IMPLEMENTED: 1008.22 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m. – 12:00 p.m., July 2, 2003

PLACE: Department of Education, 325 West Gaines Street, Room 1706, Tallahassee, Florida 32399

Requests for the rule development workshop should be addressed to: Dr. Larry Wood, Agency Clerk/Chief Operating Officer, Department of Education, 325 West Gaines Street, Room 1514, Tallahassee, Florida 32399-0400.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Dr. Cornelia Orr, Director of Assessment and School Performance, 325 W. Gaines Street, Suite 414, Tallahassee, FL 32399, (850)245-0513

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

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLE: State Uniform Transfer of High School Credits  
RULE NO.: 6A-1.09941

PURPOSE AND EFFECT: The purpose of the rule development is to identify the procedures relating to the acceptance of transfer work and credit for students. The effect will be a rule which clearly delineates the procedures.

SUBJECT AREA TO BE ADDRESSED: Transfer of student credits.

SPECIFIC AUTHORITY: 1003.25(3) FS.

LAW IMPLEMENTED: 1003.25(3) FS.

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

TIME AND DATE: 9:00 a.m. – 10:00 a.m., July 8, 2003

PLACE: 325 West Gaines Street, Room 1401, Tallahassee, Florida

Requests for the rule development workshop should be addressed to: Dr. Larry Wood, Chief Operating Officer/Agency Clerk, Department of Education, 325 West Gaines Street, Room 1514, Tallahassee, Florida 32399-0400. THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Sharon Koon, Office of Articulation, Department of Education, 325 West Gaines Street, Tallahassee, FL, (850)922-0344

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

(Substantial rewording of Rule 6A-1.09441 follows. See Florida Administrative Code for present text.)

6A-1.09941 State Uniform Transfer of High School Credits.

The purpose of this rule is to establish uniform procedures relating to the acceptance of transfer work and credit for students entering Florida's public schools. The procedures shall be as follows:

(1) Credits earned and offered for acceptance shall be based on official transcripts and shall be accepted at face value subject to validation if required by the receiving school's accreditation. If validation of the official transcript is deemed necessary, or if the student does not possess an official transcript, credits shall be validated through performance during the first grading period as outlined in subsection (2) of this rule.

(2) Validation of credits shall be based on performance in classes at the receiving school. A student transferring into a school shall be placed at the appropriate sequential course level and should have a minimum grade point average of 2.0 at the end of the first grading period. Students who do not meet this requirement shall have credits validated using the Alternative Validation Procedure, as outlined in subsection (3) of this rule.

(3) Alternative Validation Procedure. If validation based on performance as described above is not satisfactory, then any one of the following alternatives shall be used for validation purposes as determined by the teacher, principal, and parent:

- (a) Portfolio evaluation by the superintendent or designee;
- (b) Written recommendation by a Florida certified teacher selected by the parent and approved by the principal;
- (c) Demonstrated performance in courses taken through dual enrollment or at other public or private accredited schools;
- (d) Demonstrated proficiencies on nationally-normed standardized subject area assessments;
- (e) Demonstrated proficiencies on the FCAT; or
- (f) Written review of the criteria utilized for a given subject provided by the former school.

Students must be provided at least ninety (90) days to prepare for assessments outlined in paragraphs (3)(d) and (3)(e) if required.

Specific Authority 1003.25(3) FS. Law Implemented 1003.25(3) FS. History--New 8-28-00, Formerly 6-1.099, Amended \_\_\_\_\_.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLE: Articulation Between Universities, Community Colleges, and School Districts  
RULE NO.: 6A-10.024

PURPOSE AND EFFECT: The purpose of this rule development is to specify the cutoff scores and Advanced International Certificate of Education examinations to be used to grant postsecondary credit at community colleges and universities. The effect is consistency between all community colleges and universities.

SUBJECT AREA TO BE ADDRESSED: The Advanced International Certificate of Education Program.

SPECIFIC AUTHORITY: 1007.27(9) FS.

LAW IMPLEMENTED: 1007.27(9) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 1:00 p.m. – 2:00 p.m., July 8, 2003

PLACE: 325 West Gaines Street, Room 1401, Tallahassee, Florida

Requests for the rule development workshop should be addressed to Dr. Larry Wood, Chief Operating Officer/Agency Clerk, Department of Education, 325 West Gaines Street, Room 1514, Tallahassee, Florida 32399-0400.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Sharon Koon, Office of Articulation, Department of Education, 325 West Gaines Street, Tallahassee, FL, (850)922-0344

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

**DEPARTMENT OF TRANSPORTATION**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Right of Way Property Management	14-19
RULE TITLES:	RULE NOS.:
Definitions	14-19.003
Real Property Conveyances	14-19.004
Payments Due to the Department on Sales, Leases, and Demolition and Removal Contracts	14-19.005
Demolition and Removal Contracting	14-19.006
Appraisal/Title Certification Requirements	14-19.012
Leasing of Department Owned Property	14-19.013
Asbestos Management	14-19.016
Outdoor Advertising Signs	14-19.017
Recreational Trail Leases	14-19.019

PURPOSE AND EFFECT: The amendment to Rule Chapter 14-19, F.A.C., is necessitated by changes in federal regulations regarding property management. The amendment incorporates the updated reference to 23 C.F.R., Part 710, Subpart D. The amendment moves required contract provisions from the rules to the three contract forms, which are incorporated by reference. The amendment also updates definitions; clarifies requirements regarding appraisals, leasing, and conveying property; makes miscellaneous editorial changes; and combines language from several individual rules. As a result of the restructuring of the rules and moving of contract provisions into forms, Rules 14-19.006, 14-19.012, 14-19.013, 14-19.016, 14-19.017, and 14-19.019, F.A.C., are being repealed.

SUBJECT AREA TO BE ADDRESSED: Rule Chapter 14-19, F.A.C., is amended to include revisions resulting from updated federal regulations, clarification of procedures, moving of contract provisions to incorporated forms, and repeal of six rules.

SPECIFIC AUTHORITY: 334.044(2) FS.

LAW IMPLEMENTED: 215.34(2), 255.051, 255.551-255.565, 260.0121, 334.044(28), 337.25, 337.18, 337.274 FS.

IF REQUESTED IN WRITING 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 IS: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

#### 14-19.003 Definitions.

The following words and phrases, as used in these rules, shall have the following meanings, except where the context clearly indicates a different meaning:

(1) "Airspace" means the area located above or below a highway or other transportation facility's established grade line, lying within the horizontal limits of the approved right of way or project boundaries. ~~"Abandoned Rail Corridor" means a right of way that was originally assembled to facilitate railroad traffic on which rail service has been discontinued and for which the Interstate Commerce Commission has granted an order of abandonment.~~

~~(2) "Asbestos Abatement" means the removal, encapsulation, or enclosure of asbestos containing materials.~~

~~(2)(3) "Airspace Agreement" means an instrument conveying the leasehold interest of any airspace, which was acquired with federal funds property within the right of way after final acceptance of the project by the Federal Highway Administration. This term includes the lease of any property~~

~~above, at, or below the established grade line of the transportation facility and only refers to Department-owned properties which are located on federal aid projects.~~

~~(3) "Appraisal" means an estimate of the value by a Department staff appraiser or an independent fee appraiser, prepared in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), hereby incorporated by reference.~~

~~(4) "Asbestos Survey" means a comprehensive physical inspection of the building, including laboratory analyses, to identify all asbestos-containing materials located within the building.~~

~~(4)(5) "Department" means the Florida Department of Transportation.~~

~~(6) "Demolition" means the wrecking or taking out of any load supporting structural member of an improvement together with any related handling operations, or the intentional burning of any facility, per 40 C.F.R., Part 61, Subpart M.~~

~~(7) "Demolition and Removal" means the demolition of Department-owned improvements from a parcel of real property, as defined above and the removal of the improvement from the right of way.~~

~~(8) "District" means the districts as defined in Section 20.23(4)(a), Florida Statutes.~~

~~(5)(9) "Excess Property" means Department-owned real property, of any value, located outside of the current operating right of way limits and not needed to support existing transportation facilities. This may include uneconomic remnants, additional Section 337.27(2), Florida Statutes, whole takes, and excess property created when design or construction requirements change after acquisition, or voluntarily acquired remainders. This property may be needed for future transportation purposes.~~

~~(6)(10) "Governmental Entity" means a federal, state, county, or any other entity that independently exercises any type of federal, state, or local municipal governmental function body. This term does not include non-profit organizations.~~

~~(7)(11) "Improvements" means permanent structures erected permanently on a site, such as buildings, fences, driveways, and retaining walls.~~

~~(8)(12) "Inequitable," as used in Section 337.25(4)(c), Florida Statutes, means unfairly or unjustly affecting an abutting property owner's ultimate or present use of real his or her property to the extent it will hinder or prevent its use him or her from using it for such purposes.~~

~~(13) "Interim Public Recreational Trail Use" means the public recreational trail use of an abandoned rail corridor during the period between the acquisition of the rail corridor and the construction of a transportation facility on the corridor.~~

~~(9)(14) "Lease-Back" means the temporary leasing a lease of Department-owned real property to a former owner or tenant where construction is scheduled or pending and the former owner or tenant has not been relocated.~~

(10) “Local Governmental Entity” means as defined in Section 11.45, Florida Statutes.

(11)(15) “Personal Property” means any property that is not real property, is generally moveable, and is not permanently attached to the land or improvements.

(12)(16) “Public Purpose” conveyance means a conveyance by the Department to another governmental entity for a social, economic, or environmental use purpose which would benefit the general public.

(17) “Public Recreational Trail Lease” means the lease of a Department-owned abandoned rail corridor for interim public recreational trail use.

(18) “Public Recreational Trail Use” means public recreational traffic limited to: bicycles; triecycles; wheelchairs (motorized and non-motorized); horseback; roller blades; roller skis; skateboards; baby strollers; human drawn trailers or wagons; other solely human powered devices; and surveillance vehicles.

(13)(19) “Rail Corridor” means a strip of real property owned by, or purchased from, a railroad company which is currently or was previously used as a railroad transportation facility (an operating or abandoned rail line corridor).

(14)(20) “Real Property” means land, including buildings, or other improvements permanently affixed to the land.

(21) “Regulated Asbestos Containing Material” (RACM) means:

(a) Friable Asbestos Material, which is defined as any material containing more than one percent asbestos as determined in Appendix A, Subpart F, 40 C.F.R., Part 763, Section 1, by Polarized Light Microscopy that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure per 40 C.F.R., Part 61, Subpart M;

(b) Category I Non-Friable Asbestos Containing Material that has become friable;

(c) Category I Non-Friable Asbestos Containing Material that will be or has been subjected to sanding, grinding, or abrading, or;

(d) Category II Non-Friable Asbestos Containing Material that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation per 40 C.F.R., Part 61, Subpart M.

(22) “Remove,” as it pertains to asbestos, means to take out RACM or facility components that contain or are covered with RACM from any facility per 40 C.F.R., Part 61, Subpart M.

(23) “Renovation” means altering a facility or one or more facility components in any way, including the stripping or removal of RACM from a facility component. An operation in which load supporting structural members are wrecked or taken out is a demolition (as opposed to a renovation), per 40 C.F.R., Part 61, Subpart M.

(24) “Retention of Improvements” means a property owner’s election to retain possession of improvements, including houses, which can be moved or demolished and removed. Retention of improvements shall be negotiated prior to the Department acquiring title.

(25) “Salvage Value” means the probable sales of an item, if offered for sale on the condition that it will be removed from the property at the buyer’s expense, allowing a reasonable period of time to find a person buying with a knowledge of the uses and purposes for which it is adaptable and capable of being used, including the separate use of serviceable components and scrap when there is no reasonable prospect of sale except on that basis per 49 C.F.R. 24.2(s).

(15)(26) “Surplus Property” means excess real property that has the District Secretary or authorized designee has declared, in writing, to have no present or future transportation use as determined by the District Secretary or authorized designee purpose.

(16)(27) “Transportation Corridor” means as defined in Section 334.03, Florida Statutes. means any land area designated by the state, a county, or a municipality which is between two geographic points and which area is used or suitable for the movement of people and goods by one or more modes of transportation and may include areas necessary for management of access and securing applicable approvals and permits. Transportation corridors shall contain the following:

(a) Existing publicly owned rights of way;

(b) All property or property interests necessary for future transportation facilities, including rights of access, air, view, and light, whether public or private, for the purpose of securing and utilizing future transportation rights of way, including any lands reasonably necessary now or in the future for securing applicable approvals and permits, borrow pits, drainage ditches, water retention areas, rest areas, replacement access for landowners whose access could be impaired due to the construction of a future facility, and replacement rights of way for relocation of rail and utility facilities.

(17)(28) “Transportation Facility” means as is defined in Section 334.03(31), Florida Statutes. Excluded from this definition are properties which are must be administered by the Board of Trustees of the Internal Improvement Trust Fund such as maintenance or sub-maintenance yards, soil labs, and the Department’s administrative and construction offices.

(18)(29) “Uneconomic Remnant” means real a property which, as a result of a partial taking by the Department, has little or no utility or value to the owner, as determined by the review appraiser.

(30) “Use Agreement” means a written agreement between a rail corridor’s owner and a second party. This agreement grants a specific use of the corridor, such as a lease, license, or permit. A rail corridor use agreement may have

been granted by the original railroad owner or may be a new agreement granted by the Department subsequent to the acquisition of the rail corridor.

(31) "Working Day" means Monday through Friday and includes holidays that fall on any of the days Monday through Friday per 40 C.F.R., Part 61, Subpart M.

Specific Authority 334.044(2) FS. Law Implemented 255.551, 337.25 FS. History—New 8-18-92, Amended 5-24-94, 4-25-95, 11-17-98, \_\_\_\_\_.

#### 14-19.004 Real Property Conveyances.

(1) In the event the Department is ~~selling disposing of~~ surplus property not governed by the exceptions in Section 337.25(4), Florida Statutes, the Department must first offer such property to the local governmental entity in the jurisdiction in which the parcel is situated, ~~prior to either negotiation or competitive sale of the property.~~ The local governmental entity shall be allowed 10 working days to ~~respond determine~~ if there is a need for the subject parcel. ~~If a public purpose is identified by the local government, the property may be conveyed to the local government for no consideration; otherwise, the property shall be sold at the Department's approved appraised value. When~~ If an independent appraisal has been performed, the acquiring local governmental entity shall reimburse the appropriate party for the cost of the appraisal.

(2) In the event the Department is disposing of surplus property not governed by the exceptions in Section 337.25(4), Florida Statutes, such property will be sold in accordance with Section 337.25(4)(b), Florida Statutes.

~~(2)(3)~~ When disposing of surplus property by public bid or auction, a minimum bid will be specified when appropriate to ensure that bids received will reflect the fair market value of the property. The Department reserves the right to withdraw the property if the minimum bid is not reached. If a minimum bid is specified in the advertisement for bids or for auction, the Department reserves the right to withdraw the property when the minimum bid is not attained. Notice of the minimum bid and the Department's right to withdraw the property when the minimum bid is not attained shall be included in the advertisement for bid or auction, ~~it shall be the amount determined pursuant to Rule 14-19.012(2).~~ If the highest bid is below the specified minimum bid, acceptance of the bid will require the approval of the District Secretary.

(4) For properties valued in excess of \$10,000, the appraisal which is procured by a prospective buyer or lessee is not approved until the Department has examined the appraisal and verified that it is in compliance with Section 475.628, Florida Statutes.

(3)(5) If real property is disposed of through negotiation, sealed bid, or public auction, ~~the~~ the buyer or successful bidder shall pay all costs associated with the closing of real property disposed of through negotiation, sealed bid, or public auction. The Department shall prepare all necessary closing documents.

~~(4)(6)~~ The buyer or successful bidder shall pay all costs to record the conveyance of the property in the county of record and provide a copy of the recorded deed, showing the book, and page number, and the date of recordation, to the Department within 30 days of the closing date.

~~(7)~~ A governmental entity may request conveyance of real property or personal property for a public purpose in accordance with Section 337.25(4)(h), Florida Statutes, unless legislation or bond provisions provide otherwise. If property is to be conveyed for no monetary consideration, an appraisal is not required.

~~(5)(8)~~ Prior to conveying or leasing ~~When transfers are made to a governmental entity for a public purpose, the head of the governmental entity shall furnish a letter identifying the public purpose use for the property, from the agency head, or, if the governmental public entity consists of a group requiring consensus to take such action, a copy of the resolution confirming such consensus. This documentation shall be furnished to the Department at the time of application for purchase or lease of the Department-owned property. All public purpose conveyances shall provide for the reversion of all property rights to the Department for failure to continue public ownership and use. When full fair market value for the property is obtained, a reverter clause in the conveyance document is not required.~~

~~(6)(9)~~ Governmental entities If real property is conveyed for a public purpose, the governmental entity to which real the property will be conveyed shall pay all closing costs associated with public purpose the conveyances. The Department shall prepare all necessary closing documents.

(7) When a lease or conveyance is executed pursuant to Section 337.25(4)(c), (d), or (5)(a), Florida Statutes, the lessee or purchaser must provide, at his or her own cost, evidence of ownership. This evidence shall be in the form of the last deed of record and an affidavit signed by the owner attesting to the fact that he or she is the owner of the abutting property. The affidavit shall be dated no more than six months prior to the date of the execution of the lease or conveyance document. Lease-backs to owners from whom the property was acquired, or holders of existing leasehold estates, are exempt from this requirement.

(8) The provisions of 23 C.F.R., Part 710 (Effective April 1, 2001) are incorporated into this rule by reference. 23 C.F.R., Part 710 is available from the Federal Highway Administration's website at <http://www.access.gpo.gov/nara/crf>. Local governmental entities administering transportation projects or project phases receiving, anticipating receipt of, or intending to receive federal funds for any phase of a project on the State Highway System or intended to be on the State Highway System, must comply with 23 C.F.R., Part 710, Section 337.25, Florida Statutes, and the requirements of this rule chapter. Anticipating receipt includes discussion by local or state officials regarding the intended or potential use of

federal funds in any phase of the project. This rule chapter does not apply to projects on or intended to be on the State Highway System funded by Department long term loans programs to governmental entities, which entities have independent statutory authority to provide transportation projects on the State Highway System.

(9) Leasing of Department Owned Property.

(a) Forms. For purposes of this section, the forms listed herein are hereby incorporated by reference. Copies of these forms are available from the Department of Transportation, Office of Right of Way, 605 Suwannee Street, MS 22, Tallahassee, Florida 32399.

1. Lease Agreement, Form 575-060-33, Rev. 05/03.

2. Release and Right of Entry Agreement for Asbestos Survey, Form 575-060-17, Rev. 05/03.

3. Airspace Agreement, Form 575-060-32, Rev. 05/03.

(b) Lease. The Department may enter into a lease of any of its lands, buildings, or other properties, real or personal, which were acquired to secure or utilize transportation rights of way for existing, proposed, or anticipated transportation facilities on the State Highway System, on the State Park Road System, in a rail corridor, or in a transportation corridor designated by the Department. A written lease shall contain all the provisions of the Lease Agreement, Form 575-060-33, Rev. 05/03.

(c) Lease-Backs.

1. Lease-backs may extend until advertisement of the project for construction or, with special provisions, until physical construction.

2. Any extension of a lease-back will require approval of the appropriate District Secretary on Department projects, the Executive Director of the Turnpike Enterprise for Turnpike Enterprise projects, or the authorized local governmental entity official on its projects.

3. In the event of a lease-back, a signed and witnessed Release and Right of Entry Agreement for Asbestos Survey, Form 575-060-17, Rev. 05/03, shall be submitted by all occupants. Otherwise, further occupancy will be denied unless ordered by the court.

(d) Airspace Agreement. In accordance with 23 C.F.R., Part 710, Subpart D, when the property is located on the Interstate Highway System within the right of way line on the approved right of way maps or when a change in the access control line will occur, leasing of airspace for non-highway purposes will require the execution of a written agreement containing all the provisions of the Airspace Agreement, Form 575-060-32, Rev. 05/03. In accordance with 23 C.F.R., Part 710, Subpart D, the airspace agreement, its transfer, assignments, or conveyance to another party must be concurred with, in writing, by the Federal Highway Administration.

(e) Leasing of Outdoor Advertising Signs and Sites. The Department shall acquire all interests in property necessary for the construction of transportation facilities. The Department shall not lease sites for outdoor advertising signs except as

described below. All outdoor advertising signs shall be removed from such right of way, except as provided herein. Further:

1. The Department shall ensure at the time of purchase that all rights of lessees under outstanding leases are acquired.

2. If an outdoor advertising sign is temporarily leased back, the new lease shall specify the terms and conditions for removal of the sign or other improvement.

3. Outdoor advertising signs and sites leased back on Department right of way must comply with the requirements of Chapter 479, Florida Statutes. However, a nonconforming sign shall be permitted to retain its existing nonconforming status until the sign is removed.

4. The property on which the outdoor advertising sign stands must be subject to an executed lease between the Department and the sign owner or lessee, and such lease shall contain a cancellation provision which provides that all sign structures will be removed by the Department without further notice if not removed by the lessee within 30 days of receipt of the notice of cancellation, in the event the Department should require use of the subject property prior to the expiration date of the lease.

5. The estimated market rental rate is calculated for the land and, if applicable, the sign.

6. Relocation of Outdoor Advertising Signs. Conforming signs, as defined in Chapter 479, Florida Statutes, located on existing Department property, i.e., property located outside of current operating right of way limits, may be relocated to other Department-owned property under the following conditions:

a. The sign must comply with all requirements of federal and state law.

b. The proposed site shall not result in nor cause any safety hazard to the general or traveling public.

c. The proposed site shall not interfere with any current or on-going project.

d. The proposed site shall not interfere with any current or proposed future transportation use or operational requirements of the facility.

e. The proposed site (and accompanying sign) shall comply with the zoning requirements of the land directly adjacent to the site.

f. The owner of the sign shall waive any rights to future compensation should the proposed site be needed for a transportation project.

(10) If the property transferred is used for other than the identified public purpose by the governmental entity, all property rights shall revert to the Department.

Specific Authority 334.044(2) FS. Law Implemented 255.553, 334.044(28), 337.25(4), 337.274 FS. History—New 8-18-92, Amended 5-24-94, 11-17-98,



14-19.005 Payments Due to the Department on Sales, Leases, and Demolition and Removal Contracts.

(1) Payments due the Department on the sale of property, or under a demolition and removal contract, must be in the form of a cashier's check or other noncancellable instrument, such as a money order. No cash will be accepted by the Department.

(2) In addition to noncancellable instruments, personal checks are acceptable for lease payments. If a personal check is not honored, no further personal checks will be accepted from the lessee by the Department. When a personal check is not honored, the Department shall pursue collection in accordance with Section 215.34(2) and Chapter 83, Florida Statutes.

(3) When real property is conveyed in a sealed bid or at public auction, a nonrefundable deposit, in the form of a noncancellable instrument, of at least ten percent of the bid amount will be required of the successful bidder at the time of the award of the bid. Full payment shall be required, in the form of a noncancellable instrument, at the time of closing.

Specific Authority 334.044(2) FS. Law Implemented 215.34, 255.051, 337.18, 337.25(4) FS. History—New 8-18-92, Amended 5-24-94, 11-17-98, Repealed.

14-19.006 Demolition and Removal Contracting.

Specific Authority 334.044(2), 337.18(1) FS. Law Implemented 255.05, 255.551-.565, 337.11, 337.18 337.25 FS. History—New 8-18-92, Amended 11-17-98, Repealed.

14-19.012 Appraisal/Title Certification Requirements.

Specific Authority 334.044(2), 337.25 FS. Law Implemented 334.044(27), 337.25 FS. History—New 8-18-92, Amended 5-24-94, 4-25-95, 11-17-98, Repealed.

14-19.013 Leasing of Department Owned Property.

Specific Authority 334.044(2) FS. Law Implemented 337.25 FS. History—New 8-18-92, Amended 5-24-94, 4-25-95, 11-17-98, Repealed.

14-19.016 Asbestos Management.

Specific Authority 334.044(2) FS. Law Implemented 255.551-.565 FS. History—New 8-18-92, Amended 5-24-94, 4-25-95, 11-17-98, Repealed.

14-19.017 Outdoor Advertising Signs.

Specific Authority 334.044(2) FS. Law Implemented 337.25, 479.01-.24 FS. History—New 8-18-92, Amended 5-24-94, 4-25-95, 11-17-98, Repealed.

14-19.019 Recreational Trail Leases.

Specific Authority 334.044 (2) FS. Law Implemented 260.0161, 337.25 FS. History—New 4-25-95, Amended 11-17-98, Repealed.

**DEPARTMENT OF TRANSPORTATION**

RULE CHAPTER TITLE: State Highway System  
 RULE CHAPTER NO.: 14-96

Connection Permits  
 RULE TITLES: 14-96.0011

Forms  
 Definitions 14-96.002

Application  
 Application Submittal, Review, 14-96.005

Approval, and Conditions 14-96.007

PURPOSE AND EFFECT: Three forms are being amended and subsection 14-96.005(3), F.A.C., is amended to clarify language relating to authorized representatives and signature requirements. The amended forms are: Driveway/Connection Application for All Categories, Form 850-040-15; Receipt of Connection Application and Fee (or Waiver of Fee), Form 850-040-16; and Driveway Connection Permit for All Categories, Form 850-040-18. The revised forms have to be incorporated by reference. Cross references to these forms are also updated to reflect the revision date.

SUBJECT AREA TO BE ADDRESSED: Three forms are being amended. The revised forms have to be incorporated by reference. Cross references to these forms are also updated to reflect the revision date.

SPECIFIC AUTHORITY: 334.044(2), 335.182(2) FS.

LAW IMPLEMENTED: 334.044(14), 335.18-.187 FS.

IF REQUESTED IN WRITING 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 IS: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

14-96.0011 Forms.

The following forms shall be used in the connection application administrative process and are incorporated by reference and made a part of the rules of the Department:

Title	Form Number	Date
Driveway/Connection Application – Category A	850-040-14	09/02
Driveway/Connection Application for All Categories	850-040-15	<u>04/03</u> <del>09/02</del>
Receipt of Connection Application and Fee (or Waiver of Fee)	850-040-16	<u>04/03</u> <del>09/02</del>
Record of Waived Requirements for All Categories	850-040-17	09/02
Driveway Connection Permit for All Categories	850-040-18	<u>04/03</u> <del>09/02</del>
Record Drawings Report by Permittee’s Professional Engineer	850-040-19	09/02
Security Instrument Receipt	850-040-20	04/93
State Highway Access Connection Completeness Review	850-040-21	11/94
Applicant Time Extension Form	850-040-22	04/93
Proposed State Highway Access Driveway/Connection Notice of Intent to Deny Permit	850-040-23	09/02
Proposed State Highway Access Connection Notice of Intent to Issue Permit	850-040-24	09/02
Violation and Notice to Show Cause	850-040-26	09/02

These forms are available from the Department of Transportation’s local area Maintenance Office, District Office, Urban Area Office, or Central Office at 605 Suwannee Street, Mail Station 19, Tallahassee, Florida 32399-0450.

Specific Authority 334.044(2), 335.182(2) FS. Law Implemented 334.044(14), 335.18-.187 FS. History–New 4-18-90, Amended 7-16-95, 6-24-99, 1-23-03, \_\_\_\_\_.

14-96.002 Definitions.

For the purposes of this rule chapter the following definitions of the terms shall apply unless the context clearly indicates otherwise:

- (1) No change.
- (2) “Application” means a completed Driveway/Connection Application – Category A, Form 850-040-14, 09/02, or Driveway/Connection Application for All Categories, Form 850-040-15, 04/03 ~~09/02~~, the required application fee, and related property, site, driveway, roadway, and traffic information required in this rule chapter.
- (3) through (37) No change.

Specific Authority 334.044(2), 335.182(2), 335.183, 335.184 FS. Law Implemented 334.044(14), 335.18-.187 FS. History–New 4-18-90, Amended 7-16-95, 1-23-03, \_\_\_\_\_.

14-96.005 Application.  
 (1) Connection Permit Application and Information. The Driveway/Connection Application – Category A, Form 850-040-14 (09/02) and Driveway/Connection Application for All Categories, Form 850-040-15, (04/03 ~~09/02~~), and application information are available from the office of the local area Maintenance Engineer, District Office, or Urban Area Office. A complete application shall consist of the Connection Permit Application, (with original signatures, the number of signatures to be determined by the District staff) application fee, site plans, drawings, traffic data, and connection and roadway information specified in this rule chapter.

(a) through (2) No change.

(3) Information Required for All Applications. The following information is required of all applications for all connections categories:

(a) Identification ~~and signature~~ of property owner and applicant. The complete names, and current mailing addresses and telephone numbers of property owner(s), ~~the developer(s)~~, the applicant, and ~~the authorized representative transportation and legal consultants representing the applicant (if any)~~, will be noted on the appropriate application as detailed in this rule chapter.

(b) Notarized letter of authorization. If the applicant ~~property owner~~ desires to have a representative sign, file, and handle the application, a notarized letter of authorization from the applicant ~~property owner~~ designating the applicant and the authorized representative shall be provided with the application package.

(c) Responsible person ~~officer~~. When the owner or applicant is a company, corporation, or other public agency, the name, address, and telephone number of the responsible officer shall be furnished with the application.

(d) Signatures. The names of all individuals signing the application and their titles shall be typed or printed with ~~directly below~~ the signatures.

(e) Property use. The existing and planned property use shall be noted in sufficient detail to determine the appropriate connection category of the application.

(f) Location of all existing and proposed connections. This will include a site plan indicating any physical features (existing and ~~or~~ proposed) that would have an impact on traffic circulation and sight distance on the public road system. Examples of such physical features are walls, fences, trees, mail boxes, gates, and utility poles.

(4) No change.

Specific Authority 334.044(2), (27), 335.182(2), 335.183, 335.184 FS. Law Implemented 334.044(14), 335.18-.187 FS. History–New 4-18-90, Amended 7-16-95, 1-23-03, \_\_\_\_\_.

14-96.007 Application Submittal, Review, Approval, and Conditions.

(1) through (5) No change.

(6) Issuance of Permit. A Driveway Connection Permit for All Categories, Form 850-040-18, (09/02), will be issued after the applicant provides satisfactory evidence of compliance with all conditions that must be met before issuance of a permit. A permit shall be subject to all the conditions set forth in the Proposed State Highway Access Connection Notice of Intent to Issue Permit, Form 850-040-24, (04/03 ~~09/02~~). A permit authorizes construction for one year from the date of issuance and expires if construction of the connection is not completed within that period.

(a) through (9) No change.

Specific Authority 334.044(2), 334.187(4), 335.182(2), 335.183 FS. Law Implemented 334.187, 335.181-1825, 335.184, 335.185 FS. History—New 4-18-90, Amended 7-16-95, 6-24-99, 1-23-03.

**DEPARTMENT OF TRANSPORTATION**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Assessment of Penalties for Violations Found During Compliance Reviews	14-108
RULE TITLES:	RULE NOS.:
Scope	14-108.001
Assessment of Penalties for Violations Found During Compliance Reviews	14-108.0011
Definitions	14-108.002
Applicability; Compliance Required	14-108.003
Administration; Enforcement	14-108.004
Penalties	14-108.005

PURPOSE AND EFFECT: The five existing rules are to be repealed and replaced with a single new rule. The rule incorporates by reference specific parts of 49 C.F.R. relating to transporting hazardous materials. References to “Terminal Audits” are removed. The rule chapter is generally rewritten and penalty schedules are adopted.

SUBJECT AREA TO BE ADDRESSED: Five rules are being repealed and replaced by a new rule.

SPECIFIC AUTHORITY: 316.302, 316.70, 334.044(2) FS.

LAW IMPLEMENTED: 316.302, 316.3025, 316.70 FS.

IF REQUESTED IN WRITING 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 IS: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

CHAPTER 14-108  
ASSESSMENT OF PENALTIES FOR VIOLATIONS FOUND DURING ~~TERMINAL AUDITS (COMPLIANCE REVIEWS)~~

14-108.001 Scope.

Specific Authority 316.302, ~~316.3025~~, 316.70, 334.044(2) FS. Law Implemented 316.302, 316.3025, 316.70 FS. History—New 2-16-93, ~~Repealed~~

14-108.0011 Assessment of Penalties for Violations Found During Compliance Reviews.

(1) Scope. This rule shall apply to motor carriers of property and passengers (nonpublic sector buses), and shippers of hazardous materials. This rule also establishes the amount of penalties to be assessed for violations of safety laws and regulations in accordance with the applicable portions of Chapter 316, Florida Statutes.

(2) Definitions. The following words and phrases, when used in this rule, shall have the following meanings, except where the context otherwise requires:

(a) “Commercial Motor Vehicle” shall be as defined in Section 316.003(66), Florida Statutes.

(b) “Compliance Review” means an onsite review of documents at a motor carrier’s terminal or office, including: property carrier, passenger carrier, or shipper of hazardous materials records such as driver’s hours of service, maintenance and inspection, driver qualification, commercial drivers license requirements, financial responsibility, accident, and other safety and business records which will enable the investigators to establish compliance with safety laws and regulations.

(c) “Motor Carrier” shall be as defined in Section 320.01(33), Florida Statutes.

(d) “Nonpublic Sector Bus” shall be as defined in Section 316.003(78), Florida Statutes.

(e) “Notice of Noncompliance” means a notice that advises the motor carrier of violations found during a compliance review.

(f) “Penalty” means a monetary amount prescribed by statute or rule as a civil penalty to be assessed administratively for violation(s) of safety laws and regulations found during a compliance review.

(g) “Shipper of Hazardous Materials” means any person who carries hazardous materials, as defined in Section 316.003(69), Florida Statutes, in commerce.

(3) Applicability; Compliance Required.

(a) Any person or motor carrier who operates, causes to operate, or permits commercial motor vehicles to be operated in the transportation of property on any road, street, or highway open to travel by the public, and any shipper of hazardous materials, shall be in compliance with the applicable safety

laws and regulations contained in Section 316.302, Florida Statutes, and Title 49 C.F.R. Parts 107, Subpart G, 171, 172, 173, 177, 178, 391, 393, 395.1(3),(5), 396 and 397, incorporated herein by reference. Motor Carrier Compliance Office personnel shall conduct compliance reviews to ensure compliance with these requirements. Any person or motor carrier found to be in violation of this rule, or applicable statutory provisions, during the conduct of a compliance review shall be subject to the penalties prescribed by statute and this rule.

(b) Any person or motor carrier who operates, causes to operate, or permits nonpublic sector buses to be operated on any road, street, or highway open to travel by the public in the transportation of passengers shall be in compliance with the applicable safety laws and regulations contained in Sections 316.70, 627.7415, and 627.742, Florida Statutes, and Title 49 C.F.R. Parts 382, 385, and 390 through 397, incorporated herein by reference. Motor Carrier Compliance Office personnel shall conduct compliance reviews to ensure compliance with these requirements.

(c) The penalties prescribed by Section (5) of this rule will be waived and a Notice of Noncompliance will not be issued if, as a result of the first compliance review conducted on a motor carrier, the motor carrier corrects the described violations within 60 days after receipt of a Notice of Noncompliance. Penalties for the following violations will not be waived under the above provision, even if they are found during the first compliance review and are corrected immediately:

1. Failure to comply with controlled substance testing requirements.
2. Exceeding driver hours of service.
3. Violations involving hazardous materials.
4. Lack of valid commercial driver's licenses, including revoked, suspended, or canceled licenses.

(4) Administration; Enforcement. Penalties assessed as a result of a compliance review are due and shall be received by the Motor Carrier Compliance Office, Penalties Collections Unit, 1815 Thomasville Road, Tallahassee, Florida 32303, no later than 20 calendar days after receipt of the Notice of Noncompliance. If a timely appeal is made to the Commercial Motor Vehicle Review Board (Review Board) under Rule 14A-1.007, F.A.C., the penalty (or the remaining part thereof) is due and shall be received no later than 20 calendar days after receipt of a written decision by the Review Board which sustains the penalty in whole or in part. Penalties shall be imposed and collected consistent with Section 316.3025, Florida Statutes. Payment methods include cash, money orders, certified funds from a financial institution, approved credit cards, and company checks. A receipt shall be provided to the owner or carrier upon payment of penalties collected under this section.

(5) Penalties.

(a) The following penalty schedule shall be applicable in determining appropriate amounts to which civil penalties for violations found during compliance reviews of motor carriers and shippers of hazardous materials shall be reduced by the Review Board, upon good cause shown. The aggregate of all penalties assessed during any one compliance review shall not exceed \$5,000.

Violation	Penalty
For each violation of Title 49 C.F.R. Part 391:	\$100
No controlled Substances and Alcohol Use and Testing Program, as required by 49 C.F.R., Part 382:	\$1,000
For each violation of Title 49 C.F.R. Part 382:	\$250
For each violation of Title 49 C.F.R. Part 396:	\$100
For each violation of Title 49 C.F.R. Part 397:	\$100
For each violation of Title 49 C.F.R. Part 171:	\$100
For each violation of Title 49 C.F.R. Part 172:	\$100
For each violation of Title 49 C.F.R. Part 173:	\$100
For each violation of Title 49 C.F.R. Part 177:	\$100
For each violation of Title 49 C.F.R. Part 178:	\$100
For each violation of Title 49 C.F.R. Part 107, Subpart G:	\$100
For failing to maintain any insurance required by Section 627.7415, Florida Statutes:	\$2,500
For failure to maintain adequate level of insurance required by Section 627.7415, Florida Statutes:	\$1,000
For failing to maintain time records required by Title 49 C.F.R. Part 395.1(3), (5):	\$500
For failing to comply with the Department's request to submit to a compliance review:	\$5,000

(b) The following penalty schedule shall be applicable in determining civil penalties for violations found during compliance reviews of passenger carrying motor carriers via nonpublic sector buses. The aggregate of all penalties assessed during any one compliance review shall not exceed \$5,000.

Violation	Penalty
For each violation of Title 49 C.F.R. Part 391:	\$100
No controlled Substances and Alcohol Use and Testing Program, as required by 49 C.F.R., Part 382:	\$1,000
For each violation of Title 49 C.F.R. Part 382:	\$250
For each violation of Title 49 C.F.R. Part 392:	\$100
For each violation of Title 49 C.F.R. Part 395:	\$100
For each violation of Title 49 C.F.R. Part 396:	\$100
For each violation of Title 49 C.F.R., Part 390:	\$500
For failing to maintain any insurance required by Section 627.7414, Florida Statutes:	\$2,500
For failing to maintain adequate level of insurance required by Section 627.7414, Florida Statutes:	\$1,000
For failing to submit to the Department's request for a compliance review:	\$5,000



SPECIFIC AUTHORITY: 350.127(2), 366.05(1),(9),(11), 366.08, 366.093(1) FS.

LAW IMPLEMENTED: 350.117(1), 366.04(2)(f), 366.05(1),(9),(11), 366.08, 366.093(1) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 a.m., July 28, 2003

PLACE: Betty Easley Conference Center, Room 152, 4075 Esplanade Way, Tallahassee, Florida

The request must be submitted in writing to: Marlene Stern, Appeals, Rules and Mediation Section, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850.

Any person requiring some accommodation at this workshop 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, 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Edward Bass, Division of Economic Regulation, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, (850)413-6455

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-7.014 Records and Reports in General.

(1) Each natural gas utility shall maintain its accounts and records in conformity with the Uniform System of Accounts for Natural Gas Companies (USOA) as found in the Code of Federal Regulations, Title 18, Subchapter F, Part 201, for Major Utilities as revised, April 1, 2002 ~~2000~~, and as modified below. All inquiries relating to interpretation of the USOA shall be submitted to the Commission's Division of Economic Regulation in writing.

(2) through (6) No change.

Specific Authority 366.05(1), 350.127(2) FS. Law Implemented 366.05(1) FS. History—Amended 7-19-72, Repromulgated 1-8-75, 5-4-75, Amended 12-30-75, 9-28-81, 11-18-82, Formerly 25-7.14, Amended 10-1-86, 4-4-88, 7-20-89, 12-27-94, 4-22-96, \_\_\_\_\_.

25-7.015 Location and Preservation of Records.

(1) through (2) No change.

(3) All records shall be preserved in accordance with the Federal Energy Regulatory Commission's regulations, Title 18, Subchapter F, Part 225, Code of Federal Regulations, entitled "Preservation of Records of Natural Gas Companies" as revised, April 1, 2002 ~~1994~~, which is incorporated by reference into this rule, with the exception of the records listed in section (3)(a) of this rule. ~~Item 64 (Records of predecessors~~

~~and former associates) of the Schedule of records and periods of retention contained in Title 18, Subchapter F, Section 225.3, Code of Federal Regulations. Instead, utilities shall retain records listed in section (3)(a) of this rule for the periods indicated of acquired companies until permission for disposal is petitioned for and approved by the Florida Public Service Commission.~~

(a) The Code of Federal Regulations Items listed below are exceptions to the Schedule of Records and Periods of Retention contained in Title 18, Subchapter F, Section 225.3, Code of Federal Regulations:

1. Item 2(a), minute books of stockholders', directors', and directors' committee meetings, earlier of 20 years or termination of corporation's existence;

2. Item 6(a)(1), general ledgers, 20 years;

3. Item 6(a)(2), ledgers subsidiary or auxiliary, 20 years;

4. Item 7, journals: general and subsidiary, 20 years;

5. Item 8(a), journal vouchers and journal entries, 20 years;

6. Item 20(a), appraisals and valuations made by the company of its properties or investments or of the properties or investments of any associated companies. (includes all records essential thereto.), 10 years after appraisal; and

(a) through (b) renumbered (b) through (c) No change.

Specific Authority 366.05(1),(9),(11), 366.08, 366.093(1), 350.127(2) FS. Law Implemented 366.05(1),(9),(11), 366.08, 366.093(1) FS. History—Amended 7-19-72, Repromulgated 1-8-75, Amended 12-30-75, 9-28-81, 11-28-82, 10-1-86, 4-4-88, 11-13-95, \_\_\_\_\_.

25-7.135 Annual Reports.

(1) Each investor-owned natural gas utility shall file annual reports with the Commission on Commission Form PSC/ECR 20-G( / ) 20 ~~(4/96)~~ which is incorporated by reference into this rule. Form PSC/ECR 20-G 20, entitled "Annual Report of Natural Gas Utilities", may be obtained from the Commission's Division of Economic Regulation. These reports shall be verified by a responsible accounting officer of the company making the report and shall be due on or before April 30 for the preceding calendar year. A utility may file a written request for an extension of time with the Division of Economic Regulation no later than April 30. One extension of 31 days will be granted upon request. A request for Commission approval of a longer extension must be accompanied by a statement of good cause and shall specify the date by which the report will be filed.

(2) The utility shall also file with the original and each copy of the annual report form, or separately within 30 days, a letter or report, signed by an independent certified public accountant, attesting to the conformity in all material respects of the Comparative Balance Sheet, Statement of Income, ~~and Statement of Cash Flows~~ and any applicable notes from Form PSC/ECR 20-G 20 with the Commission's applicable uniform system of accounts and published accounting releases.

(3) No change.

Specific Authority 366.05(1), 350.127(2) FS. Law Implemented 366.05(1) FS. History—New 12-27-94, Amended 4-15-96, \_\_\_\_\_.

25-7.1351 Diversification Reports.

Specific Authority 366.05(1), 350.127(2) FS. Law Implemented 366.05(1) FS. History—New 12-27-94, Amended 4-15-96, Repealed \_\_\_\_\_.

25-7.1352 Earnings Surveillance Report.

(1) Each investor-owned natural gas utility shall file rate of return data using Commission Form PSC/ECR ~~13-G (/) 13 (5/96)~~, which is incorporated by reference into this rule. Form PSC/ECR ~~13-G 13~~, entitled “Investor-Owned Natural Gas Utility Earnings Surveillance Report,” may be obtained from the Commission’s Division of Economic Regulation.

(2) The report shall be filed:

(a) ~~Quarterly~~ Monthly, by the 15th day of the second month following the reported ~~quarter~~ month for natural gas utilities with 25,000 ~~50,000~~ or more customers.

~~(b) Quarterly, by the 15th day of the second month following the reported quarter for natural gas utilities with fewer than 50,000 customers and more than 5,000 customers.~~

~~(b)(e)~~ Semiannually, by the 15th day of the second month following the reported period for natural gas utilities with 25,000 ~~5,000~~ or fewer customers.

(3) No change.

Specific Authority 350.127(2) FS. Law Implemented 350.117(1), 366.04(2)(f) FS. History—New 11-18-82, Formerly 25-7.24, Amended 4-23-92, Formerly 25-7.024, Amended 6-10-94, 5-8-96, \_\_\_\_\_.

25-7.1353 Forecasted Earnings Surveillance Report.

(1) Each investor-owned natural gas utility with more than 50,000 customers ~~that is not under an incentive regulation plan or not subject to an earnings cap~~ shall file with the Commission its forecasted financial information on Commission Form PSC/ECR ~~23-G (/) 23 (1/95)~~ which is incorporated into this rule by reference. Form PSC/ECR ~~23-G 23~~, entitled “Investor-Owned Natural Gas Utility Forecasted Earnings Surveillance Report”, may be obtained from the Commission’s Division of Economic Regulation. The report shall be verified by the responsible officer of the utility making the report. The report shall be due no later than 60 days after the end of the fiscal year, and shall contain the forecasted financial information for the following fiscal year.

(2) through (3) No change.

Specific Authority 350.127(2), 366.05(1) FS. Law Implemented 350.117(1), 366.05(1) FS. History—New 1-11-95, Amended \_\_\_\_\_.

**DEPARTMENT OF CORRECTIONS**

RULE TITLE:

Care of Inmates

RULE NO.:

33-602.101

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to provide more specific guidelines as to permissible hairstyles for male inmates.

SUBJECT AREA TO BE ADDRESSED: Inmate hairstyles.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

IF REQUESTED IN WRITING 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 IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-602.101 Care of Inmates.

(1) through (3) No change.

(4) For security and identification purposes, no inmate shall be permitted to have his or her hair, to include eyebrows and facial hair, dyed, cut, shaved or styled according to fads or extremes that would call attention to the inmate or separate inmates into groups based upon style. This would include, for example, tails, woven braids, cutting, sculpting, clipping or etching numbers, letters, words, symbols or other designs into the hair. Male inmates shall have their hair cut short to medium uniform length at all times with no part of the ear or collar covered. Male inmates shall be permitted to shave their entire heads in a uniform manner unless the inmate is using his hairstyle or lack thereof to demonstrate gang affiliation or otherwise pose a threat to institutional security. Partial shaving of the head in a mowhawk or other distinctive shall not be permitted. Sideburns shall not extend beyond the bottom of the earlobes and will have straight lines with no flare at the base. All male inmates shall be clean shaven, provided, however, that an exemption from this requirement shall be granted on the basis of a medical diagnosis when it is determined by the staff physician that shaving would be detrimental to the inmate’s health. Inmates granted a medical exemption from the shaving requirement may be required to keep their facial hair closely trimmed with scissors or clippers. For the purpose of this rule, “closely trimmed” means trimmed so that no part of the facial hair exceeds the length prescribed by the physician as necessary to prevent the appearance or reappearance of skin disorders. If no specific length is prescribed, then facial hair shall be kept trimmed to within one-quarter inch. An inmate who has been granted a shaving exemption shall maintain the written exemption on his person at all times when outside the assigned housing unit.

(5) through (10) No change.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-8-76, Formerly 33-3.02, Amended 4-19-79, 4-24-80, 1-9-85, 11-3-87, 9-16-88, 7-23-89, 8-27-91, 3-30-94, 11-14-95, 6-2-99, Formerly 33-3.002, Amended 11-21-00, 1-25-01, 1-19-03, \_\_\_\_\_.

**AGENCY FOR HEALTH CARE ADMINISTRATION****Certificate of Need**

RULE TITLE: Hospice Programs  
 RULE NO.: 59C-1.0355

PURPOSE AND EFFECT: The agency intends to amend the rule used in certificate of need (CON) review of proposals to establish hospice programs. The amendments clarify certain terms used in statutes and in the current rule, and provide an additional basis for approval of a new hospice program. Rule provisions concerning hospice inpatient facilities are not changed. A preliminary draft of the rule is included in this Notice.

SUBJECT AREA TO BE ADDRESSED: Clarification of terms used in statute or the hospice rule, and the basis for approval of a new program.

SPECIFIC AUTHORITY: 408.15(8), 408.034(6) FS.

LAW IMPLEMENTED: 408.034(3), 408.036(1)(b),(d),(e), 408.043(2) FS.

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

TIME AND DATE: 2:00 p.m., July 1, 2003

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room C, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Karen Rivera, Certificate of Need, 2727 Mahan Drive, Building 1, Tallahassee, Florida

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59C-1.0355 Hospice Programs.

(1) Agency Intent. This rule implements the provisions of subsection 408.034(3), paragraphs 408.036(1)(b),(d) and (e), and subsection 408.043(2), Florida Statutes. It is the intent of the agency to ensure the availability of hospice programs as defined in this rule to all persons requesting and eligible for hospice services, regardless of ability to pay. This rule regulates the establishment of new hospice programs, the construction of freestanding inpatient hospice facilities as defined in this rule, and a change in licensed bed capacity of a freestanding inpatient hospice facility. A separate certificate of need application shall be submitted for each service area defined in this rule.

(2) Definitions.

(a) "Admission." Consistent with s. 400.6095(2), Florida Statutes, a person is considered admitted to a hospice following a physician's diagnosis and prognosis of a terminal illness and upon the person's expressed request and informed consent.

(b)(\*) "Agency." The Agency for Health Care Administration.

(c)(b) "Approved Hospice Program." A hospice program for which the agency has issued an intent to grant a certificate of need, or has issued a certificate of need, and that is not yet licensed as of 3 weeks prior to publication of the fixed need pool.

(d)(e) "Contractual Arrangement." An arrangement for contractual services, as described in subsection 400.6085, Florida Statutes.

(e)(d) "Fixed Need Pool." The fixed need pool defined in subsection 59C-1.002(19)(20), Florida Administrative Code. The agency shall publish a fixed need pool for hospice programs twice a year.

(f)(e) "Freestanding Inpatient Hospice Facility." For purposes of this rule, a facility that houses inpatient beds licensed exclusively to the hospice program but does not house any inpatient beds licensed to a hospital or nursing home.

(g) "Hospice." A corporation eligible for licensure as a hospice consistent with the provisions in Chapter 400, Part VI, Florida Statutes. Hospices are licensed to serve a specified county or group of counties, and may provide hospice programs in one or more of the service areas defined in this rule. A hospice licensed to serve any county in a service area shall serve all other counties in that area without further certificate of need approval.

(h)(f) "Hospice Program." A program provided by a hospice in a service area defined in this rule described in subsections 400.601(2), 400.602(5), 400.609, and 400.6095(1), Florida Statutes, that provides a continuum of palliative and supportive care for the terminally ill patient and his family. As provided in s. 400.609, Florida Statutes, a hospice program includes a continuum of palliative and supportive care for the terminally ill patient and his family. Hospice programs services must be available 24 hours a day, 7 days a week, and must be available to all terminally ill persons and their families within the service area, and available without regard to age, gender, national origin, sexual orientation, disability, diagnosis, cost of therapy, ability to pay, or life circumstances. A new hospice program for a service area may be established by licensure of a new hospice or by expansion of the geographic area of a hospice serving an adjacent service area.

(i)(g) "Inpatient Bed." Inpatient beds located in a freestanding inpatient hospice facility, a hospital, or a nursing home and available for hospice inpatient care. Inpatient beds located in a freestanding inpatient hospice facility are licensed to the hospice. Inpatient hospice beds in a hospital are licensed to the hospital, and remain licensed as acute care beds; inpatient hospice beds in a nursing home are licensed to the nursing home, and remain licensed as skilled nursing beds.

(j)(h) "Local Health Council." The council referenced in section 408.033(1), Florida Statutes.

(k)(i) "Planning Horizon." The date by which a proposed new hospice program is expected to be licensed. For purposes of this rule, the planning horizon for applications submitted



between January 1 and June 30 is July 1 of the year 1 year subsequent to the year the application is submitted; the planning horizon for applications submitted between July 1 and December 31 is January 1 of the year 2 years subsequent to the year the application is submitted.

(l) “Regional Monopoly.” For the purpose of interpreting s. 408.043(2), Florida Statutes, a regional monopoly exists when a service area as defined in this subsection is served by only one hospice.

(m)(i) “Residential Facility.” For purposes of this rule, a facility operated by a licensed hospice program to provide a residence for hospice patients, as defined in s. 400.601(5)(4), F.S. A residential facility is not subject to regulation under this rule. Provided, however, that a proposal to convert such a residence to a freestanding inpatient hospice facility is subject to regulation under this rule.

(n)(k) “Service Area.” The geographic area consisting of a specified county or counties, as follows:

1. Service Area 1 consists of Escambia, Okaloosa, Santa Rosa, and Walton Counties.
2. Service Area 2A consists of Bay, Calhoun, Gulf, Holmes, Jackson, and Washington Counties.
3. Service Area 2B consists of Franklin, Gadsden, Jefferson, Leon, Liberty, Madison, Taylor, and Wakulla Counties.
4. Service Area 3A consists of Alachua, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Levy, Putnam, Suwannee, and Union Counties.
5. Service Area 3B consists of Marion County.
6. Service Area 3C consists of Citrus County.
7. Service Area 3D consists of Hernando County.
8. Service Area 3E consists of Lake and Sumter Counties.
9. Service Area 4A consists of Baker, Clay, Duval, Nassau, and St. Johns Counties.
10. Service Area 4B consists of Flagler and Volusia Counties.
11. Service Area 5A consists of Pasco County.
12. Service Area 5B consists of Pinellas County.
13. Service Area 6A consists of Hillsborough County.
14. Service Area 6B consists of Hardee, Highlands, and Polk Counties.
15. Service Area 6C consists of Manatee County.
16. Service Area 7A consists of Brevard County.
17. Service Area 7B consists of Orange and Osceola Counties.
18. Service Area 7C consists of Seminole County.
19. Service Area 8A consists of Charlotte and DeSoto Counties.
20. Service Area 8B consists of Collier County.
21. Service Area 8C consists of Glades, Hendry and Lee Counties.
22. Service Area 8D consists of Sarasota County.

23. Service Area 9A consists of Indian River County.

24. Service Area 9B consists of Martin, Okeechobee, and St. Lucie Counties.

25. Service Area 9C consists of Palm Beach County.

26. Service Area 10 consists of Broward County.

27. Service Area 11 consists of Dade and Monroe Counties.

(o)(f) “Terminally Ill.” As defined in subsection 400.601(10)(9), Florida Statutes, terminally ill refers to a medical prognosis that a patient’s life expectancy is 1 year or less if the illness runs its normal course.

(3) General Provisions.

(a) Quality of Care. Hospices programs shall comply with the standards for program licensure described in Chapter 400, Part VI, Florida Statutes, and Chapter 59A-2, Florida Administrative Code. Applicants proposing to establish a new hospice program shall demonstrate how they will meet the standards.

(b) Conformance with Statutory Review Criteria. A certificate of need for the establishment of a new hospice program, construction of a freestanding inpatient hospice facility, or change in licensed bed capacity of a freestanding inpatient hospice facility, shall not be approved unless the applicant meets the applicable review criteria in sections 408.035 and 408.043(2), F.S., and the standards and need determination criteria set forth in this rule. Applications to establish a new hospice program shall not be approved in the absence of a numeric need indicated by the formula in paragraph (4)(a) of this rule, unless other criteria in this rule and in sections 408.035 and 408.043(2), F.S., outweigh the lack of a numeric need.

(4) Criteria for Determination of Need for a New Hospice Program.

(a) Numeric Need for a New Hospice Program. Numeric need for an additional hospice program for a service area is demonstrated if the projected number of unserved patients who would elect a hospice program is 350 or greater. The net need for a new hospice program in a service area is calculated as follows:

$$(HPH) - (HP) \geq 350$$

where:

(HPH) is the projected number of patients electing a hospice program in the service area during the 12 month period beginning at the planning horizon. (HPH) is the sum of (U65C x P1) + (65C x P2) + (U65NC x P3) + (65NC x P4)

where:

U65C is the projected number of service area resident cancer deaths under age 65, and P1 is the projected proportion of U65C electing a hospice program.

65C is the projected number of service area resident cancer deaths age 65 and over, and P2 is the projected proportion of 65C electing a hospice program.

U65NC is the projected number of service area resident deaths under age 65 from all causes except cancer, and P3 is the projected proportion of U65NC electing a hospice program.

65NC is the projected number of service area resident deaths age 65 and over from all causes except cancer, and P4 is the projected proportion of 65NC electing a hospice program.

The projections of U65C, 65C, U65NC, and 65NC for a service area are calculated as follows:

$$U65C = (u65c/CT) \times PT$$

$$65C = (65c/CT) \times PT$$

$$U65NC = (u65nc/CT) \times PT$$

$$65NC = (65nc/CT) \times PT$$

where:

u65c, 65c, u65nc, and 65nc are the service area's current number of resident cancer deaths under age 65, cancer deaths age 65 and over, deaths under age 65 from all causes except cancer, and deaths age 65 and over from all causes except cancer.

CT is the service area's current total of resident deaths, excluding deaths with age unknown, and is the sum of u65c, 65c, u65nc, and 65nc.

PT is the service area's projected total of resident deaths for the 12-month period beginning at the planning horizon.

"Current" deaths means the number of deaths during the most recent calendar year for which data are available from the Department of Health and Rehabilitative Services' Office of Vital Statistics at least 3 months prior to publication of the fixed need pool.

"Projected" deaths means the number derived by first calculating a 3-year average resident death rate, which is the sum of the service area resident deaths for the three most recent calendar years available from the Department of Health and Rehabilitative Services' Office of Vital Statistics at least 3 months prior to publication of the fixed need pool, divided by the sum of the July 1 estimates of the service area population for the same 3 years. The resulting average death rate is then multiplied by the projected total population for the service area at the mid-point of the 12-month period which begins with the applicable planning horizon. Population estimates for each year will be the most recent population estimates published by the Office of the Governor at least 3 months prior to publication of the fixed need pool.

The projected values of P1, P2, P3, and P4 are equal to current statewide proportions calculated as follows:

$$P1 = (Hu65c/Tu65c)$$

$$P2 = (H65c/T65c)$$

$$P3 = (Hu65nc/Tu65nc)$$

$$P4 = (H65nc/T65nc)$$

where:

Hu65c, H65c, Hu65nc, and H65nc are the current 12-month statewide total admissions of hospice cancer patients under age 65, hospice cancer patients age 65 and over, hospice patients

under age 65 admitted with all other diagnoses, and hospice patients age 65 and over admitted with all other diagnoses. The current totals are derived from reports submitted under subsection (9) of this rule.

Tu65c, T65c, Tu65nc, and T65nc are the current 12-month statewide total resident deaths for the four categories used above.

(HP) is the number of patients admitted to hospice programs serving an area during the most recent 12-month period ending on June 30 or December 31. The number is derived from reports submitted under subsection (9) of this rule.

350 is the targeted minimum 12-month total of patients admitted to a hospice program.

(b) Licensed Hospice Programs. Regardless of numeric need shown under the formula in paragraph (4)(a), the agency shall not normally approve a new hospice program for a service area unless each hospice program serving that area has been licensed and operational for at least 2 years as of 3 weeks prior to publication of the fixed need pool.

(c) Approved Hospice Programs. Regardless of numeric need shown under the formula in paragraph (4)(a), the agency shall not normally approve another hospice program for any service area that has an approved hospice program that is not yet licensed.

(d) Approval Under Special Circumstances.

In the absence of numeric need identified in paragraph (4)(a), and in context with other applicable statutory and rule criteria, the agency may approve an additional hospice program for a service area under the circumstances described in subparagraph 1. or 2.:

1. An the applicant must demonstrates that circumstances exist to justify the approval of a new hospice program for that service area. Evidence submitted by the applicant must document one or more of the following:

a.1- That a specific terminally ill population is not being served.

b.2- That a county or counties within the service area of a licensed hospice program are not being served.

c.3- That there are persons referred to hospice programs who are not being admitted within 48 hours (excluding cases where a later admission date has been requested); or- The applicant shall indicate the number of such persons.

2. The area is served by a single hospice program, and all of the following are true:

a. The program has been the sole provider for that service area for at least 10 consecutive batching cycles as of 3 weeks prior to publication of the fixed need pool;

b. There is no approved hospice program for the service area;

c. There is no newly-licensed hospice program in the service area that has not yet reported any admissions; and

d. For both the current and previous batching cycle, the projected 12-month total of admissions, divided by 700, is equal to or greater than 2.0., calculated as HPH/700 for each cycle.

(e) Preferences for a New Hospice Program. The agency shall give preference to an applicant meeting one or more of the criteria specified in subparagraphs 1. through 5.:

1. Preference shall be given to an applicant who has a commitment to serve populations with unmet needs.

2. Preference shall be given to an applicant who proposes to provide the inpatient care component of the hospice program through contractual arrangements with existing health care facilities, unless the applicant demonstrates a more cost-efficient alternative.

3. Preference shall be given to an applicant who has a commitment to serve patients who do not have primary caregivers at home; the homeless; and patients with AIDS.

4. In the case of proposals for a hospice service area comprised of three or more counties, preference shall be given to an applicant who has a commitment to establish a physical presence in an underserved county or counties.

5. Preference shall be given to an applicant who proposes to provide services that are not specifically covered by private insurance, Medicaid, or Medicare.

(5) Consistency with Plans. An applicant for a new hospice program shall provide evidence in the application that the proposal is consistent with the needs of the community and other criteria contained in local health council plans ~~and the State Health Plan~~. The application for a new hospice program shall include letters from health organizations, social services organizations, and other entities within the proposed service area that endorse the applicant's development of a hospice program.

(6) through (8) No change

(9) Semi-Annual Utilization Reports.

(a) Each hospice ~~program~~ shall report utilization information to the agency or its designee on or before July 20 of each year and January 20 of the following year. The July report shall indicate, by service area, the number of admissions new patients admitted during the 6-month period composed of the first and second quarters of the current year, the census on the first day of each month included in the report, and the number of patient days of care provided during the reporting period. The January report shall indicate, by service area, the number of admissions new patients admitted during the 6-month period composed of the third and fourth quarters of the prior year, the census on the first day of each month included in the report, and the number of patient days of care provided during the reporting period. An admission shall be defined as in paragraph (2)(a) of this rule, subject to the following clarification:

1. A person admitted to a hospice program for a service area is counted as one admission to that program for as long as the person is continuously enrolled in that hospice program.

2. A person discharged from a hospice program for a service area and then readmitted to the same hospice program at any later date is counted as a new admission to that hospice program.

3. A person discharged from a hospice program for a service area and then admitted to a different hospice program is counted as a new admission to that different hospice program, regardless of the licenseholder for that different hospice program.

4. The location of a person at the time of admission establishes the hospice program service area where that admission is counted, regardless of the place considered to be the person's permanent residence. ~~The following detail shall also be provided.~~

~~(b)(a)~~ The utilization reports shall also include the following detail by service area ~~For the number of new patients admitted:~~

1. The 6-month total of admissions under age 65 and age 65 and over by type of diagnosis (e.g., cancer, ~~AIDS~~).

2. The number of admissions during each of the 6 months covered by the report, ~~by service area of residence.~~

3. ~~(b)~~ For the patient census on April 1 or October 1, as applicable, the number of patients receiving hospice care in:

~~a.1.~~ A private home.

~~b.2.~~ An adult congregate living facility.

~~c.3.~~ A hospice residential unit.

~~d.4.~~ A nursing home.

~~e.5.~~ A hospital.

~~(10) Grandfathering Provisions. A hospice program licensed as of the effective date of this rule is authorized to continue to serve all counties in the service area where its principal place of business is located. A hospice program whose certificate of need or current license permits hospice services in a county or counties in an adjacent service area may continue to serve those adjacent counties. Any expansion to provide service to other counties in an adjacent service area is subject to regulation under this rule.~~

Specific Authority 408.15(8), 408.034(6)(3) ~~and (5)~~ FS. Law Implemented 408.034(3), 408.035, 408.036(1)(b),(d),(e) ~~and (f)~~, 408.043(2), 400.606(4) ~~and (5)~~ FS. History—New 4-17-95, Amended 7-30-95, \_\_\_\_\_.

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE:

Early Intervention Services

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Early Intervention Services Coverage and Limitations

RULE NO.:

59G-4.085

Handbook, October 2003. The effect will be to incorporate by reference in the rule the current Florida Medicaid Early Intervention Services Coverage and Limitations Handbook.

SUBJECT AREA TO BE ADDRESSED: 59G-4.085, F.A.C.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.905, 409.908 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW.

TIME AND DATE: 9:00 a.m., Tuesday, June 30, 2003

PLACE: 2727 Ft. Knox Blvd., Bldg. 3, Conference Room D, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: L. Gail Connolly, Bureau of Medicaid Services, 2727 Ft. Knox Blvd., Bldg. 3, MS#20, Tallahassee, Florida 32308-5403, (850)922-7319

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-4.085 Early Intervention Services.

(1) This rule applies to all Early Intervention Services providers enrolled in the Medicaid program.

(2) All Early Intervention Services providers enrolled in the Medicaid program must be in compliance ~~comply~~ with the Florida Medicaid Early Intervention Services Coverage and Limitations Handbook, October 2003 ~~February 1999~~, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS HCFA-1500 and Child Health Check-Up 221, which is incorporated by reference in Rule 59G-4.001~~5-020~~, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.905, 409.908 FS. History—New 4-30-00, Amended \_\_\_\_\_.

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Prescribed Pediatric Extended Care Services RULE NO.: 59G-4.260

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Prescribed Pediatric Extended Care Services Coverage and Limitations Handbook, October 2003. The effect will be to incorporate by reference in the rule the current Florida Medicaid Prescribed Pediatric Extended Care Services Coverage and Limitations Handbook.

SUBJECT AREA TO BE ADDRESSED: Prescribed Pediatric Extended Care Services.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.905(2), 409.908 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW.

TIME AND DATE: 10:00 a.m., Monday, June 30, 2003

PLACE: 2727 Mahan Dr., Building 3, Conference Room D, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Arlene Cotton, Bureau of Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)922-7310

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-4.260 Prescribed Pediatric Extended Care Services.

(1) This rule applies to all Prescribed Pediatric Extended Care (PPEC) service providers enrolled in the Medicaid program.

(2) All Medicaid enrolled prescribed pediatric extended care service providers must be in compliance with the Florida Medicaid Prescribed Pediatric Extended Care Services Coverage and Limitations Handbook, October 2003 ~~May 1999~~, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS HCFA-1500, which is incorporated in Rule 59G-4.001 ~~59G-5.020~~, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.905(2), 409.908 FS. History—New 8-27-91, Amended 4-21-92, 3-9-93, Formerly 10C-7.0471, Amended 2-11-96, 2-22-00, \_\_\_\_\_.

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Payment Methodology for Inpatient Hospital Services RULE NO.: 59G-6.020

PURPOSE AND EFFECT: The purpose of the proposed amendment is to incorporate changes to the Florida Title XIX Inpatient Hospital Reimbursement Plan payment methodology, effective June 7, 2003, for methods used in establishing payment rates for adult (age 21 and over) heart and liver transplants.

Reimbursement for adult (age 21 and over) heart and liver transplant evaluations and transplant surgery services will be paid the actual billed charges up to a global maximum rate established by the Agency. These payments will be made to physicians and facilities that have met specified guidelines and are established as designated transplant centers as appointed by the Secretary of the Agency. The global maximum reimbursement for transplant surgery services is an all-inclusive payment and encompasses 365 days of transplant related care.

Also, editorial changes will be made to the Reimbursement Plan in order to reorganize various section titles.

The effect of the proposed amendment will be: reimbursement for adult (age 21 and over) heart and liver transplant evaluations and transplant surgery services will be paid the actual billed charges up to a global maximum rate established by the Agency. These payments will be made to physicians and facilities that have met specified guidelines and are established as designated transplant centers as appointed by the Secretary of the Agency. The global maximum reimbursement for transplant surgery services is an all-inclusive payment and encompasses 365 days of transplant related care.

Also, editorial changes will be made to the Reimbursement Plan in order to reorganize various section titles.

SUBJECT AREA TO BE ADDRESSED: The subject areas to be addressed are reimbursement for adult (age 21 and over) heart and liver transplant evaluations and transplant surgery services will be paid the actual billed charges up to a global maximum rate established by the Agency. These payments will be made to physicians and facilities that have met specified guidelines and are established as designated transplant centers as appointed by the Secretary of the Agency. The global maximum reimbursement for transplant surgery services is an all-inclusive payment and encompasses 365 days of transplant related care.

Also, editorial changes will be made to the Reimbursement Plan in order to reorganize various section titles.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908, 409.9117 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., June 30, 2003

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room C, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Robert Butler, Chief, Medicaid Program Analysis, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2120B, Tallahassee, Florida 32308, (850)414-2759

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Electrical Contractors Licensing Board**

RULE TITLES:	RULE NOS.:
Definitions	61G6-5.001
Application for Examination for Certification	61G6-5.003
Notification of Changes	61G6-5.012

PURPOSE AND EFFECT: The Board proposes the development of rule amendments to address definitions; application for certification and the correction of a typographical error.

SUBJECT AREA TO BE ADDRESSED: Definitions and the application for certification.

SPECIFIC AUTHORITY: 489.505(2), 489.507(3), 489.511 FS.

LAW IMPLEMENTED: 455.275, 489.505(10),(12),(21),(22), 489.511(2), 489.521, 489.533 FS.

IF REQUESTED IN WRITING 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: Anthony Spivey, Executive Director, Electrical Contractors Licensing Board, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Electrical Contractors Licensing Board**

RULE TITLES:	RULE NOS.:
Continuing Education for Reactivation	61G6-9.001
Registration of Course Providers	61G6-9.005

PURPOSE AND EFFECT: The Board proposes the development of a rule amendment to address required continuing education for the purpose of reactivation of licensure. The Board also proposes the deletion of subsection (11) in Rule 61G6-9.005 since it is no longer applicable.

SUBJECT AREA TO BE ADDRESSED: Continuing education for reactivation of licensure and clarification of registration of course providers.

SPECIFIC AUTHORITY: 455.2179, 455.225, 455.227, 489.507(3), 489.519 FS.

LAW IMPLEMENTED: 455.2179, 489.517, 489.531, 489.533, 489.519 FS.

IF REQUESTED IN WRITING 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: Anthony Spivey, Executive Director, Electrical Contractors Licensing Board, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Electrical Contractors Licensing Board**

RULE TITLES:	RULE NOS.:
Violations and Penalties	61G6-10.002
Aggravating or Mitigating Circumstances	61G6-10.003
Probation	61G6-10.007

PURPOSE AND EFFECT: The Board proposes the development of rule amendments to address violations and penalties in Rule 61G6-10.002, F.A.C. In addition, the Board proposes the development of amendments to Rule 61G6-10.003, F.A.C., to address concerns outlined by the Joint Administrative Procedures Committee. The Board also proposes the development of a new rule to address probation.

SUBJECT AREA TO BE ADDRESSED: Disciplinary guidelines, aggravating or mitigating circumstances, and probation.

SPECIFIC AUTHORITY: 455.2273, 489.507(3) FS.

LAW IMPLEMENTED: 455.2273 FS.

IF REQUESTED IN WRITING 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: Anthony Spivey, Executive Director, Electrical Contractors Licensing Board, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

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

**DEPARTMENT OF HEALTH**

**Board of Nursing**

RULE TITLE:	RULE NO.:
Qualifications for Examination	64B9-3.002

PURPOSE AND EFFECT: The Board proposes to review the rule to determine whether amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Requirements needed to demonstrate competency in English.

SPECIFIC AUTHORITY: 464.006 FS.

LAW IMPLEMENTED: 112.011(1)(b), 455.564(1), 464.008 FS.

IF REQUESTED IN WRITING 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: Dan Coble, Executive Director, Board of Nursing/MQA, 4052 Bald Cypress Way, Bin #C02, Tallahassee, Florida 32399-3252  
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**Section II  
Proposed Rules**

**DEPARTMENT OF CORRECTIONS**

RULE TITLE:	RULE NO.:
Holding Cells	33-602.224

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to revise the time requirements for initiation of a holding cell log.

SUMMARY: The proposed rule requires that a holding cell log be initiated when an inmate is placed in the cell for a period exceeding 30 minutes. This is a change from the requirement that a log be initiated after a period exceeding one hour.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.224 Holding Cells.

(1) through (3) No change.

(4) A holding cell log will be initiated any time an inmate is placed in the holding cell for a period exceeding 30 minutes ~~one hour~~. Each institution will be responsible for using the Holding Cell Log, Form DC6-208, to record the reasons for placement in the cell, the length of time held in cell, and the record of frequent checks. Form DC6-208 is hereby incorporated by reference. A copy of this form is available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida