

(4) Adoptee birth data will be verified by registry staff, with the assistance of the Vital Records section of the Office of Vital Statistics in the Department of Health. In cases where birth information cannot be verified and registration is not possible, applicants will be notified of data used as a basis for search and given opportunity to correct or change that data for resubmission. Should verification of the birth information still not be possible, no further attempts will be made to process that application. If the applicant desires to submit new or different information, a new application and accompanying fee must be submitted.

(5) Original applications, signed by registrants, will be placed on file permanently.

(6) Updating of Registry Information.

(a) Any registrant may change the name, address or telephone number associated with their registration, may limit or restrict their consent to release information, or may completely withdraw from the registry at any time.

(b) Responsibility for update rests with registrants and only the most current information on file will be disclosed to designated recipients upon their completion of registration procedures.

(7) All registry documents containing identifying information shall be handled and stored in accordance with procedures for the handling of confidential information.

(8) The department will offer counseling services to registrants at the time of registration. Counseling, as specified in s. 63.165(2), F.S., consists of professional advice provided by the department, by counselors employed by the department, by agencies licensed by the State of Florida to provide adoption services, or by other persons who have adoption training or experience.

(9) Fee for Service.

(a) The registry shall establish a fee for initial filing of identifying information with the registry. This fee shall be submitted in the form of a money order, bank draft, or personal check by the registrant and shall be deposited in a trust account specified by the department. These fees shall be used to defray the direct and indirect costs of operating the registry.

(b) The registry shall establish a fee for updating information previously filed or for changing, limiting or withdrawing consent to release identifying information. These fees shall be deposited in a trust fund specified by the department. These fees shall be used to defray the direct and indirect costs of operating the registry.

(c) Receipts will be mailed to registrants to acknowledge the processing of fees. Accompanying letters of acknowledgement will state the status of the applicant's registration.

(d) Fees are collected to offset costs of researching birth information, processing applications, and providing staff to service client information and other requests. When an

application has been accepted by the registry for processing, fees will be deposited and will not be returned to the applicants, even if registration proves to be impossible.

(e) Fees for counseling services shall be set and collected by the department, licensed agency, or other professional who provides the service.

(f) The department shall waive fees in cases where need and hardship can be documented. Acceptable documentation of hardship includes verification that applicant is receiving unemployment benefits, public assistance, social security income or food stamps.

(10) Applications for Registry Services, and applications to change or update information are available upon request.

Specific Authority 63.162, 63.233, 382.003(10) FS. Law Implemented 63.162, 63.165, 63.233 FS. History—New.

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Library and Information Services

RULE TITLE:

Electronic Recordkeeping

RULE NO.:

1B-26.003

PURPOSE AND EFFECT: The purpose of this amendment is to update guidelines for managing public records created or maintained in electronic form. Updated guidelines reflect current technologies and best practices in managing electronic records and ensuring their retention and accessibility in accordance with public records provisions of Florida Statutes, Chapter 119.

SUMMARY: The primary changes in the proposed revision are a reorganization of some subsections and updating of the language and some technical requirements. Below is a summary of the changes to the revised rule.

Subsection (1) Purpose. — Changed terminology here and throughout the rule to refer to “record (master) copies”. This change is consistent with the definitions in Chapter 1B-24, FAC. Removed reference to “records which have a retention value of more than ten years.”; Subsection (2) Authority. — Changed a statutory citation.; Subsection (3) Scope. — Expanded the applicability of the rule to include analog, as well as digital, records. Removed references to “long term and permanent electronic records” and “records which have a retention period of ten years or less.”; Subsection (4) Intent. — Provided that existing recordkeeping systems may be used, even if those systems are not in compliance with the rule, until they are replaced or upgraded.; Subsection (5) Definitions. — Added a definition for “electronic recordkeeping system”, and removed the definition of “electronic records system.” Deleted the definition for “information system.” Defined “record (master) copy.” Added definitions for “geographic information system” and “open format.”; Subsection (6) Agency duties and

responsibilities. – Added an explicit requirement for agencies to ensure that all records are covered by a records retention schedule. Reorganized the order in which some of the requirements appear, in an attempt to place like requirements together. Added a requirement for agencies to establish and document security controls for electronic recordkeeping systems.; Subsection (7) Documentation standards. – Added a requirement for agencies to maintain documentation for electronic recordkeeping systems in printed and computer-readable forms.; Subsection (8) Creation and use of electronic records as record (master) copies. – Added a detailed section on required security controls “in accordance with the requirements of Chapter 282, Florida Statutes”, which emphasizes electronic integrity controls. Added the term “open format” as an alternative to “standard interchange format” for exchanging records between disparate systems.; Subsection (9) Legal authentication. – This section is largely unchanged. A requirement is added for state agencies to follow the computer security requirements of Chapter 282, Florida Statutes; Subsection (10) Selection of electronic records storage media. – Raised the minimum scanning density from 200 dots per inch to 300 dots per inch for electronic documents. Updated the reference to the Tagged Information File Format (TIFF) to the current version of the standard. Added specific requirements for magnetic tape media.; Subsection (11) Maintenance of electronic records. – Added a reference to a standard of the Audio Engineering Society for the storage of magnetic tapes. Reworded much of this subsection to improve clarity. Added a requirement for human-readable metadata records. Added specific storage requirements for magnetic tapes and disks.; Subsection (12) Retention of electronic records. – This subsection is substantially the same as the current rule.

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

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

SPECIFIC AUTHORITY: 257.14, 257.36 FS.

LAW IMPLEMENTED: 257.14, 257.36 FS.

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

TIME AND DATE: 9:00 a.m., April 3, 2003

PLACE: Training Room, State Records Storage Center, 4319 Shelfer Road, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jim Berberich, Chief, Bureau of Archives and Records Management, Division of Library and

Information Services, R. A. Gray Building, 500 South Bronough Street, Tallahassee, FL 32399-0250, (850)245-6700, Suncom 205-6700

THE FULL TEXT OF THE PROPOSED RULE IS:

1B-26.003 Electronic Recordkeeping.

(1) PURPOSE. These rules provide standards for record (master) copies of public records which have a retention value of more than ten years which reside in electronic recordkeeping systems will be recorded and stored on electronic media. Record keeping requirements must be incorporated in the design and implementation of new systems and enhancements to existing systems. Public records are those as defined by Section 119.011(1), Florida Statutes.

(2) AUTHORITY. The authority for the establishment of these rules is Section 257.36(1) and ~~(6)(7)(c)~~, Florida Statutes.

(3) SCOPE.

(a)1. These rules are applicable to all agencies as defined by Section 119.011(2), Florida Statutes.

2. These rules establish ~~the~~ minimum requirements for the creation, utilization, maintenance, retention, preservation, storage and disposition of record (master) copies long-term and permanent electronic records, regardless of the media utilized.

3. Electronic records include numeric, graphic, sound, video, and textual information which is recorded or transmitted in analog or digital form may be recorded in any machine readable media form which includes, but is not limited to, magnetic media, such as tapes and disks (hard or floppy), and optical disks.

4. These rules apply to all electronic recordkeeping records systems, including, but not limited to, microcomputers, minicomputers, main-frame computers, and or optical image recording systems (regardless of storage media) in network or stand-alone configurations.

(b) Before existing records ~~with a retention period of 10 years or less~~ are committed to an electronic recordkeeping system, ~~with the intent of destroying the original record, the agency shall conduct a cost benefit analysis shall be prepared and reviewed by the agency~~ to insure that the project or system contemplated is cost effective. ~~Public records with a retention of 10 years or less, or which are kept voluntarily beyond the established retention period, which are committed to electronic recordkeeping systems, are not subject to the provisions of rules 1B-26.003(10)(e), (d), (e) and (11)(a).~~

(c) Any electronic recordkeeping system not meeting the provisions of these rules may be utilized for long-term or permanent records provided the record (master) copy original public record is maintained or microfilmed in accordance with the provisions of Rule 1B-26.0021, Florida Administrative Code, prior to disposition.

(4) INTENT. Electronic recordkeeping systems in use at the effective date of this rule, that are not in compliance with the requirements of this rule, may be used until the systems are replaced or upgraded. New and upgraded electronic recordkeeping systems created after the effective date of this rule shall comply with the requirements contained herein. ~~In enacting these rules, the Department of State is cognizant of the fact that there may be instances where an agency may be utilizing electronic recordkeeping systems and destroying public records. The Department is further aware that it may not be possible to implement this rule in its entirety immediately upon its enactment, and it is not the intent by this rule to disrupt existing such recordkeeping practices provided that such agencies make no further disposition of public records without approval of the Division of Library and Information Services of the Department of State.~~

(5) DEFINITIONS. For the purpose of these rules:

(a) "Database" means an organized collection of automated information.

(b) "Database management system" means a set of software programs that controls the organization, storage and retrieval of data (fields, records and files) in a database. It also controls the security and integrity of the database.

(c) "Data file" means related numeric, textual, sound, video, or graphic information that is organized in a prescribed form and format.

(d) "Electronic record" means any information that is recorded in machine readable form.

(e) "Electronic recordkeeping records system" means an automated information system for the organized collection, processing, transmission, and dissemination of information in accordance with defined procedures ~~scheme~~.

(f) "System design" means the design of the nature and content of input, files, procedures, and output and their interrelationships.

~~(g) "Information system" means the organized collection, processing, transmission, and dissemination of information in accordance with defined procedures, whether automated or manual.~~

~~(g)(h) "Permanent or long-term records" means any public records which have an established retention period of more than 10 years. See section 119.011(1), Florida Statutes, for the definition of a public record. Each record series shall be considered on an individual basis by the Division of Library and Information Services in establishing this retention period. See Rule 1B-24.002(13), Florida Administrative Code for the definition of a record series.~~

(h) "Record (master) copy" means public records specifically designated by the custodian as the official record.

(i) "Geographic information system" means a computer system for capturing, storing, checking, integrating, manipulating, analyzing and displaying data related to positions on the Earth's surface.

(j) "Open format" means a data format that is defined in complete detail and that allows transformation of the data to other formats without loss of information. An open format may be either standards-based or proprietary.

(6) AGENCY DUTIES AND RESPONSIBILITIES. The head of each agency shall:

(a) Develop and implement a program for the management of electronic records created, received, maintained, used, or stored on electronic media.

(b) Ensure that all records are included within records retention schedules, either by being included within an applicable General Records Schedule, or by developing and obtaining approval for a specific records retention schedule. Each record series shall be considered on an individual basis by the Division of Library and Information Services in establishing this retention period. See subsection 1B-24.001(3), Florida Administrative Code, for the definition of a record series.

~~(c)(b)~~ Integrate the management of electronic records with other records and information resources management programs of the agency.

~~(d)(e)~~ Incorporate electronic records management objectives, responsibilities, and authorities in pertinent agency directives, or rules, as applicable.

~~(e)(d)~~ Establish procedures for addressing records management requirements, including recordkeeping requirements and disposition, before approving, recommending, adopting, or implementing new electronic recordkeeping records systems or enhancements to existing systems.

~~(f)(e)~~ Provide training for users of electronic recordkeeping records systems in the operation, care, and handling of the equipment, software, and media used in the system.

(g) Ensure that electronic record keeping systems meet state requirements for public access to records.

1. STANDARD. Each agency which maintains public records in an electronic recordkeeping system shall provide, to any person making a request pursuant to Chapter 119, Florida Statutes, a copy of any data in such records which is not specifically exempt. Said copy shall be on paper, disk, tape, optical disk, or any other electronic storage device or media requested by the person, if the agency currently maintains the record in that form, or as otherwise required by Chapter 119, Florida Statutes. Except as otherwise provided by state statute, the cost for providing a copy of such data shall be in accordance with the provisions of Sections 119.07(1)(a) and (b), Florida Statutes.

2. STANDARD. Except as otherwise provided by law, no agency shall enter into a contract with, or otherwise obligate itself to, any person or entity if such contract or obligation impairs the right of the public under state law to inspect or copy the agency's nonexempt public records existing on-line

in, or stored on a device or media used in connection with, a computer system or optical imaging system owned, leased or otherwise used by an agency in the course of its governmental functions.

3. STANDARD. Each agency shall ensure that current and proposed electronic recordkeeping systems adequately provide for the rights of the public to access public records under Chapter 119, Florida Statutes.

4. STANDARD. In addition to ensuring that electronic record keeping systems meet requirements for public access to public records, agencies shall ensure that procedures and controls maintain confidentiality for information which is exempt from public disclosure.

(h) Develop and maintain documentation about electronic recordkeeping ~~records~~ systems used by the agency to specify technical characteristics necessary for reading or processing the records. Documentation for electronic records systems shall meet the following standards:

1. STANDARD. Each agency shall identify all inputs and outputs of the system; define the organization and contents of the files and records; define policies on access and use; define the purpose and function of the system; define update cycles or conditions and rules for adding information to the system, changing information in it, or deleting information; and ensure the timely, authorized disposition of the records in accordance with Chapter 1B-24, Florida Administrative Code.

2. STANDARD. Each agency shall specify the location and media in which electronic records are maintained to meet retention requirements, establish and document security controls for the protection of the records, and maintain inventories of electronic recordkeeping records systems to facilitate disposition.

3. STANDARD. ~~Each agency which maintains public records in an electronic records system shall provide, to any person making a request pursuant to Chapter 119, Florida Statutes, a copy of any data in such records which is not specifically exempt. Said copy shall be on paper, disk, tape, optical disk, or any other electronic storage device or media requested by the person, if the agency currently maintains the record in that form, or as otherwise required by Chapter 119, Florida Statutes. Except as otherwise provided by state statute, the cost for providing a copy of such data shall be in accordance with the provisions of section 119.07(1)(a) and (b), Florida Statutes. Agencies should not reproduce, or permit reproduction of, or distribute copies of, copyrighted work or material to the public but shall permit public access to copyrighted work in their possession for examination and inspection purposes only.~~

4. STANDARD. Except as otherwise provided by law, no agency shall enter into a contract with, or otherwise obligate itself to, any person or entity if such contract or obligation impairs the right of the public under state law to inspect or copy the agency's nonexempt public records existing on-line

~~in, or stored on a device or media used in connection with, a computer system or optical imaging system owned, leased or otherwise used by an agency in the course of its governmental functions.~~

5. STANDARD. ~~Before any agency acquires or makes a major modification to any computer or imaging system, equipment or software to store or retrieve public records, it shall assure such proposed system, equipment or software adequately provides for the rights of the public to access public records under Chapter 119, Florida Statutes.~~

6. STANDARD. ~~Each agency shall develop and obtain approval of records retention schedules, and ensure the implementation of their provisions as prescribed by Chapter 1B-24, Florida Administrative Code.~~

(7) DOCUMENTATION STANDARDS. CREATION AND USE OF DATA FILES. ~~For electronic records systems that produce, use, or store data files, disposition instructions for the data shall be incorporated into a system's design.~~

(a) STANDARD. Agencies shall maintain adequate and up-to-date technical documentation for each electronic recordkeeping records system. Documentation for electronic records systems shall be maintained in printed form, and should also be maintained in computer-readable form to facilitate access to the records. The minimum documentation required is:

1. A Narrative description of the system;
2. The physical and technical characteristics of the records, including a record layout or markup language that describes each file or field including its name, size, starting or relative position, and description of the form of the data (such as alphabetic, decimal, or numeric), or a data dictionary or the equivalent information associated with a database management system including a description of the relationship between data elements in databases ~~data bases~~;
3. For information coming from geographic information systems, the physical and technical characteristics of the records must be described including a data dictionary, a quality and accuracy report and a description of the graphic data structure, such as recommended by the federal Spatial Data Transfer Standards; and
4. Any other technical information needed to read or process the records.

(8) CREATION AND USE OF ELECTRONIC RECORDS AS RECORD (MASTER) COPIES. CREATION AND USE OF TEXT DOCUMENTS Electronic recordkeeping records systems that maintain record (master) the official file copies ~~copy~~ of public records text documents on electronic media shall meet the following minimum requirements:

(a)1. Provide a method for all authorized users of the system to retrieve desired records ~~documents~~;

2. Provide an appropriate level of security to ensure the integrity of the records documents, in accordance with the requirements of Chapter 282, Florida Statutes. Security controls should include, at a minimum, physical and logical access controls, backup and recovery procedures, and training for custodians and users. Automated methods for integrity checking should be incorporated in all systems that generate and use official file copies of records. Hashing algorithms and digital signatures should be considered for all official file copies of electronic records. The use of automated integrity controls, such as hashing algorithms and digital signatures, can reduce the need for other security controls. Hashing algorithms used to protect the integrity of official file copies of records should meet the requirements of U.S. Federal Information Processing Standard Publication 180-1 (FIPS-PUB 180-1) entitled "Secure Hash Standard," which is hereby incorporated by reference, and made a part of this rule. This publication is available from the National Technical Information Service (NTIS), 5285 Port Royal Road, U.S. Department of Commerce, Springfield, VA 22161, and at the Internet Uniform Resource Locator: <http://www.itl.nist.gov/fipspubs/fip180-1.htm>. Agencies should also consider using only validated implementations of hashing algorithms in cases where the data being protected are of great intrinsic value or where the content and authenticity of the records are likely to be at issue in litigation in accordance with the provisions of Chapter 44-4, Florida Administrative Code;

3. Identify the open format or standard interchange format when necessary to permit the exchange of records documents on electronic media between agency electronic recordkeeping systems computers using different software/operating systems and the conversion or migration of records documents on electronic media from one system to another. For text records, in the absence of other conversion capabilities, the word processing or text creation system should be able to import and export files in the ASCII format as prescribed by Federal Information Processing Standard Publication (FIPS PUB) Number 1-2; Title: Code For Information Interchange, Its Representation, Subsets, and Extensions, which is hereby incorporated by reference, and made a part of this rule. This publication is available from the National Technical Information Service (NTIS), 5285 Port Royal Road, U.S. Department of Commerce, Springfield, VA 22161; and

4. Provide for the disposition of the records documents including, when appropriate, transfer to the Florida State Archives.

(b) STANDARD. Before a record (master) an official file copy document is created on an electronic recordkeeping system records systems, the record document shall be uniquely identified to enable authorized personnel to retrieve, protect, and carry out the disposition of records documents in the

system. Agencies shall ensure that records maintained in such systems can be correlated with any existing related records on paper, microfilm, or other media.

(9) LEGAL AUTHENTICATION. Agencies shall will implement the following procedures to enhance the legal admissibility of electronic records:

(a) Document that similar kinds of records generated and stored electronically are created by the same processes each time and have a standardized retrieval approach.

(b) Substantiate that security procedures prevent unauthorized addition, modification, or deletion of a record and ensure systems protection against such problems as power interruptions.

(c) Identify the electronic media on which records are stored throughout their life cycle, the maximum time span that records remain on each storage media, and the official retention requirements as approved by the Division of Library and Information Services Department of State.

(d) State agencies shall, and other agencies are encouraged to, establish and maintain integrity controls for record (master) copies of electronic records in accordance with the requirements of Chapter 282, Florida Statutes.

(10) SELECTION OF ELECTRONIC RECORDS STORAGE MEDIA. For storing record (master) copies of electronic public records throughout their life cycle, agencies shall select appropriate media and systems which meet the following requirements:

(a) Permit easy and accurate retrieval in a timely fashion; and

(b) Retain the records in a usable format until their authorized disposition and, when appropriate, meet the requirements necessary for transfer to the Florida State Archives.

(c) Obtain recording media Optical disks will be obtained only from vendors whose guarantee of 10 years or more of readability is based upon documented accelerated aging tests which are linked to specific locations on of the media disk surface.

(d) STANDARD. A scanning density with a minimum of 300 200 dots per inch is will be required for recording electronic records normal office documents on optical disk.

(e) STANDARD. A scanning density with a minimum of 300 dots per inch will be required for engineering drawings, maps, and other documents with background detail.

(e)(f) STANDARD. Record (master) copies of digital images must be stored in accordance with the TIFF 6.0 specification, which is hereby incorporated by reference and made a part of this rule. This specification is available from the Aldus Corporation, 411 First Avenue South, Seattle, WA 98104-2871. If use of a proprietary image format is unavoidable, the agency must provide a gateway to lossless conversion to the TIFF 6.0 specification. Any optical media application will support either Group 3 or Group 4 compression

techniques as specified in the Consultative Committee on International Telegraphy and Telephones "Blue Book, Volume 7.3", which is hereby incorporated by reference and made a part of this rule. This volume is available from the International Telecommunications Union, Consultative Committee, Place des Nations, CH-1211, Geneva 20, Switzerland. If use of a proprietary compression technique is unavoidable, the vendor should be required to provide a gateway to either Group 3 or Group 4 compression techniques.

(f)(g) The following factors are to be considered before selecting a storage media or converting from one media to another:

1. The authorized retention of the records as determined during the scheduling process;
2. The maintenance necessary to retain the records;
3. The cost of storing and retrieving the records;
4. The access time to retrieve stored records; and
5. The portability of the medium (that is, selecting a medium that can be read by will run on equipment offered by multiple manufacturers); and
6. The ~~the~~ ability to transfer the information from one medium to another, such as; from optical disk to magnetic tape.

(h) ~~Agencies will not use floppy disks for the exclusive storage of long-term or permanent records.~~

(i) ~~Agencies will ensure that all authorized users can identify and retrieve information stored on diskettes, removable disks, tapes, or optical disks by establishing and adopting procedures for external labeling of the contents of such diskettes, disks, tapes, or optical disks.~~

(j) ~~Agencies will ensure that information is not lost due to changing technology or deterioration of storage media by converting storage media to provide compatibility with the agency's current hardware and software. Before conversion of information to a different media, agencies must determine that authorized disposition of the electronic records can be implemented after conversion.~~

(k) ~~Agencies will back up electronic records on a regular basis to safeguard against the loss of information due to equipment malfunctions or human error. Duplicate copies of long-term or permanent records will be maintained in storage areas located in buildings separate from the location of the records that have been copied.~~

(11) MAINTENANCE OF ELECTRONIC RECORDS.

(a) STANDARD. Agencies shall maintain all long-term and permanent backup/security electronic recording media in a storage facility, either on-site or off-site, with constant temperature (below 68 degrees Fahrenheit) and relative humidity (20 to 30 to 40 percent) controls. Storage and handling of long-term and permanent records on magnetic tape shall conform to the standards contained in Standard AES22-1997 "AES recommended practice for audio preservation and restoration – Storage and handling – Storage of polyester-base magnetic tape," which is hereby incorporated

by reference and made a part of this rule. This publication is available from the Audio Engineering Society, Incorporated, 60 East 42nd Street, Room 2520, New York, New York 10165-2520.

(b) STANDARD. Agencies shall annually read a statistical sample of all electronic media containing long-term or permanent records to identify any loss of information and to discover and correct the cause of data loss.

(c) STANDARD. Agencies shall test ~~copy~~ all long-term or permanent electronic records at least every ~~before the media are 10 years and old onto tested and verified new media.~~ The ~~test will~~ verify that the media are ~~is~~ free of permanent errors.

(d) STANDARD. Agencies shall only ~~rewind~~ tapes only ~~when necessary. Stored tapes are to be rewound only immediately before use to restore proper tension to the tape. When Only~~ tapes with extreme cases of degradation are discovered, they should be rewound when they are discovered to avoid more permanent damage. Tapes shall be played continuously from end to end to ensure even packing. Tapes shall be stored so that the tape is all on one reel or hub.

(e) STANDARD. Agencies shall prohibit smoking, ~~and eating, and drinking~~ in areas where electronic records are created, stored, used, or tested ~~electronic media storage libraries and test or evaluation areas which contain long-term or permanent records.~~

(f) STANDARD. External labels (or the equivalent automated management system) for electronic recording media used to store long-term or permanent records shall provide unique identification for each storage media, including:

1. The name of the organizational unit responsible for the data;
2. System title, including the version number of the application;
3. Special security requirements or restrictions on access, if any; and
4. Software in use at the time of creation.

(g) STANDARD. For each electronic records series, agencies shall maintain human readable information specifying the metadata associated with the series, and technical documentation specifying recording methods, formats, languages, dependencies, and schema sufficient to ensure continued access to, and intellectual control over, the series. Additionally, the following information shall be maintained for each media used to store long-term or permanent electronic records:

1. File title;
2. Dates of creation;
3. Dates of coverage; and
4. ~~The recording density;~~
5. ~~Type of internal labels;~~
6. ~~Volume serial number, if applicable;~~
7. ~~The number of tracks;~~

4.8. Character code/software dependency;

9. Information about block size; and

10. Sequence number, if the file is part of a multi-media set.

(h) STANDARD. Electronic records shall not be stored closer than 2 meters from sources of magnetic fields, including generators, elevators, transformers, loudspeakers, microphones, headphones, magnetic cabinet latches and magnetized tools.

(i) STANDARD. Electronic records on magnetic tape or disk shall not be stored in metal containers unless the metal is non-magnetic. Storage containers shall be resistant to impact, dust intrusion and moisture. Compact disks shall be stored in hard cases, and not in cardboard, paper or flimsy sleeves.

(j) STANDARD. Agencies shall ensure that record (master) copies of electronic records are maintained by personnel properly trained in the use and handling of the records and associated equipment.

(k) STANDARD. Agencies shall not use floppy disks, audio cassettes, or VHS-format video cassettes for the storage of record (master) copies of long-term or permanent records. Long-term and permanent records on magnetic tape shall be stored on polyester-based media. Agencies shall use only previously unrecorded videotape for original record (master) copies of long-term or permanent video recordings. For long-term or permanent audio recordings of record (master) copies, agencies shall use only one quarter inch open-reel tapes at three and three-quarters or seven and one half inches per second, full track, using professional unrecorded polyester splice-free tape stock. For long term or permanent digital recordings of record (master) copies, agencies may use open reel one-half inch tape reels recorded at 1600 or more bits-per-inch; 3480, 3490, or 3590-type tape cartridges; or compact disk read-only-memory (CD-ROM) media.

(l) Agencies shall establish and adopt procedures for external labeling of the contents of diskettes, disks, tapes, or optical disks so that all authorized users can identify and retrieve the stored information.

(m) Agencies shall convert storage media to provide compatibility with the agency's current hardware and software to ensure that information is not lost due to changing technology or deterioration of storage media. Before conversion of information to different media, agencies must determine that authorized disposition of the electronic records can be implemented after conversion. Long-term or permanent electronic records stored on magnetic tape shall be transferred to new media as needed to prevent loss of information due to changing technology or deterioration of storage media.

(n) Agencies shall back up electronic records on a regular basis to safeguard against the loss of information due to equipment malfunctions or human error. Duplicate copies of

long-term or permanent records shall be maintained in storage areas located in buildings separate from the location of the records that have been copied.

(12) RETENTION OF ELECTRONIC RECORDS. Agencies shall establish policies and procedures to ensure that electronic records and their documentation are retained as long as needed. These retention procedures shall ~~will~~ include provisions for:

(a) STANDARD. Scheduling the retention and disposition of all electronic records, as well as related access documentation and indexes, in accordance with the provisions of Chapter 1B-24, Florida Administrative Code.

(b) STANDARD. Transferring a copy of the electronic records and any related documentation and indexes to the Florida State Archives at the time specified in the records retention schedule, if applicable. Transfer may take place at an earlier date if convenient for both the agency and the Archives.

(c) STANDARD. Establishing procedures for regular recopying, reformatting, and other necessary maintenance to ensure the retention and usability of the electronic records throughout their authorized life cycle.

(13) DESTRUCTION OF ELECTRONIC RECORDS. Electronic records may be destroyed only in accordance with the provision of Chapter 1B-24, Florida Administrative Code. At a minimum each agency should ensure that:

(a) Electronic records scheduled for destruction must be disposed of in a manner that ensures protection of any sensitive, proprietary, or security information; and

(b) ~~Magnetic~~ Recording media previously used for electronic records containing sensitive, proprietary, or security information are not reused if the previously recorded information can be compromised in any way by reuse.

Specific Authority 257.14, 257.36(6) FS. Law Implemented 257.36(1)(a) FS. History—New 8-16-92, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Elisabeth A. Golding, Archivist

NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Jim Berberich, Chief, Bureau of
Archives and Records Management

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: February 21, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: December 27, 2002

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE: The Arson Laboratory

RULE CHAPTER NO.: 4A-63

RULE TITLE: Arson Laboratory Requirements and

RULE NO.: 4A-63.001

Procedures for Submission of Evidence 4A-63.001

PURPOSE AND EFFECT: To provide uniform procedures and requirements for submission of evidence to the Arson Laboratory for analysis of evidence found at fire scenes.

SUMMARY: This new rule provides for procedures and requirements for submission of evidence to the State Fire Marshal's Arson Laboratory.

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

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

SPECIFIC AUTHORITY: 633.01(1) FS.

LAW IMPLEMENTED: 633.03, 633.111 FS.

IF REQUESTED A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW. IF A HEARING IS NOT REQUESTED, NO HEARING WILL BE HELD.

DATE AND TIME: 9:30 a.m., Wednesday, April 2, 2003

PLACE: Conference Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Carl Chasteen, Supervisor, Division of State Fire Marshal Arson Laboratory, 38 Academy Drive, Havana, Florida 32333, phone (850)539-8446

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing a special accommodation to participate in this meeting or workshop should contact Kimberly Riordan, (850)413-3607 no later than 48 hours prior to the meeting or workshop.

THE FULL TEXT OF THE PROPOSED RULE IS:

4A-63 THE ARSON LABORATORY

4A-63.001 Arson Laboratory Requirements and Procedures for Submission of Evidence.

(1) Evidence will be accepted from public law enforcement agencies and fire service agencies in matters related to criminal investigations. Other evidence is permitted to be accepted from other public agencies in special circumstances, but must be approved by the laboratory supervisor. The criteria that will be considered for approval are the urgency of the evidence submitted, the use to which the evidence will be put after analysis, the importance of the evidence, and any other relevant factor bearing on the need for the laboratory to analyze the evidence.

(2) The following are requirements for packaging samples.

(a) Containers – general considerations. The essential properties of the containers are that they must be unused, airtight, clean, with no hydrocarbon or other chemical residue, and inert so that they will not break down when heated or in contact with solvents.

(b) A properly packaged container satisfies the following criteria:

1. It seals the sample so that any trace volatile ignitable liquids are contained.

2. It avoids contamination from one sample to another.

3. It protects the chain of custody for the collected material.

(c) The seals must meet the following requirements:

1. A clean seal is essential. For cans, clean the "V" channel of the can rim before placing the lid on the can.

2. Containers must be completely sealed to prevent any passage of vapors or contaminants into or out of the container. Can lids must be tight all the way around.

3. For approved plastic bags, they must be heat sealed completely with no flaws in the seam.

4. Tamper evident tape, also referred to as tamper proof tape, must be placed across the container lid/seam in such a manner that the item cannot be partially or completely opened without tearing the tape.

5. Seals and Tape must be initialed or signed by the investigator of record. The date of the seal must also be included.

(d) The following requirements apply to the container types as indicated.

1. Metal cans:

a. Only clean, non-rusted, containers shall be used. Use unused metal cans with tight fitting lids. Cans with lids that do not fit or holes rusted through shall be returned.

b. To combat rusting, it is permissible to use epoxy lined cans. Can linings other than epoxy must not be used until after the laboratory has tested a sample for the presence of interferences.

c. Submit an unused comparison can when lined cans are used.

d. Do not refer to cans as "paint cans" on official forms, since they did not hold paint. They shall be referred to as "metal cans."

2. Plastic Bags:

a. The only plastic bags acceptable for evidence submitted to the Fire and Arson Laboratory are:

(I) KAPAC® polyester bags.

(II) SOPLARIL® polyamide (nylon 11) bags.

(III) Grand Rivers Products (nylon 6) bags.

All other plastic bags submitted shall be returned.

b. Such plastic bags are permitted to be used after consultation with the laboratory and only with samples of a size or shape that will not fit into a metal can.

c. Avoid puncture. Punctured bags shall be returned.

d. Due to a reformulation by the manufacturer, KAPAC® bags manufactured in 1987 or before shall not be used.

e. Plastic bags shall not be left in a hot area (such as a car's trunk) for any extended period of time, and in no case longer than one month. Doing so increases the potential that certain chemicals will bleed off the plastic and allow it to crack.

3. Glass jars:

a. Teflon® lined caps shall be used. Non Teflon® seals that are in contact with solvent may dissolve and contaminate samples.

b. Each jar must be precleaned and, if possible, certified free from hydrocarbon residue.

c. Care must be used in the storage and transport of glass jars because they are breakable.

(d) The following containers are unsuitable and shall not be used:

1. Paper bags.

2. Plastic containers, including cans with plastic lids, gaskets, or plastic bags.

3. Previously used containers, such as pickle jars, which could contain traces of a contaminating substance.

4. Containers that may be contaminated by manufacturing process residues.

5. Nylon bags other than SOPLARIL® or Grand River Products unless the lab has tested the item.

To test other products for contamination, contact the Arson Laboratory at (850)530-8446.

(3)(a) Following are the general submission and shipping requirements.

1. Place only one case in each box. Placing several samples in plastic bags or small vials in one large container can lead to cross-contamination. Items packaged together in this manner will be treated as a single submission.

2. Use plain boxes.

a. Labels shall not state or imply that the box contains specific ignitable liquids unless they are standards for comparison.

b. Do not write anything that is not specific to the case.

c. Boxes returned by the laboratory shall not be used.

3. Do not delay in shipping the evidence to the laboratory. The time between the fire, sealing of the evidence in the container, and shipping to the laboratory can affect the laboratory's ability to recover any ignitable liquid residues. Collect and send the samples as soon as possible.

4. With debris samples, do not fill the container to more than 75% of capacity. Each can shall not contain more than 75% of the can's capacity. The method used in the laboratory for recovering ignitable liquid residues requires an adequate headspace above the debris for the volatilization of trace ignitable liquids. If the can is too full, the quality of the analysis will suffer.

5. Liquid samples must be placed in clean glass vials with screw-on lids. Do not use rubber stoppered serum vials. Do not fill the container more than 50% full. Do not send more than

one-half a fluid ounce (15 milliliters) of a suspected petroleum product to the laboratory. Add sufficient absorbent material such as paper towels or gauze pads to the liquid sample in the vial to take up the free liquid.

6. Seal the vial lid. Do not use paraffin to secure the lid. Tamper evident tape shall be used whenever possible. Then package the vial with additional absorbent material on the outside of the vial and sealed inside a pint or quart can.

7. Submit comparison samples of any absorbent material used to absorb free liquids.

8. Cans and containers found on the scene shall have any liquid removed. If the liquid is suspected of being an ignitable liquid, follow the instructions in subparagraph 5. above. Seal the holes on the container with a cork stopper and tape over, then place the evidence into an approved container of appropriate size. CAUTION: If the can is suspected to have fingerprints, do not use a plastic bag. Package it according to Florida Department of Law Enforcement or Federal Bureau of Investigations procedures. It will not be appropriate for ignitable liquid analysis. It is the investigator's responsibility to choose the forensic method that would provide the best evidence.

9. Tissue and body parts should be preserved only by freezing the sample. Caution the coroner or medical examiner that you do not want any preservatives placed on the tissue. Contact the laboratory BEFORE shipping. The tissue should first be frozen and packed in a sealed ice chest. Water Ice and Dry Ice are not recommended as there are distinct shipping issues with either. Freezing followed by overnight hand or courier delivery allows the frozen items to slowly thaw. They will then be ready for analysis when they arrive at the laboratory.

10. Body parts or other items contaminated by bodily fluids such as a victim's or suspect's clothing shall be prominently labeled as containing a BIOHAZARD before shipping to the laboratory.

11. Once the sample has been selected and placed in a container, seal the container tightly so as to remove the possibility of the evaporation of any ignitable liquid residues or the contamination of the evidence sample.

12. Mark the outside of the container with the investigator's initials, the incident location, the investigator's agency case number, the contents, and the location where found. This information may be placed either on an evidence label or written directly on the container's surface using a permanent waterproof marker. Other valuable information that may be included are the incident date, the date and time the sample was collected, and the exhibit number. Be certain to leave some room on the container for the laboratory to place its own markings.

(b) The following procedures are applicable to shipping flammable liquids.

1. Packaging for flammable liquids.

a. The laboratory recommends that you ship all known flammable liquids under the FedEx Excepted Quantities guidelines or a similar service.

b. Do not ship more than 30 ml (1 oz.) per vial or no more than 500 ml (16.6 oz.) per box.

c. Each vial must be packed in a metal can with surrounding packing material.

d. Each can in the box must also have surrounding packing material.

e. The airbill must be marked for overnight express and for dangerous goods, shipper's declaration not required

f. The outside of the box must be labeled with an excepted quantities label.

g. The label must be marked with the appropriate class. Nearly everything sent to the lab will be a class 3.

h. The label must also have the appropriate UN or ID number as well:

(I) Petroleum Distillates UN 1268.

(II) Gasoline UN 1203.

(III) Kerosene UN 1223.

(IV) For all other UN numbers, call the laboratory for assistance.

(4) The following are requirements for transportation of evidence to the laboratory:

(a) Regardless of the method of delivery used, insure that the requirements for a proper chain-of-custody are fulfilled.

(b) Hand Delivery. The laboratory is open between 8:00 am to 5:00 pm, Monday through Friday, and any person hand delivering samples must plan to arrive within those time periods. If, due to unusual circumstances, evidence cannot be delivered within those time periods, call the laboratory at (850)539-8446 to make alternative arrangements. When evidence is brought in, one of the Laboratory's evidence submission forms must be completed.

(c) Courier. A completed evidence submission form must accompany the evidence. Only certified carrier services should be used (example: United Parcel Services, Federal Express, Purolator, United States Postal Service, Airborne). Evidence must be traceable through the carrier such as having a certified or registered mail receipt number.

(d) The Evidence Submission Form. By completely and properly filling out the submission form, Form DI4-1096 (rev. 10/02), Evidence Submission Form, which is hereby adopted and incorporated by reference, the investigator is documenting all the information necessary for the laboratory to track and process the case. Form DI4-1096 also provides a chain of custody for the evidence's receipt and return. This laboratory uses a computerized laboratory information management system. Because of this, there are certain items of information that are required to properly log the case. The following information is provided with respect to the evidence form. Please refer to Form DI4-1096.

1. Mark the appropriate box to indicate whether this is a new case or additional evidence to an older one. If this is an additional submission to an older case, include the case number of the older case.

2. Lab Number. Leave this space blank unless an addition to a previous submission is being sent and the old laboratory case number is known. Otherwise, a laboratory case number will be assigned by the laboratory.

3. Agency Number. Provide the investigator's agency number for the case, if any. This is a necessary identifier for the laboratory's database.

4. Submitting Agent. Provide the first and last name of the individual to whom all communications regarding the case is to be directed. Also indicate alternate submitters in this area, otherwise information will only be released to the listed agent.

5. Agency. Provide the name of the agency by whom the submitting agent is employed.

6. Telephone Number. Provide the submitting agent's full telephone number, including the area code and/or extensions. SUNCOM numbers may be included but are not required.

7. Agency Address. Provide the complete address including the street, city, and zip code of the agency location where reports and evidence may be shipped.

8. Property Owner/Occupant. Provide the full name of the owner or occupant of the item or property involved in the incident. If this information is undetermined, write "UNKNOWN" in the space. If the owner or occupant becomes known at a later date, contact the laboratory so that the laboratory can update its records.

9. Incident Address. Provide the full address of where the incident occurred or where the evidence was taken. Include street address, city or village, and zip code. If it is a fire involving a movable object such as a car, boat, or motorcycle, give a description of where the property was found.

10. Nature of Incident. Provide the nature of the incident, such as "suspicious fire of a dwelling," "business fire," "automobile fire," "criminal damaging."

11. Date. Provide the date the incident occurred.

12. List of laboratory tests. This is the list of the tests to be performed by the Fire and Arson Laboratory. Use the letter code beside them to designate the test or tests requested on the "List of Evidence Submitted."

a. (A) "Determine presence and/or identity of ignitable liquid residues." The code A in the "list of evidence submitted" indicates that you want the analyst to determine if an ignitable liquid is present in that particular sample.

b. (c) "Comparison Sample." Should be unburned material from the fire scene of the same matrix as the suspect sample and which the investigator is relatively certain contains no ignitable liquid. It may also be a known liquid or other material, obtained by the investigator, to be compared with the unknown.

c. (HO) “Hold Only – No Test Requested.” Items the investigator does not need to have tested, but which he/she wishes to maintain with the other evidence to preserve the chain-of-custody.

d. (O) “Other Requests.” Other tests on the evidence that may be required. This must be explained in the remarks section or cleared by an analyst before being used. These requests may require the laboratory to send the evidence to a different laboratory. Please call the laboratory prior to using this designation.

e. (F) “Flash Point Determination.” In certain cases with liquids that cannot be identified by the laboratory’s normal methods, a characterization of the Flash Point of the material may be useful. Be advised that 50 ml of free liquid is required to do a flash point determination. This presents issues as to the proper shipping of any material with this request.

f. (CRB) “Chemical Reaction Bomb.” A battery of tests will be conducted to ascertain if the item and materials submitted contain components or residues of chemical reaction/pop bottle bombs.

g. (E/I) “Explosives/Incendiaries.” A battery of tests to determine the presence and identity of un-reacted materials or the presence of residues consistent with explosives or incendiaries.

h. (P) “Prints.” Using chemical methods, examine items for the presence of latent fingerprints. Lift and hold for submission to FDLE for comparison with known prints.

13. List of Evidence Submitted. Provide a complete description of each item of evidence including container, contents, and location obtained. Use only one line for each piece of evidence. Do not refer to suspect liquids by name such as gasoline or kerosene unless the investigator personally purchased the liquid. The laboratory recommends that it simply be called a liquid.

14. Tests. Indicate the test letter code pursuant to subparagraph 12. to be performed on each item submitted. Typically, only one test per item will be indicated.

15. Chain of Custody. This area will show the chain of custody of the evidence from the time it is collected, through submission to the laboratory, to the time it is either returned or stored by the laboratory.

16. Agent. Provide the name of the individual initiating an action.

17. Transfer. Provide the action taken, for example, “sent to lab,” “received by lab.”

18. Date/time. Provide the date and time of the action.

19. Remarks – This space is for explanations or additional comments by the submitting agent about the case. These can often help the analyst in examining the investigator’s case. For example, if a canine team was used to assist in the sample selection, this would be an appropriate place to note that fact. This is where the submitter would request the case to be a

RUSH case. A reason must be given and the investigator must be available for results. The criteria that the laboratory will consider in making a case a RUSH consists of the following:

a. Fatality. If a fatality occurred in the fire it should have rush priority.

b. Injured victims or firefighters. Victims or firefighters injured in any phase of the fire including suppression, investigation, or clean-up.

c. Major fires with significant dollar losses.

d. The suspect is in custody.

20. Received Via and Disposition Status. This area will be used by the laboratory to note the method of receipt, courier ID, or disposition of the evidence.

(5) Sample Disposition.

(a) The space available in the Laboratory’s evidence storage area is limited. All case samples submitted by agencies outside of the Division of State Fire Marshal will be returned to the submitter. Case samples submitted by Division of State Fire Marshal’s Bureaus will be placed in the Laboratory’s long term storage area. Evidence held in the Laboratory’s long term evidence storage area will be reviewed periodically. The laboratory requires the investigator’s permission to dispose of evidence. A form letter will be sent to the investigator either electronically or by mail. If after six months the laboratory has not received notification from the investigator, the laboratory will contact the investigator as to the disposition of the evidence.

(b) While evidence from homicides should be held indefinitely, evidence that is negative or which will not be part of a criminal prosecution should be either destroyed or returned to the owner. Evidence that will not be used in a criminal prosecution, but may have value in a civil action should not be held by the laboratory, but should be shipped to the owner of record such as the homeowner or the insurance company. Only through the active assistance of the investigators of the Bureau of Fire and Arson Investigations can we ensure that adequate storage space is maintained at the laboratory.

(c) Most metal cans decompose and rust through after a short period. The evidence placed in them would thus have no appreciable value. Evidence of no appreciable value may be destroyed sixty days after the conclusion of court proceedings under Section 705.105, Florida Statutes.

(d) The laboratory’s preparation process extracts any ignitable liquid from the debris. This extract is held on a carbon membrane. After analysis this membrane is stored and the extract may be re-constituted. The strip then becomes the “evidence” with value. The laboratory will hold the carbon strips associated with each case sample for a minimum of five years.

(6) Public Records. Notwithstanding any other provision of this rule, any evidence referred to in this rule which constitutes a public record as defined in Section 119.011(1), Florida Statutes, shall be maintained in accordance with the retention schedule of the Department of Insurance.

Specific Authority 633.01(1) FS. Law Implemented 633.03, 633.011 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Carl Chasteen, Supervisor, Division of State Fire Marshal
Arson Laboratory, 38 Academy Drive, Havana, Florida 32333,
phone (850)539-8446

NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Randall A. Napoli, Director,
Division of State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: January 7, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: December 13, 2002

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Development

RULE CHAPTER TITLE: Community Services Block
Grant Program

RULE CHAPTER NO.:

RULE NOS.: 9B-22

RULE TITLES: Definitions 9B-22.002

Community Assistance Advisory Council 9B-22.004

Match Requirements 9B-22.006

Funds Distribution 9B-22.007

Contracting Procedures 9B-22.008

Agency Board Requirements 9B-22.011

PURPOSE, EFFECT AND SUMMARY: To revise Chapter
9B-22, Fla. Admin. Code, to implement federally mandated
program revisions and to make consistent with state advisory
council by-laws.

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: 120.53, 163.03(3) FS.

LAW IMPLEMENTED: 120.53, 163.03(3), 163.03(3)(d) FS.

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

TIME AND DATE: 10:00 a.m., April 22, 2003

PLACE: Department of Community Affairs, Sadowski
Building, Room 250L, 2555 Shumard Oak Boulevard,
Tallahassee, Florida 32399-2100

Any person requiring special accommodation at the hearing
because of a disability or physical impairment should contact
Alexander Mack, Operations Manager, Division of Housing
and Community Development, Community Services Block
Grant Program, 2555 Shumard Oak Boulevard, Tallahassee,
Florida 32399-2100, (850)488-7541, Suncom 278-7541, at
least seven days before the date of the hearing. If you are
hearing or speech impaired, please contact the Department of
Community Affairs using the Florida Dual Party Relay System
which can be reached at 1(800)955-8770 (Voice) or
1(800)966-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE
PROPOSED RULES IS: Alexander Mack, Operations
Manager, 2555 Shumard Oak Boulevard, Tallahassee, Florida
32399-2100, (850)488-7541, Suncom 278-7541

THE FULL TEXT OF THE PROPOSED RULES IS:

9B-22.002 Definitions.

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

(1) No change.

~~(2) "Secondary administrative expense" means an administrative expense to support program activities eligible under Subsection (11) of this rule, but whose program activities are directly funded or governed by a source other than the Community Services Block Grant.~~

~~(2)(3) "Advisory Council Committee" means the Community Assistance Services Block Grant Advisory Council Committee.~~

~~(4) "Grantee" means the qualified applicant that receives funding for an approved program and operating budget for delivery of eligible services.~~

~~(3)(5) "Federal Law" means, unless otherwise specified, the Community Services Block Grant Act of 1981, Public Law 97-35, as amended and (42 USC 9901-9921) 45 C.F.R. Parts 16, 74 and 96.~~

~~(4)(6) No change.~~

~~(7) "Program expense" means those costs incurred in direct service delivery, including program salaries.~~

~~(8) "Qualified grantees" include eligible entities, migrant and seasonal farmworker organizations, and local governments as defined in the following paragraphs (a) (c), provided such applicant is in good standing or has not been determined ineligible.~~

~~(a) "Eligible entity" means any organization officially designated as a community action agency or a community action program under the Federal Legislative provisions of Section 210 of the Economic Opportunity Act of 1964, for fiscal year 1981 or established after 1981 in compliance with federal law to serve areas not served by an existing eligible entity. If such community action agency or community action program lost its designation under Section 210 of such Act as a~~

result of a failure to comply with the provisions of said Act or who has been determined ineligible, a replacement community action agency will be designated in accordance with provisions of Federal Law.

(b) ~~“Migrant and seasonal farmworker organization” means an organization funded to provide direct services to a target population of migrant and seasonal farmworkers under the Community Services Block Grant Program and having a Board of Directors composed of at least 51 percent representatives of migrant and seasonal farmworkers.~~

(c) ~~“Local government” or “local governing authority” means the governing body of a county or municipality.~~

(5) “Eligible entity” means those entities defined in 42 USC 9902.

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

(11) ~~“Eligible activities” include the following:~~

(a) ~~Provide a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or those areas of the community where poverty is a particularly acute problem;~~

(b) ~~Provide activities designed to assist low income participants including the elderly poor to:~~

1. ~~Secure and retain meaningful employment;~~

2. ~~Attain an adequate education;~~

3. ~~Make better use of available income;~~

4. ~~Obtain and maintain adequate housing and a suitable living environment;~~

5. ~~Obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health related assistance;~~

6. ~~Remove obstacles and solve problems that block the achievement of self sufficiency;~~

7. ~~Achieve greater participation in the affairs of the community; and~~

8. ~~Make more effective use of other programs related to the purposes of the Community Services Block Grant Act.~~

(c) ~~Provide, on an emergency basis, for the provision of such supplies and services, nutritious foodstuffs, and related services, as may be necessary to counteract conditions of starvation and malnutrition among the poor;~~

(d) ~~Coordinate and establish linkages between governmental and other social services programs to assure the effective delivery of such services to low income individuals; and~~

(e) ~~Encourage the use of entities in the private sector of the community in efforts to ameliorate poverty in the community.~~

(12) through (13) renumbered (8) through (9) No change.

(10) “Programs” mean the Weatherization Assistance Programs, Community Services Block Grant Program and the Community Development Block Grant Program.

(14) ~~“Match” means those resources, cash or in-kind, required from the grantee in order to receive a grant.~~

(15) ~~“Population” means total number of residents for each county, excluding inmates of institutions, as extrapolated from the latest official State estimate of population by the University of Florida Bureau of Economic Research and Development. For limited purpose agencies as designated under title II of the Economic Opportunity Act of 1964 for fiscal year 1981 which served the general purposes of a community action agency under title II of such Act, “population” means the total estimated number of residents for each county or service area meeting the definition of that limited program.~~

(16) ~~“SFY” means State Fiscal Year.~~

(17) ~~“FFY” means Federal Fiscal Year.~~

(18) ~~“Public entity representatives” means individuals representing units of state, county or municipal government, including state agencies.~~

(19) ~~“Consumers of services” means any person eligible to receive services under the Community Services Block Grant Program, or any person whose income is at or below the federal poverty line, including persons who are elderly, persons with disabilities or children.~~

(20) ~~“Advocates” means those persons or groups whose mission is to advance the rights of persons defined in subparagraph (19) above, including advocates for the elderly, children, consumers of services and persons with disabilities.~~

Specific Authority 120.53, 163.03(3) FS. Law Implemented 120.53, 163.03(3) FS. History—New 11-8-82, Amended 2-29-84, Formerly 9B-22.02, Amended 10-23-89, 7-13-94, 12-17-95, 1-19-98, _____.

9B-22.004 Community Assistance Services Block Grant Advisory Council Committee.

(1) Purpose.

(a) Provide technical assistance and citizen input to the Department of Community Affairs in the area of issues relating to low to moderate income persons and the Programs; To advise the Secretary in administering the program.

(b) Offer suggestions for policies affecting the administration of grants; To assist the Department in statewide public hearings held to solicit local input prior to formulating recommendations for the distribution and administration of funds.

(c) Provide consultation on ways to promote understanding of the needs of low to moderate income populations, particularly the elderly, disabled, homeless, Native Americans and Migrant and Seasonal Farmworkers for The Programs;

(d) Review and comment on the State Weatherization Plan, Community Services Block Grant State Plan and the State Consolidated Plan; and

(e) Facilitate maximum development of resources to meet the needs of the low to moderate income residents of the State of Florida.

(2) Composition. The Advisory Council shall be broadly representative of individuals, organizations and agencies, including but not limited to, those that represent low to moderate income persons, the elderly, disabled, homeless, Native Americans and Migrant and Seasonal Farmworkers for The Programs. The Advisory Committee shall be composed of three members who are currently executive directors of community action agencies, one member who shall be the president of the Florida Association for Community Action, four members who are designated representatives of public entities, and four members who are consumers of services and/or their advocates (of which one shall represent the elderly, one shall represent the interests of Florida's children, and one shall represent migrant and seasonal farmworker organizations).

(a) Appointment. The Secretary shall appoint thirteen ~~twelve~~ voting members.

(b) No change.

(c) Compensation. Members shall receive no compensation for services, but may be paid for travel in accordance with Section 112.061, F.S. Rule 9B-22.004(4), F.A.C.

(d) Replacement. A committee member may be replaced when, in the judgment of the Chairperson, continued absences or conduct impair the performance of the Advisory Committee, or when the member no longer acts in the capacity for which he or she was originally appointed.

(e) Chairperson. The Advisory Committee shall be chaired by the Secretary, or in his or her absence by his or her designee, as a nonvoting member, except when required to break a tie vote of the Committee.

(f) Other Officers. Other officers shall be elected by the members of the Committee as necessary and shall serve for the remainder of their term from date of election.

(3) Sub Committees. May be formed as necessary.

(4) Travel. Subject to availability of funds, members shall be reimbursed for travel to attend meetings, hearings, or other legal purposes as authorized by the Advisory Committee and approved by the Chairperson according to Section 112.061, F.S.

~~(3)(5) Meetings. The Advisory Committee will hold at least one meeting annually.~~

~~(a) Additional meetings may be called as needed by the Chairperson.~~

~~(b) Prior to each meeting, an agenda will be prepared by the Department and distributed to each Advisory Committee member. The Department will notify the Committee of meetings at least 21 days in advance. Twenty-one days prior to each meeting, a proposed agenda will be prepared by the department and distributed to each Advisory Committee member. Requests for consideration and inclusion of agenda items must be received by the Department no later than two weeks prior to the meeting date.~~

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

(c) Special meetings may be called by the Secretary of the Department of Community Affairs, given at least (5) days notice.

~~(e) A quorum will consist of seven voting members present after due notice. The Committee will act upon having a quorum.~~

~~(f) The Chairperson shall not vote, but every other member shall have one vote. There will be no votes by proxy.~~

~~(g) Roberts Rules of Order will be used to govern meetings.~~

~~(h) If there is an immediate danger to the public health, safety or welfare requiring emergency action, the Chairperson may schedule a CSBG Advisory Committee meeting by any procedure that is fair under the circumstances and necessary to protect the public interest.~~

(4) Governance. The Advisory Council shall have the authority to create and adopt by-laws which will govern the internal affairs of the Council.

Specific Authority 120.53, 163.03(3) FS. Law Implemented 163.03(3)(d) FS. History—New 11-8-82, Amended 2-29-84, Formerly 9B-22.04, Amended 10-23-89, 7-13-94, 12-17-95, _____.

9B-22.006 Match Requirements.

Specific Authority 120.53, 163.03(3) FS. Law Implemented 163.03(3)(d) FS. History—New 11-8-82, Amended 2-29-84, Formerly 9B-22.06, Amended 10-23-89, 7-13-94, 12-17-95, 1-19-98, Repealed _____.

9B-22.007 Funds Distribution.

(1) As required by 42 USC 9907, at least 90 percent of the funds will be available for distribution in accordance with the CSBG State plan required by the Federal government to eligible entities qualified grantees, as defined in subsection Rule 9B-22.002(5)(a) and (b) paragraphs 9B-22.002(8)(a) and (b), F.A.C.

(2) No change.

(3) Up to 0.5 percent of the CSBG funds will be used to provide training and technical assistance to CSBG eligible entities for issues related to farmworkers. If funds remain after all grants have been processed, they may be distributed by the Department for demonstration and research programs or carried over to the next fiscal year.

(4) An amount equal to \$100,000 will be provided annually for emergency farmworker assistance statewide in the event of a declared emergency.

(5) If funds remain after the items in subsections 9B-22.007(1), (2) and (3), F.A.C., are budgeted, the funds will be used for activities permitted under 42 USC 9907.

~~(6)(4) No change.~~

~~(7)(5) Community Services Block Grant (CSBG) funds distributed by the Department to eligible entities, which have not been expended, shall be returned to the eligible entity for carryover into the next fiscal year for program activities consistent with the CSBG program. Prior to carryover of unexpended funds, these monies must be returned to the~~

Department at the time of close-out. Unobligated funds which total less than twenty percent (20%) of the amount allocated to the eligible entity for that year will be re-contracted to the eligible entity which returned the funds. Unobligated funds in excess of twenty percent (20%) of the amount allocated to the eligible entity for that year will be redistributed to all eligible entities during the second quarter of the next contract period.

(8) Administrative Limit. Community Services Block Grant (CSBG) Administrative expenses shall not exceed twenty five percent (25%) of the total allocation to the eligible entity.

Specific Authority 120.53, 163.03(3) FS. Law Implemented 163.03(3)(d) FS. History—New 11-8-82, Amended 2-29-84, Formerly 9B-22.07, Amended 10-23-89, 7-13-94, 12-17-95, 1-19-98, _____.

9B-22.008 Contracting Procedures.

Specific Authority 120.53, 163.03(3) FS. Law Implemented 163.03(3)(d) FS. History—New 11-8-82, Amended 2-29-84, Formerly 9B-22.08, Amended 10-23-89, 7-13-94, 12-17-95, Repealed _____.

9B-22.011 Agency Board Requirements.

(1) Private Nonprofit Entities. In the case of a community action agency or nonprofit private organization receiving CSBG 90 percent funds, each board will be selected by the community action agency or nonprofit private organization and constituted so as to assure that:

(a) Board. In order for a private, nonprofit entity to be considered an eligible entity for purposes of subsection 9B-22.007(1), F.A.C., the entity shall administer the CSBG program through a tripartite board that fully participates in the development, planning, implementation, and evaluation of the program to serve low-income communities. One-third of the members of the board are elected public officials, currently holding office, or their representatives. Letters reaffirming the delegation, signed by the elected officials, shall be required each year regardless of the number of years the terms run. Agencies providing services in multi-county areas are required to submit to the department a plan to assure representation of every county served. When an entity expands to include a new county into its service area, the new county must be represented on the board by an elected public official currently holding office, or his representative for the first two years.

(b) Selection and Composition of Board. The composition of the board shall meet the requirements of 42 USC 9910. At least one third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that they are representatives of the poor in the area served.

(c) Letters reaffirming the delegation of the elected public official's responsibilities to his/her representative, signed by the elected officials, shall be required each year regardless of the number of years the terms run. The remainder of the members are officials or members of business, industry, labor, religious, welfare, education, or other major groups and interests in the community. Interest groups are organizations

with non-profit status, incorporated and registered with the office of the Florida Secretary of State. Agency by laws shall specify categories or interest groups represented by each member. In no case shall by laws be acceptable that do not specify membership categories as indicated.

(d) Agencies providing services in multi-county areas are required to submit to the department a plan to assure representation of every county served. When an entity expands to include a new county into its service area, the new county must be represented on the board by an elected public official currently holding office, or his/her representative for the first two years.

(2) Public Organizations. In the case of a public organization receiving funds under subsection 9B-22.007(1), F.A.C., 90 percent CSBG funds, such organization shall establish a board meeting the requirements of 42 U.S.C. 9910 9901.

(a) Board members may not be the paid staff of any public, private, or nonprofit organization receiving CSBG funds, including employees of the eligible public entity.

(b) Board members must be selected to represent a balanced cross section of all geographic areas the organization is funded to serve.

(3) No change.

Specific Authority 120.53, 163.03(3) FS. Law Implemented 163.03(3)(d) FS. History—New 12-17-95, Amended 1-19-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Alexander Mack, Operations Manager, Department of
Community Affairs, 2555 Shumard Oak Boulevard,
Tallahassee, Florida 32399-2100

NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Shirley Collins, Director, Division
of Housing and Community Development, Department of
Community Affairs, 2555 Shumard Oak Boulevard,
Tallahassee, Florida 32399-2100

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: June 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: June 25, 2003

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Utilities Installation or Adjustment
RULE CHAPTER NO.: 14-46

RULE TITLES: Responsibility for the Cost of
RULE NOS.: 14-46.002

Railroad/Highway Crossings
14-46.002

Highway/Railroad at-Grade Intersections –
Authorization for Opening and Closing 14-46.003

PURPOSE AND EFFECT: With the adoption of Part II of Rule Chapter 14-57, F.A.C., these rules are now obsolete and need to be repealed. The railroad crossings reference also is being removed from the chapter title as the chapter will be limited to utilities installation or adjustment.

SUMMARY: Two rules relating to railroad grade crossings are being repealed in this rule chapter because they are superseded by new rules in Part II of Rule Chapter 14-57, F.A.C. The reference to railroad grade crossings is also being removed from the chapter title.

SPECIFIC AUTHORITY: 334.044(2) FS.

LAW IMPLEMENTED: 335.141(3), 339.05 FS.

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

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James C. Myers, Management Analyst 4, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULES IS:

14-46.002 Responsibility for the Cost of Railroad/ Highway Crossings.

Specific Authority 334.044(2) FS. Law Implemented 335.141(3), 339.05 FS. History—New 2-3-71, Amended 5-27-72, 8-20-78, 7-22-82, Formerly 14-46.02, Repealed _____.

14-46.003 Highway/Railroad At-Grade Intersections – Authorization for Opening and Closing.

Specific Authority 120.53(1)(a),(b),(2)(a), 334.044(2) FS. Law Implemented 335.141 FS. History—New 12-10-77, Amended 1-25-79, 7-22-82, Formerly 14-46.03, Amended 12-18-88, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janice Bordelon, Rail Office

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Thomas F. Barry, Jr., P.E., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 20, 2003

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Procedural RULE CHAPTER NO.: 40D-1

RULE TITLE: Permit Processing Fee RULE NO.: 40D-1.607

PURPOSE AND EFFECT: This proposed rule amendment establishes a fee for the processing of a single application for both an Individual Environmental Resource Permit and a General Environmental Resource Permit for Incidental Site Activities.

SUMMARY: This proposed rulemaking will amend Rule 40D-1.607, Florida Administrative Code, to provide that a fee of \$3,300.00 is required for the processing of an application for both an Individual Environmental Resource Permit and a General Environmental Resource Permit for Incidental Site Activities.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District's determination that the proposed revisions to Rule 40D-1.607, F.A.C., will not result in a substantial increase in the costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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: 373.044, 373.113, 373.149, 373.171 FS.

LAW IMPLEMENTED: 373.109, 373.421(2) 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: Jack R. Pepper, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-1.607 Permit Processing Fee.

A permit application processing fee is required and shall be paid to the District when certain applications are filed pursuant to District rules. These fees are assessed in order to defray the cost of evaluating, processing, advertising, mailing, compliance monitoring and inspection, required in connection with consideration of such applications. Fees are non-refundable in whole or part unless the activity for which an application is filed is determined by the District to qualify for a permit with a lower fee or not require a permit ~~be incorrect~~. Failure to pay the application fees established herein

is grounds for the denial of an application or revocation of a permit. The District's permit application processing fees are as follows:

(1) Environmental Resource or Management and Storage of Surface Waters Permit Applications.

(a) through (a)3. No change.

4. Application for Individual Permit and General Permit for Incidental Site Activities \$3300.00

4. through 13. renumbered 5. through 14. No change.

(2) through (12) No change.

Specific Authority 373.044, 373.113, 373.149, 373.171 FS. Law Implemented 373.109, 373.421(2) FS. History--Readopted 10-5-74, Amended 12-31-74, 10-24-76, 7-21-77, Formerly 16J-0.111, Amended 10-1-99, 1-22-90, 12-27-90, 11-16-92, 1-11-93, 3-23-94, Formerly 40D-0.201, Amended 12-22-94, 10-19-95, 3-31-96, 7-23-96, 10-16-96, 10-26-00, 3-15-01, 9-26-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jack R. Pepper, Senior Attorney, Office of General Counsel,
2379 Broad Street, Brooksville, FL 34604-6899,
(352)796-7211, Extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Governing Board of the Southwest
Florida Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: November 19, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: February 28, 2003

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: RULE CHAPTER NO.:
Individual Environmental 40D-4

Resource Permits 40D-4
RULE TITLE: RULE NO.:

Publications and Agreements 40D-4.091
Incorporated by Reference 40D-4.091

PURPOSE AND EFFECT: The proposed amendments to the Basis of Review for Environmental Resource Permits are intended to provide guidance and specifications for the development of surface water management plans that are implemented during construction of surface water management systems.

SUMMARY: This proposed rulemaking will amend the Basis of Review for Environmental Resource Permits to add a Section 2.8 that will contain guidance and specifications for the development of construction surface water management plans.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District's determination that the proposed revisions to Rule 40D-4.091, F.A.C., will not result in a substantial increase in the costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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: 373.044, 373.046, 373.113, 373.171, 373.414 FS.

LAW IMPLEMENTED: 373.0361, 373.114, 373.171, 373.403, 373.413, 373.414, 373.416, 373.429, 373.441 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: Jack R. Pepper, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-4.091 Publications and Agreements Incorporated by Reference.

The following documents are hereby incorporated into this chapter and Chapters 40D-40 and 40D-400, F.A.C.:

(1) "Basis of Review for Environmental Resource Permit Applications with the Southwest Florida Water Management District, _____ ~~September 26, 2002~~. This document is available from the District upon request.

(2) through (4) No change.

Specific Authority 373.044, 373.046, 373.113, 373.171, 373.414 FS. Law Implemented 373.0361, 373.114, 373.171, 373.403, 373.413, 373.414, 373.416, 373.429, 373.441 FS. History--New 4-2-87, Amended 3-1-88, 9-11-88, 10-1-99, 4-1-91, 11-16-92, 1-30-94, 10-3-95, 12-26-95, 5-26-96, 7-23-96, 4-17-97, 4-12-98, 7-2-98, 12-3-98, 7-28-99, 8-3-00, 9-20-00, 6-12-01, 10-11-01, 2-27-02, 7-29-02, 9-26-02, _____.

ENVIRONMENTAL RESOURCE PERMITTING INFORMATION MANUAL BASIS OF REVIEW CHAPTER 2

CHAPTER TWO – ADMINISTRATIVE CRITERIA

2.1 through 2.7 No change.

2.8 Construction Surface Water Management

2.8.1 a. A construction surface water management plan for the proposed system and related activities shall be designed to provide reasonable assurance that the project construction activities will not result in erosion and sediment deposition in wetlands or off-site, adverse impacts to wetlands, off-site flooding, or violations of state water quality standards.

b. Discharge control and erosion protection measures shall be employed and operated at all times during construction to avoid adverse impacts to receiving waters or adjacent property. Detention/retention storage structures, sediment barriers, flow conveyances, revetment, discharge control structures, and other stormwater management structures should be built and continuously maintained during project construction in a

manner such that, to the extent possible, the structures are incorporated into and become part of the permanent surface water management system.

c. The owner/permittee shall ensure that the surface water and stormwater management measures proposed in the plan are effectively implemented until completion of the project or until the permanent surface water management system is operational.

2.8.2 a. For non-agricultural systems, the construction surface water management plan shall be designed and implemented to include site specific measures adapted from conceptual practices and guidelines described in the following publications. In addition, the applicant may propose equivalent protection measures that meet the requirements of Rules 40D-4.301 and 40D-4.302, F.A.C.

(i) The guidelines set forth in Chapter 6, "The Florida Development Manual: A Guide to Sound Land and Water Management," (FDER 1988).

(ii) The guidelines set forth in "The Florida Stormwater, Erosion, and Sediment Control Inspector's Manual," (FDEP and FDOT 1999).

b. For non-agricultural systems with a project area of 5 acres or more, or construction activities that result in the disturbance of less than five acres, but are part of a larger common plan of development or sale within a total land area, the construction surface water management plan shall, in addition to the requirements of Section 2.8.2(a) above, be designed and implemented to function in accordance with the technical standards, conceptual practices and guidelines for a stormwater pollution prevention plan described in Part V of the Florida Department of Environmental Protection (FDEP) document, "Generic Permit for Stormwater Discharge from Construction Activities that Disturb Five or More Acres of Land." FDEP document number 62-621.300(4)(a), effective October 22, 2000.

c. For agricultural systems, a conservation plan shall be designed and implemented for the proposed activities that is the functional equivalent of a construction surface water management plan. As used herein, "conservation plan" means a formal document describing the stormwater and surface water management practices for a specific parcel of property. Such practices must comply with USDA-NRCS standards for the control of soil erosion and sediment transport, avoidance of off-site flooding, protection of wetlands and prevention of state water quality standard violations during construction and operation.

2.8.3 For projects located wholly or partially within 100 feet of an Outstanding Florida Water (OFW), or within 100 feet of any wetland abutting an OFW, applicants must provide reasonable assurance that the proposed construction or alteration of a system will not cause sedimentation in the OFW or adjacent wetlands and that filtration of all runoff will occur prior to discharge into the OFW or adjacent wetlands.

Reasonable assurance is presumed if in addition to implementation of the requirements in section 2.8.2, any one or more of the following measures are implemented:

a. Maintenance of a vegetative buffer, consisting of an area of undisturbed vegetation that is a minimum of 100 feet in width, landward of the OFW or adjacent wetlands. During construction or alteration of the system, all runoff, including turbid discharges from dewatering activities, must be allowed to sheet flow across the buffer area. Concentrated or channelized runoff from upstream areas must be dispersed before flowing across the vegetative buffer. Construction activities of limited scope that are necessary for the placement of outfall structures may occur within the buffer area.

b. The installation or construction of the structures described below at all outfalls to the OFW or adjacent wetlands must be completed prior to beginning any construction or alteration of the remainder of the system. These structures must be operated and maintained throughout construction or alteration of the permanent system. Although these structures may be located within the 100 foot buffer described in sub-paragraph (a) above, a buffer area of undisturbed vegetation that is a minimum of 25 feet in width must be maintained between the OFW or adjacent wetlands and any structure.

(i) Stormwater discharge facilities constructed in accordance with the conditions of the permit for the permanent surface water management system;

(ii) Interim sedimentation traps or basins located immediately upstream of the stormwater discharge facilities described above; and

(iii) Spreader swale(s) that reduce the velocity and disperse the amount of discharges from the stormwater facilities to allow non-erosive rates and sheet flow depth before discharging to wetlands adjacent to the OFW.

c. No direct discharges to the OFW or adjacent wetlands may occur during the 10-year 24-hour storm event or as the result of dewatering activities. Any on-site storage constructed to prevent such discharges must recover within 14 days of the rainfall event. A vegetative buffer, consisting of an area of undisturbed vegetation that is a minimum of 25 feet in width must be maintained landward of the OFW or adjacent wetlands. Construction activities of limited scope and necessary for the placement of outfall structures may occur within the buffer area.

2.8.4 a. A complete construction surface water management plan for the project must be submitted with the permit application or prior to beginning construction.

(i) If a complete plan is not submitted as a part of the permit application, a preliminary plan for the project area must be submitted with sufficient content and detail to demonstrate compliance with the requirements and technical standards set

forth in this Section 2.8, and a specific limiting condition will be placed on the permit prohibiting construction prior to completion of the plan and its approval by the District.

(ii) Five copies of the completed plan shall be submitted to the District for review. Submittal of the completed plan shall occur no later than the submittal of a Notice of Intent (NOI)¹ for an FDEP-NPDES Generic Permit for Stormwater Discharge from Construction Activities that Disturb Five or More Acres of Land, or the federal equivalent thereof should the Department of Environmental Protection no longer issue such generic permits.

b. The completed plan shall be signed by the applicant/owner or authorized agent and signed and sealed by the design engineer. The plan shall be part of the final construction plans for the permitted surface water management system.

c. The permittee shall amend the construction surface water management plan whenever the project is altered or modified in a manner that will result in: (1) the potential discharge of pollutants, (2) a change in the amount of discharge, (3) a change in the number or location of storm water discharge points, or (4) adverse impacts to wetlands; if such change(s) have not otherwise been previously addressed in the approved plan. The permittee shall also amend the plan if its implementation does not eliminate or minimize erosion and sediment deposition, off-site flooding, adverse impacts to wetlands, or violations of state water quality standards. Amendments to the plan shall be prepared and kept as separate documents along with the original plan. All alterations to the system must be shown on the amended plan along with the documentation of required approval(s).

d. The permittee shall keep copies of the construction surface water management plan and any amendments thereto together with permitted construction drawings at the construction site for use by construction personnel, and shall make the plan and construction drawings available upon request to the District staff who visit the project during inspections.

e. The District will notify the permittee if it determines that the construction surface water management plan, as implemented, does not comply with one or more of the minimum requirements of the permit. The permittee shall implement corrective measures as soon as possible, but in no case later than 7 days following receipt of such notification.

¹To be authorized by a FDEP/NPDES generic permit to discharge stormwater from construction activities that distribute 5 acres or more of land [Rule 62-621.300(4), F.A.C.] the operator/permittee (land owner or authorized agent) must have:

a. received an ERP permit from the WMD or FDEP prior to beginning construction;

b. completed a stormwater pollution prevention plan (SWPPP);

c. proceeded with implementation of the SWPPP; and

d. submitted the Notice of Intent and SWPPP to FDEP at least 48 hours prior to the initial disturbance of soils associated with clearing, grading, or excavation activities or other construction activities.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jack R. Pepper, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the Southwest Florida Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 19, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 28, 2003

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: General Environmental RULE CHAPTER NO.: 40D-40

Resource Permits 40D-40

RULE TITLES: RULE NOS.:

Definitions 40D-40.021

Conditions for Issuance of General Permits 40D-40.302

Duration of Permits 40D-40.321

General Conditions 40D-40.381

PURPOSE AND EFFECT: The proposed rule amendments provide for the issuance of a General Permit authorizing certain incidental construction activities. The General Permit would allow an applicant to begin such construction activities on a site prior to the issuance of an Individual Environmental Resource Permit for the project.

SUMMARY: This proposed rulemaking will amend Chapter 40D-40, Florida Administrative Code, to provide for the issuance of a General Permit authorizing incidental site activities related to the construction of a stormwater management system.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District's determination that the proposed revisions to Rules 40D-40.021, 40D-40.302, 40D-40.321 and 40D-40.381, F.A.C., will not result in a substantial increase in the costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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: 373.044, 373.113, 373.118 FS.

LAW IMPLEMENTED: 373.413, 373.414, 373.416, 373.117, 373.419, 403.031(3) 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 RULES IS: Jack R. Pepper, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-40.021 Definitions.

As used in this chapter:

(1) No change.

(2) “Incidental Site Activities” means the following activities in uplands that are conducted as part of the construction of a system proposed in an environmental resource permit application: land clearing, grading, excavation of borrow areas for on-site grading, road and building subgrade construction (excluding foundation construction), unpaved access road construction, utility installation, fence installation, construction trailer installation, construction phase surface water management, erosion and sediment control measures, and similar approved activities.

(3)~~(2)~~ Other ~~The~~ terms have the same meaning as defined in Rule 40D-4.021, F.A.C.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.413, 373.416, 373.419, 403.031(3) FS. History—New 10-1-84, Amended 3-1-88,

40D-40.302 Conditions for Issuance of General Permits.

To qualify for a general permit for construction and operation under this chapter, the applicant must provide reasonable assurances that the surface water management system meets all conditions of subsection 40D-40.302(1), F.A.C., all thresholds in subsection (2), and the conditions of at least one other subsection. To obtain a site conditions assessment permit under this chapter, the applicant must provide reasonable assurances that all conditions of subsection 40D-40.302(5), F.A.C., are met. To obtain a permit for construction of incidental site activities under this chapter, the applicant must provide reasonable assurances that all conditions of subsections 40D-40.302(1) and 40D-40.302(6), F.A.C., are met.

(1) through (4) No change.

(5) Conditions for a ~~Standard~~ General Site Conditions Assessment Permit.

(a) through (b) No change.

(6) Additional Conditions for an Incidental Site Activities Permit.

(a) Notwithstanding the threshold conditions of subsection (2), a permit shall be authorized for incidental site activities that are conducted in connection with a surface water management system proposed in an individual environmental resource permit application provided:

1. Section J of the Environmental Resource Permit Application, Supplemental Information for Authorization to Conduct Incidental Site Activities, was filed concurrently with the individual environmental resource permit application for the overall system;

2. The applicant submitted an individual environmental resource permit application which incorporates the proposed incidental site activities, including specific descriptions, locations and alignments to identify the incidental site activities and to show that the work will be conducted in conjunction and conformance with the overall project system;

3. The application is complete.

a. For the purposes of this requirement, an application is complete when the applicant has submitted the information required by Form 547.27/ERP (8/94), including Section J, and all additional information timely requested by District staff, all required notice of the application’s receipt has been given and all review periods are concluded, and a letter of completeness has been issued by the District.

b. This general permit is not authorized for projects where the applicant has submitted a written request to proceed with processing the permit application in accordance with Section 373.414(1), Florida Statutes.

4. The proposed incidental site activities do not involve construction located in, on or over wetlands or other surface waters and will not be conducted within 50 feet of the landward extent of wetlands, other surface waters, or upland preservation areas, unless another setback is specified in the permit or shown on the permitted construction drawings;

5. Any proposed incidental site activities involving excavation will not be located within 200 feet of the landward extent of wetlands or other surface waters, unless another setback is specified as a condition in the permit or shown on the permitted construction drawings;

6. District staff has reviewed the individual environmental resource permit application and is recommending approval of the individual permit. For the purpose of this section, District staff is recommending approval of the individual permit when the Regulation Department Director has issued a letter informing the applicant that the application is complete and the staff will be recommending approval of the application to the Governing Board;

7. The District has not received any substantial objections to the proposed incidental site activities or the associated individual environmental resource permit application; or all such objections have been withdrawn prior to the time this general permit is issued. As used herein “substantial objection” means a written statement directed to the District regarding a permit which identifies the objector, concerns hydrologic or environmental impacts of the proposed activity, and relates to applicable rule criteria;

8. The applicant has submitted a construction phase surface water management plan for the proposed system and related activities that provides reasonable assurance that the incidental site activities will not result in erosion and sediment deposition in wetlands or off-site, adverse impacts to wetlands, off-site flooding, or violations of state water quality standards;

9. The project area is not in violation of any District rule at the time this general permit is issued; and

10. Public notice of receipt of the individual permit application stated that a request for a general permit for incidental site activities was filed concurrently with the individual application, and if approved, the general permit would allow incidental site activities, as defined in Rule 40D-40.021, F.A.C., to begin prior to final action on the individual permit. The public notice must also state that Rule 40D-40.381, F.A.C., requires that in the event the individual permit is not issued, the permittee cease incidental site activities and restore the site to previous conditions.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.413, 373.414, 373.416, 373.419 FS. History—New 10-1-84, Amended 3-1-88, 5-10-88, 9-13-88, 10-3-95, 7-23-96, _____.

40D-40.321 Duration of Permits.

Unless revoked or otherwise modified, or specifically stated as a limiting condition of the permit, the duration of all a general permits issued pursuant to this Chapter, other than those authorizing incidental site activities, is as specified in Rule 40D-4.321, F.A.C. The duration of a general permit authorizing incidental site activities shall be 90 days.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.413, 373.416, 373.419(2) FS. History—New 10-1-84, Amended 3-1-88, 10-3-95, _____.

40D-40.381 General Conditions.

The standard general permits issued pursuant to this chapter shall be subject to the following limiting conditions:

(1) through (2) No change.

(3) For general permits authorizing incidental site activities, the following limiting general conditions shall also apply:

(a) If the decision to issue the associated individual permit is not final within 90 days of the issuance of the incidental site activities permit, the site must be restored by the permittee within 90 days after notification by the District. Restoration must be completed by re-contouring the disturbed site to previous grades and slopes and re-establishing and maintaining suitable vegetation and erosion control to provide stabilized hydrologic conditions. The period for completing restoration may be extended if requested by the permittee and determined by the District to be warranted due to adverse weather conditions or other good cause. In addition, the permittee shall institute stabilization measures for erosion and sediment control as soon as practicable, but in no case more than 7 days after notification by the District.

(b) The incidental site activities are commenced at the permittee's own risk. The Governing Board will not consider the monetary costs associated with the incidental site activities or any potential restoration costs in making its decision to approve or deny the individual environmental resource permit application. Issuance of this permit shall not in any way be construed as a commitment to issue the associated individual environmental resource permit.

(4)(3) No change.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.117, 373.413, 373.414, 373.416, 373.419 FS. History—New 10-1-84, Amended 3-1-88, 10-3-95, 7-23-96, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jack R. Pepper, Senior Attorney, Office of General Counsel,
2379 Broad Street, Brooksville, FL 34604-6899,
(352)796-7211, Extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Governing Board of the Southwest
Florida Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: November 19, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: February 28, 2003

AGENCY FOR HEALTH CARE ADMINISTRATION

Hospital and Nursing Home Reporting Systems and Other Provisions Relating to Hospitals

RULE TITLE:

RULE NO.:

Public Medical Assistance Trust

Fund Assessments

59E-5.605

PURPOSE AND EFFECT: The Agency intends to establish and adopt procedures and specifications for the implementation of Section 16 of Chapter 2000-256, Laws of Florida. Existing rules are being amended to comply with the statutory provisions of section 395.701, F.S.

SUMMARY: The 2000 Session of the Florida Legislature reduced the amount hospitals are assessed annually for the Public Medical Assistance Trust Fund ("PMATF") by amending section 395.701(2), F.S., to lower the assessment percentage based on outpatient hospital net revenues. The proposed changes being made to the Agency's Florida Hospital Uniform Reporting System are necessary to implement certain of the changes made to section 395.701, F.S. The Agency previously conducted rule development workshops and public hearings leading to publication of earlier forms of these proposed rules. After publication and a second challenge, the most recent proposed rules were withdrawn by publication of notice in the FAW on May 31, 2002.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: There should be no additional cost to the Agency for Health Care Administration, any agency of state or local government, small counties, small cities, small businesses, or individuals. The effect on state revenues has

already been considered by the Legislature. Estimated costs consist of only the cost for each hospital in preparation time for the revised Form C-3a, as described in a Notice of Proposed Rulemaking published January 4, 2003. In the initial year, start up costs are estimated to be 80 to 160 hours per hospital at approximately \$25.00 per hour; this will be reduced in subsequent years. An estimated 233 hospitals will be expected to comply with the amendments.

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: 408.15(8) FS.

LAW IMPLEMENTED: 395.701(2), 408.061(2),(3),(4)(a),(7) FS.

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

TIME AND DATE: 10:00 a.m., April 1, 2003

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Chris Augsburger, Regulatory Analyst Supervisor, Bureau of Health Facility Regulation/Financial Analysis, 2727 Mahan Drive, MS #28, Tallahassee, FL 32308-5403

THE FULL TEXT OF THE PROPOSED RULE IS:

59E-5.605 Public Medical Assistance Trust Fund Assessments.

(1) Within six months after the end of each hospital's fiscal year, the Agency's Bureau of Health Facility Regulation will certify to the Bureau of Finance and Accounting ~~the Board shall certify to the Department of Health and Rehabilitative Services (HRS)~~ the amount of each hospital's public medical assistance trust fund assessment. The amount certified shall be equal to the sum of 1.5 percent of the annual net inpatient operating revenue of each hospital and 1.0 percent of the annual net outpatient revenue of each hospital, based upon the actual data filed with the Agency for the reporting period ~~Board~~.

(2) Each hospital shall be notified of the assessment amount being certified to the Bureau of Finance and Accounting HRS.

(3) Within 21 days of receipt of notification of the assessment amount, a hospital may request a hearing pursuant to Section 120.57, F.S.

(4) If a hearing is timely requested, the Agency Board shall certify to the Bureau of Finance and Accounting HRS an interim assessment amount which shall equal the assessment

amount last certified to the Bureau of Finance and Accounting HRS. Upon resolution of the issues regarding certification, the proper assessment amount shall be certified. The assessment amount for the year shall not be affected by the issuance of an interim assessment.

(5) Initial assessments against new hospitals will be certified upon approval of the first Prior Year Report ~~shall be paid at the time a hospital is licensed. The assessment shall be based on the hospital's projected net operating revenue during its first year of operation and until it's first Prior Year Report is accepted by the Board. Upon approval of the first Prior Year Report, the assessment shall be based upon actual net operating revenue as reflected in that report.~~

(6) In the event a hospital fails to file its Prior Year Report or the report is not accepted by the Agency Board, the quarterly assessment shall be based on the most recently filed Prior Year Report accepted by the Agency Board. ~~Upon approval of the first Prior Year Report, the assessment shall be based upon actual net operating revenue as reflected in that report.~~

(7) If the data contained in the Prior Year Report is based upon a fiscal period of less than one calendar year, the data provided shall be annualized and the assessment will be calculated on an annualized basis.

(8) Assessments during the first year of operation under new ownership shall be based on the hospital's net operating revenue for the last fiscal year under previous ownership.

(9) Assessments are made against facilities, accordingly the amount of the assessment and liability for the assessment remains with the facility regardless of any change in ownership.

Specific Authority 408.061(2),(3),(4)(a),(7), 408.15(8) FS., Chapter 00-256, Laws of Florida. Law Implemented 395.701(2) FS. History--New 6-11-92, Formerly 10N-5.606, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Christopher J. Augsburger, Regulatory Analyst Supervisor

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jeffrey N. Gregg, Bureau Chief, Health Facility Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 17, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 4, 2000

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE:

Portable X-ray Services

RULE NO.:

59G-4.240

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Portable X-ray Services Coverage and Limitations Handbook, January 2002. The handbook changes include the January 2002 Portable X-ray Services Fee Schedule and replaces the Health

Care Financing Administration (HCFA) with the new name Centers for Medicare and Medicaid Services (CMS). The effect will be to incorporate by reference in the rule the current Florida Medicaid Portable X-ray Services Coverage and Limitations Handbook.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.905, 409.908, 409.9081 FS.

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

TIME AND DATE: 9:00 a.m., March 24, 2003

PLACE: Agency for Health Care Administration, 2728 Ft. Knox Boulevard, Building 3, Conference Room C, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan Rinaldi, Medicaid Services, P. O. Box 12600, Tallahassee, Florida 32317-2600, (850)922-7308

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.240 Portable X-ray Services.

(1) This rule applies to all suppliers of portable x-ray services enrolled in the Medicaid program.

(2) All portable x-ray providers enrolled in the Medicaid program must comply with the provisions of the Florida Medicaid Portable X-ray Services Coverage and Limitations Handbook, January 2002 ~~April 2001~~, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA-1500 and Child Health Check-Up, which is incorporated by reference in Rule 59G-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, 409.9081 FS. History—New 10-11-81, Formerly 10C-7.411, Amended 7-1-92, Formerly 10C-7.0411, Amended 5-16-94, 1-9-96, 10-20-96, 8-27-97, 3-22-00, 2-14-02,

NAME OF PERSON ORIGINATING PROPOSED RULE:
Susan Rinaldi

NAME OF PERSON WHO APPROVED THE PROPOSED RULE: Rhonda M. Medows, MD, AHCA Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 4, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 7, 2003

DEPARTMENT OF MANAGEMENT SERVICES

Division of Retirement

RULE CHAPTER TITLE: Municipal Police Officers' Retirement Trust Fund

RULE CHAPTER NO.: 60Z-1

RULE TITLE: Use of State Premium Tax Revenues

RULE NO.: 60Z-1.026

PURPOSE AND EFFECT: To clarify the use of state premium tax revenues to provide extra benefits to police officers as provided in Chapter 99-1, Laws of Florida.

SUMMARY: This rule describes the use of the state premium tax revenues to fund Police Officers' Retirement Plans established by municipalities pursuant to Chapter 185, Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The rule relates to the use of premium tax revenues derived from casualty insurance to subsidize the funding of approximately 173 police pensions plans of municipalities that voluntarily have elected to participate in Chapter 185, F.S. No additional fiscal impact should accrue as a result of these rules, as all municipalities, irrespective of their size, are currently in compliance with Chapter 185, Florida Statutes. There are no additional costs to the state. Transactional costs should be minimal.

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

SPECIFIC AUTHORITY: 120.54, 185.105, 185.23 FS.

LAW IMPLEMENTED: 185.10, 185.16, 185.35 FS.

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

TIME AND DATE: 1:00 p.m., April 3, 2003

PLACE: Room 220, 2nd Floor Conference Room, Building B, Cedars Executive Center, 2639 North Monroe Street, Tallahassee, Florida 32399-1560

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Patricia F. Shoemaker, Benefits Administrator, Police & Fire Pension Fund Office, Division of Retirement, Post Office Box 3010, Tallahassee, Florida 32315-3010, (850)922-0667

THE FULL TEXT OF THE PROPOSED RULE IS:

60Z-1.026 Use of State Premium Tax Revenues.

(1) For pension plans that were in effect on October 1, 1998, that have not met the minimum benefit requirements described in Section 185.16, Florida Statutes, benefits shall be increased incrementally as additional premium tax revenues become available.

(2) For pension plans that were in effect on October 1, 1998, that provide benefits that meet or exceed the minimum benefits described in Section 185.16, Florida Statutes, increases in premium tax revenues over the amount collected for calendar year 1997, must be used in their entirety to provide extra benefits in addition to those benefits provided prior to the effective date of Chapter 99-1, Laws of Florida.

(3) For local law plans that were not in existence on October 1, 1998, premium tax revenues must be used in their entirety to provide extra benefits.

Specific Authority 120.54, 185.105, 185.23 FS. Law Implemented 185.10, 185.16, 185.35 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Patricia F. Shoemaker, Benefits Administrator, Municipal Police Officers' and Firefighters' Retirement Trust Funds, Division of Retirement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: David S. Jones, Bureau Chief, Bureau of Local Retirement Systems, Division of Retirement
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 21, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 21, 2003

DEPARTMENT OF MANAGEMENT SERVICES

Division of Retirement

RULE CHAPTER TITLE: RULE CHAPTER NO.:
Municipal Firefighters' Pension Trust Fund 60Z-2

RULE TITLE: RULE NO.:
Use of Premium Tax Revenues 60Z-2.017

PURPOSE AND EFFECT: To clarify the use of state premium tax revenues to provide extra benefits to firefighters as provided in Chapter 99-1, Laws of Florida.

SUMMARY: This rule describes the use of the state premium tax revenues to fund Firefighters' Pension Plans established by municipalities or special fire control districts pursuant to Chapter 175, Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The rule relates to the use of premium tax revenues derived from property insurance to subsidize the funding of approximately 170 firefighter pensions plans of municipalities and fire control districts that voluntarily have elected to participate in Chapter 175, F.S. No additional fiscal impact should accrue as a result of these rules, as all municipalities and fire control districts, irrespective of their size, are currently in compliance with Chapter 175, Florida Statutes. There are no additional costs to the state. Transactional costs should be minimal.

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

SPECIFIC AUTHORITY: 120.54, 175.1215, 175.341 FS.

LAW IMPLEMENTED: 175.121, 175.162, 175.351 FS.

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

TIME AND DATE: 1:00 p.m., April 3, 2003

PLACE: Room 220, 2nd Floor Conference Room, Building B, Cedars Executive Center, 2639 North Monroe Street, Tallahassee, Florida 32399-1560

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Patricia F. Shoemaker, Benefits Administrator, Police & Fire Pension Fund Office, Division of Retirement, Post Office Box 3010, Tallahassee, Florida 32315-3010, (850)922-0667

THE FULL TEXT OF THE PROPOSED RULE IS:

60Z-2.017 Use of Premium Tax Revenues.

(1) For pension plans that were in effect on October 1, 1998, that have not met the minimum benefit requirements described in Section 175.162, Florida Statutes, benefits shall be increased incrementally as additional premium tax revenues become available.

(2) For pension plans that were in effect on October 1, 1998, that provide benefits that meet or exceed the minimum benefits described in Section 175.162, Florida Statutes, increases in premium tax revenues over the amount collected for calendar year 1997, must be used in their entirety to provide extra benefits in addition to those benefits provided prior to the effective date of Chapter 99-1, Laws of Florida.

(3) For local law plans that were not in existence on October 1, 1998, premium tax revenues must be used in their entirety to provide extra benefits.

Specific Authority 120.54, 175.1215, 175.341 FS. Law Implemented 175.121, 175.162, 175.351 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Patricia F. Shoemaker, Benefits Administrator, Municipal Police Officers' and Firefighters' Retirement Trust Funds, Division of Retirement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: David S. Jones, Bureau Chief, Bureau of Local Retirement Systems, Division of Retirement
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 21, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 21, 2003

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**Board of Professional Surveyors and Mappers**

RULE TITLES:	RULE NOS.:
Continuing Education Requirements for Reactivation of Inactive License	61G17-5.001
Continuing Education Credit for Biennial Renewal	61G17-5.0031
Board Approval of Continuing Education Providers	61G17-5.0041
Obligations of Continuing Education Providers	61G17-5.0043
Evaluations of Providers	61G17-5.0044
Duration of Provider Status	61G17-5.0045
Proof of Completion of Continuing Education Hours	61G17-5.0051

PURPOSE AND EFFECT: The Board proposes to amend Rule 61G17-5.001, F.A.C., to clarify the continuing education requirements for reactivation of an inactive license; Rule 61G17-5.0031, F.A.C., is being substantially rewritten, to clarify course credits, and how they are obtained, and what is required to show proof of completion; Rule 61G17-5.0041, F.A.C., is amended to change the deadline to be approved under this rule from February 28 to May 31st of every odd-numbered year; Rule 61G17-5.0043, F.A.C., sets out the requirements and obligations of the provider to maintain status as a continuing education provider and provides information on electronic, internet and online courses; Rule 61G17-5.0044, F.A.C., is being amended to allow for a designee of the Board to evaluate providers, courses and seminars being offered; and Rule 61G17-5.0051, F.A.C., is a new rule which sets forth requirements to show proof of completion of the continuing education hours.

SUMMARY: The rules in this chapter set forth requirements for reactivation of inactive licenses; how to obtain continuing education approval for biennial renewal; Board approval for continuing education providers; how providers are evaluated; the duration of provider status approval and how to get renewed approval; clarifies the obligations of the continuing education provider; and what is proof of completion of the continuing education hours.

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

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

SPECIFIC AUTHORITY: 455.219, 472.008, 472.011(2),(3),(5), 472.018, 472.019(2) FS.

LAW IMPLEMENTED: 455.219; 472.011(2),(3),(4), 172.018, 472.019(2), 472.033, 455.271(9) 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 RULES IS: Leon Biegalski, Executive Director, Board of Professional Surveyors and Mappers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULES IS:

61G17-5.001 Continuing Education Requirements for Reactivation of Inactive License.

A license which has been inactive for more than one year may be reactivated upon application to the Department and demonstration to the Board by the licensee of having completed one (1) continuing education credit in surveying and mapping related courses or seminars per inactive month up to a maximum of twenty-four (24) continuing education credits which must be completed within one year prior to the date of application for reactivation. This education shall be related to the licensee's field of practice. Verification of the above-mentioned education shall be in the form of a continuing education course certificate of completion that complies with paragraph 61-6.015(4)(a), F.A.C. tuition or registration receipts, records, or letters of verification from the institutions or entities which provided the training in question.

Specific Authority 472.019(2) FS. Law Implemented 455.271(9), 472.019(2) FS. History—New 10-29-80, Formerly 21HH-5.01, Amended 2-7-91, Formerly 21HH-5.001, Amended 3-28-94, 5-30-95, 10-13-97, 6-29-00, _____.

(Substantial rewording of Rule 61G17-5.0031 follows. See Florida Administrative Code for present text.)

61G17-5.0031 Continuing Education Credit for Biennial Renewal.

Every person licensed pursuant to Chapter 472, Florida Statutes, must obtain at least twenty-four (24) continuing education credits per biennium. At least six (6) credits must be obtained by completing an approved provider's course or seminar on Florida's minimum technical standards, an approved provider's course or seminar on Florida's laws affecting the practice of surveying and mapping, or an approved provider's course combining the aforementioned subject matters.

(1) Continuing education credits may be obtained for:

(a) The completion of courses in surveying and mapping subjects at universities and colleges which are regionally accredited by an accrediting agency that is recognized by the United States Department of Education. Six (6) continuing education credits may be obtained for each semester hour or quarter hour equivalent thereof. A "course in a surveying and mapping subject" is a course such as: civil engineering, forestry, mathematics, photogrammetry, land law, physical sciences, basic surveying and mapping, route surveying,

mapping, control surveying, legal principles of boundaries, geodetic astronomy, subdivisions and cartography. An official transcript from the registrar of the academic institution shall be submitted to the Board office as documentation of course completion at least 45 days prior to the end of the biennium;

(b)1. The completion of courses or seminars offered by continuing education providers approved by the Board for the provision of continuing education credit hours. A list of such providers is available from the Board office upon request.

2. A licensee may obtain continuing education credits in the amount of the credits allowed for that course or seminar for his/her first presentation of such course or seminar presentation of such course or seminar;

(c) A licensee's attendance at a regularly scheduled meeting of the Board of Professional Surveyors and Mappers. Only two (2) continuing education credits will be allowed for each day of such attendance during the biennium. Licensees shall sign in with a Board designee immediately prior to each day of the Board meeting. Upon adjournment of each meeting day, licensees shall sign out and be provided with a certificate of completion from the Board.

(d)1. No more than six (6) continuing education credits shall be awarded to a licensee who has researched, written, and published a book, paper, article, or other scholarly work related to surveying and mapping. Continuing education credits shall be awarded only for the biennium in which the work is initially published and approved for credit.

2. The licensee shall submit the published work along with proof of publication to the Board's Continuing Education Committee, or its designee, for review and approval at least sixty (60) days prior to the expiration of the biennium for which the licensee seeks credits.

(e)1. A licensee's attendance at a local chapter, state or national professional association meeting whose primary purpose is to promote the profession of surveying and mapping. One-half (½) credit shall be awarded for attendance at a local chapter meeting and two (2) credits shall be awarded for attendance at a state or national professional association meeting during each biennium. No more than six (6) continuing education credits shall be awarded in one biennium for attendance at local chapter, state or national professional association meetings.

2. Licensees who attend national professional association meetings shall submit a dated letter on official stationery from the national association confirming the dates of the licensee's attendance to the Board's Continuing Education Committee, or its designee, for review and approval at least sixty (60) days prior to the expiration of the biennium for which the licensee seeks credits.

3. Licensees who attend local chapter and state professional association meetings shall submit a certificate of completion confirming the dates of the licensee's attendance to

the Board's Continuing Education Committee, or its designee, for review and approval at least sixty (60) days prior to the expiration of the biennium for which the licensee seeks credits.

(2) No licensee may claim credit until after the credit has been earned by that licensee. Likewise, no credit earned after a biennium renewal date may be used to satisfy an earlier biennial requirement.

(3) Licensees need not comply with continuing education requirements prior to the licensee's first licensure renewal.

(4) Licensees shall retain, and make available to the Department, the Board or their designees, upon request, continuing education course certificates of completion that comply with paragraph 61-6.015(4)(a), F.A.C., for four (4) years following course completion.

Specific Authority 472.008, 472.018 FS. Law Implemented 472.018 FS. History—New 3-28-94, Amended 5-30-95, 9-21-98, 7-27-00, _____.

61G17-5.0041 Board Approval of Continuing Education Providers.

(1) Applicants for continuing education provider status must meet the requirements of subsections (2) and (3) of this rule to demonstrate the education and/or the experience necessary to instruct professional surveyors and mappers in the conduct of their practice, and they must ~~renew~~ ~~reapply~~ and be approved under this rule by ~~May 31st February 28~~ of every odd-numbered year ~~after the effective date of this rule~~.

(2) To demonstrate the education and/or the experience necessary to instruct professional surveyors and mappers in the conduct of their practice for continuing education credit, an applicant for continuing education provider status must be either a vendor of equipment or software used in the practice of surveying and mapping, a regionally accredited educational institution, a commercial educator, a governmental agency, a state or national professional association whose primary purpose is to promote the profession of surveying and mapping, or a surveyor and mapper with a Florida license to practice surveying and mapping who is not under disciplinary restrictions pursuant to any order of the Board. In addition, the applicant must demonstrate particular education, experience or skill which sets the applicant apart from the surveyors and mappers whom the applicant proposes to instruct.

(3) To allow the Board to evaluate an initial application for continuing education provider status, the applicant must submit the following:

(a) The name, address and telephone number of the prospective provider;

(b) A description of the type of courses or seminars the provider expects to conduct for credit ~~over the next two years~~;

(c) The particular qualifications of the prospective provider to conduct the proposed courses or seminars, which qualifications set the applicant apart from the surveyors and mappers whom the applicant proposes to instruct;

(d) A sample certificate of completion for the course or seminar to be conducted by the applicant which certificate shall state the provider number and the course or seminar number assigned to the provider by the Board office for that course or seminar;

(e) A nonrefundable application fee of \$250;

(f) A licensure fee of \$200, which, upon request, will be refundable if the applicant is denied provider status.

(4) No surveyor and mapper may conduct continuing education courses or seminars for credit upon the surveyor and mapper's receipt of any disciplinary order from any professional regulatory board in any jurisdiction. Rather, the surveyor and mapper must notify the Board office within ten (10) days of the surveyor and mapper's receipt of any such order.

(5) No provider may conduct a continuing education course or seminar for credit upon written notice that the Board, through its Executive Director, objects to the course or seminar. Rather, upon receipt of the objection, the provider may request to appear before the Continuing Education Committee of the Board to resolve the objection.

(6) No provider may allow a surveyor and mapper to conduct any course or seminar offered by the provider if that surveyor and mapper has been disciplined and has not been released from the terms of the final order in the disciplinary case. Upon receipt of notice that an instructor is under discipline, the provider shall, within seven (7) days, write to the Board office and confirm that the surveyor and mapper is no longer conducting any course or seminar offered by the provider. For the purpose of this subsection, a letter of guidance or a reprimand shall not constitute "under discipline."

(7) The Board and the Department retains the right and authority to audit and/or monitor programs and review records and course materials given by any provider approved pursuant to this rule. The Department ~~Board~~ shall rescind the provider status or reject individual programs given by a provider if the provider disseminates any false or misleading information in connection with the continuing education programs, or if the provider fails to conform to and abide by the rules of the Board.

Specific Authority 455.219, 472.008, 472.011(2),(3),(5), 472.018, 472.033 FS. Law Implemented 455.219, 472.018, 472.011(2),(3),(5), 472.033 FS. History—New 3-28-94, Amended 5-30-95, 5-31-00, _____.

61G17-5.0043 Obligations of Continuing Education Providers.

To maintain status as a continuing education provider, the provider must:

(1) Require each licensee to complete the entire course or seminar in order to receive a certificate of completion for the course or seminar.

(2) Furnish each participant with an individual certificate of attendance that complies with paragraph 61-6.015(4)(a), F.A.C. An attendance record shall be maintained by the

provider for four (4) years and shall be available for inspection by the Board, its designee, the Department, or the Department's designee. Providers must electronically provide to the Department a list of attendees taking a course within five (5) business days of the completion of the course. The list shall include the provider's name, the name and license number of the attendee, the date the course was completed, the course number and the total number of hours successfully completed. If the instructor is receiving credit as set forth in paragraph 61G17-5.0031(2)(c), F.A.C., the instructor shall be listed as an attendee with the same information required above. Providers shall maintain security of attendance records and certificates. For correspondence study courses, the provider must electronically supply the list of those individuals successfully completing the course by the 5th of the month following the calendar month in which the provider received documentation and was able to determine the successful completion of the course by the individual. Ensure that all promotional material for courses or seminars offered to professional surveyors and mappers for credit contain the provider number;

(3) Ensure that all promotional material for courses or seminars offered to professional surveyors and mappers for credit contain the provider number. Send to the Board office, so that it is received at least fourteen (14) days before the first date on which the course or seminar is to be conducted for professional surveyors and mappers, a description for any course or seminar that has not previously been sent to the Board from the provider;

(4) Allow only one continuing education credit for each hour of classroom, audio or video instruction, an "hour of classroom, audio or video instruction" being no less or no more than sixty (60) minutes of instruction.;

(5) Allow only one continuing education credit for each "hour of correspondence study." The "hour of correspondence study" must be based on the average completion time of each course as established by the provider. For correspondence study, provide to each participating licensee a written exam. In order to complete the course, the licensee must sign, date and seal the exam and receive a minimum grade of seventy percent (70%). If a licensee fails the exam, they will be permitted to take the exam again until a passing grade is achieved.

(6) Notify the Board within fourteen (14) ~~thirty (30)~~ days of any change in the address or telephone number of the provider.;

(7) Allow the Department's of Business and Professional Regulation and the Board's designee to have access to information concerning courses or seminars conducted by the provider for continuing education credit.;

(8) Provide courses or seminars designed to enhance the education of surveyors and mappers in the practice of surveying and mapping.;

(9) Discontinue any course or seminar objected to under subsection 61G17-5.0041(5), F.A.C.;

(10) Discontinue allowing an instructor to conduct a course or seminar upon receipt of notice pursuant to subsection 61G17-5.0041(6), F.A.C., and provide timely confirmation of same as required by that rule.

(11) A course or seminar on minimum technical standards must focus on each minimum technical standard in Board rules and give examples of the practical application of each standard in the performance of a survey. A course or seminar on minimum technical standards does not focus on case law.

(12) All information or documentation, including electronic course rosters, submitted to the Board or the Department shall be submitted in a format acceptable to the Board and the Department. Failure to comply with time and form requirements will result in disciplinary action taken against the provider. No provider may reapply for continuing education provider status until at least two (2) years have elapsed since the entry of any final order against the provider.

(13) On-line/internet courses shall be treated as correspondence courses for continuing education purposes.

Specific Authority 455.219, 472.008, 472.011, 472.018 FS. Law Implemented 472.018 FS. History—New 3-28-94, Amended 5-30-95, 7-27-00, _____.

61G17-5.0044 Evaluations of Providers.

(1) The Board, or its designee, shall ~~will~~ evaluate continuing education courses or seminars offered to professional surveyors and mappers for credit by:

(a) Observing such courses or seminars; and

(b) Reviewing the files of the provider to gain information about any course or seminar offered to professional surveyors and mappers for credit.

(2) The Board will not revoke the continuing education credit given to any professional surveyor and mapper for completion of any continuing education course or seminar about which the professional surveyor and mapper registers a complaint with the Board.

Specific Authority 472.008, 472.018 FS. Law Implemented 472.018 FS. History—New 3-28-94, Amended 5-30-95, 5-31-00, _____.

61G17-5.0045 Duration of Provider Status.

(1) Continuing education providers are approved only for the biennium during which they applied and must renew their ~~reapply for~~ provider status at the beginning of each biennium. The biennium for continuing education providers ends on May 31st February 28th of each odd-numbered year.

(2) Providers seeking renewal ~~reapproval~~ may continue to offer programs to licensees of the Board for credit until such time as expiration of provider status occurs or an order denying renewal ~~a final order denying reapproval~~ of continuing education provider status is filed with the Agency clerk.

Specific Authority 472.008, 472.018 FS. Law Implemented 472.018 FS. History—New 3-28-94, Amended 5-30-95, 5-31-00, _____.

61G17-5.0051 Proof of Completion of Continuing Education Hours.

(1) Continuing education courses shall be valid for purposes of the continuing education requirement only if such courses have received prior approval from the Board. The Board shall approve a course as a continuing education course for the purpose of this rule when the following requirements are met:

(a) Written application for course approval shall be received by the Board prior to the date the course is offered, on BPR form SM-4758, entitled "Course Approval Application Form" incorporated herein by reference and effective _____, which copies may be obtained from the Board.

(b) A detailed course outline is submitted to the Board, along with the application, which describes the course's content and subject matter.

(c) Continuing education courses must address surveying and mapping subjects. Such subjects shall include but are not limited to civil engineering, forestry mathematics, photogrammetry, land law, physical sciences, basic surveying and mapping, route surveying, mapping, control surveying, legal principles of boundaries, geodetic astronomy, subdivisions, cartography, managing surveying businesses and operations and any other subject matter that directly enhances the surveying and mapping profession.

(d) The course provider shall submit to the Board a sample continuing education course certificate of completion that complies with paragraph 61-6.015(4)(a), F.A.C., that is given to each course participant if the participant completes the course.

(e) Instructor curriculum vitae demonstrating particular education, knowledge, experience or skill which sets the applicant apart from those he or she will instruct.

(2) Course approvals are valid for 24 months from the date of issuance. Providers must reapply for course approval within 90 days prior to the expiration of the 24 month period. Written application and course approval shall be in the same form as set forth in (1) above.

(3) The Board shall be notified of any substantive changes made to approved courses during this period, which shall include instructor changes. Course approval shall be rescinded by the Board if such notification is not made or the changes fail to otherwise conform to this rule.

(4) Course approvals shall be automatically rescinded if the provider status expires or is rescinded by disciplinary action or otherwise.

Specific Authority 472.008, 472.018 FS. Law Implemented 472.018 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Professional Surveyors and Mappers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Surveyors and Mappers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 13, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 28, 2002

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE TITLE: College or University Requirements

RULE NO.: 61H1-27.001

PURPOSE AND EFFECT: The Board proposes this amendment to add Australian academic accounting programs approved by the provincial education bodies to the list of regional accrediting agencies.

SUMMARY: This rule sets forth the college and university requirements pursuant to 473.306, F.S.

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

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

SPECIFIC AUTHORITY: 473.304, 473.306 FS.

LAW IMPLEMENTED: 473.306 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John W. Johnson, Executive Director, Board of Accountancy, 240 N. W. 76 Drive, Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-27.001 College or University Requirements.

(1) through (g) No change.

(h) Canadian and Australian academic accounting programs approved by the provincial education bodies.

(2) through (5)(b) No change.

Specific Authority 473.304, 473.306 FS. Law Implemented 473.306 FS. History—New 12-4-79, Amended 2-3-81, 3-21-84, 10-28-85, Formerly 21A-27.01, Amended 4-8-86, 9-1-87, 8-25-88, 12-28-89, 3-29-90, Formerly 21A-27.001, Amended 1-11-95, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 6, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 20, 2002

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE TITLE: Experience for Licensure by Endorsement

RULE NO.: 61H1-29.003

PURPOSE AND EFFECT: The Board proposes to amend this rule to clarify that the “five years of experience in the practice...” needs to be after licensure as a Certified Public Accountant or Chartered Accountant.

SUMMARY: This rule sets forth requirements for experience for licensure by endorsement.

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

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

SPECIFIC AUTHORITY: 473.304, 473.308 FS.

LAW IMPLEMENTED: 473.308 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John W. Johnson, Executive Director, Board of Accountancy, 240 N. W. 76 Drive, Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-29.003 Experience for Licensure by Endorsement.

Experience used to meet the requirements of Section 473.308(4), F.S., must include five years experience in the practice of public accounting after licensure as a Certified Public Accountant or Chartered Accountant ~~as a certified public accountant or chartered accountant~~. In addition, the applicant must have practiced at least two years of the last three years immediately preceding application for licensure. The applicant shall, during those three years, complete continuing education in public accountancy at least equivalent to that required in Florida during that period.

Specific Authority 473.304, 473.308 FS. Law Implemented 473.308 FS. History—New 4-24-88, Amended 6-12-88, Formerly 21A-29.003, Amended 2-12-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy

if there is a substantial threat to the public health, safety and welfare, such potential for harm has been removed prior to the issuance of the citation. Next to each violation is the fine to be imposed.

(2) Prior to issuance of the citation, the Department must confirm that the violation has been corrected or is in the process of being corrected. If the violation is a substantial threat to the public health, safety and welfare, such potential for harm must be removed prior to issuance of the citation.

(3) The following violations with accompanying fines may be disposed of by citation:

- | | |
|---|---|
| (a) Practicing on inactive license
(473.323(1)(i), F.S.) | Reprimand and fine based on length of time in practice while inactive; \$100/month or \$5,000 maximum (penalty will require licensure or cease practice). |
| (b) Licensees practicing in an unlicensed firm (including sole proprietors) or otherwise in violation of 473.309, 473.3101, and 473.323(1)(g), F.S. | Reprimand and \$100 per month fine to maximum of \$5,000 and suspension of right to practice until corrected. |
| (c) Licensees who complete continuing professional education requirements timely but who are found deficient after December 1st of their renewal year (subsection 61H1-33.003(5), F.S.) | Submit documentation that deficient hours have been completed and pay \$50 fine within 60 days. |
| (d) Licensees who fail to <u>timely submit complete documentation for a CE audit</u> | <u>fined \$100 per month</u> |

(4) Once the citation becomes a final order, the citation and complaint become a public record pursuant to Chapter 119, F.S., unless otherwise exempt from the provisions thereof. The citation and complaint may be considered as aggravating circumstances in future disciplinary actions pursuant to paragraph 61H1-36.004(3)(a), F.A.C.

(5) The procedures described herein apply only for an initial offense of the alleged violation. Subsequent violation(s) of the same rule or statute shall require the procedures of Section 455.225, F.S., to be applied. In addition, should an initial offense for which a citation could be issued occur in conjunction with violations not described herein, then the procedures of Section 455.225, F.S., shall apply.

Specific Authority 455.224, 455.225, 473.304 FS. Law Implemented 455.224 FS. History—New 12-30-91, Formerly 21A-36.005, Amended 12-7-93, 5-23-94, 8-16-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Accountancy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 6, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 20, 2002

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE TITLE: Disciplinary Guidelines RULE NO.: 61J1-8.002

PURPOSE AND EFFECT: The purpose of the proposed rule is to clarify or modify the disciplinary guideline recommendations.

SUMMARY: The proposed rule change affects rule provisions relating to disciplinary guidelines.

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

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

SPECIFIC AUTHORITY: 455.2273, 475.614 FS.

LAW IMPLEMENTED: 475.227, 475.622, 475.624, 475.626 FS.

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

TIME AND DATE: 8:30 a.m., or as soon thereafter as possible, April 1, 2003

PLACE: Division of Real Estate, Commission Meeting Room 901, North Tower, 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N809, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-8.002 Disciplinary Guidelines.

(1) Pursuant to s. 455.2273, Florida Statutes, the Florida Real Estate Appraisal Board sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon licensees guilty of violating chapter 455 or part II, chapter 475, Florida Statutes. (For purposes of this rule, the term licensee shall refer to registrants, license holders or certificate holders.) The purpose of the disciplinary guidelines is to give notice to licensees of the range of

penalties which normally will be imposed for each count during a formal or an informal hearing. For purposes of this rule, the order of penalties, ranging from lowest to highest, is: reprimand, fine, probation, suspension, and revocation or denial. Pursuant to s. 475.624, Florida Statutes, combinations of these penalties are permissible by law. Nothing in this rule shall preclude any discipline imposed upon a licensee pursuant to a stipulation or settlement agreement, nor shall the ranges of penalties set forth in this rule preclude the probable cause panel from issuing a letter of guidance upon a finding of probable cause, where appropriate.

(2) As provided in s. 475.624, Florida Statutes, the Florida Real Estate Appraisal Board may, in addition to other disciplinary penalties, place a licensee on probation. The placement of the licensee on probation shall be for such a period of time and subject to such conditions as the Board may specify. Standard probationary conditions may include, but are not limited to, requiring the licensee: to attend pre-licensure courses; to satisfactorily complete a pre-licensure course; to attend and satisfactorily complete continuing education courses; to submit to reexamination through the state-administered examination, which must be successfully completed; to be subject to periodic inspections and interviews by an investigator of the Department of Business & Professional Regulation.

(3) The penalties are as listed unless aggravating or mitigating circumstances apply pursuant to paragraph (4):

VIOLATIONS	RECOMMENDED RANGE OF PENALTY
(a) 475.622(1) Failed to place the registration, license or certification number adjacent to or immediately beneath the state designation	Up to 90 days suspension
(b) 475.622(1) Failed to include the appropriate designation and number in an advertisement	Up to 90 days suspension
(c) 475.622(2) Failed to use the state registration, license or certification designation in any appraisal report	Up to 90 days suspension
<u>(d) 475.624(1) Violated any provisions of this part of s. 455.227(1).</u>	<u>The usual action of the Board shall be to impose a penalty up to revocation and an administrative fine up to \$5,000.</u>
<u>(e)(d) 475.624(2) Guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme or device, culpable negligence or breach of trust</u>	In case of fraud, misrepresentation and dishonest dealing, the usual action of the Board shall be to impose a penalty of revocation.

(f)(e) 475.624(3) False, deceptive or misleading advertising

In the case of concealment, false promises and false pretenses, the usual action of the Board shall be to impose a penalty of a 3 to 5 year suspension and an administrative fine of \$1000.

In the case of culpable negligence and breach of trust, the usual action of the Board shall be to impose a penalty from a \$1000 fine to a 1 year suspension.

The usual action of the Board shall be to impose a penalty from \$1000 fine to a 1 year suspension.

(g) 475.624(4) – Violated any of the provisions of this section or any lawful order or rule issued under the provisions of this section or Chapter 455

The usual action of the Board shall be to impose a penalty up to revocation and an administrative fine up to \$5,000.

(h)(f) 475.624(5) Convicted or found guilty of a crime related to appraising or involves moral turpitude or fraudulent or dishonest dealing

The usual action of the Board shall be to impose a penalty from suspension to revocation.

(i)(g) 475.624(6) Has license disciplined or acted against an application denied by another jurisdiction

Imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida or suspension of the license until the license is unencumbered in the jurisdiction in which the disciplinary action was originally taken, and an administrative fine of \$1000.

(j)(h) 475.624(7) Impairment by drunkenness, or use of drugs or temporary mental derangement

The usual action of the Board shall be to impose a penalty of suspension for the period of incapacity.

(k)(i) 475.624(8) Confined in jail, prison or mental institution; or through mental disease can no longer practice with skill or in a confidential capacity

The usual action of the Board shall be to impose a penalty of revocation.

(l)(j) 475.624(9) Failed to give the Board written notice within 30 days after a guilty or nolo contendere plea or having been convicted of any felony	The usual action of the Board shall be to impose a penalty from a 5 year suspension to revocation and an administrative fine of \$1000.	(t)(f) 475.624(17) Has accepted an appraisal assignment contingent upon the licensee reporting a predetermined result, analysis or opinion	The usual action of the Board shall be to impose a penalty of revocation.
(m)(k) 475.624(10) Guilty for the second time of misconduct in the practice of real estate appraisal that demonstrates incompetent, dishonest or negligent dealings with those persons with whom the licensee sustains a confidential relationship	The usual action of the Board shall be to impose a penalty of revocation.	(u)(s) 475.624(18) Has failed to timely notify the department of any change in business location, or has failed to fully disclose all business locations from which he operates as an appraiser	Up to 90 days suspension
(n)(t) 475.624(11) Has made or filed a report or record which the licensee knows to be false or willfully failed to file a report or record or willfully impeded such filing as required by state or federal law	The usual action of the Board shall be to impose a penalty of revocation.	(v)(t) 475.626(1)(a) Has practiced without a valid and current license, registration or certification	The usual action of the Board shall be to impose a penalty from a 5 year suspension to revocation and an administrative fine of \$1000.
(o)(m) 475.624(12) Obtained a license by fraud, mis-representation or concealment	The usual action of the Board shall be to impose a penalty of revocation.	(w)(u) 475.626(1)(b) Has violated any order or rule of the Board	The usual action of the Board shall be to impose a penalty of revocation.
(p)(n) 475.624(13) Has paid money or other consideration to a member of the Board or employee of the Board to obtain a license, registration or certification	The usual action of the Board shall be to impose a penalty of revocation.	(x)(v) 475.626(1)(d) Made a false affidavit or affirmation or gave false testimony before the Board	The usual action of the Board shall be to impose a penalty of revocation.
(q)(e) 475.624(14) Has violated any standard for the development or communication of a real estate appraisal or other provision of the Uniform Standards of Professional Appraisal Practice	The usual action of the Board shall be to impose a penalty from a 5 year suspension to revocation and an administrative fine of \$1000.	(y)(w) 475.626(1)(e) Failed to comply with subpoena issued by the Department of Business & Professional Regulation	Up to 5 years suspension
(r)(p) 475.624(15) Has failed or refused to exercise reasonable diligence in developing or preparing an appraisal report	The usual action of the Board shall be to impose a penalty from a 5 year suspension to revocation and an administrative fine of \$1000.	(z)(*) 475.626(1)(f) Obstructed or hindered the enforcement of part II of Chapter 475, <u>Florida Statutes F.S.</u>	The usual action of the Board shall be to impose a penalty of revocation.
(s)(q) 475.624(16) Has failed to communicate an appraisal without good cause	The usual action of the Board shall be to impose a penalty from a \$1000 fine to a 1 year suspension.	(aa)(y) 475.626(1)(g) Knowingly concealed information relating to violations of Chapter 475, <u>Florida Statutes, F.S. Part II</u>	Up to 90 days suspension

(4)(a) When either the petitioner or respondent is able to demonstrate aggravating or mitigating circumstances to the ~~B~~Board by clear and convincing evidence, the ~~B~~Board shall be entitled to deviate from the above guidelines in imposing discipline upon a licensee. Whenever the petitioner or respondent intends to introduce such evidence to the ~~B~~Board in s. 120.57(2), Florida Statutes, ~~F.S.~~ hearing, advance notice of no less than seven (7) days shall be given to the other party or else the evidence can be properly excluded by the ~~B~~Board.

(b) Aggravating or mitigating circumstances may include, but are not limited to, the following:

- ~~1. The severity of the offense.~~
- ~~1.2. The degree of harm to the consumer or public.~~
- ~~2.3. The number of counts in the administrative complaint.~~
- ~~4. The number of times the offenses previously have been committed by the licensee.~~
- ~~3.5. The disciplinary history of the licensee.~~
- ~~4.6. The status of the license at the time the offense was committed.~~
- ~~5.7. The degree of financial hardship incurred by a licensee as a result of the imposition of a fine or suspension of the license.~~
- ~~6.8. Violation of the provision of part II of Chapter 475, Florida Statutes, wherein a letter of guidance as provided in s. 455.225(3), Florida Statutes, previously has been issued to the licensee.~~

Specific Authority 475.2273, 475.614 FS. Law Implemented 455.227, 475.622, 475.624, 475.626 FS. History--New 1-7-92, Formerly 21VV-8.002, Amended 1-9-94, 8-17-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Florida Real Estate Appraisal Board
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Florida Real Estate Appraisal Board
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: February 4, 2003
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: January 17, 2003, Section I

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: RULE NO.:
Licensure Denial 64B8-4.022
PURPOSE AND EFFECT: The proposed rule amendment is intended to delete subsection (1) from the rule in response to the *Rousch* case.

SUMMARY: The proposed rule amendment deletes subsection (1) from the rule.

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

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

SPECIFIC AUTHORITY: 458.309, 458.310, 458.311, 458.3115, 458.3124, 458.313, 458.3135, 458.3145, 458.315, 458.316, 458.3165, 458.317 FS.

LAW IMPLEMENTED: 458.311, 458.313, 458.331 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: Larry G. McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-4.022 Licensure Denial.

In most cases the Board evaluates applicants on a case-by-case basis; however, in the following circumstances the Board, as a matter of policy, shall deny the application for licensure in Florida:

~~(1) When the applicant has had action taken against a medical license or the authority to practice medicine by the licensing authority of another jurisdiction and the applicant does not demonstrate that the applicant has a license in the jurisdiction which took action and that license is in good standing and unencumbered.~~

~~(2) When the applicant has been convicted of, been found guilty of, or entered a plea of nolo contendere to a crime and the applicant does not demonstrate that all criminal sanctions imposed by the court have been satisfied.~~

Specific Authority 458.309, 458.310, 458.311, 458.3115, 458.3124, 458.313, 458.3135, 458.3145, 458.315, 458.316, 458.3165, 458.317 FS. Law Implemented 458.311, 458.313, 458.331 FS. History--New 11-4-93, Formerly 61F6-22.022, 59R-4.022, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Rules Committee, Board of Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Board of Medicine
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: December 6, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: February 7, 2003

DEPARTMENT OF HEALTH

Division of Family Health Services

RULE TITLES:	RULE NOS.:
General Regulations; Definitions	64F-12.001
Records of Drugs, Cosmetic and Devices	64F-12.012
Prescription Drugs; Receipt,	
Storage and Security	64F-12.013
Administrative Enforcement	64F-12.024

PURPOSE AND EFFECT: This notice of proposed rulemaking replaces the notice previously published in the Florida Administrative Weekly, February 14, 2003, Vol. 29, No. 7, regarding amendments to the same rules listed above. That notice has been withdrawn. This notice of rulemaking also supercedes the effective date published in that notice and the effective date contained in the notice of rule development published in the Florida Administrative Weekly, February 7, 2003, Vol. 29, No. 6. The purpose and effect of the proposed rule amendments is to refine a definition and define a new term thereby facilitating the Section 499.0121(6)(d), F.S., recordkeeping requirements on prescription drug wholesalers that are intended to assist certain purchasers of prescription drugs that are specified drugs to determine a specified drug's distribution history, effective 60 days after rulemaking is completed; to require prescription drug wholesalers to review for completeness and accuracy the distribution history and other required records prior to the purchase of a prescription drug; and to provide guidelines for purposes of assessing an administrative fine for a violation of these new requirements. These amendments are intended to assist the department and the industry to better prevent the distribution and consumption of diverted or counterfeit prescription drugs, and to assist both in the investigating and finding of prescription drugs that are, or have been, diverted from channels of wholesale distribution or counterfeit. The department thereby expects these amendments to substantially reduce the public health threat that exists because of the recurrence of diversion or counterfeiting of specified drugs in the wholesale marketplace in Florida. The department believes that the proposed rule amendments, which are based on the department's experience with certain expensive prescription drugs that the department has found to be at risk for diversion and counterfeiting, will enable the department and industry to more effectively identify drugs that have been diverted or are counterfeit, prior to their consumption.

SUMMARY: The definition of "ongoing relationship" is being revised for a list of "specified drugs". This term is used with respect to an authorized distributor of record in Section 499.0121(6)(d), F.S. A definition of "specified drug" is being added and consists of a list of specific prescription drugs. The definition of "affiliated group" is being added since this term will be used in the new recordkeeping requirement provisions. Additional recordkeeping and verification requirements will be imposed on prescription drug wholesalers and repackagers. Finally, guidelines are provided which the department will apply when assessing an administrative fine for a violation of these new requirements.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The department did not prepare a statement of estimated regulatory cost.

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: 499.0121, 499.05 FS.

LAW IMPLEMENTED: 499.0121(6), 499.066 FS.

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

TIME AND DATE: 11:00 a.m. – 4:00 p.m. (EST), Friday, April 4, 2003

PLACE: 4052 Bald Cypress Way, Room 301, Tallahassee, Florida

If special accommodations are needed to attend this workshop because of a disability, please contact: Maxine Wenzinger, (850)922-5190

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sandra Stovall, Compliance Officer, 2818-A Mahan Drive, Tallahassee, Florida 32308, (850)487-1257, Ext. 210, sandra_stovall@doh.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

64F-12.001 General Regulations; Definitions.

(1) No change.

(2) In addition to definitions contained in sections 499.003, 499.012(1), 499.0122(1), 499.028(1), and 499.61, F.S., the following definitions apply to Rule Chapter 64F-12, F.A.C.:

(a) No change.

(b) "Affiliated group" – means the definition set forth in sec. 1504 of the Internal Revenue Code, which is incorporated by reference.

(b) through (h) renumbered (c) through (i) No change.

(j) ~~(4)~~ "Ongoing relationship" means:

1. For a prescription drug other than a specified drug, an association that exists when a manufacturer and a distributor enter into a written agreement under which the distributor is authorized to distribute the manufacturer's product(s) for a period of time or for a number of shipments, at least one sale is made under that agreement, and the name of the authorized distributor of record is entered on the manufacturer's list of authorized distributors of record or equivalent list. An ongoing relationship may also be documented by at least three purchases of a manufacturer's product(s) directly from that manufacturer within a six month period from the date for which the authorized distributor of record relationship is claimed and the distributor's name is entered on the manufacturer's list of authorized distributors of record or equivalent list.

2. Effective 60 days after the effective date of this sub-paragraph (j)2., for a specified drug, an association that exists for each transaction involving the specified drug between a manufacturer and a prescription drug wholesaler

such that the prescription drug wholesaler has purchased the specific unit of the specified drug directly from the manufacturer for further distribution of that specific unit of the specified drug.

(j) through (s) renumbered (k) through (t) No change.

(v) "Specified drug" means all dosage forms, strengths and container sizes of the following prescription drugs:

1. Combivir (lamivudine/zidovudine)
2. Crixivan (indinavir sulfate)
3. Diflucan (fluconazole)
4. Epivir (lamivudine)
5. Epogen (epoetin alfa)
6. Gamimune (globulin, immune)
7. Gammagard (globulin, immune)
8. Immune globulin
9. Lamisil (terbinafine)
10. Lupron (leuprolide acetate)
11. Neupogen (filgrastim)
12. Nutropin AQ (somatropin, e-coli derived)
13. Panglobulin (globulin, immune)
14. Procrit (epoetin alfa)
15. Retrovir (zidovudine)
16. Risperdal (risperidone)
17. Rocephin (ceftriaxone sodium)
18. Serostim (somatropin, mannanian derived)
19. Sustiva (efavirenz)
20. Trizivir (abacavir sulfate/lamivudine/zidovudine)
21. Venoglobulin (globulin, immune)
22. Videx (didanosine)
23. Viracept (nelfinavir mesylate)
24. Viramune (nevirapine)
25. Zerit (stavudine)
26. Ziagen (abacavir sulfate)
27. Zocor (simvastatin)
28. Zofran (ondansetron)
29. Zoladex (goserelin acetate)
30. Zyprexa (olanzapine)

(t) through (v) renumbered (u) through (w) No change.

Specific Authority 499.05, 499.61, 499.701 FS. Law Implemented 499.003, 499.004, 499.005, 499.0054, 499.0057, 499.006, 499.007, 499.008, 499.009, 499.01, 499.012, 499.0121, 499.0122, 499.013, 499.014, 499.015, 499.023, 499.024, 499.025, 499.028, 499.03, 499.033, 499.035, 499.039, 499.041, 499.05, 499.051, 499.052, 499.06, 499.066, 499.067, 499.069, 499.61, 499.62, 499.63, 499.64, 499.65, 499.66, 499.67, 499.71, 499.75 FS. History—New 1-1-77, Amended 12-12-82, 1-30-85, Formerly 10D-45.31, Amended 11-26-86, 2-4-93, 7-1-96, Formerly 10D-45.031, Amended 1-26-99, 4-18-01, _____.

64F-12.012 Records of Drugs, Cosmetics and Devices.

(1) through (2) No change.

(3)(a) For drugs other than specified drugs, the pedigree papers required by s. 499.0121(6)(d) must include either the proprietary name or the generic name with the name of the manufacturer (manufacturer, distributor or relabeler) or

distributor reflected on the label of the product; dosage form; strength; container size; quantity by lot number; the name and address of each owner of the prescription drug; the name and address of each location from which it was shipped if different from the owner's; and the transaction dates. A copy of the pedigree paper must be maintained by each recipient.

(b) Effective 60 days after the effective date of this paragraph (b), for a specified drug:

1. Any person who distributes a specified drug that it did not manufacture must provide to each purchaser and recipient that is a wholesale distributor either:

a. upon the wholesale distribution, a statement on the invoice or transfer document as follows:

i. If the establishment is not a member of an affiliated group: "This establishment purchased the specific unit(s) of the prescription drug(s) represented on this document directly from the manufacturer as an authorized distributor of record."

or

ii. If the establishment is a member of an affiliated group: "This establishment or a member of our affiliated group that is licensed or permitted as a drug wholesaler purchased the specific unit(s) of the prescription drug(s) represented on this document directly from the manufacturer as an authorized distributor of record."

or

b. before the wholesale distribution, a written statement ("pedigree paper") identifying each previous wholesale distribution of that unit of the specified drug back to the manufacturer.

2. The pedigree papers required by s. 499.0121(6)(d) must include either the proprietary name or the generic name with the name of the manufacturer (manufacturer, distributor or relabeler) or distributor reflected on the label of the product; dosage form; strength; container size; quantity by lot number; the name and address of each prior owner of the prescription drug; consistent with (b)1.a. or (b)1.b., above; the name and address of each location from which it was shipped if different from the owner's; and the transaction dates for all distributions subsequent to the distribution by the wholesaler, or its affiliated group member that purchased that unit of the prescription drug from the manufacturer. The pedigree paper must clearly identify the invoice to which it relates. A copy of the pedigree paper must be maintained by each recipient.

(c) A repackager must comply with this subsection.

(4) through (15) No change.

Specific Authority 499.05, 499.012, 499.0121, 499.0122, 499.013, 499.014, 499.052 FS. Law Implemented 499.012, 499.0121, 499.0122, 499.013, 499.014, 499.05, 499.051, 499.052 FS. History—New 1-1-77, Amended 12-12-82, 7-8-84, 1-30-85, Formerly 10D-45.53, Amended 11-26-86, 2-7-93, 7-1-96, Formerly 10D-45.053, Amended 1-26-99, 4-18-01, _____.

64F-12.013 Prescription Drugs; Receipt, Storage and Security.

(1) through (4) No change.

(5) Examination of Prescription Drugs.

(a) Every person receiving prescription drugs other than the consumer receiving dispensed prescription drugs pursuant to Chapter 465, F.S., has a duty to examine the product to prevent acceptance of prescription drugs that are unfit for distribution or use. The extent of the examination should be predicated on the conditions surrounding the transaction, including but not limited to any previous sales of the product, i.e., purchase and delivery is not direct from the manufacturer; the conditions of transport; and environmental conditions to which the product may have been subjected. Upon receipt a prescription drug wholesaler must review the records required to be provided by subsection 64F-12.012(3), F.A.C., related to the purchase of prescription drugs for accuracy and completeness.

(b) through (c) No change.

Specific Authority 499.0121(1), 499.05 FS. Law Implemented 499.004, 499.006, 499.007, 499.0121, 499.052 FS. History—New 7-8-84, Amended 1-30-85, Formerly 10D-45.535, Amended 11-26-86, 7-1-96, Formerly 10D-45.0535, Amended 1-26-99, 4-18-01, _____.

64F-12.024 Administrative Enforcement.

(1) through (3) No change.

(4) The following codes outline department policy under s. 499.066(3)(a), F.S., and are used to designate the general severity in terms of the threat to the public health for violation and the range of action which the department will initiate.

3 = Warning Letter,

Letter of Violation with no fine or Notice of Violation or Administrative Complaint with a fine ranging from \$250* to \$1,000 per violation per day.

(*) If medical oxygen is the prescription drug involved, the range of the fine is \$50 to \$1,000.

2 = Notice of Violation or Administrative Complaint with a fine ranging from \$500 to \$2,500 per violation per day.

1 = Notice of Violation or Administrative Complaint with a fine ranging from \$1,000-\$5,000 per violation per day;

Suspension of the permit with a fine; or

Revocation of the permit with a fine.

CITE	VIOLATION	GENERAL SEVERITY
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499 refers to Chapter 499, F.S.

12 refers to Rule 64F-12

FACILITY, STORAGE:

No change.

MISCELLANEOUS:

No change.

OPERATING:

No change.

RECORDKEEPING:

499.005(18); 499.0121(6);

499.028; 499.052; 499.66;

499.67;

12.012 & 12.022(3)

Failing to maintain records, inventories

3 – 1

499.66; 499.67; &

12.012

Failing to make records available

3 – 1

~~499.0121(6)~~

~~Absence of or not providing pedigree papers~~

2

12.012(1)

Not maintaining a complete audit trail

3

12.012(12)

Separate records, multiple businesses

3

12.007(2)

No written procedures for medical oxygen

3

12.012(3)(a)

Absence of or failing to obtain or pass on a pedigree paper for a prescription drug

3 – 2

12.012(3)(b)

Absence of or failing to obtain or pass on a statement or a pedigree paper for a specified drug

1

12.013(5)

Failing to examine the transaction documentation and failing to determine their accuracy for a prescription drug, other than a specified drug

1

12.013(5)

Failing to examine the transaction documentation and failing to determine their accuracy for a specified drug

1

SAMPLES:

No change.

ADULTERATED & MISBRANDED:

No change.

COUNTERFEIT:

No change.

FALSE & MISLEADING:

499.005(5) & 12.002

Disseminating false/misleading ad

3

499.005(7)

Giving a false guaranty or undertaking

2

499.005(10)

Forging, counterfeiting, falsely representing a product

2 – 1

499.005(11)

Labeling or advertisement of effectiveness when not

3

499.005(19);

Making false or fraudulent statements

2 – 1

499.005(23);

499.66 & 499.67

Providing department with false/fraudulent

2 – 1

499.005(19),

records/statements

3

499.64(4), 499.67

Advertising Violations

499.0054

Obtaining/attempting to obtain by fraud,

2 – 1

499.005(23)

deceit, misrepresentation,

499.005(13)	subterfuge Activity w/self-testing HIV/AIDS products	2
<u>12.012(3)(a)</u>	<u>Providing a false pedigree paper for a prescription drug, other than a specified drug</u>	<u>3 – 1</u>
<u>12.012(3)(b)</u>	<u>Providing a false statement or a pedigree paper for a specified drug</u>	<u>1</u>

UNAUTHORIZED SOURCE OR RECIPIENT:

No change.

POSSESSION:

No change.

(5) No change.

Specific Authority 499.05 FS. Law Implemented 499.066 FS. History—New 7-1-96, Formerly 10D-45.0595, Amended 1-26-99, 4-18-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Jerry Hill, Chief of Statewide Pharmaceutical Services

NAME OF SUPERVISOR OR PERSON WHO APPROVEDTHE PROPOSED RULE: Annie R. Neasman, R.N., M.S.,
Deputy Secretary for Health**DATE PROPOSED RULE APPROVED BY AGENCY**

HEAD: February 12, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAW: February 7, 2003

**DEPARTMENT OF CHILDREN AND FAMILY
SERVICES****Mental Health Program**

RULE TITLES:	RULE NOS.:
Applicability	65E-14.001
Audits of Contractors Participating in the Substance Abuse and Mental Health Programs	65E-14.003
Program Income	65E-14.004
Matching	65E-14.005
Appraisal of Real Property	65E-14.007
Programmatic Changes and Budget Revisions	65E-14.011
Contractor's Financial Management Responsibilities	65E-14.014
Transactions Resulting in Additional Cost to the Program	65E-14.016
Cost Principles	65E-14.017
Sliding Fee Scale	65E-14.018
Methods of Paying for Services	65E-14.019
Cost Reimbursement Method of Payment	65E-14.020
Unit Cost Method of Payment	65E-14.021
Data Requirements	65E-14.022

PURPOSE AND EFFECT: Chapter 65E-14, F.A.C., is being amended to streamline the financial processes related to unit cost performance contracting for purchased services and to update and clarify budgeting, accounting, invoicing, and auditing requirements to reflect changes in the substance abuse and mental health area.

SUMMARY: Chapter 65E-14, F.A.C., is being amended to change the program name; modify the definition of approved budget; add new definitions; delete obsolete definitions; place current and additional independent audit requirements in the rule, including special audit schedules; combine and modify expenditure and revenue audit schedules and require reporting of all revenues and expenditures; clarify application of special audit requirements; require independent auditors to review cost allocation plans; modify program income requirements; clarify local match requirements; eliminate outdated program and budget revision provisions; clarify application of cost principles to unit cost performance contracts; place current accounting principles, standards, systems, and controls in the rule; eliminate debt collection and related legal costs as unallowable costs; eliminate a limitation regarding fringe benefits; clarify timesheet service documentation requirements; add requirements for establishing a sliding patient fee scale and schedule of discounts; place current methods for paying for services in the rule; clarify the allowable use client-specific performance contracts; place current cost reimbursement contract fiscal report and invoicing requirements in the rule; place current unit cost performance contracting cost center definitions, units of measure, and service documentation requirements in the rule and make minor clarifications; place current factors used in setting maximum rates for cost centers in the rule; establish procedure for adding cost centers for limited period of time; place current unit cost performance contracting requirements pertaining to budgeting and accounting, setting unit cost rates, and payment for service in the rule; require contractors to submit a general description of their overall program and organization and to notify the department of changes to specified information; require fiscal reports to display information separately by program under certain circumstances; establish an alternative method of setting unit cost rates for client-specific contracts and small client non-specific contracts; authorize state program directors to approve unit cost rates in excess of the maximum under specified circumstances; allow contractors limited flexibility in invoicing for individual cost centers; refer to Rule 65-29.001, F.A.C., for financial penalties; specify units to be deducted from the total units of service when preparing a request for payment; require data used on requests for payment to be consistent with the electronic data system; clarify that failure to meet a special funding requirement may result in an overpayment; incorporate CFP 155-2, Substance Abuse and Mental Health Measurement and Data Pamphlet, by reference.

SPECIFIC AUTHORITY: 394.493(2), 394.674(4), 394.74, 394.76, 394.77, 394.78(1),(3),(6), 397.321(5) FS.

LAW IMPLEMENTED: 394.457(3), 394.493(2), 394.66(9),(12), 394.674(3),(4), 394.74, 394.76, 394.77, 394.78(1),(3),(6), 397.321(10), 397.431, 397.481, 402.73(7) FS.

SUMMARY OF THE STATEMENT OF ESTIMATED REGULATORY COST: An estimate of the regulatory cost was not prepared for this rule.

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

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

TIME AND DATE: 9:00 a.m., March 31, 2003

PLACE: 1317 Winewood Blvd., Building 6, 2nd Floor, Mental Health Conference Room A, Tallahassee, Florida 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Larry Ochalek, Senior Management Analyst, Substance Abuse Program Office, 1317 Winewood Blvd., Building 6, Room 307, Tallahassee, Florida 32399-0700, (850)414-1500, E-mail: larry_ochalek@dcf.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

COMMUNITY ~~SUBSTANCE ALCOHOL, DRUG~~
ABUSE AND MENTAL HEALTH SERVICES –
FINANCIAL RULES

65E-14.001 Applicability.

(1) Except where inconsistent with State statutes, this part applies to all community ~~substance alcohol, drug~~ abuse and mental health funds appropriated by the Legislature to the Department of Children and Family Services through the ~~substance alcohol, drug~~ abuse and mental health budget ~~entities~~ ~~entity~~.

(2) Definitions as used in this part, unless the context clearly requires otherwise.

(a) "Contractor" means parties which contract directly with the department under the provisions of the Community ~~Substance Alcohol, Drug~~ Abuse, and Mental Health Services Act, Chapter 394, Part IV, F.S.; the Substance Abuse Services Act, Chapter 397, F.S.; and any other agency or entity which contracts with the department directly to provide services to clients.

~~(b) "Subcontractor" means an agency or entity which provides direct services and receives funds from a state funded agency or entity under the Community Alcohol, Drug Abuse, and Mental Health Services Act and the Substance Abuse Services Act. This definition does not apply to certain subcontractors such as maintenance, transportation, equipment or lease purchase.~~

~~(b)(e)~~ "Prior approval" means securing the department's permission in advance to incur cost for those items that are designated as requiring prior approval. This permission will be in writing and shall not be construed as occurring through the normal budget approval process.

~~(c)(d)~~ "Audit" means direct examination of the books, records and accounts supporting amounts reported in the year-end report to determine correctness and propriety.

~~(d)(e)~~ "Program income" means income earned by a contractor from activities where part of the cost of those activities is paid for by the state.

~~(e)(f)~~ "Matching" means the value of third-party in-kind contributions and resources received, expended and identified by the contractor to defray 25 percent of allowable costs as a result of operating contracted programs pursuant to these rules.

~~(f)(g)~~ "Donated equipment" has the same meaning given to that term in "Equipment," below, except that instead of value, the words "market value at the time of donation" shall be substituted.

~~(g)(h)~~ "Supply" means all tangible personal property other than "equipment" as defined in this section.

~~(h)(i)~~ "Third-party in-kind contribution" means property or services which benefit a state-supported service program or project, and which are contributed by non-state and federal third parties without charge to the contractor.

~~(i)(j)~~ "Acquisition of property" means purchase, construction, or fabrication of property, but does not include rental of property or alterations and renovations of real property.

~~(j)(k)~~ "Acquisition cost of an item" means the net invoice price of the equipment, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the equipment usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective in-transit insurance shall be included in or excluded from the unit acquisition cost in accordance with the regular accounting practices of the organization purchasing the equipment. If the item is acquired by trading in another item and paying an additional amount, "acquisition cost" means the amount received for trade-in plus the additional outlay. "Amount received for trade-in" of an item of equipment traded in for replacement equipment means the amount that would have been paid for the replacement equipment without a trade-in minus the amount paid with the trade-in. The term refers to the actual difference, not necessarily the trade-in value shown on an invoice.

~~(k)(l)~~ "Equipment" means fixtures, and other tangible personal property of a nonconsumable and nonexpendable nature, the value of which is \$500 or more and the normal expected life of which is two years or more, and hardback covered bound books, the value of which is \$100 or more. "Personal property" means property of any kind except real property.

~~(l)(m)~~ “Real property” means land, building, appurtenances thereto, fixtures and fixed equipment, structures, including additions, replacements, major repairs and renovations to real property which materially improve or change its functional use.

~~(m)(n)~~ “Supply” means all tangible personal property other than equipment.

~~(n)(o)~~ “Budget” means the contractor's financial plan for carrying out the program.

~~(o)(p)~~ “Approved budget” means a budget, including any revised budget, which has been approved by the contractor's governing body and, where required, the department, and is included as a part of the District Alcohol, Drug Abuse and Mental Health Plan. The budget is to be a line-item total operating budget which displays total projected revenues and expenditures for the fiscal year ending June 30, and shall include program description, budget narrative and cost allocation methodology. The departmental approval of the budget shall not interfere with other contracts the contractor may have with other funding agencies or sources. The intent is to approve the projected expenditure of the state and required local matching funds as they relate to the contractor's agency's entire operating budget.

~~(p)(q)~~ “Contract closeout” means the process by which the parties determine that all applicable administrative actions and all required work of the contract have been completed by the contractor and the department. “Suspension” of a contract means temporary withdrawal of the contractor's authority to obligate contracted funds pending corrective action by the contractor or a decision to terminate the contract.

~~(q)(r)~~ “Termination of a contract” means permanent withdrawal of the contractor's authority to obligate previously contracted funds before that authority would otherwise expire. It also means the voluntary relinquishment of that authority by the contractor. Termination does not include:

1. Withdrawal of funds contracted on the basis of the contractor's underestimate of the unobligated balance in a prior period;
2. Withdrawal of the unobligated balance as of the expiration of a contract;
3. Annulment, that is, voiding, of a contract upon determination that the contract was obtained fraudulently or was otherwise illegal or invalid from inception.

~~(r)(s)~~ “Facility” means land and buildings or any portion thereof, equipment, individually or collectively, or any other tangible capital asset, wherever located, and whether owned or leased by the organization.

1. “Idle facility” means a completely unused facility that is excess to the organization's current needs.

2. “Idle capacity” means the unused capacity of partially used facilities. It is the difference between that which a facility could achieve under 100 percent operating time on a one-shift basis, less operating interruptions resulting from time lost for

repairs, setups, unsatisfactory materials, and other normal delays, and the extent to which the facility was actually used to meet demands during the accounting period. A multishift basis may be used if it can be shown that this amount of usage could normally be expected for the type of facility involved.

(s) “Cost Center” means a grouping of services that are similar in time, intensity, and function, and whose average unit cost is generally the same.

(t) “State-Designated Substance Abuse and Mental Health Cost Center” means a cost center identified and defined by the department in accordance with subsections 65E-14.021(2) and (7), F.A.C., for the purposes of accounting for substance abuse and mental health services.

(u) “Client Non-specific Performance Contract” means a contract used to purchase units of service within state-designated cost centers at unit cost rates, and where client eligibility and service determinations, unless otherwise specified, are the responsibility of the contractor based on eligibility criteria and services purchased.

(v) “Client-specific Performance Contract” means a contract used to purchase services for a specific individual or group in special circumstances and where individual clients or groups to be served must either be specified in the contract or otherwise approved by the department in advance of receiving service.

(w) “Patient or Client Fees” means compensation received by a community substance abuse or mental health facility for services rendered to a specific client from any source of funds, including local, state, federal and private sources.

(x) “First Party Payer” means the client.

(y) “Second Party Payer or Responsible Party” means any person legally responsible for the financial support of the client, and may include parents of a minor client; spouse, regardless of the age of either party; a guardian; or representative payee and trustee, not as an individual, but in the fiduciary capacity for handling benefit payments, trusts and estates established or received for the financial support of the client.

(z) “Third Party Payer” means commercial insurers such as workers’ compensation, CHAMPUS/VA, Medicare, or other payers that are liable to pay for services on behalf of a specific client. Third party payers are liable to the extent that they are required by contract or law to participate in the cost of providing services to a specific client.

(aa) “Sliding Fee Scale” means a schedule of fees for identified services provided by a contractor which are based on a uniform schedule of discounts deducted from the contractor’s usual and customary charges.

(bb) “Usual and Customary” means the contractor’s own charge for a given service which is in the range of charges by similar providers for such services. These charges must be consistent with the prevailing market rates in the community for comparable services.

(cc) “Gross Family Income” means the amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips, bonuses, and other compensation for personal services of all adult family members of the household, as well as interest, dividends, and other net income of any kind from real or personal property, including:

1. The share received by adult family members of the household from income distributed from a trust fund;

2. A withdrawal of cash or assets from investment except to the extent the withdrawal is reimbursement of cash or assets invested by an adult family member of the household; and

3. The full amount of periodic payments received from social security (including social security received by adults on behalf of minors intended for their own support), annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts.

(dd) “Net Family Income” means gross family income less federal, state or local payroll taxes (income and Social Security). Deductions for payroll saving plans, bond purchases, or contributions to retirement systems may not be used to determine net income.

(ee) “Adult Family Members of the Household” means persons 18 years or older who are related by birth, marriage, or adoption and who live together in the same household.

(ff) “Programs” mean the Adult Substance Abuse, Children’s Substance Abuse, Adult Mental Health, and Children’s Mental Health programs administered by the Department of Children and Families.

(t) “Program service component” means the services that are to be provided by contract through community alcohol, drug abuse and mental health agencies. The program service components are outpatient, residential, case management, day or night, inpatient, emergency or stabilization, consultation and education, prevention, and administration.

(u) “Mental Health Rate” shall mean the contracting methodology which recognizes a provisional rate established by the department which is based upon the best available cost data. It may be used, subject to departmental approval, by new facilities where there are no cost or utilization data; for receiving facilities which provide service in noninpatient settings; and for inpatient facilities which desire a rate that is always less than their usual and customary charges or approved Medicaid rate.

PROPOSED EFFECTIVE DATE: July 1, 2003

Specific Authority 394.74, 394.77, 394.78(1), 397.321(5) FS. Law Implemented 394.74, 394.77, 397.481 FS. History—New 2-23-83, Amended 2-25-85, Formerly 10E-14.01, Amended 7-29-96, Formerly 10E-14.001, Amended 7-1-03.

65E-14.003 Audits of Contractors Participating in the Substance Alcohol, Drug Abuse and Mental Health Programs.

(1) The independent auditor selected by the contractor shall conduct a review of the contractor’s record-keeping and billing procedures and practices to ensure that the documentation of services billed to the department is complete and accurate.

(2) The independent audit shall disclose to the department any unallowable costs specified in Rule 65E-14.017, F.A.C., or the contract.

(3) Special requirements for client non-specific unit cost performance contracts:

(a) The independent audit for all client non-specific unit cost performance contracts shall contain the following schedules, which shall be in accordance with Generally Accepted Accounting Principles and state and federal requirements:

1. Schedule of State Earnings. This schedule ensures that local match requirements are met and identifies and calculates any amounts due to the department.

2. Schedule of Related Party Transaction Adjustments. This schedule indicates, by cost center, those related party transaction adjustments that were above cost.

3. Schedule of Financial Assistance. This schedule discloses the contractor’s federal and state grants and assistance, sub-contracting, and funding from the beginning of the fiscal year through the balance sheet date. This schedule shall comply with chapter 10.650, Rules of the Auditor General, entitled State Single Audits Nonprofit and For-Profit Organizations, and with the rules of the Department of Banking and Finance, chapter 3A-5, F.A.C., Schedule of Expenditures of State Financial Assistance, regarding format.

4. Program/Cost Center Actual Expenses & Revenues Schedule. This schedule shall be in accordance with Generally Accepted Accounting Principles and state and federal requirements. It displays expenditures by line-item category and revenues by source for each program and cost center funded through the state substance abuse and mental health program contract. The schedule also displays expenditures by line-item category and revenues by source for all other state-designated substance abuse and mental health cost centers as a group, for all other programs as a group, and for administrative and support functions, and displays totals for the agency as a whole.

5. Schedule of Bed-Day Availability Payments. This schedule ensures that bed-days paid for by the department on the basis of availability were not also paid for by a third-party contract or funds from a local government or another state agency for services that include bed-day availability or utilization.

(b) The schedules in subparagraphs 65E-14.003(3)(a)1., 2., 4. and 5., F.A.C., shall be based on revenues and expenditures recorded during the state's fiscal year. The schedule in subparagraph (3)(a)3., F.A.C., shall be based on the contractor's fiscal year.

(c) For unit cost performance contracts, the auditor shall conduct a review of the contractor's written plan for allocating direct and indirect costs to cost centers to ensure that it complies with Generally Accepted Accounting Principles and state and federal requirements, and the audit report shall contain a statement of assurance that the number of units of service paid for by the department was not materially misstated by the contractor or a statement that no such assurance can be made.

(4) The department will notify the contractor by certified mail, return receipt requested, of the amount of the audit liabilities and the due date. Payment is due within 30 days of the date of receipt.

(5) Nothing in this section shall preclude the department from performing its duties, including contract monitoring, to ensure that payments for services are made in accordance with the contract for services, the rules of the department, and applicable law.

(6) The following special audit schedules are hereby incorporated by reference and may be obtained from the Substance Abuse Program Office, 1317 Winewood Blvd., Building 6, Tallahassee, Florida:

- | | |
|--------------------------|--|
| (a) CF-MH 1034, Jul 2003 | <u>Schedule of State Earnings</u> |
| (b) CF-MH 1035, Jul 2003 | <u>Schedule of Related Party Transaction Adjustments</u> |
| (c) CF-MH 1036, Jul 2003 | <u>Schedule of Bed-Day Availability Payments</u> |
| (d) CF-MH 1037, Jul 2003 | <u>Program/Cost Center Actual Expenses & Revenues Schedule</u> |

PROPOSED EFFECTIVE DATE: July 1, 2003

Specific Authority 394.74, 394.77, 394.78(1),(3), 397.321(5) FS. Law Implemented 394.74, 394.66(9), 394.76(5), 394.77, 394.78(3), 397.481 FS. History--New 2-23-83, Amended 2-25-85, Formerly 10E-14.03, Amended 7-29-96, Formerly 10E-14.003, Amended 7-1-03.

~~65E-14.004 Program Income and Interest Earned on Advanced Funds.~~

(1) Program Income. The following shall not be considered program income:

(a) ~~Revenues~~ The following shall not be considered program income: revenues raised by a government contractor under its governing powers, such as taxes, special assessments, levies, fines, and fees.

(b) Tuition and related fees received by an institution of higher education for a regularly offered course taught by an employee of the contractor.

(2) Uses. For cost reimbursement contracts, program income shall be retained by the contractor and used in accordance with the approved ~~summary~~ operating budget.

PROPOSED EFFECTIVE DATE: July 1, 2003

Specific Authority 394.77, 394.78(1), 397.321(5) FS. Law Implemented 394.66(9), 394.77, 397.481 FS. History--New 2-23-83, Amended 2-25-85, Formerly 10E-14.04, Amended 7-29-96, Formerly 10E-14.004, Amended 7-1-03.

65E-14.005 Matching.

This chapter contains rules for satisfying State requirements for matching. ~~These rules apply whether matching is required by State statute or by the terms of the contract.~~

(1) Allowable for Matching. With the exceptions listed in subsection 65E-14.005(2), F.A.C., matching requirements may be satisfied by any or all of the following:

(a) Allowable costs supported by non-State or Federal grants incurred by the contractor during the effective period ~~date~~ of the contract;

(b) The value of third-party in-kind contributions applicable to the matching requirement period;

(c) The value of volunteer services up to and including 10 percent of the total budget for the contractor's entire organization, when ~~When~~ a contractor does not receive sufficient tax support from a public agency or where that support does not meet the 25 percent match requirement; ~~volunteer services may be counted as local match up to and including 10 percent of the total budget; and~~

(d) Costs supported by general ~~General~~ revenue sharing funds under 31 U.S.C. 1221, except as otherwise provided by Federal statute; ~~and are not considered a Federal grant. Therefore, in the absence of any provisions of Federal statute to the contrary, allowable costs supported by these funds may count towards satisfying a matching requirement.~~

(e) Costs supported by fees ~~Fees~~ and program income ~~may be used towards satisfying matching requirements.~~

(2) Unallowable for Matching.

(a) Costs paid for by another State, Federal or other governmental agency contract or grant except ~~Except~~ as provided by State or Federal statute, ~~a matching requirement may not be met by costs supported by another State, Federal or other governmental agency contract or grant.~~

(b) ~~Costs~~ No cost or third-party in-kind contributions ~~that may count towards satisfying a matching requirement of a Department contract if they are used to satisfy a matching requirement of another State contract or Federal grant.~~

(c) Expenditures of Medicaid Funds.

(d) Expenditures for services not related to the state-designated cost centers for substance abuse and mental health services.

(e) Unallowable costs specified in subsection 65E-14.017(4), F.A.C.

~~(f)(b)~~ Income from sale of printed material, food, and books purchased with State funds.

(3) Not Requiring Matching. The following contracted services and funds do not require local match:

(a) Deinstitutionalization projects, which are defined as adult mental health programs in the following cost centers:

1. Residential-Levels I-IV;
2. Short-term Residential Treatment;
3. Supportive Housing/Living;
4. Case Management;
5. Intensive Case Management; and
6. Florida Assertive Community Treatment (FACT) Teams.

(b) Children's Mental Health (100435) and Purchased Residential Treatment Services (102780) appropriation categories that were transferred to Alcohol, Drug and Mental Health from the Family Safety and Preservation Program.

(c) Addition in the General Appropriations Act of alcohol, drug abuse, and mental health block grant funds for local community mental health centers. The original amount of Mental Health Block Grant budget that did not require local match is given in the 1985 Approved Operating Budget. The Mental Health Block Grant, however, has significantly decreased since 1985, and the amount that continues to not require match is equal to the proportionate decrease.

(d) Drug abuse service funding, as determined by the following calculations:

1. For the most recent 12-month period available, calculate the number of clients served by primary, secondary, and tertiary alcohol and drug diagnosis for the contractor from the substance abuse enrollment and admission data in the department's Mental Health and Substance Abuse Data System.

2. From the data, count the total number of persons presenting with alcohol as a primary, secondary, or tertiary problem.

3. Divide the result in subparagraph 2. by the result in subparagraph 1. to arrive at the percentage of alcohol clients served.

4. Subtract the result of subparagraph 3. from 1.00 to arrive at the percentage of drug abuse clients served.

5. Multiply the result in subparagraph 4. by the total amount of substance abuse funds in the contract to arrive at the amount that does not require match. Substance abuse funds in the contract are those appropriated to either the Community Substance Abuse Services or Children and Adolescent Substance Abuse Services appropriations, special categories 100618 and 100420, respectively.

(4) Calculating the Total Match Amount.

(a) Add the amounts from paragraphs 65E-14.005(3)(a), (b), (c) and sub-paragraph 65E-14.005(3)(d)5., F.A.C., together and subtract that total from the total amount of the contract.

(b) Divide the result in paragraph (a) above by 3 to arrive at the total match amount required.

(5) Records. Costs and third-party in-kind contributions counting towards satisfying a matching requirement must be verifiable from the contractor's records. These records must show how the value placed on third-party in-kind contributions was derived.

(6)(4) Special Standards for Third-party In-kind Contributions.

(a) Third-party in-kind contributions shall conform to allowable cost provision to satisfy a matching requirement.

(b) When a third-party in-kind contribution is made at a reduced charge, the contractor's records must provide documentation as specified in paragraph (d), below, to verify that portion of the cost donated.

(c) The values placed on third-party in-kind contributions for matching purposes shall conform to other appropriate sections of this rule.

(d) Documentation of in-kind contributions. All third-party in-kind contributions must be documented. The following standards will be applied to all claims for in-kind match:

1. Service. A statement from the employer of the person who provided the donated service detailing the nature of the service, basis for computing cost of those services, dates and number of hours the services were provided and certification that the services were provided and certification that the services were not and will not be paid for by the contractor but were donated at no charge. This statement should be prepared on the letterhead stationery of the donor and signed by a responsible party of that organization.

2. Volunteers. A statement from the volunteer certifying that required services were performed for the contractor free of charge and the minimum training and experience requirements were met for the service performed. Time logs should be prepared and signed by the volunteer. In addition, a schedule should be prepared by the contractor which indicates the basis for establishing the value of these services.

3. Supplies. A statement from the person or organization donating the supplies detailing the description, condition and value of the supplies and a certification that the donor was not and will not be paid for the supplies. This statement should be on the letterhead stationery of the donor. If no letterhead is available, the statement should include the name, address and telephone number of the donor, and signed by a responsible party of that organization.

4. Use of equipment. A signed statement from the owner of the equipment detailing the description of the loaned equipment, responsibilities for repairs, maintenance and insurance, beginning and ending dates of the use of the equipment; the valuation of the use of the equipment and a

certification that no payment has been or will be received for the use of the equipment. This statement should be on appropriate letterhead stationery.

5. Use of building or space. A signed statement from the owner of the property, building or space detailing the description of the property; dimensions; times available and used; responsibilities for repairs, maintenance, insurance, utilities and janitorial services; the valuation of the use of the property and a certification that no payment has been or will be received for the use of the property. This statement should be on appropriate letterhead stationery.

~~(7)(5)~~ Contractors are responsible for meeting matching requirements for alcohol, ~~drug abuse~~ and mental health funds. Matching requirements, as specified in Chapter 394, Part IV, F.S., shall be based on the total amount of contracted funds.

(8) Client-specific unit cost performance contracts shall not require local matching funds.

PROPOSED EFFECTIVE DATE: July 1, 2003

Specific Authority 394.76, 397.03, ~~397.321(5)~~ FS. Law Implemented 394.457(3), 394.76, 397.03 FS. History—New 2-23-83, Amended 2-25-85, Formerly 10E-14.05, 10E-14.005, Amended 7-1-03.

65E-14.007 Appraisal of Real Property.

(1) It will be necessary to establish the market value of land or a building or the fair rental rate of land or of space in a building. In cases where there is a dispute between the Department and a contractor provider regarding the value of land or a building, or the fair rental rate of land or a building, the Department shall require that the market value or fair rental rate be established by a certified real property appraiser and that the value or rate be certified by a responsible official of the party to which the property or its use is donated. The appraisal needs to include the appraiser's estimate of the remaining useful life of the property.

(2) A certified real property appraiser must be a member in good standing of one of the following associations:

- (a) American Institute of Real Estate Appraisers;
- (b) American Association of Certified Appraisers;
- (c) American Society of Appraisers;
- (d) National Association of Independent Fee Appraisers;
- (e) National Society of Fee Appraisers; or

(f) Society of Real Estate Appraisers; and have five years of professional experience in multipurpose appraisals of plants assets involving the establishing or reconstructing of the historical cost of such assets.

PROPOSED EFFECTIVE DATE: July 1, 2003

Specific Authority 394.74, 397.321(5) FS. Law Implemented 394.74, 397.481 FS. History—New 2-23-83, Formerly 10E-14.07, Amended 7-29-96, Formerly 10E-14.007, Amended 9-17-97, 7-1-03.

65E-14.011 Programmatic Changes and Budget Revisions.

~~Programmatic Changes.~~ This subsection contains requirements for prior notification of departures, other than budget revisions, from approved district plans.

~~(1) Changes to program scope or objectives. The contractor shall submit prior notification for any significant change to the scope or objectives of the approved program service components as listed in the approved district plan. Significant change means:~~

~~(a) Any deviations of 25 percent or more of the total approved program service component budget;~~

~~(b) Where there is a change in the geographic location of services; and~~

~~(c) Where the availability or accessibility of services to any population group will be affected.~~

~~(2) Changes in key personnel. The contractor shall provide notification to the department:~~

~~(a) When the executive director of the program changes; and~~

~~(b) When the executive director or principal program person devotes substantially less effort to the program than was anticipated when the contract was executed.~~

PROPOSED EFFECTIVE DATE: July 1, 2003

Specific Authority 394.76, 397.321(5) FS. Law Implemented 394.76, 397.481 FS. History—New 2-23-83, Amended 2-25-85, Formerly 10E-14.11, Amended 7-29-96, Formerly 10E-14.011, Repealed 7-1-03.

65E-14.014 Contractor's Financial Management Responsibilities.

(1) Financial Eligibility.

(a) Patients receiving Baker Act services must meet financial eligibility criteria based on current federal Poverty Income Guidelines published in the Federal Register, and the criteria on HRS-MH Form 3084, Oct 84, known as PUBLIC BAKER ACT SERVICE ELIGIBILITY.

(b) Each public receiving facility may provide public Baker Act services to acutely ill individuals who are financially ineligible if:

1. The total number of days of service paid for with public Baker Act funds for financially ineligible individuals shall not exceed 20 percent of the total number of days paid for with public Baker Act funds when combining all 24-hour care services. The total number of patient days equals the aggregated number of hours of care for each client from admission to discharge divided by 24.

2. Services are provided based upon an individual's acute need for mental health services; and

3. The provision of this service is consistent with the available capacity of the program.

(2) An individual's diagnostic and financial eligibility shall be documented on HRS-MH Form 3084, Oct 84, known as PUBLIC BAKER ACT SERVICE ELIGIBILITY, and which is included by reference. This form requires justification and description of the manner in which the individual's condition specifically met the required diagnostic eligibility criteria as well as documentation of the individual's financial eligibility. HRS-MH Form 3084, Oct 84, must be completed at the time of admission or shortly thereafter, at which time the patient or significant others must be advised of the individual's eligibility status and of its meaning. This documentation shall be maintained in the patient clinical record. Copies of HRS-MH Form 3084, Oct 84, may be obtained from the department.

(3) All contractors ~~and subcontractors~~ shall refund to the state any monies paid for ineligible services, and for services to ineligible individuals which exceed the standards set forth under paragraph Rule 65E-14.014(1)(b), F.A.C., above. Refunds shall also be made for services not actually performed or not documented and any funds owed to the department because of violation of rules. Refunds may be recovered from future payments if the contractor is to be funded to provide eligible services.

(4) All public Baker Act service contracts are subject to review by the department for documentation as to incurring the least prospective cost to the state. This review includes, at a minimum, those documents submitted as required under subsections Rule 65E-14.014(6) and (7), F.A.C., below. The total anticipated cost of services to be purchased under a proposed contract shall be equal to or less than the total costs of those same services which otherwise could be purchased at the usual and customary rate by the cumulative total of state, local, and anticipated third party monies. The contract payment methodology approved must be the one which represents the least prospective cost to the state.

(5) The review and approval of public receiving facilities' subcontracts by the district administrator shall not diminish the liability for each public receiving facility to perform in accordance with these rules.

(6) A public receiving facility, as defined in Rule 65E-5.024, Florida Administrative Code, which is a hospital licensed under Chapter 395, Florida Statutes, may elect to participate in an invoice billing basis in lieu of the inpatient cost center billing basis described under these rules. In the event of this election, inpatient services will not be subject to audit pursuant to the allowable and disallowable mental health costs as defined under these rules. The negotiated cost per day for these services, based upon the submission of an inpatient service component budget, and as approved by the district administrator, shall be stated in the service ~~contractor provider~~ contract. The department will not be responsible for any cost in excess of the service ~~contractor provider~~ contract amount for any public receiving facility electing to contract in this manner.

(7) The following shall apply to all Baker Act public receiving facility contracts and subcontracts:

(a) Contracts ~~and subcontracts~~ shall specify the manner in which financial transactions and service provisions are to be documented. The specification of clearly auditable financial transaction procedures and service documentation procedures for subcontractors is the contractor's responsibility.

(b) The district administrator shall exercise prior approval of the provisions and wording of all subcontracts entered into by a public receiving facility.

(c) Each contract or subcontract shall, at a minimum, specify:

1. The type of services purchased; a description of the manner in which the services are to be provided.

2. The setting, circumstance, and other operational aspects of the agreement.

3. The billing and payment mechanism; third party billings and fee collection procedures which prevent duplicate payments for services provided.

4. Documentation of the performance of billed services.

5. The duration of the contract.

6. The mechanism by which any overpayment will be recovered.

7. Any subcontracts let by a public receiving facility shall ensure that public Baker Act funds are utilized as the payor of last resort after individual and third party billings have failed to provide the contracted payment amount for contractual services to eligible patients.

(d) Except as the result of an emergency or nonroutine situation, all payments for purchased services shall be made upon the basis of an existing contract with the service ~~contractor provider~~.

(e) All contractors shall assure that the negotiated price and performance of purchased services are commensurate with or are less than prevailing local prices for similar types of services.

(8) Monitoring of contractors ~~and subcontractors~~ for Baker Act services shall include the following:

(a) That billings adequately reflect the contracted unit costs or the actual costs of the provision of eligible services to eligible patients.

(b) The completion of HRS-MH Form 3084, Oct 84, for all applicants of public Baker Act services.

(c) Compliance with patient diagnostic and financial eligibility criteria. At a minimum, representative sampling of patient records, by departmental staff, from each 24-hour care service shall be combined to determine if more than 20 percent of the total number of days paid for with public Baker Act funds, as defined under paragraph Rule 65E-14.014(1)(b), F.A.C., above; were provided to financially ineligible persons. Members of the district planning council shall not be given access to patient records and client identifying information.

PROPOSED EFFECTIVE DATE: July 1, 2003

Specific Authority 394.74, 397.321(5) FS. Law Implemented 394.74, 397.481 FS. History—New 2-23-83, Amended 2-25-85, Formerly 10E-14.14, Amended 7-29-96, Formerly 10E-14.014, Amended 8-17-97, 7-1-03.

65E-14.016 Transactions Resulting in Additional Cost to the Program.

(1) Definitions.

(a) Ownership costs – Those costs incurred in relation to ownership of real and personal property which include allowable interest, depreciation, taxes, insurance and normal maintenance.

(b) Related party – Related parties mean affiliates of the service contractor provider; entities which investments are accounted for by the equity method by the service contractor provider; trusts for the benefit of employees such as pension, health and welfare benefits, etcetera, that are managed by or under the trusteeship of the contractor provider board or management; and parties with which the contractor provider may deal if one party controls or can significantly influence the management or operating policies of the other to an extent that one of the parties would be prevented from fully pursuing its own separate interest. This definition will be interpreted in accordance with the “Statement on Auditing Standards # 6,” issued by the Auditing Standards Executive Committee of the American Institute of Certified Public Accountants, entitled “Related Party Transactions.”

(2) Transactions between a contractor and a related party that appear to result, as determined by the department, in additional cost to the program shall be reimbursed to the contractor in an amount equal to the eligible cost which would have been allowed had no related party been involved. Any cost in excess of what would have been allowable by the department shall be disallowed.

(3) If, in the judgment of the Department, related party involvement has caused an increase in cost, the Department shall have access to the financial records of the related party in order to determine the allowable cost of the transaction. If the Department is not allowed full and unrestricted access to the records of the related party, all payments to the related party questioned by the Department shall be disallowed.

(4) The following related party transactions may be questioned by the Department:

(a) Transactions between a contractor provider and related party who have common ownership or control.

(b) The existence of a related party primarily for the benefit or purpose of a contractor. Primary benefit or purpose is defined to be when 50 percent or more of the gross revenues of the related party are received from or for the contractor or 50 percent of the expenditures of the related party are made to or for the benefit of the contractor. The department shall carefully review the documentation provided in all such situations before making a decision. The final determination shall rest with the department.

(c) If real or personal property has ever been transferred between a related party and contractor, reimbursement for the use of the property transferred shall not exceed cost to the transferor, unless determined to be an arm's length transaction by the department.

(d) If a related party leases property to a contractor and subsequently makes a cash or in-kind donation to the lessee, the lease transaction will be carefully reviewed by the department to determine if the lease is an arm's length transaction. If found not to be an arm's length transaction, the department shall disallow any amount that exceeds the ownership costs of the related party.

(e) One contractor leasing property or delivering services to another contractor shall do so at cost. The cost incurred must be reasonable and delivered at the lowest available cost for the service. The lowest available cost shall be documented by evidence that the contractor solicited services from other contractors providers and selected the lowest cost available. Documentation for the decision shall be maintained by the contractor for audit by the department.

(f) If a contractor loans money to a related party and subsequently leases property or buys services from the related party, the contractor and related party shall be deemed to be related parties.

(g) If a contractor leases property from one or more of its board members and it can be demonstrated that the rent increased as a result of this transaction, the department may determine that the lease is a related party transaction and reduce the rent to ownership costs.

(h) Space donated by a related party in a building previously owned by a contractor or by a related party who exists primarily for the benefit of the contractor shall be valued for match and reimbursable cost purposes at the lesser of ownership costs of the donor or fair market value of the space as determined by the State Department of Management General Services' guidelines.

PROPOSED EFFECTIVE DATE: July 1, 2003

Specific Authority 394, Part IV, Section 1 FS. Law Implemented 394, Part IV, Section 1 FS. History—New 2-23-83, Amended 2-25-85, Formerly 10E-14.16, 10E-14.016, Amended 7-1-03.

65E-14.017 Cost Principles.

(1) Applicability. ~~These principles shall be used by all contractors in determining the costs of work performed under contracts, and other contracts in which costs are used in pricing, administration, or settlement. Allowable cost means approved program cost in accordance with Section 394.76(3), F.S.~~

(a) For cost reimbursement contracts, these principles shall be used in determining the costs of work performed, identifying the appropriate use of state funds and local matching funds, and accounting for the expenditure of such funds.

(b) Application to Unit Cost Performance Contracts.

1. Subsections 65E-14.017(2) and (3), F.A.C., shall be used to account for the expenditure of funds.

2. Where rates are negotiated pursuant to paragraph 65E-14.021(9)(a), F.A.C., subsection 65E-14.017(4), F.A.C., shall be used in identifying costs that are to be deducted from the total cost of a cost center when negotiating rates and in determining whether allowable expenditures of state funds and local matching funds by the contractor were sufficient to meet the matching requirements of Rule 65E-14.005, F.A.C., and s. 394.76, F.S., as calculated on the schedule prescribed in subparagraph 65E-14.003(3)(a)1., F.A.C.

3. Where rates are established pursuant to paragraph 65E-14.021(9)(b), F.A.C., the provisions of subsection 65E-14.017(4), F.A.C., shall only apply to the determination of whether allowable expenditures of state funds and local matching funds by the contractor were sufficient to meet the matching requirements of Rule 65E-14.005, F.A.C., and s. 394.76, F.S., as calculated on the schedule prescribed in subparagraph 65E-14.003(3)(a)1., F.A.C.

4. The requirement for prior approval by the department of specified cost items in subsection 65E-14.017(4), F.A.C., shall not apply to unit cost performance contracts.

(2) General Principles – Basic Considerations.

(a) Composition of total costs. The total cost of a contract is the sum of the allowable costs less any applicable credits.

(b) Factors affecting allowability of costs. To be allowable, costs must meet the following general criteria:

1. Be reasonable for the performance of the contract and be allocable thereto under these principles;

2. Conform to any limitations or exclusions set forth in these principles or in the contract as to types or amount of cost items;

3. Be consistent with policies and procedures that apply uniformly to both State and federally financed and other activities of the organization;

4. Be accorded consistent treatment;

5. Be determined in accordance with generally accepted accounting principles unless specifically excepted by this rule;

6. Not be included as a cost or used to meet matching requirements of any other State financed program in either the current or a prior period; and,

7. Be adequately documented.

(c) Reasonable costs. A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the costs. In determining the reasonableness of a given cost, consideration shall be given to:

1. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the organization or the performance of the contract;

2. The restraints or requirements imposed by such factors as generally accepted sound business practices, arm's length bargaining, Federal and State laws and regulations, and terms and conditions of the contract;

3. Whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the organization, its members, employees, clients, and the public at large; and

4. Significant deviations from the established practices of the organization which may unjustifiably increase the contract costs.

(d) Allocable costs. For unit cost performance contracts, each contractor shall develop a written plan for allocating direct and indirect costs to each cost center.

1. A cost is allocable to a particular ~~program-service component or other~~ activity, in accordance with relative benefits received.

2. Any cost allocable to a particular ~~program-service component or other~~ activity may not be shifted to other State or Federal contracts or grants to overcome funding deficiencies, or to avoid restrictions imposed by law or by the terms of the contract.

3. A direct cost is any cost that can be identified specifically to a particular activity. Direct costs are readily identified on a transaction by transaction basis as necessary, reasonable, and benefiting or supporting one or more activities and can be directly assigned to such activities. A direct cost assigned to a cost center should be directly related to the activities within that cost center and be reasonable in both amount and nature.

4. Indirect Cost.

a. Indirect costs are those incurred for the accomplishment of common or joint purposes that benefit more than one activity and are not readily assignable only to the activity benefited without efforts which are disproportionate to the result achieved. These costs shall be accumulated and allocated so that each activity bears its fair share of the accumulated total indirect costs.

b. Indirect costs are accumulated by logical cost groupings which consider the reasons for incurring the costs and the need to distribute each grouping's costs on the basis of relative benefits accruing to activities.

c. Indirect costs shall be further categorized as support costs related to client services or administrative costs necessary for operating the organization.

d. Administration is to be treated as a cost center that will be allocated to all other cost centers in accordance with the written cost allocation plan developed pursuant to paragraph 65E-14.017(2)(d), F.A.C., and reviewed by the independent auditor pursuant to paragraph 65E-14.003(3)(c), F.A.C.

e. To facilitate equitable distribution of indirect costs to the activities served, a contractor may establish a number of pools of indirect cost. In general, the cost pools established

shall constitute an aggregation of those items of expense that are considered to be of like nature in terms of their relative contribution to (or degree of remoteness from) the particular activity to which distribution is appropriate. Each such pool shall then be distributed individually to the related activities using the distribution basis or method most appropriate in the light of the guides set forth in the contractor's written cost allocation plan.

f. Where the contractor elects to treat fringe benefits as indirect costs, such costs shall be set aside as a separate cost pool for distribution to related activities.

(e) Applicable credits. The term applicable credits refers to those receipts, or reduction of expenditures which operate to offset or reduce expense items that are allocable as direct or indirect costs. Typical examples of such transactions are: purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds, and adjustments of overpayments or erroneous charges. To the extent that such credits accruing or received by the organization relate to allowable cost, an appropriate portion of the cost shall be credited to the Department.

(f) Advance Understandings. Under any given contract, the reasonableness and allocability of certain items of cost may be difficult to determine. In order to avoid subsequent disallowance or dispute based on unreasonableness or nonallocability, it is often desirable to seek a written agreement with the Department in advance of the incurrence of special or usual costs. The absence of an advance agreement on any element of cost will not, in itself, affect the reasonableness or allocability of that element.

(3) Accounting Standards Program Costs.

(a) Accounting Systems and Internal Control. The contractor shall develop and maintain is responsible for developing and maintaining accounting systems and internal controls to provide reasonable assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and properly recorded to permit the preparation of financial statements in accordance with generally accepted accounting principles.

(b) Accounting Principles. Generally Accepted Accounting Principles (GAAP), as adopted by the Financial Accounting Standards Board, shall be used in the preparation of all financial statements and reports unless otherwise specifically provided in these rules. As contemplated by GAAP, expenditures shall be reported on the accrual basis, which consists of liabilities incurred for goods and services received, other assets acquired and performance accepted, and other liabilities incurred not involving the furnishing of goods and services, whether or not payment has been made and whether or not invoices have been received. The cost or

consumption of accrued expenditures is recognized when an operation, function, or activity makes use of the asset or expense.

(c) The Base Period. The base accounting period for the allocation of indirect costs is the period during which such costs are incurred and accumulated for distribution to work performed in that period. Normally, the base period is the contractor's fiscal year; however, a shorter period may be appropriate for a particular activity whose performance involves only a portion of the fiscal year. Program costs are those that can be identified specifically with a particular final cost objective; that is, a particular program service component, or other activity of an organization. Program costs identified specifically to a program service component are to be assigned directly thereto.

(b) The program costs of activities performed primarily as a service to members, clients, or the general public when significant and necessary to the organization's mission must be treated whether or not allowable and be allocated an equitable share of indirect costs. Some examples of these types of activities include:

1. Maintenance of membership rolls; subscriptions, publications, and related functions;
2. Providing services and information to members, legislative or administrative bodies, or the public;
3. Promotion, lobbying, and other forms of public relations;
4. Meetings and conferences, except those held to conduct the general administration of the organization;
5. Maintenance, protection, and investment of special funds not used in operation of the organization; and
6. Administration of group benefits on behalf of members or clients including life and hospital insurance, annuity or retirement plans, financial aid, et cetera.

(4) Selected Items of Cost. The following paragraphs provide principles to be applied in establishing the allowability of certain items of cost. Note: Failure to mention a particular item of cost is not intended to imply that it is unallowable; rather, determination as to allowability in each case should be based on the treatment or principles provided for similar or related items of cost.

(a) Advertising.

1. Advertising cost means the cost of media services and associated costs. Media advertising includes magazines, newspapers, radio and television programs, direct mail, exhibits, and the like.

2. The only advertising costs allowable are those which are solely for:

a. The recruitment of personnel when considered in conjunction with all other recruitment costs, as set forth in conjunction with all other recruitment costs, as set forth in paragraph 65E-14.017(4)(ii), F.A.C.;

- b. The procurement of goods and services;
- c. The disposal of surplus materials acquired in the performance of the contract;
- d. Advertising the service availability; and
- e. Legal notices.

(b) Bad debts. Bad debts, including losses, whether actual or estimated, arising from uncollectible accounts and other claims, related collection costs, and related legal costs, are unallowable.

(c) Bargain purchases or services. For the purpose of this rule, third-party in-kind contributions will be accepted for matching only when the donor has certified that no payment has been or will be received for the donation. The only exception will be where an agreement must be executed between the donor and the contractor to satisfy legal requirements and only then when no material amount of consideration passes between the parties.

(d) Bonding costs.

1. Bonding costs arise when the Department requires assurance against financial loss to itself or others by reason of the act or default of the organization. They arise also in instances where the organization requires similar assurance. Included are such bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds.

2. Costs of bonding required pursuant to the terms of the contract or statute are allowable.

3. Costs of bonding required by the organization in the general conduct of its operations are allowable to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.

(e) Communication costs. Costs incurred for telephone services, local and long distance telephone calls, telegrams, radiograms, postage and the like, are allowable.

(f) Compensation for personal services.

1. Definition. Compensation for personal services includes all compensation paid currently or accrued by the organization for services of employees rendered during the period of the contract, except as otherwise provided below. It includes; salaries, wages, incentive awards, fringe benefits, pension plan costs, and competitive area differentials.

2. Allowability. Except as otherwise specifically provided in this paragraph, the costs of such compensation are allowable to the extent that:

a. Total compensation to individual employees is reasonable for the services rendered and conforms to the established policy of the organization consistently applied to both State supported programs, and other program activities; and

b. Charges to contracts, whether treated as direct or indirect costs, are determined and supported as required in this paragraph.

3. Unallowable costs. Costs which are unallowable under other paragraphs of this Rule shall not be allowable under this paragraph solely on the basis that they constitute personal compensation.

4. Fringe benefits.

a. Fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as vacation leave, sick leave, military leave, and the like, are allowable provided such costs are absorbed by all organization activities in proportion to the relative amount of time or effort actually devoted to each.

b. Fringe benefits in the form of employer contributions or expenses for social security, employee insurance, pension plan costs, and the like, are allowable ~~provided such benefits are granted in accordance with comparable coverage authorized for State employees in the State Career Service benefit package for career service employees.~~ Such benefits shall be distributed to particular ~~program service components and other~~ activities in a manner consistent with the pattern of benefits accruing to the individuals or group of employees whose salaries and wages are chargeable to those activities.

c. Where an organization follows a consistent policy of expending actual payments to, or on behalf of, employees or former employees for unemployment compensation or workers' compensation, such payments are allowable in the year of payment provided they are allocated to all activities of the organization.

5. Pension plan costs. Costs of the organization's pension plan which are incurred in accordance with the contractor's established policies are allowable, provided:

a. Such policies meet the test of reasonableness;

b. The methods of cost allocation are not discriminatory;

c. The cost assigned to each fiscal year is determined in accordance with generally accepted accounting principles as prescribed in Accounting Principles Board Opinion No. 8 issued by the American Institute of Certified Public Accountants, which is incorporated by reference and may be obtained from American Institute of Certified Public Accountants, Harborside Financial Center, 201 Plaza Three, Jersey City, New Jersey 07311-3881; and

d. The costs assigned to a given fiscal year are funded for all plan participants within six months after the end of that year. However, increases to normal and past service pension costs caused by a delay in funding the actuarial liability beyond 30 days after each quarter of the year to which such costs are assignable are unallowable.

e. Pension plan termination insurance premiums paid pursuant to the Employee Retirement Income Security Act of 1974, P. L. 93406, are allowable. Late payment charges on such premiums are unallowable.

f. Excise taxes on accumulated funding deficiencies and other penalties imposed under the Employee Retirement Income Security Act are unallowable.

g. Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etcetera, are allowable to the extent that the overall compensation is ~~determined to be~~ reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the organization and the employees before the services were rendered, or pursuant to a written plan established by the organization to make such payments.

(I) Overtime premiums. See paragraph 65E-14.017(4)(z), F.A.C.

(II) Severance pay is not an allowable cost.

(III) Training and education costs. See paragraph 65E-14.017(4)(oo), F.A.C.

(IV) Support of salaries and wages.

(V) A contractor may record compensation for personnel services to the applicable cost center ~~program component~~ based upon the approved operating budget. Further, non-salary costs may also be allocated to the applicable cost centers ~~program components~~ based upon the approved operating budget. For this to be applicable, it must be included in the contractor's written cost allocation plan ~~must be included as part of the proposed operating budget and approved by the department.~~

(VI) Reports reflecting the distribution of activity of each employee must be maintained for all staff members, professionals and nonprofessionals, whose compensation is charged, in whole or in part, directly to the cost center ~~program service component~~. In addition, charges for the salaries and wages of each employee must also be supported by reports indicating the total number of hours worked each day.

(VII) The reports must be signed by the individual employee, and by a responsible supervisory official having firsthand knowledge of activities performed by the employee. Time sheets signed by individual employees are not required to document the provision of service units under unit cost performance contracts.

(g) Contingency provisions. Contributions to a contingency reserve or any similar provision made for events, the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable. The term "contingency reserve" excludes self-insurance reserves and pension funds.

(h) Contributions. Contributions and donations by the organization to others are unallowable.

(i) Depreciation.

1. Compensation for the use of buildings, other capital improvements, and equipment on hand may be made through depreciation.

2. The computation of depreciation shall be based on the acquisition cost of the assets involved. The acquisition cost of an asset donated to the organization by a third party shall be its fair market value at the time of the donation.

3. The computation of depreciation will exclude:

a. The cost of land;

b. Any portion of the cost of buildings and equipment borne by or donated by the State or Federal Government, irrespective of where title was originally vested or where it presently resides; and

c. Any portion of the cost of buildings and equipment contributed by or in satisfaction of a statutory matching requirement.

4. Where depreciation method is followed, the period of useful service, useful life established in accordance with guidelines as published by the American Hospital Association, 1973 Edition of the Chart of Accounts for Hospitals, "Estimated Useful Life of Land Improvements, Buildings and Fixed Equipment." The method of depreciation used to assign the cost of an asset, or group of assets, to accounting periods shall reflect the pattern of consumption of the asset during its useful life. In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater or lesser in the early portions of its useful life than in the later portions, the straight-line method shall be presumed to be the appropriate method. Depreciation methods once used shall not be changed unless approved in advance by the Department. When the depreciation method is introduced for application to assets previously subject to a use allowance, the combination of use allowances and depreciation applicable to such assets must not exceed the total acquisition cost of the assets. When the depreciation method is used for buildings, a building's shell may be segregated from each building component, for example, plumbing system, heating, and air conditioning system, etcetera, and each item depreciated over its estimated useful life; or the entire building, that is, the shell and all components, may be treated as a single asset and depreciated over a single useful life.

5. When the depreciation method is used for a particular class of assets, no depreciation may be allowed on any such assets that would be viewed as fully depreciated.

6. Charges for depreciation must be supported by adequate property records and physical inventories must be taken at least once every two years to ensure that assets exist and are usable and needed. When the depreciation method is followed, adequate depreciation records indicating the amount of depreciation taken each period must also be determined.

(j) Donations.

1. Services received. Donated or volunteer services may be furnished to an organization by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services are allowable up to 10 percent of the total budget. Fair market value of donated services shall be computed as follows:

a. Rates for volunteer services. Rates for volunteers shall be consistent with those regular rates paid for similar work in other activities of the organization. In cases where the kinds of skills involved are not found in the other activities of the

organization, the rates used shall be consistent with those paid for similar work in the labor market in which the organization competes for such skills.

b. Services donated by other organizations. When an employer donates the services of an employee, these services shall be valued at the employee's regular rate of pay provided the services are in the same skill for which the employee is normally paid. If the services are not in the same skill for which the employee is normally paid, fair market value shall be computed in accordance with sub-subparagraph 65E-14.017(4)(f)2.a., F.A.C.

2. Goods and space.

a. Donated goods; i.e., expendable personal property and supplies, and donated use of space may be furnished to an organization. The value of the goods and space is an allowable cost.

b. The value of the donations may be used to meet matching requirements.

(k) Employee morale, health, and welfare costs and credits. The costs of house publications, health or first-aid clinics or infirmaries, employees' counseling services, and other expenses incurred in accordance with the organization's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee performance are allowable. Such costs will be equitably apportioned to all activities of the organization. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably set over to employee welfare organizations.

(l) Entertainment costs. Costs of amusement, diversion, social activities, ceremonials, and costs relating thereto, such as meals, lodging, rentals, transportation, and gratuities are unallowable.

(m) Equipment and other capital expenditures.

1. As used in this paragraph, the following terms have the meanings set forth below:

a. "Equipment" means an article of nonexpendable tangible personal property having a useful life of more than two years and an acquisition cost of \$500 or more per unit. An organization may use its own definition provided that it, at least, includes all nonexpendable tangible personal property as defined herein.

b. Ancillary charges, such as taxes, duty, protective intransit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.

c. "General purpose equipment" means equipment which is usable for other than research, medical, scientific, or technical activities, whether or not special modifications are needed to make them suitable for a particular purpose. Examples of general purpose equipment include office

equipment and furnishings, air conditioning equipment, reproduction and printing equipment, motor vehicles, and automatic data processing equipment.

2. Capital expenditures for general purpose equipment are unallowable, except with the prior approval of the Department.

3. Capital expenditures for land or buildings are unallowable, except with the prior approval of the Department.

4. Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable, except with the prior approval of the Department.

5. Equipment and other capital expenditures are unallowable as indirect costs. However, see paragraph 65E-14.017(4)(m), F.A.C., for allowability of use allowances or depreciation on buildings, capital improvements, and equipment.

(n) Fines and penalties. Costs of fines and penalties resulting from violations of, or failure of the organization to comply with Federal, State, and local laws and regulations are unallowable, except when incurred as a result of compliance with specific provisions of a contract or instructions in writing from the Department.

(o) Fringe benefits. See subparagraph 65E-14.017(4)(f)5., F.A.C.

(p) Idle facilities and idle capacity.

1. The costs of idle facilities are unallowable except to the extent that:

a. They are necessary to meet fluctuations in workload; or

b. Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, efforts to achieve more economical operations, reorganization, termination, or other causes which could not have been reasonably foreseen. Under the exception stated in this subparagraph, costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year, depending upon the initiative taken to use, lease, or dispose of such facilities.

2. The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or cost from period to period. Such costs are allowable, provided the capacity is reasonably anticipated to be necessary or was originally reasonable and is not subject to reduction or elimination by subletting, renting, or sale, in accordance with sound business, economics, or security practices. Widespread idle capacity throughout an entire facility, or among a group of assets having substantially the same function, may be idle facilities.

(q) Insurance and indemnification. Insurance includes insurance which the organization is required to carry, and any other insurance which the organization maintains in connection with the general conduct of its operations. This paragraph does

not apply to insurance which represents fringe benefits for employees, see subparagraphs paragraphs 65E-14.017(4)(f)4. and (4)(f)5., F.A.C.

1. Costs of insurance required or approved, and maintained, pursuant to the contract are allowable.

2. Costs of other insurance maintained by the organization in connection with the general conduct of its operations are allowable subject to the following limitations:

a. Types and extent of coverage shall be in accordance with sound business practice and the rates and premiums shall be reasonable under the circumstances.

b. Costs allowed for business interruption or other similar insurance shall be limited to exclude coverage of management fees.

c. Provisions for a reserve under a self-insurance program are allowable to the extent that types of coverage, extent of coverage, rates, and premiums would have been allowed had insurance been purchased to cover the risks. However, provision for known or reasonably estimated self-insured liabilities, which do not become payable for more than one year after the provision is made, shall not exceed the present value of the liability.

3. Actual losses which could have been covered by permissible insurance, through the purchase of insurance or a self-insurance program, are unallowable unless expressly provided for in the contract, except:

a. Costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound business practice are allowable.

b. Minor losses not covered by insurance, such as spoilage, breakage, and disappearance of supplies, which occur in the ordinary course of operations, are allowable.

(r) Interest, fund raising and investment management costs.

1. Necessary and proper interest on both current and capital indebtedness is an allowable cost, if the interest is:

a. Supported by evidence of an agreement that funds were borrowed and that payment of interest and repayment of the funds are required;

b. Identifiable in the agency's accounting records;

c. Related to the reporting period in which the costs are incurred; and

d. Necessary and proper for the operation, maintenance, or acquisition of the agency's facilities.

2. Costs of contracted professionally organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions are unallowable.

3. Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are unallowable.

(s) Labor relations costs. Costs incurred in maintaining satisfactory relations between the organization and its employees, including costs of labor management committees, employee publications, and other related activities are allowable.

(t) Losses on other awards. Any excess of costs over income on any contract is unallowable as a cost of any other contract. This includes, but is not limited to, the organization's contributed portion by reason of cost sharing agreements or any underrecoveries through negotiation of lump sums for, or ceilings on, indirect costs.

(u) Maintenance and repair costs. Costs incurred for necessary maintenance, repair, or upkeep of buildings and equipment which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable. Costs incurred for improvements which add to the permanent value of the buildings and equipment, or appreciably prolong their intended life, shall be treated as capital expenditures.

(v) Materials and supplies. The costs of materials and supplies necessary to carry out a contract are allowable. Such costs should be charged at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the organization. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing consistently applied. Incoming transportation charges may be a proper part of material cost. Materials and supplies charged as a cost should include only the materials and supplies actually used for the performance of the contract, and due credit should be given for any excess materials or supplies retained, or returned to vendors.

(w) Meetings, conferences.

1. Costs associated with the conduct of meetings and conferences include the cost of renting facilities, meals, speakers' fees, and the like.

2. To the extent that these costs are identifiable with a particular cost objective, they should be charged to that objective. These costs are allowable, provided that they meet the general tests of allowability, in accordance with this rule.

3. Costs of meetings and conferences held to conduct the general administration of the organization are allowable.

(x) Memberships, subscriptions, and professional activity costs.

1. Costs of the organization's membership in certain civic, business, technical and professional organizations are allowable. The costs of individual dues and memberships are unallowable.

2. Costs of the organization's subscriptions to civic, business, professional, and technical periodicals are allowable, if delivered to a contractor's ~~contractor or subcontractor's~~ business address.

3. Subject to the appropriate provisions of this rule, costs of attendance at meetings and conferences sponsored by others, when the primary purpose is the dissemination of technical information, are allowable. This includes costs of meals, transportation, and other items incidental to such attendance.

(y) Organization costs. Expenditures, such as incorporation fees, brokers' fees, fees to promoters, organizers or management consultants, attorneys, accountants, or investment counselors, whether or not employees of the organization, in connection with establishment or reorganization of an organization, are unallowable, except with prior approval of the Department.

(z) Overtime premiums are allowable when the following conditions exist:

1. When it is required that services be available on a 24-hour 7 days a week basis, and paid to those 24-hour services; or

2. When paid to non-exempt employees consistent with Federal wage and hour requirements.

(aa) Participant support costs. Participant support costs are allowable. Items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees, but not employees, in connection with meetings, conferences, symposia, or training projects. These costs are allowable with the prior approval of the Department.

(bb) Plant security costs. Necessary expenses incurred to comply with State security requirements or for facilities protection, including wages, uniforms, and equipment of personnel are allowable.

(cc) Professional service costs.

1. Costs of professional and consultant services rendered by persons who are members of a particular professional or possess a special skill, and who are not officers or employees of the organization, are allowable when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the State.

2. In addition to paragraph 65E-14.017(4)(cc), F.A.C., above, retainer fees to be allowable must be supported by evidence of bona fide services rendered.

3. Cost of legal, accounting, and consulting services, and related costs incurred in connection with defense and prosecution of legal action against the contractor or Department, are unallowable. Costs of legal, accounting and consulting services, and related costs, incurred in connection with patent infringement litigation, organization and reorganization, are unallowable unless prior approval is otherwise provided by the Department.

(dd) Profits and losses on disposition of depreciable property or other capital assets are to be excluded from State participation.

(ee) Public information service costs.

1. Public information service costs include the costs associated with pamphlets, news releases, and other forms of information services. Such costs are normally incurred to:

a. Inform or instruct individuals, groups, or the general public;

b. Interest individuals or groups in participating in a service program of the organization; and

c. Disseminate the results of sponsored and nonsponsored activities.

2. Public information service costs are allowable.

(ff) Publication and printing costs, including the costs of printing, including the processes of composition, plate-making, press work, binding, and the end products produced by such processes, distribution, promotion, mailing, and general handling are allowable.

(gg) Rearrangement and alteration costs. Costs incurred for rearrangement and alteration of facilities are allowable with the prior approval of the Department.

(hh) Reconversion costs. Costs incurred in the restoration or rehabilitation of the organization's facilities to approximately the same condition existing immediately prior to commencement of Department's contract are not allowable.

(ii) Recruiting costs. The following recruiting costs are allowable:

1. Cost of "help wanted" advertising,

2. Operating costs of an employment office,

3. Costs of operating an educational testing program,

4. Travel expenses including food and lodging of employees while engaged in recruiting personnel,

5. Travel costs of applicants for interviews for prospective employment. Where the organization uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

(jj) Relocation costs. Relocation costs are costs incident to the permanent change of duty assignment, for an indefinite period or for a stated period of not less than 12 months, of an existing employee or upon recruitment of a new employee. Relocation costs are allowable with prior approval of the Department.

(kk) Rental costs.

1. Subject to the limitations described in subparagraphs 65E-14.017(4)(kk)2., 3. and 4., F.A.C., rental costs are allowable to the extent that the rates are reasonable and take into account consistent with the Department of General Services Guidelines in light of such factors as:

a. Rental costs of comparable property, if any;

b. Market conditions in the area;

c. Alternatives available;

d. And the type, life expectancy, condition, and value of the property leased.

2. Rental costs under sale and leaseback arrangements are allowable only up to the amount that would be allowed had the organization continued to own the property.

3. Rental costs under less-than-arm's-length leases are allowable only up to the amount that would be allowed had title to the property vested in the organization. For this purpose, a less-than-arm's-length lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include, but are not limited to, those between:

- a. Divisions of an organization;
- b. Organizations under common control through common officers, directors, or members; and
- c. An organization and a director, trustee, officer, or key employee of the organization or his immediate family either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest.

4. Rental costs under leases which create a material equity in the leased property are allowable only up to the amount that would be allowed had the organization purchased the property on the date the lease agreement was executed; for example, depreciation or use allowances, maintenance, taxes, insurance and interest expense but excluding other unallowable costs. For this purpose, a material equity in the property exists if the lease is noncancelable or is cancelable only upon the occurrence of some remote contingency and has one or more of the following characteristics:

- a. The organization has the right to purchase the property for a price which at the beginning of the lease appears to be substantially less than the probably fair market value at the time it is permitted to purchase the property, commonly called a lease with a bargain purchase option.
- b. Title to the property passes to the organization at some time during or after the lease period.
- c. The term of the lease, initial term plus periods covered by bargain renewal options, if any, is equal to 75 percent or more of the economic life of the leased property; that is, the period the property is expected to be economically usable by one or more users.

(II) Specialized service facilities.

1. The costs of services provided by highly complex or specialized facilities operated by the organization, such as electronic computers, are allowable provided the charges for the services meet the conditions of either sub-subparagraphs 65E-14.017(4)(II)2.a. or b., F.A.C., of this rule and, in addition, take into account any items of income or State financing that qualify as applicable credits.

2. The costs of such services, when material, must be charged directly to contracts based on actual usage of the services on the basis of a schedule of rates or established methodology that:

a. Does not discriminate against departmental supported activities of the organization, including usage by the organization for internal purposes; and

b. Is designed to recover only the aggregate costs of the program. ~~Advance agreements are particularly important in this situation.~~

(mm) Taxes.

1. In general, taxes which the organization is required to pay and which are paid or accrued in accordance with generally accepted accounting principles, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for:

a. Taxes from which exemptions are available to the organization directly or which are available to the organization based on an exemption afforded the State and in the latter case when the Department makes available the necessary exemption certificates; and

b. Federal income taxes.

2. Any refund of taxes, and any payment to the organization of interest thereon, which were allowed will be credited either as a cost reduction or cash refund, as appropriate to the Department.

(nn) Termination costs are allowable only if required in accordance with union contracts and bargaining agreements with which the contractor must comply.

(oo) Allowable training and education costs.

1. Preparation and maintenance of a program of instruction including, but not limited to:

a. On-the-job, classroom, and apprenticeship training, designed to increase the vocational effectiveness of employees, including training materials, textbooks, and salaries of the director of training and staff when the training program is conducted by the organization; or

b. Tuition and fees when the training is in an institution not operated by the organization.

2. Costs of part-time education, at an undergraduate or postgraduate college level, including that provided at the organization's own facilities, are allowable only when the course pursued is relative to the field in which the employee is now working, and are limited to:

a. Training materials;

b. Textbooks;

c. Fees charged by the educational institution; and

d. Tuition charged by the educational institution, or in lieu of tuition, instructors' salaries and the related share of costs of the educational institution to the extent that the sum thereof is not in excess of the tuition which would have been paid to the participating education institution.

3. Contributions or donations to education or training institutions, including the donation of facilities or other properties, and scholarships or fellowships, are unallowable.

4. Training and education costs in excess of those otherwise allowable under subparagraph 65E-14.017(4)(oo)2., F.A.C., may be allowed with prior approval of the Department. To be considered for approval, the organization must demonstrate that such costs are consistently incurred pursuant to an established training and education program, and that the course or degree pursued is relative to the field in which the employee is now working or may reasonably be expected to work.

(pp) Transportation costs. Transportation costs include freight, express, cartage, and postage charges relating either to goods purchased, in process, or delivered. The costs are allowable. When such costs can readily be identified with items involved, they may be charged as transportation costs or added to the cost of such items. Where identification with the materials received cannot readily be made, transportation costs may be charged to the appropriate program cost accounts if the organization follows a consistent, equitable procedure in this respect.

(qq) Travel costs.

1. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the organization. Travel costs are allowable subject to subparagraphs 65E-14.017(4)(qq)2. through 4., F.A.C., when they are directly attributable to specific work or are incurred in the normal course of administration of the organization.

2. Such costs may be charged on a basis consistent with Section 112.061, F.S.

3. The difference in cost between first-class air accommodations and less than first-class air accommodations is unallowable except when less than first-class accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would:

- a. Require circuitous routing;
- b. Require travel during unreasonable hours;
- c. Greatly increase the duration of the flight;
- d. Result in additional costs which would offset the transportation savings; or
- e. Offer accommodations which are not reasonably adequate for the medical needs of the traveler.

4. Direct charges for foreign travel costs are allowable only when the travel has received prior written approval of the Department. Each separate foreign trip must be approved. For purposes of this provision, foreign travel is defined as any travel outside the United States and its territories and possessions.

(rr) Facility owned vehicle costs. A trip log showing date, driver, destination and purpose and odometer readings shall be maintained for each vehicle used in the operation of the contractor. Personal use of vehicles is unallowable.

(ss) Treatment. Excluded is the cost of electroconvulsive therapy.

PROPOSED EFFECTIVE DATE: July 1, 2003

Specific Authority 394.74, 394.78(1), 397.321(5) FS. Law Implemented 394.74, 394.77, 394.78(1), 397.481 FS. History--New 2-23-83, Amended 2-25-85, Formerly 10E-14.17, Amended 7-29-96, Formerly 10E-14.017, Amended 9-17-97, 7-1-03.

65E-14.018 Sliding Fee Scale.

(1) It is not the intent of this section to prohibit or regulate the collection of fees on behalf of a client from third party payers and commercial insurers such as Worker's Compensation, CHAMPUS/VA or Medicare. However, contractors must make every reasonable effort to identify and collect benefits from third party payers for services rendered to eligible clients.

(2) Sliding Fee Scale.

(a) The contractor shall develop a sliding fee scale that applies to persons for services that are paid for by state, federal, or local matching funds who have an annual gross family income at or above 150 percent of the Federal Poverty Income Guidelines. The sliding fee scale does not apply to services paid for by Medicaid.

(b) The contractor shall update the sliding fee scale annually. If payments from a third party payer and client or responsible party exceed the usual and customary charge, the client or responsible party must be refunded the excess recovered.

(c) The contractor shall make a determination of ability to pay in accordance with the sliding fee scale for all clients seeking substance abuse and mental health services. Payment of fees shall not be a pre-requisite to treatment or the receipt of services.

(d) The contractor shall inform clients and responsible parties of the state laws that require the assessment and collection of fees.

(e) The contractor shall retain fees collected for children mental health services and use them to expand child and adolescent treatment services in the service district.

(f) The contractor shall require payment of fees from persons not eligible for Medicaid and whose gross family income is less than 150 percent of the federal poverty income guidelines in accordance with s. 409.9081, F.S. Nominal co-payments for the following substance abuse and mental health services shall apply:

1. Outpatient treatment services – \$3 per day.

2. Residential treatment services – \$2 per day.

(g) The contractor shall require persons meeting the criteria listed below to contribute to their treatment costs consistent with the provisions in s. 409.212, F.S.:

1. Persons who receive optional supplementation payments or are receiving a supplemental security income check.

2. Persons determined to be eligible for optional supplementation by the department.

3. Persons who meet program eligibility criteria for assisted living facilities, foster care family placements, long-term residential care, or any other special living arrangements.

(h) The contractor shall require persons who are involuntarily admitted for substance abuse treatment and mental health examination pursuant to s. 397.675 and s. 394.463, F.S., to contribute to the cost of care in accordance with the sliding fee scale, unless charging a fee is contraindicated because of the crisis situation. The contractor shall inform the client and responsible party when the fee is not charged for this reason and shall document such circumstances in the client's file.

(i) The contractor shall have written procedures for determining annual gross family income for the purpose of assessing, billing and collecting client fees.

1. Current income, from either part-time or full-time employment, received by an adult client and all other adult family members of the household, including the spouse, is derived by multiplying:

a. An hourly wage by 2080 hours (for part-time employment use anticipated annual hours); or

b. A weekly wage by 52 weeks; or

c. A biweekly wage by 26 weeks; or

d. A monthly wage by 12 months.

2. Income from such sources as seasonal type work or other work of less than 12 months duration, commissions, overtime, bonuses and unemployment compensation will be computed as the estimated annual amount of such income for the ensuing 12 months. Historical data based on the past 12 months may be used if a determination of expected income cannot logically be made.

3. The contractor shall accept the client's statements related to income and family size at the initial assessment.

(3) Fee Liability Exceptions. The following parties shall not be liable for payment of fees:

(a) Parents of minor clients, when the client has been permanently committed to the department and parental rights have been permanently terminated.

(b) Parents of a minor child, when the child has requested and is receiving services without parental consent.

(4) Uniform Schedule of Discounts.

(a) The contractor shall develop a sliding fee scale that reflects the uniform discounts in paragraph (b) below, applied to the contractor's usual and customary charges.

(b) The applicable discount to be applied to a contractor's usual and customary charges to create the contractor's sliding fee scale is determined at the intersection of the row for percentage of poverty level with the column for the applicable type of uniform discount.

Percent of Poverty Level	Uniform Discounts	
	Standard Discount Percentage	Accelerated Discount
0% to 150%	Co-pay	0
150% to 165%	96%	See 4. Below
165% to 180%	94%	See 4. Below
180% to 195%	89%	See 4. Below
195% to 210%	81%	See 4. Below
210% to 225%	70%	See 4. Below
225% to 240%	56%	See 4. Below
240% to 255%	39%	See 4. Below
255% to 270%	19%	See 4. Below
270% to 285%	10%	See 4. Below
285% to 300%	5%	See 4. Below
300% and above	0%	0

1. The "Percent of Poverty Level" shall be calculated by dividing the declared gross family income by the Department of Health and Human Services (DHHS) Annual Update of the Health and Human Services Poverty Guidelines. The poverty guidelines establish poverty income levels for various family sizes.

2. If the calculated percent of poverty level percentage is rounded and equals a percentage that appears in two adjacent rows in the Percent of Poverty Level column of the table above, the greater of the two discounts shall apply.

3. The total negotiated charges to a client shall not exceed 5% of gross household income.

4. Nothing in this section shall prevent a contractor from further discounting or writing off charges individually or in the aggregate.

PROPOSED EFFECTIVE DATE: July 1, 2003

Specific Authority 394.493(2), 394.674(4), 394.78(1), 397.321(5) FS. Law Implemented 394.493(2), 394.674(3),(4), 394.74(3)(c), 397.431 FS. History--New 7-1-03.

65E-14.019 Methods of Paying for Services.

(1) Unit Cost Performance Contracts. When purchasing substance abuse and mental health services on a unit cost basis, the department may use the following methods of payment:

(a) Client Non-specific Performance Contracts. These contracts shall be used to purchase units of service within state-designated cost centers at unit cost rates. Client eligibility and service determinations, unless otherwise specified, are the responsibility of the contractor based on eligibility criteria and services purchased.

(b) Client-specific Performance Contracts.

1. These contracts may be used to purchase services for a specific individual or group, but only in the following circumstances:

a. When specialized services are needed from a contractor to serve clients in more than one district;

b. When specialized services are not available from contractors with whom the department already has client non-specific performance contracts; or

c. When emergency care is required and providers with whom the department has client non-specific performance contracts have no available capacity.

2. Individual clients or groups to be served must either be specified in the contract or otherwise approved by the department in advance of receiving service.

(2) Cost Reimbursement Contracts.

(a) These contracts may only be used to reimburse for operational start-up costs for new services or for specific fixed capital outlay projects appropriated by the legislature.

(b) Funds paid to the contractor shall be treated as "restricted funds" as defined in the Generally Accepted Accounting Principles and reported as such in the contractor's annual audit.

(c) All supporting documentation shall comply with Comptroller Memorandum No. 10 (1991-1992) and any other applicable state and federal requirements.

(3) Nothing in subsections (1) and (2) shall be construed to preclude the department from developing and demonstrating alternative financing systems for substance abuse and mental health services in accordance with s. 394.76(4), F.S.

PROPOSED EFFECTIVE DATE: July 1, 2003

Specific Authority 394.74(2), 394.76(4), 394.78(1),(6), 397.321(5) FS. Law Implemented 394.66(9),(12), 394.74(2), 394.76(4), 394.78(1),(6) FS. History--New 7-1-03.

65E-14.020 Cost Reimbursement Method of Payment.

(1) Required Fiscal Reports. The contractor shall prepare and submit the following fiscal reports to the department for approval prior to the start of the contract period:

(a) Line-Item Operating Budget. This budget displays projected expenditures by line-item category, along with the amount of each line item to be reimbursed through the contract and through other funds.

(b) Budget Narrative. The narrative shall explain and justify the need for each identifiable component that constitutes a proposed line-item category.

(2) These fiscal reports, once approved by the department, shall be finalized and incorporated into the service provision contract between the department and the contractor.

(3) Report of Expenditures & Request for Payment or Advance. The contractor shall request payment by preparing and submitting this report, which shall show actual, allowable expenditures by line-item category. Requests for payment shall be based on and cannot exceed the amounts specified in the line-item budget and shall be for the purposes specified in the budget narrative.

(4) The following forms are hereby incorporated by reference and may be obtained from the Substance Abuse Program Office, 1317 Winewood Blvd., Building 6, Tallahassee, Florida:

(a) CF-MH 1038, Jul 2003 Cost Reimbursement Line Item Operating Budget

(b) CF-MH 1039, Jul 2003 Cost Reimbursement Budget Narrative

(c) CF-MH 1040, Jul 2003 Cost Reimbursement Report of Expenditures & Request for Payment or Advance

PROPOSED EFFECTIVE DATE: July 1, 2003

Specific Authority 394.78(1),(6), 397.321(5) FS. Law Implemented 394.66(9), 394.74(2)(c), (3)(d),(4), 394.78(1),(6), 397.321(10) FS. History--New 7-1-03.

65E-14.021 Unit Cost Method of Payment.

This section provides guidelines and requirements for implementing a unit cost method of payment for substance abuse and mental health services.

(1) Cost Centers shall be used to account for the expenditure of state funds, patient fees, and other funds earned and used by contractors for substance abuse and mental health services.

(2) List of State-Designated Substance Abuse and Mental Health Cost Centers. The department may contract for adult and children's mental health and adult and children's substance abuse program services in the following state-designated cost centers:

(a) Aftercare

(b) Assessment

(c) Case Management

(d) Crisis Stabilization

(e) Crisis Support/Emergency

(f) Day Care

(g) Day/Night

(h) Drop-In/Self Help Centers

(i) FACT (Florida Assertive Community Treatment) Team

(j) Incidental Expenses

(k) Information and Referral

(l) In-Home and On-Site

(m) Inpatient

(n) Intensive Case Management

(o) Intervention

(p) Medical Services

(q) Mental Health Clubhouse Services

(r) Methadone Maintenance

(s) Outpatient

(t) Outpatient Detoxification

(u) Outreach

(v) Prevention

(w) Prevention/Intervention – Day

(x) Residential Level I

- (y) Residential Level II
- (z) Residential Level III
- (aa) Residential Level IV
- (bb) Respite Services
- (cc) Room and Board with Supervision Level I
- (dd) Room and Board with Supervision Level II
- (ee) Room and Board with Supervision Level III
- (ff) Sheltered Employment
- (gg) Short-term Residential Treatment (SRT)
- (hh) Substance Abuse Detoxification
- (ii) Supported Employment
- (jj) Supportive Housing/Living
- (kk) TASC (Treatment Accountability for Safer Communities)

(ll) Any other cost centers the department may establish temporarily pursuant to paragraph (3) to ensure adequate provision of service.

(3) The Directors of the Substance Abuse and Mental Health Programs may temporarily establish additional state-designated substance abuse and mental health cost centers for statewide use, including their definitions, units of measure, service documentation, and maximum unit cost rates, as necessary to ensure the adequate provision of client services. At a minimum, affected parties shall be notified of the department's intended action and provided an opportunity to comment at least 30 days prior to the establishment of a temporary cost center. If the temporary cost center is used for more than 240 days, the department shall initiate rule-making to make the cost center permanent.

(4) Other Cost Centers. For all client non-specific performance contracts and those client-specific performance contracts where unit rates are set pursuant to paragraph 65E-14.021(9)(a), F.A.C., if a contractor provides services that are not in a state-designated substance abuse and mental health cost center, it shall establish a non-substance abuse and mental health cost center to account for all expenditures and revenues related to these services. For the purpose of identifying indirect costs allocable to service delivery cost centers, the contractor shall also establish an administration cost center to account for the general administrative overhead costs that indirectly contribute to or benefit the service delivery cost centers. The contractor may establish an "other support" cost center to account for costs such as billing and data processing that indirectly contribute to or benefit the service delivery cost centers and administration. If not treated separately, the "other support" costs shall be treated as administration. The contractor's total expenditures for services in state-designated substance abuse and mental health cost centers, the non-substance abuse and mental health cost center, and the administration and other support cost centers shall equal the total expenditures reported in the contractor's fiscal reports and audit.

(5) Unit Measurements:

(a) Types of Units. The following units of measure apply to state-designated substance abuse and mental health cost centers funded through a state substance abuse and mental health program contract:

1. Staff Hour. This unit measure represents the actual time a staff person is available at the work site to perform assigned tasks.

2. Contact Hour. This unit measure represents the actual time spent in face-to-face or direct telephone contact with a client or a collateral where the contact is charted. For children's services, it may also include telephone contact with parents or teachers and actual time spent in a courtroom or juvenile detention facility on behalf of a child.

3. Direct Staff Hour. This unit measure represents the actual time spent on activities directly associated with a single client, including case staffings. Time may include travel if the travel is integral to a service event otherwise billable to the department.

4. Non-Direct Staff Hour. This measure represents the actual time spent on activities that cannot be directly associated with a single client, but are integral to the program and described in the program description.

5. Bed-Day. This unit measure represents an actual bed, or if licensure is required, the lesser of the actual or licensed bed, available each day in the contract period.

6. Facility Day. This unit measure represents a day in which a facility is open for use a minimum of 4 hours a day.

7. 24-Hour Day. This unit measure represents a day in which a client is physically present at the midnight census. The day of admission shall be counted and the day of discharge shall not.

8. 4-Hour Day. This unit measure represents a day in which a client is physically present for at least four hours.

9. Dosage. This unit measure represents the receipt of a methadone dosage by a client and includes the provision of all other services related to Methadone Maintenance and described in a program description. Such program description shall indicate which of the related services, if any, may also be delivered in another cost center and why.

(b) Definition of Hour. An hour is a measurement of time rounded to the nearest 10-minute interval. When used to document intermittent services to or on behalf of a specific client during a single day, the actual cumulative time spent providing the service during that day shall be rounded to the nearest 10-minute interval. The cumulative, rounded number of minutes shall be divided by 60 to derive the number of units.

(c) Except for prevention, units of service measured in terms of hours and days shall not include the time direct service delivery staff are absent from the work place or spend in training, supervision, clinical supervision, administrative activities, or charting. This exclusion of time spent in training does not apply to training and orientation specifically required

in the department's contract for Florida Assertive Community Treatment. These units shall include time direct service delivery staff spend administering client functional assessments and client satisfaction surveys.

(6) The maximum unit cost rate to be paid for each state-designated substance abuse and mental health cost center when rates are set in accordance with paragraphs 65E-14.021(9)(a) or (b), F.A.C., shall be established using cost models that take into account the types and number of service delivery personnel, salary and benefit levels, and ratios of service delivery personnel costs to operating and administrative overhead costs required to provide services needed by clients.

(7) The descriptions, applicable programs, units of measure, and documentation requirements for state-designated cost centers are as follows:

(a) Aftercare.

1. Description – Aftercare services, including but not limited to relapse prevention, are a vital part of recovery in every treatment level. Aftercare activities include client participation in daily activity functions that were adversely affected by mental illness and/or substance abuse impairments. New directional goals such as vocational education or re-building relationships are often priorities. Relapse prevention issues are key in assisting the client's recognition of triggers and warning signs of regression. Aftercare services help families and pro-social support systems reinforce a healthy living environment.

2. Programs – Adult Mental Health, Children's Mental Health, Adult Substance Abuse, and Children's Substance Abuse.

3. Unit of Measure – Direct Staff Hour.

4. Data Elements:

a. Service Documentation – Activity Log:

(I) Cost center

(II) Staff name and identification number

(III) Recipient name and identification number

(IV) Service date

(V) Duration

(VI) Service (specify)

(VII) Group Indicator

(VIII) Program

b. Audit Documentation – Recipient Service Chart:

(I) Recipient name and identification number

(II) Staff name and identification number

(III) Service date

(IV) Duration

(V) Service (specify)

5. Maximum Unit Cost Rate: \$63.21.

(b) Assessment.

1. Description – Assessment services assess, evaluate, and provide assistance to individuals and families to determine level of care, motivation, and the need for services and supports to assist individuals and families identify their strengths.

2. Programs – Adult Mental Health, Children's Mental Health, Adult Substance Abuse, and Children's Substance Abuse.

3. Unit of Measure – Contact Hour.

4. Data Elements:

a. Service Documentation – Service Ticket:

(I) Recipient name and identification number

(II) Staff name and identification number

(III) Service date

(IV) Duration

(V) Cost center

(VI) Service (Specify)

(VII) Program

b. Audit Documentation – Recipient Service Chart:

(I) Recipient name and identification number

(II) Staff name and identification number

(III) Service date

(IV) Duration

(V) Service (Specify)

5. Maximum Unit Cost Rate: \$85.91.

(c) Case Management.

1. Description – Case management services consist of activities aimed at identifying the recipient's needs, planning services, linking the service system with the person, coordinating the various system components, monitoring service delivery, and evaluating the effect of the services received.

2. Programs – Adult Mental Health, Children's Mental Health, Adult Substance Abuse, and Children's Substance Abuse.

3. Unit of Measure – Direct Staff Hour.

4. Data Elements:

a. Service Documentation – Activity Log:

(I) Cost center

(II) Staff name and identification number

(III) Recipient name and identification number

(IV) Service date

(V) Duration

(VI) Service (Specify)

(VII) Program

b. Audit Documentation – Recipient Service Chart:

(I) Recipient name and identification number

(II) Staff name and identification number

(III) Service date

(IV) Duration

(V) Service (Specify)

e. Maximum Unit Cost Rate: \$63.21.

(d) Crisis Stabilization.

1. Description – These acute care services, on a twenty-four (24) hours per day, seven (7) days per week basis, provide brief, intensive mental health residential treatment services. These services meet the needs of individuals who are experiencing an acute crisis and who, in the absence of a suitable alternative, would require hospitalization.

2. Programs – Adult Mental Health and Children's Mental Health.

3. Unit of Measure – Bed-Day.

4. Data Elements:

a. Service Documentation – Number of licensed bed-days.

b. Audit Documentation – License:

(I) Beginning date

(II) Ending date

(III) Number of beds

5. Maximum Unit Cost Rate: \$291.24.

(e) Crisis Support / Emergency.

1. Description – These non-residential care services are generally available twenty-four (24) hours per day, seven (7) days per week, or some other specific time period, to intervene in a crisis or provide emergency care. Examples include: mobile crisis, crisis support, crisis/emergency screening, crisis telephone, and emergency walk-in.

2. Programs – Adult Mental Health, Children's Mental Health, Adult Substance Abuse, and Children's Substance Abuse.

3. Unit of Measure – Staff Hour.

4. Data Elements:

a. Service Documentation – Duty Roster:

(I) Staff name and identification number

(II) Date

(III) Hours on Duty – Beginning and ending time

(IV) Cost center

(V) Program

(VI) Signature of Clinical Director

b. Audit Documentation – Time Sheet:

(I) Staff name and identification number

(II) Date

(III) Hours worked – Beginning and ending time

(IV) Program

(V) Cost Center

(VI) Signature of Supervisor

5. Maximum Unit Cost Rate: \$43.17.

(f) Day Care.

1. Description – Day care services provide a structured schedule of activities for four (4) or more consecutive hours per day for children of persons who are participating in a mental health and substance abuse day-night service and residential services.

2. Programs – Adult Mental Health and Adult Substance Abuse.

3. Unit of Measure – Day (4 hour).

4. Data Elements:

a. Service Documentation – Census Log:

(I) Cost center

(II) Program

(III) Recipient (Parent) name and identification number and child's date of birth

(IV) Service date

b. Audit Documentation – Recipient Service Chart:

(I) Cost center

(II) Recipient (Parent) name and identification number and child's date of birth

(III) Service date

5. Maximum Unit Cost Rate: \$30.30.

(g) Day-Night.

1. Description – Day-Night services provide a structured schedule of non-residential services for four (4) or more consecutive hours per day. Activities for children and adult mental health programs are designed to assist individuals to attain skills and behaviors needed to function successfully in living, learning, work, and social environments. Generally, a person receives three (3) or more services a week. Activities for substance abuse programs emphasize rehabilitation, treatment, and education services, using multidisciplinary teams to provide integrated programs of academic, therapeutic, and family services.

2. Programs – Adult Mental Health, Children's Mental Health, Adult Substance Abuse, and Children's Substance Abuse.

3. Unit of Measure – Day (4 hour).

4. Data Elements:

a. Service Documentation – Census Log:

(I) Cost center

(II) Program

(III) Recipient name and identification number

(IV) Service date

b. Audit Documentation – Recipient Service Chart:

(I) Cost center

(II) Recipient name and identification number

(III) Service date

5. Maximum Unit Cost Rate: \$71.48.

(h) Drop-in / Self-Help Centers.

1. Description – These centers are intended to provide a range of opportunities for persons with severe and persistent mental illness to independently develop, operate, and participate in social, recreational, and networking activities.

2. Programs – Adult Mental Health.

3. Unit of Measure – Facility-Day.

4. Data Elements:

a. Service Documentation – Number of Facility Days.

b. Audit Documentation – Occupancy License:

(I) Beginning date

(II) Ending date

5. Maximum Unit Cost Rate: \$296.30 for a 30-slot facility, and a 10% increase for every additional 5 slots.

(i) Florida Assertive Community Treatment (FACT) Team.

1. Description – These non-residential care services are available twenty-four (24) hours per day, seven (7) days per week, and include community-based treatment, rehabilitation, and support services provided by a multidisciplinary team to persons with severe and persistent mental illness.

2. Programs – Adult Mental Health and Adult Substance Abuse.

3. Unit of Measure –Staff Hour.

4. Data Elements:

a. Service Documentation – Duty Roster:

(I) Staff name and identification number

(II) Date

(III) Hours on Duty – Beginning and ending time

(IV) Cost center

(V) Program

(VI) Signature of Clinical Director

b. Audit Documentation – Time Sheet:

(I) Staff name and identification number

(II) Date

(III) Hours worked – Beginning and ending time

(IV) Program

(V) Cost center

(VI) Signature of Supervisor

5. Maximum Unit Cost Rate: \$45.47.

(j) Incidental Expenses.

1. Description – This cost center provides for incidental expenses, such as clothing, medical care, educational needs, developmental services, FACT Team housing subsidies and pharmaceuticals (if not required by the RFP to be reimbursed through a separate cost reimbursement contract), and other approved costs. All incidental expenses must have prior written authorization by the department's authorized staff member or be authorized in the contract.

2. Programs – Adult Mental Health, Children's Mental Health, Adult Substance Abuse, and Children's Substance Abuse.

3. Unit of Measure – \$50.00.

4. Data Elements:

a. Service Documentation – Census Log:

(I) Cost center

(II) Program

(III) Recipient name and identification

(IV) Invoice date

b. Audit Documentation – Recipient Service Chart:

(I) Cost Center

(II) Recipient name and identification number

(III) Invoice date

(IV) Associated treatment plan goal

(V) Department authorization documentation

5. Maximum Unit Cost Rate: \$50.00.

(k) Information and Referral.

1. Description – These services maintain information about resources in the community, link people who need assistance with appropriate service providers, and provide information about agencies and organizations that offer services. The information and referral process involves: being readily available for contact by the individual; assisting the individual with determining which resources are needed; providing referral to appropriate resources; and following up to ensure the individual's needs have been met, if the individual agrees to such follow-up activities.

2. Programs – Adult Mental Health, Children's Mental Health, Adult Substance Abuse, and Children's Substance Abuse.

3. Unit of Measure –Staff Hour.

4. Data Elements:

a. Service Documentation – Duty Roster:

(I) Staff name and identification number

(II) Date

(III) Hours on Duty – Beginning and ending time

(IV) Cost center

(V) Program

(VI) Signature of Clinical Director

b. Audit Documentation – Time Sheet:

(I) Staff name and identification number

(II) Date

(III) Hours worked – Beginning and ending time

(IV) Program

(V) Cost center

(VI) Signature of Supervisor

5. Maximum Unit Cost Rate: \$34.75.

(l) In-Home and On-Site.

1. Description – Therapeutic services and supports are rendered in non-provider settings such as nursing homes, alternative living facilities (ALF), residences, school, detention centers, commitment settings, foster homes, and other community settings.

2. Programs – Adult Mental Health, Children's Mental Health, Adult Substance Abuse, and Children's Substance Abuse.

3. Unit of Measure – Direct Staff Hour.

4. Data Elements:

a. Service Documentation – Activity Log:

- (I) Cost center
- (II) Staff name and identification number
- (III) Recipient name and identification number
- (IV) Service date
- (V) Duration
- (VI) Service (specify)
- (VII) Program

b. Audit Documentation – Recipient Service Chart:

- (I) Recipient name and identification number
- (II) Staff name and identification number
- (III) Service date
- (IV) Duration
- (V) Service (specify)

5. Maximum Unit Cost Rate: \$70.20.

(m) Inpatient.

1. Description – Inpatient services are provided in hospitals, licensed under Chapter 395, Florida Statutes, as general hospitals and psychiatric specialty hospitals. They are designed to provide intensive treatment to persons exhibiting violent behaviors, suicidal behaviors, and other severe disturbances due to substance abuse or mental illness.

2. Programs – Adult Mental Health and Children’s Mental Health.

3. Unit of Measure – Day (24 hour).

4. Data Elements:

a. Service Documentation – Census Log:

- (I) Name of hospital
- (II) Recipient name and identification number
- (III) Service date
- (IV) Program

b. Audit Documentation – Recipient Service Chart:

- (I) Name of hospital
- (II) Recipient name and identification number
- (III) Service date

5. Maximum Unit Cost Rate: \$456.00.

(n) Intensive Case Management.

1. Description – Case management services consist of activities aimed at assessing recipient needs, planning services, linking the service system to a recipient, coordinating the various system components, monitoring service delivery, and evaluating the effect of services received. These services are typically offered to persons who are being discharged from a hospital or crisis stabilization unit who are in need of more professional care and who will have contingency needs to remain in a less restrictive setting.

2. Programs – Adult Mental Health and Children’s Mental Health.

3. Unit of Measure – Direct Staff Hour.

4. Data Elements:

a. Service Documentation – Activity Log:

- (I) Cost center

- (II) Staff name and identification number
- (III) Recipient name and identification number
- (IV) Service date
- (V) Duration
- (VI) Service (specify)
- (VII) Program

b. Audit Documentation – Recipient Service Chart:

- (I) Recipient name and identification number
- (II) Staff name and identification number
- (III) Service date
- (IV) Duration
- (V) Service (specify)

5. Maximum Unit Cost Rate: \$72.21.

(o) Intervention.

1. Description – Intervention services focus on reducing risk factors generally associated with the progression of substance abuse and mental health problems. Intervention is accomplished through early identification of persons at risk, performing basic individual assessments, and providing supportive services, which emphasize short-term counseling and referral. These services are targeted toward individuals and families.

2. Programs – Adult Mental Health, Children’s Mental Health, Adult Substance Abuse, and Children’s Substance Abuse.

3. Unit of Measure – Direct Staff Hour.

4. Data Elements:

a. Service Documentation – Activity Log:

- (I) Cost center
- (II) Staff name and identification number
- (III) Recipient name and identification number
- (IV) Service date
- (V) Duration
- (VI) Service (specify)
- (VII) Group Indicator
- (VIII) Program

b. Audit Documentation – Recipient Service Chart:

- (I) Recipient name and identification number
- (II) Staff name and identification number
- (III) Service date
- (IV) Duration
- (V) Service (specify)

5. Maximum Unit Cost Rate: \$67.44.

(p) Medical Services.

1. Description – Medical services provide primary medical care, therapy, and medication administration to improve the functioning or prevent further deterioration of persons with mental health or substance abuse problems. Included is psychiatric mental status assessment. For adults with mental illness, medical services are usually provided on a regular schedule, with arrangements for non-scheduled visits during

times of increased stress or crisis. This service includes medication administration of psychotropic drugs, including Clozaril and other new medications, and psychiatric services.

2. Programs – Adult Mental Health, Children’s Mental Health, Adult Substance Abuse, and Children’s Substance Abuse.

3. Unit of Measure – Contact Hour.

4. Data Elements:

a. Service Documentation – Service Ticket:

(I) Recipient name and identification number or, if non-recipient, participant’s name, address, and relation to recipient

(II) Staff name and identification number

(III) Service date

(IV) Duration

(V) Cost center

(VI) Service (specify)

(VII) Group Indicator

(VIII) Program

b. Audit Documentation – Recipient Service or Non-Recipient Chart:

(I) Recipient name and identification number or, if non-recipient, participant’s name, address, and relation to recipient

(II) Staff name and identification number

(III) Service date

(IV) Duration

(V) Service (specify)

5. Maximum Unit Cost Rate: \$369.55.

(q) Mental Health Clubhouse Services.

1. Description – Structured, community-based services designed to both strengthen and/or regain the client interpersonal skills, provide psycho-social therapy toward rehabilitation, develop the environmental supports necessary to help the client thrive in the community and meet employment and other life goals and promote recovery from mental illness. Services are typically provided in a community-based program with trained staff and members working as teams to address the client’s life goals and to perform the tasks necessary for the operations of the program. The emphasis is on a holistic approach focusing on the client’s strengths and abilities while challenging the client to pursue those life goals. This service would include, but not be limited to, clubhouses certified under the International Center for Clubhouse Development.

2. Programs – Adult Mental Health.

3. Unit of Measure – Contact Hour.

4. Data Elements:

a. Service Documentation – Service Ticket:

(I) Recipient name and identification number

(II) Staff name and identification number

(III) Service date

(IV) Duration

(V) Cost center

(VI) Service (specify)

(VII) Program

b. Audit Documentation – Recipient Service Chart:

(I) Cost center

(II) Recipient name and identification number

(III) Service date

5. Maximum Unit Cost Rate: \$6.63 for up to 8 hours per day.

(r) Methadone Maintenance.

1. Description – Methadone medication maintenance consists of a group of outpatient services which utilize methadone and other opioid replacement therapies, where permitted, in conjunction with assessment, rehabilitation and treatment services.

2. Programs – Adult Substance Abuse.

3. Unit of Measure – Dosage.

4. Data Elements:

a. Service Documentation – Dosage Log:

(I) Recipient name and identification number

(II) Dosage date

(III) Prescribed dosage

(IV) Cost center

(V) Service (specify)

(VI) Program

b. Audit Documentation – Recipient Service Chart:

(I) Client name and identification number

(II) Dosage date

(III) Dosage received

(IV) Cost center

5. Maximum Unit Cost Rate: \$13.63.

(s) Outpatient.

1. Description – Outpatient services provide a therapeutic environment, which is designed to improve the functioning or prevent further deterioration of persons with mental health and/or substance abuse problems. These services are usually provided on a regularly scheduled basis by appointment, with arrangements made for non-scheduled visits during times of increased stress or crisis. Outpatient services may be provided to an individual or in a group setting. The group size limitations applicable to the Medicaid program shall apply to all Outpatient services funded through a state substance abuse and mental health program contract.

2. Programs – Adult Mental Health, Children’s Mental Health, Adult Substance Abuse, and Children’s Substance Abuse.

3. Unit of Measure – Contact Hour.

4. Data Elements:

a. Service Documentation – Service Ticket:

(I) Recipient name and identification number or, if non-recipient, participant's name, address, and relation to recipient

(II) Staff name and identification number

(III) Service date

(IV) Duration

(V) Cost center

(VI) Service (specify)

(VII) Group Indicator

(VIII) Program

b. Audit Documentation – Recipient Service or Non-Recipient Chart:

(I) Recipient name and identification number or, if non-recipient, participant's name, address, and relation to recipient

(II) Staff name and identification number

(III) Service date

(IV) Duration

(V) Service (specify)

5. Maximum Unit Cost Rate: \$91.09.

(t) Outpatient Detoxification.

1. Description – Outpatient detoxification services utilize medication or a psychosocial counseling regimen that assists recipients in their efforts to withdraw from the physiological and psychological effects of the abuse of additive substances. They provide structured activities four (4) hours per day, seven (7) days per week.

2. Programs – Adult Substance Abuse and Children's Substance Abuse.

3. Unit of Measure – Day (4 hour).

4. Data Elements:

a. Service Documentation – Census Log:

(I) Cost center

(II) Program

(III) Recipient name and identification

(IV) Service date

(V) Residential type

b. Audit Documentation – Recipient Service Chart:

(I) Cost Center

(II) Recipient name and identification number

(III) Service date

5. Maximum Unit Cost Rate: \$78.90.

(u) Outreach.

1. Description – Outreach services are provided through a formal program to both individuals and the community. Community services include education, identification, and linkage with high-risk groups. Outreach services for individuals are designed to: encourage, educate, and engage prospective clients who show an indication of substance abuse and mental health problems or needs. Client enrollment is not included in Outreach services.

2. Programs – Adult Mental Health, Children's Mental Health, Adult Substance Abuse, and Children's Substance Abuse.

3. Unit of Measure – Non-Direct Staff Hour.

4. Data Elements:

a. Service Documentation – Time Sheet:

(I) Staff name and identification number

(II) Description of activity, including time to plan and prepare

(III) Duration

(IV) Activity date

(V) Program

(VI) Cost center

b. Audit Documentation:

(I) Activity list

(II) Duration

(III) Supervisor's staff schedule

5. Maximum Unit Cost Rate: \$43.20.

(v) Prevention.

1. Description – Prevention services are those involving strategies that preclude, forestall, or impede the development of substance abuse and mental health problems, and include increasing public awareness through information, education, and alternative-focused activities. These services may be directed either at an indicated and selective prevention target where the client has been identified or at a universal prevention target.

2. Programs – Adult Mental Health, Children's Mental Health, Adult Substance Abuse, and Children's Substance Abuse.

3. Unit of Measure – Non-Direct Staff Hour.

4. Data Elements:

a. Universal Prevention Target Service Documentation – Time Sheet:

(I) Staff name and identification number

(II) Description of activity, including time to plan and prepare

(III) Duration

(IV) Activity date

(V) Program

(VI) Cost center

b. Universal Prevention Target Audit Documentation:

(I) Attendance records with date

(II) Program material

(III) Agenda with date

(IV) Duration of activity

(V) Advertisements

(VI) Supervisor instructions

c. Indicated and Selective Prevention Target Service Documentation – Activity Log:

- (I) Cost center
- (II) Staff name and identification number
- (III) Recipient name and identification number
- (IV) Service date
- (V) Duration
- (VI) Service (specify)
- (VII) Program

d. Indicated and Selective Prevention Target Audit Documentation – Recipient Service Chart:

- (I) Recipient name and identification number
- (II) Staff name and identification number
- (III) Service date
- (IV) Duration
- (V) Service (specify)

5. Maximum Unit Cost Rate: \$43.20.

(w) Prevention / Intervention – Day.

1. Description – This cost center includes school-based day services for children and adolescents for four (4) or more consecutive hours per day. For children with mental health problems, these services include school-based mental health services for children who have been identified by the school as having, or are at risk of developing, mental health problems. Services are individualized and may be provided in a self-contained classroom, a regular classroom, or as a component of a full service school. For children and adolescents with substance abuse problems, it includes Alpha and Beta targeted prevention programs serving students in grades 4-6 and 6-8, respectively, who are identified as at risk for alcohol or other drug abuse. These services consist of multiple, structured contacts over time to specific individuals or groups identified as having behavioral, biological or environmental at-risk characteristics. These programs promote skills building and reduce the risk of establishing patterns of use. Services are provided through community provider agencies in partnership with county school boards. Counselors provide individual, group, and family counseling, and school personnel implement an intensive education program.

2. Programs – Children’s Mental Health and Children’s Substance Abuse.

3. Unit of Measure – Day (4 hour).

4. Data Elements:

a. Service Documentation – Census Log:

- (I) Cost center
- (II) Program
- (III) Recipient name and identification number
- (IV) Service date

b. Audit Documentation:

- (I) Cost center
- (II) Recipient name and identification number
- (III) Service date

5. Maximum Unit Cost Rate: \$92.43.

(x) Residential Level I.

1. Description – These licensed services provide a structured, live-in, non-hospital setting with supervision on a twenty-four (24) hour, seven (7) days per week basis. A nurse is on duty in these facilities at all times. For adult mental health, these services include group homes. Group homes are for longer-term residents. These facilities offer nursing supervision provided by, at a minimum, licensed practical nurses on a twenty-four (24) hours a day, seven (7) days per week basis. For children with serious emotional disturbances, Level 1 services are the most intensive and restrictive level of residential therapeutic intervention provided in a non-hospital or non-crisis support unit setting, including residential treatment centers. Medicaid Residential Treatment Centers (MRTC) and Residential Treatment Centers (RTC) are reported under this cost center. On-call medical care must be available for substance abuse programs. Level 1 provides a range of assessment, treatment, rehabilitation, and ancillary services in an intensive therapeutic environment, with an emphasis on treatment, and may include formal school and adult education programs.

2. Programs – Adult Mental Health, Children’s Mental Health, Adult Substance Abuse, and Children’s Substance Abuse.

3. Unit of Measure – Day (24 hour).

4. Data Elements:

a. Service Documentation – Census Log:

- (I) Cost center
- (II) Program
- (III) Recipient name and identification number
- (IV) Service date
- (V) Residential type

b. Audit Documentation – Recipient Service Chart:

- (I) Cost center
- (II) Recipient name and identification number
- (III) Service date

5. Maximum Unit Cost Rate: \$241.10, or \$330.00 for Children’s Mental Health. The unit cost may be increased by \$8.21 if services include psychotropic medication.

(y) Residential Level II.

1. Description – Level II facilities are licensed, structured rehabilitation-oriented group facilities that have twenty-four (24)-hours per day, seven (7) days per week, supervision. Level II facilities house persons who have significant deficits in independent living skills and need extensive support and supervision. For children with serious emotional disturbances, Level II services are programs specifically designed for the purpose of providing intensive therapeutic behavioral and treatment interventions. Therapeutic Group Home (TGH), Specialized Therapeutic Foster Home (STFH) – Level II and Therapeutic Foster Home (TFH) – Level 2 are reported under this cost center. For substance abuse, Level II services provide

a range of assessment, treatment, rehabilitation, and ancillary services in a less intensive therapeutic environment with an emphasis on rehabilitation, and may include formal school and adult educational programs.

2. Programs – Adult Mental Health, Children’s Mental Health, Adult Substance Abuse, and Children’s Substance Abuse.

3. Unit of Measure – Day (24 hour).

4. Data Elements:

a. Service Documentation – Census Log:

(I) Cost center

(II) Program

(III) Recipient name and identification number

(IV) Service date

(V) Residential type

b. Audit Documentation – Recipient Service Chart:

(I) Cost Center

(II) Recipient name and identification number

(III) Service date

5. Maximum Unit Cost Rate: \$174.03.

(z) Residential Level III.

1. Description – These licensed facilities provide twenty-four (24) hours per day, seven (7) days per week supervised residential alternatives to persons who have developed a moderate functional capacity for independent living. For children with serious emotional disturbances, Level III services are specifically designed to provide sparse therapeutic behavioral and treatment interventions. Therapeutic Group Home (TGH), Specialized Therapeutic Foster Home (STFH) – Level I and Therapeutic Foster Home (TFH) – Level 1 are reported under this cost center. For adults with serious mental illness, this cost center consists of supervised apartments. For substance abuse, Level III provides a range of assessment, rehabilitation, treatment and ancillary services on a long-term, continuing care basis where, depending upon the characteristics of the clients served, the emphasis is on rehabilitation or treatment.

2. Programs – Adult Mental Health, Children’s Mental Health, Adult Substance Abuse, and Children’s Substance Abuse.

3. Unit of Measure – Day (24 hour).

4. Data Elements:

a. Service Documentation – Census Log:

(I) Cost center

(II) Program

(III) Recipient name and identification number

(IV) Service date

(V) Residential type

b. Audit Documentation – Recipient Service Chart:

(I) Cost center

(II) Recipient name and identification number

(III) Service date

5. Maximum Unit Cost Rate: \$108.35.

(aa) Residential Level IV.

1. Description – This type of facility may have less than twenty-four (24) hours per day, seven (7) days per week on-premise supervision. Residential Level IV services are the least intensive level of residential care. It is primarily a support service and, as such, treatment services are not included in this cost center. For adult mental health, this includes satellite apartments, satellite group homes, and therapeutic foster homes. For substance abuse, Level IV services provide a range of assessment, rehabilitation, treatment, and ancillary services in a transitional living environment with an emphasis on habilitation and rehabilitation. For children with serious emotional disturbances, Level IV services are the least intensive and restrictive level of residential care provided in group or foster home settings, therapeutic foster homes, and group care with treatment. NOTE: Regular therapeutic foster care can be provided either through Residential Level IV “Day of Care: TFH” or by billing in-home/non-provider setting for a child in a foster home.

2. Programs – Adult Mental Health, Children’s Mental Health, Adult Substance Abuse, and Children’s Substance Abuse.

3. Unit of Measure – Day (24 hour).

4. Data Elements:

a. Service Documentation – Census Log:

(I) Cost center

(II) Program

(III) Recipient name and identification number

(IV) Service date

(V) Residential type

b. Audit Documentation – Recipient Service Chart:

(I) Cost center

(II) Recipient name and identification number

(III) Service date

5. Maximum Unit Cost Rate: \$49.72.

(bb) Respite Services.

1. Description – Respite care services are designed to sustain the family or other primary care giver by providing time-limited, temporary relief from the ongoing responsibility of care giving.

2. Programs – Adult Mental Health, Children’s Mental Health, Adult Substance Abuse, and Children’s Substance Abuse.

3. Unit of Measure – Contact Hour.

4. Data Elements:

a. Service Documentation – Service Ticket:

(I) Recipient name and identification number

(II) Staff name and identification number

(III) Service date

(IV) Duration(V) Cost center(VI) Service (specify)(VII) Programb. Audit Documentation – Recipient Service Chart:(I) Cost Center(II) Recipient name and identification number(III) Service date5. Maximum Unit Cost Rate: \$12.84.(cc) Room and Board with Supervision Level I.

1. Description – This cost center solely provides for room and board with supervision on a twenty-four (24) hours per day, seven (7) days per week basis. It corresponds to Residential Level I. This cost center is not applicable for provider facilities which meet the definition of an Institute for Mental Disease (IMD) as defined in the Center for Medicaid Services' State Medicaid Manual, Section 4, March 1994.

2. Programs – Adult Mental Health, Children's Mental Health, Adult Substance Abuse, and Children's Substance Abuse.

3. Unit of Measure – Day (24 hour).4. Data Elements:a. Service Documentation – Census Log:(I) Cost center(II) Program(III) Recipient name and identification(IV) Service date(V) Residential typeb. Audit Documentation – Recipient Service Chart:(I) Cost center(II) Recipient name and identification number(III) Service date5. Maximum Unit Cost Rate: \$238.13.(dd) Room and Board with Supervision Level II.

Corresponds to Residential Level II. Same programs, units, and data elements as Room and Board with Supervision Level I. Maximum Unit Cost Rate: \$155.61.

(ee) Room and Board with Supervision Level III.

Corresponds to Residential Level III. Same programs, units, and data elements as Room and Board with Supervision Level I. Maximum Unit Cost Rate: \$103.08.

(ff) Sheltered Employment.

1. Description – Sheltered employment service is non-competitive employment within a work-based facility.

2. Programs – Adult Mental Health.3. Unit of Measure – Day (4 hour).4. Data Elements:a. Service Documentation – Census Log or Service Ticket:(I) Cost Center(II) Recipient name and identification(III) Service dateb. Audit Documentation – Recipient Service Chart:(I) Cost center(II) Recipient name and identification number(III) Service date5. Maximum Unit Cost Rate: \$74.59.(gg) Short-term Residential Treatment (SRT).

1. Description – These individualized, stabilizing acute and immediately subacute care services provide short and intermediate duration intensive mental health residential and habilitative services on a twenty-four (24) hour per day, seven days per week basis. These services must meet the needs of individuals who are experiencing an acute or immediately subacute crisis and who, in the absence of a suitable alternative, would require hospitalization.

2. Programs – Adult Mental Health.3. Unit of Measure – Bed-Day.4. Data Elements:a. Service Documentation – Number of licensed bed-days.b. Audit Documentation – License:(I) Beginning date(II) Ending date(III) Number of beds5. Maximum Unit Cost Rate: \$291.24.(hh) Substance Abuse Detoxification.

1. Description – Detoxification programs that utilize medical and clinical procedures to assist adults, children, and adolescents with substance abuse problems in their efforts to withdraw from the physiological and psychological effects of substance abuse. Residential detoxification and addiction receiving facilities provide emergency screening, evaluation, short-term stabilization, and treatment in a secure environment. The maximum unit cost rate for a Juvenile Addiction Receiving Facility that is integrated with a Children's Crisis Stabilization Unit shall be the maximum unit cost rate for the Crisis Stabilization cost center rather than for the Substance Abuse Detoxification cost center.

2. Programs – Adult Substance Abuse and Children's Substance Abuse.

3. Unit of Measure – Bed-Day.4. Data Elements:a. Service Documentation – Number of Bed-days.b. Audit Documentation – License:(I) Beginning date(II) Ending date(III) Number of beds5. Maximum Unit Cost Rate: \$204.94.(ii) Supported Employment.

1. Description – Supported employment services are community-based employment services in an integrated work setting which provides regular contact with non-disabled

co-workers or the public. A job coach provides long-term, ongoing support for as long as it is needed to enable the recipient to maintain employment.

2. Programs – Adult Mental Health, Children’s Mental Health, Adult Substance Abuse, and Children’s Substance Abuse.

3. Unit of Measure – Direct Staff Hour.

4. Data Elements:

a. Service Documentation – Time Sheet:

(I) Cost center

(II) Staff name and identification number

(III) Recipient name and identification number

(IV) Service date

(V) Duration

(VI) Service (specify)

b. Audit Documentation – Recipient Service Chart:

(I) Recipient name and identification number

(II) Staff name and identification number

(III) Service date

(IV) Duration

(V) Service (specify)

5. Maximum Unit Cost Rate: \$51.99, or \$81.99 for Enclave.

(jj) Supportive Housing/Living.

1. Description – Supported housing/living services assist persons with substance abuse and psychiatric disabilities in the selection of housing of their choice. These services also provide the necessary services and supports to assure their continued successful living in the community and transitioning into the community. For children with mental health problems, supported living services are a process which assists adolescents in housing arrangements and provides services to assure successful transition to independent living or with roommates in the community. Services include training in independent living skills. For substance abuse, services provide for the placement and monitoring of: recipients who are participating in non-residential services; recipients who have completed or are completing substance abuse treatment; and those recipients who need assistance and support in independent or supervised living within a “live-in” environment.

2. Programs – Adult Mental Health, Children’s Mental Health, Adult Substance Abuse, and Children’s Substance Abuse.

3. Unit of Measure – Direct Staff Hour.

4. Data Elements:

a. Service Documentation – Time Sheet:

(I) Cost center

(II) Staff name and identification number

(III) Recipient name and identification number

(IV) Service date

(V) Duration

(VI) Service (specify)

b. Audit Documentation – Recipient Service Chart:

(I) Recipient name and identification number

(II) Staff name and identification number

(III) Service date

(IV) Duration

(V) Service (specify)

5. Maximum Unit Cost Rate: \$51.99, or \$62.92 including rent and commodities.

(kk) Treatment Accountability for Safer Communities (TASC).

1. Description – TASC provides for identification, screening, court liaison, referral and tracking of persons in the criminal justice system with a history of drug abuse or addiction.

2. Programs – Adult Substance Abuse and Children’s Substance Abuse.

3. Unit of Measure – Direct Staff Hour.

4. Data Elements:

a. Service Documentation – Time Sheet:

(I) Cost center

(II) Staff name and identification number

(III) Recipient name and identification number

(IV) Service date

(V) Duration

(VI) Service (specify)

(VII) Program

b. Audit Documentation – Recipient Service Chart:

(I) Recipient name and identification number

(II) Staff name and identification number

(III) Service date

(IV) Duration

(V) Service (specify)

5. Maximum Unit Cost Rate: \$63.44.

(8) Budgeting and Accounting for Revenues and Expenditures.

(a) The contractor shall budget and account for revenues and expenditures in the state-designated cost centers for substance abuse and mental health services and a non-substance abuse and mental health cost center for all other services provided by the contractor.

(b) The contractor shall develop a written plan for allocating direct and indirect costs to the cost centers, which complies with Generally Accepted Accounting Principles and Rule 65E-14.017, F.A.C., Cost Principles.

(c) Revenue shall be accounted for in the cost center where it is generated. If it is not possible to determine the cost center where revenue is generated, the revenue shall be allocated to cost centers pursuant to a written methodology.

(d) Required Fiscal Reports.

1. The contractor shall prepare and submit the following proposed fiscal reports to the department for approval prior to the start of the contract period:

a. Personnel Detail Record. This report displays the proposed allocation of staff time and corresponding salary expenses to cost centers by program and reconciles with the salary amounts in the Projected Cost Center Operating and Capital Budget. This report displays each cost center funded through the state substance abuse and mental health program contract. It also displays all other state-designated substance abuse and mental health cost centers as a group, all other programs as a group, and administrative and support functions separately. Totals are provided for the contractor's organization as a whole.

b. Projected Cost Center Operating and Capital Budget. This report displays projected line-item expenditures for cost centers by program and projected revenues by funding source by cost center for the contractor's entire budget. This report displays each cost center funded through the state substance abuse and mental health program contract. It also displays all other state-designated substance abuse and mental health cost centers as a group, all other programs as a group, and administrative and support functions separately. Totals are provided for the contractor's organization as a whole.

c. Agency Capacity Report. This report displays the contractor's projected direct service staffing and facility capacity in terms of units of service, total costs, and unit cost rate or rates for each state-designated substance abuse and mental health cost center funded in the contract with the department.

d. Program Description.

(I) General Information. This includes a narrative or graphic description of the following:

- (i) Services provided by the contractor.
- (ii) A chart of the contractor's major organizational units.
- (iii) Names and contact information for the Chief Executive Officer, Chief Operating Officer, and Chief Finance Officer.

(II) Detailed Information. This shall include a narrative description of the following for each program and cost center funded in the substance abuse and mental health contract:

- (i) A general description of the cost center services to be provided.
- (ii) Geographic area to be served.
- (iii) Target populations to be served, including the projected number of clients for each target population.
- (iv) Primary referral sources.
- (v) List of facility licenses.
- (vi) Average length of client participation.
- (vii) Minimum qualifications for each type of service delivery position.

(viii) Staffing levels by type of service delivery position, unless the unit cost rate for the cost center is negotiated pursuant to paragraph 65E-14.021(9)(a), F.A.C.

(ix) Service capacity – beds, funded in the contract.

(x) Admissions and discharge criteria.

(xi) Name and contact information for the program/service director.

(III) Service Locations. This shall include the following:

(i) Addresses of all service locations where contracted services will be provided.

(ii) Days and hours of operation for each service location identified in (i) above.

(iii) Listing of all contracted cost centers provided at each service location.

2. If a contractor proposes different unit cost rates for each program applicable to a cost center, the fiscal reports in sub-subparagraphs 65E-14.021(8)(d)1.a.-c., F.A.C., shall display information separately for each program. If the contractor proposes the same rate for every program applicable to a cost center, these reports may combine the information for all programs for that cost center.

3. If the department sets the unit cost rates under the provisions in paragraph 65E-14.021(9)(b), F.A.C., for all of the cost centers covered by a contract, the contractor may submit an Alternative Projected Operating and Capital Budget displaying costs by line-item and total revenues by fund source for all state-designated cost centers funded through the state substance abuse and mental health contract as a group, all other state-designated substance abuse and mental health cost centers as a group, and a non-substance abuse and mental health cost center in lieu of the cost center-specific documents specified in sub-subparagraphs 65E-14.021(8)(d)1.a.-c., F.A.C.

4. Once a contract has been signed, the contractor shall prepare a final version of the reports specified in subparagraphs 1. and 3. and submit them to the department.

5. Advance notification must be given to the department before any of the Program Description elements specified in sub-sub-sub-subparagraphs 65E-14.021(8)(d)1.d.(II)(ix) and (x), and (III)(i)-(iii), F.A.C., may be changed. The Program Description shall be updated and resubmitted to the department within 10 days of the end of any quarter in which a change in the Program Description occurs, except changes that pertain to sub-sub-sub-subparagraphs 65E-14.021(8)(d)1.d.(II)(iv), (vi), or (viii), F.A.C.

(9) Setting Unit Cost Rates.

(a) Negotiated Unit Cost Rates Based on Projected Costs and Units of Service.

1. The department and contractor may agree to unit rates that are based on projected expenditures and number of units of service to be furnished during the contract period, not to exceed maximum state rates.

2. The fiscal reports required in sub-subparagraphs 65E-14.021(8)(d)1.a.-c., F.A.C., shall be used to determine the unit cost rates. The contractor shall submit a budget narrative explaining any major changes in projected expenditures from the previous year, including any proposed changes to the quality or quantity of service to be provided.

3. When calculating the projected unit cost rate for each cost center on the Agency Capacity Report, the contractor shall use the number of units derived using the minimum productivity and utilization standards in subparagraph 4. below.

4. Productivity and Utilization Standards. The following standards shall be used to project the contractor's minimum service capacity on the Agency Capacity Report:

Unit of Measure	Standard Units (Annualized)	Standard %
Contact Hour	1,073 hours per FTE	52%
Direct Staff Hour	1,252 hours per FTE	60%
Non-Direct Staff Hour	1,413 hours per FTE	70%
Staff Hour (Crisis Support / Emergency and Information and Referral)	2,080 hours per FTE	100%
Staff Hour (FACT)	1,788 hours per FTE	86%
Bed-Day	365 Days	100%
24-hour Day	365 Days	85%
Facility Day	*	100%
4-hour Day	*	90%
Dosage	*	100%

* To be established through negotiation between the district and the contractor.

5. Nothing herein shall preclude the department from using audited data on actual expenditures to analyze the projected unit cost rates submitted by the contractor.

(b) In lieu of negotiating unit rates under the provisions of paragraph (a) above for client-specific performance contracts and for client non-specific performance contracts under \$200,000 annually, the department may instead set a unit cost rate at a level not in excess of a district's average or median unit cost rate negotiated under the provisions of paragraph (a) for the same year. If no such rate exists for a particular cost center, the rate may be set at a level not in excess of the maximum unit cost rate established pursuant to subsection 65E-14.021(6), F.A.C., or the contractor's usual and customary charge, whichever is less.

(c) The Directors of the Substance Abuse and Mental Health Programs may approve a unit cost rate for a cost center in excess of the state maximum rate established pursuant to subsection 65E-14.021(6), F.A.C., if it can be demonstrated that the needed service cannot otherwise be purchased.

(d) Special Rates for Group Treatment. The state rate for group treatment for Outpatient Services is equal to 25 percent of the state rate for individual Outpatient Services.

(10) Payment for Service.

(a) Eligibility for Payment.

1. Allowable Units. The department shall only pay a contractor for units of services that:

a. Are within a cost center that has been contractually specified;

b. Have been delivered during the contract period; and

c. Have been delivered to an eligible, properly enrolled person belonging to a target population designated pursuant to s. 394.674(1), F.S.

2. Unallowable Units. The department shall not pay for units of service, or those parts of units, that have been paid for by any other source of funds.

3. For Medicaid purposes, the department shall not be considered a liable third party payer for Mental Health and Substance Abuse program payments funded through the department, and a Medicaid enrolled contractor shall not bill the department for Medicaid covered services provided to Medicaid eligible recipients. To ensure that the department does not reimburse for any Medicaid service to a Medicaid eligible client, the contractor shall:

a. Enroll into the department's Mental Health and Substance Abuse Data System, by social security number, all Medicaid eligible and non-Medicaid clients whose services are being paid for by a state substance abuse and mental health program contract, Medicaid, and local match, and code Medicaid services in accordance with the department's data requirements pursuant to Rule 65E-14.022, F.A.C., or federal requirements.

b. Report all mental health and substance abuse services provided to enrolled clients.

c. Deduct all Medicaid services from the total number of units of services specified on a request for payment.

(b) Request for Payment.

1. Advances. The department may advance funds for services one month at a time for up to the first three months of a contract period based on documented and anticipated cash needs of the contractor. The amount advanced shall be based on a prorated share of contract funds. The unused portion of any advance shall be temporarily invested by the contractor in an insured interest bearing account. Interest earned on these deposits shall be returned to the department on a monthly basis.

2. Prorated Payments.

a. After the initial advance period, the contractor shall request payment based on actual units of service delivered. The department shall pay for allowable units of service delivered, up to the prorated share as calculated by dividing the balance of remaining contracted funds by the number of months remaining in the contract period.

b. Requests for advances shall not require documentation of the provision of units of service; however, the department and the Office of the Comptroller reserve the right to request supporting documentation on particular requests for payment at any time after expenditures have occurred.

c. The contractor's final request for payment, which is due 45 days after the contract period, shall reconcile the actual units provided during the contract period with the number of units the department paid.

d. The department may, if funds are available, release more than the prorated monthly share of the contract amount when the provider submits written justification for the release of additional funds.

3. Funding Flexibility for Individual Cost Centers.

a. Except for cost centers designated pursuant to sub-subparagraph 3.c. below, a contractor may invoice and be paid up to 15 percent more than the amount specified in the contract for an individual cost center within a program; however, a contractor may not invoice and be paid more than the aggregate amount provided in the contract for all cost centers within the program, but not across programs. The department may combine cost centers into groups within a program, and the aggregate amount of payment that may not be exceeded is the total contract amount associated with the cost centers within each group, but not across groups.

b. The district or regional administrator may increase from 15 percent to up to 30 percent the amount contractors may exceed the total specified in the contract for an individual cost center within a program.

c. The Directors of the Substance Abuse and Mental Health Programs may identify specific cost centers where the flexibility specified in sub-sub paragraphs a. and b. above shall not exist. In each such cost center, payment for units of service shall not exceed the contracted amount, and the contracted funds are restricted to payment for units of service in only that cost center. The District or Regional Administrator, upon a finding in the District or Regional Substance Abuse and Mental Health Plan that an extraordinary need exists to provide a precise number of service units in a particular cost center, may add that cost center to those identified by the Program Directors.

d. When entering into a contract with a particular contractor, a District or Regional Administrator may deny flexibility for all cost centers if the contractor is currently under a corrective action plan or has failed to implement a corrective action plan pursuant to Rule 65-29.001, F.A.C., or if the District or Regional Administrator presents a justification to and obtains the approval of the Directors of the Substance Abuse and Mental Health Programs.

4. Financial Penalties. The department shall apply the provisions of Rule 65-29.001, F.A.C., if a contractor fails to comply with a department-approved corrective action plan in

response to a finding of unacceptable performance, nonperformance, or noncompliance to the terms and conditions of a contract.

5. Deducting Units Paid for by Other Sources of Funds. When preparing a request for payment for services provided, the contractor shall:

a. Indicate the total number of units of service billed to or paid for by the department, Medicaid, or local matching funds.

b. Then deduct the units of service billed to or paid for by Medicaid; and

c. Deduct the units of service paid for with local matching funds.

6. Submission of Request for Payment.

a. To be paid by the department, the contractor shall submit a properly completed request for payment and any associated worksheets.

b. The year-to-date number of units of service reported on a request for payment or any associated worksheet shall not exceed the total number of units reported and accepted in the department's data system pursuant to Rule 65E-14.022, F.A.C. The year-to-date number of units of service reported on the request for payment or any associated worksheet as billed to or paid for by Medicaid shall be no fewer than the number reported and accepted in the department's data system, and the year-to-date number of units reported on the request for payment as provided to Temporary Assistance to Needy Families (TANF) clients and billed to the department shall not exceed the number reported and accepted in the department's data system. If the department, through no fault of the contractor, is unable to validate compliance with this requirement within 10 days of receipt of the request for payment, the processing of the contractor's request for payment shall not be delayed further.

(c) Overpayments by the Department. Upon notification of overpayments by the department, the contractor shall have 30 days to remit the amount of the overpayment to the department.

(d) Service Documentation.

1. Contractors shall establish procedures for documenting and reporting service events in such a manner as to provide a clear and distinguishable audit trail. Such procedures shall ensure that documents and reports are complete and accurate, service documentation requirements are met for each cost center, and the department is not billed for unallowable units or more units than are eligible to be paid.

2. If a contractor fails to meet the client eligibility and service delivery regulatory requirements of a federal or state funding source provided by the department and the contractor receives payment from the department for such service, the amount of the payment shall be considered an overpayment and be remitted to the department or offset by the contractor providing additional contracted substance abuse or mental

health services of comparable or more value that comply with the client eligibility and service delivery regulatory requirements.

(11) The following forms are hereby incorporated by reference and may be obtained from the Substance Abuse Program Office, 1317 Winewood Blvd., Building 6, Tallahassee, Florida:

- (a) CF-MH 1041, Jul 2003 Personnel Detail Record
- (b) CF-MH 1042, Jul 2003 Projected Cost Center Operating and Capital Budget
- (c) CF-MH 1043, Jul 2003 Agency Capacity Report
- (d) CF-MH 1044, Jul 2003 Alternative Projected Operating and Capital Budget
- (e) CF-MH 1045, Jul 2003 Program Description
- (f) CF-MH 1047, Jul 2003 Monthly Request for Payment or Advance
- (g) CF-MH 1046, Jul 2003 Monthly Request for Payment Worksheet
- (h) CF-MH 1048, Jul 2003 Integrated Rate/Purchase of Service Invoice
- (i) CF-MH 1049, Jul 2003 Integrated Rate/Purchase of Services Invoice Attachment

PROPOSED EFFECTIVE DATE: July 1, 2003

Specific Authority 394.78(1),(6), 397.321(5) FS. Law Implemented 394.66(9),(12), 394.74(2)(b), (3)(d),(e),(4), 394.77, 394.78(1),(6), 397.321(10), 402.73(7) FS. History—New 7-1-03.

65E-14.022 Data Requirements.

The following document is hereby incorporated by reference and may be obtained from the Substance Abuse Program Office, 1317 Winewood Blvd., Building 6, Tallahassee, Florida:

- (1) CFP 155-2, Jan 2003 Substance Abuse and Mental Health Measurement and Data Pamphlet

PROPOSED EFFECTIVE DATE: July 1, 2003

Specific Authority 394.78(1), 397.321(5) FS. Law Implemented 394.66(9), 394.74(3)(e), 394.77, 397.321(3)(c),(10) FS. History—New 7-1-03.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jim Ochalek, Senior Management Analyst, Substance Abuse Program Office

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ken DeCerchio, Program Director of Substance Abuse, and Celeste Putnam, Program Director of Mental Health

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 20, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 10, 2001, Vol. 27, No. 32

Purchase Order No.: HA0058

FLORIDA HOUSING FINANCE CORPORATION

RULE TITLES:	RULE NOS.:
Definitions	67-32.002
General Program Restrictions	67-32.004
Application Procedures	67-32.005
Terms and Conditions of Loan	67-32.006
Scoring, Ranking, and Funding Guidelines	67-32.007
EHCL Credit Underwriting Procedures	67-32.009
Right to Inspect and Monitor	
Funded Developments	67-32.010
Fees	67-32.011

PURPOSE AND EFFECT: Pursuant to Florida Statutes Chapter 420.5087(3)(c)2., F.S., the Florida Housing Finance Corporation administers the Elderly Housing Community Loan (EHCL) Program. This program provides loans to sponsors of affordable rental housing for very low income elderly households. Chapter 67-32, F.A.C., provides the procedures for the administration of this loan program and criteria for receiving, evaluating, and competitively ranking all applications for loans under the EHCL Program.

The intent of this Rule is to provide loans to sponsors of housing for the elderly to make building preservation, health, or sanitation repairs or improvements which are required by federal, state, or local regulation or code, or life-safety or security-related repairs or improvements to such housing.

SUMMARY: The proposed Rule with its amendments sets out the procedures by which projects will be selected to participate in the Elderly Housing Community Loan Program and receive funds under the State Apartment Incentive Loan Program's allocation. This proposed Rule provides the procedures for program administration and will enable the corporation to make or participate in the making of mortgage loans for life-safety, building preservation, health, sanitation, and security-related repairs or improvements to eligible developers of rental housing projects for the elderly community.

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: 420.5087 FS.

LAW IMPLEMENTED: 420.5087 FS.

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

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

PLACE: Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kerey Carpenter, Deputy Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

THE FULL TEXT OF THE PROPOSED RULES IS:

67-32.002 Definitions.

For the purposes of this rule the following definitions shall apply:

(1) "Act" means the Florida Housing Finance Corporation Act as found in Chapter 420, Part V, of the Florida Statutes.

(2) "Applicant" means any person or entity, public or private, for-profit or not-for-profit ~~non-profit~~ that provides Housing for the Elderly who is requesting funding from the Elderly Housing Community Loan Program (EHCL).

(3) "Application" means the completed forms together with all exhibits submitted to Florida Housing in accordance with this rule chapter for the purpose of requesting funds from the EHCL Program.

(4) "Application Package" means the forms, threshold requirements, instructions and other information necessary for submission of an Application to Florida Housing for the EHCL Program.

(5) "Corporation" or "FHFC" or "Florida Housing" means the Florida Housing Finance Corporation.

(6) "Development," "Project," or "Property" means the rental housing unit or units to be repaired or improved by the funds received from the Program.

(7) "EHCL" or "EHCL Program" or "Program" means the Elderly Housing Community Loan Program created pursuant to Section 420.5087(3)(d).

(8) "Elderly" means elderly as defined in Section 420.503, Florida Statutes ~~describes a person 62 years of age or older. Persons meeting the Fair Housing Act requirements for Elderly, pursuant to Section 760.29(4), Florida Statutes, shall be considered Elderly for purposes of this Program.~~

(9) "Housing for the Elderly" means any housing community as defined in Section 420.503, Florida Statutes.

(10) "Received" means delivery by hand, U.S. Postal Service, or other courier service, unless otherwise indicated, to the offices of the Florida Housing no later than 5:00 p.m., Eastern time, on the day of the Application deadline.

(11) "Review Committee" means a committee of Florida Housing staff and one Department of Community Affairs person who will make recommendations to Florida Housing's Board of Directors regarding Program participation.

Specific Authority 420.5087(3)(c)2. FS. Law Implemented 420.5087(3)(c) FS. History—New 10-2-89, Amended 2-25-96, Formerly 9I-32.002, Amended 11-9-98, 1-2-00, 12-31-00, 3-17-02, _____.

67-32.004 General Program Restrictions.

(1) The proceeds of all loans shall be used for life-safety, building preservation, health, sanitation, or security-related repairs or improvements which result in making the Development safe and secure, and meeting requirements of state, federal, or local regulation.

(2) Funding provided under the EHCL Program may not exceed \$200,000 per Housing Community for the Elderly per funding cycle.

(3) Loan proceeds shall not be used to pay for administrative costs, routine maintenance or new construction.

Specific Authority 420.5087(3)(c)2. FS. Law Implemented 420.5087(3)(c) FS. History—New 10-2-89, Amended 1-9-92, 2-25-96, Formerly 9I-32.004, Amended 11-9-98, 1-2-00, 12-31-00, 3-17-02, Repromulgated _____.

67-32.005 Application Procedures.

(1) Florida Housing hereby adopts and incorporates by reference the EHCL Program Application Package, effective on the date of the latest amendment of this rule chapter.

(2) Application Packages may be obtained from Florida Housing located at Suite 5000, City Centre Building, 227 North Bronough Street, Tallahassee, Florida 32301-1329.

(3) All Applications must be complete, accurate, legible and timely when submitted.

(4) An original and two photocopies of the original Application must be submitted on or before the Application deadline noticed in a publication of general circulation throughout the state.

(5) Any Application which is not Received with the appropriate fee and number of copies by the Application deadline will be rejected and no action will be taken to score the Application.

Specific Authority 420.5087(3)(c)2. FS. Law Implemented 420.5087(3)(c) FS. History—New 10-2-89, Amended 1-9-92, 2-25-96, Formerly 9I-32.005, Amended 11-9-98, 1-2-00, 12-31-00, 3-17-02, Repromulgated _____.

67-32.006 Terms and Conditions of Loan.

(1) The loan shall be in compliance with this rule chapter and the Act, and loan documents shall, at a minimum, contain the following terms and conditions:

(a) The loan shall be non-amortizing and shall have an interest rate of one percent;

(b) Repayment of principal and interest shall be deferred until maturity of the note;

(c) The loan term shall not exceed fifteen years but may be for a shorter period of time as recommended by the credit underwriter.

(2) Unless otherwise approved by the Corporation ~~Florida Housing's Board of Directors~~, the loan must close within 6 months of the date of issuance of the firm EHCL loan commitment.

(3) The loan shall not be assumable upon Development sale, transfer or refinancing of the Development.

(4) If the loan is repaid due to sale, transfer, or refinancing of the Development, all available proceeds shall be applied to pay the following items in order of priority:

- (a) First mortgage debt service and fees;
- (b) Expenses of the sale;
- (c) EHCL principal and accrued interest.

(5) Florida Housing or an authorized representative of Florida Housing shall monitor compliance of all terms and conditions of the loan as provided in the loan documents.

(6) Insurance shall be maintained on the Development as determined by the first mortgage lender, but which shall, in any case, include fire and hazard insurance, with Florida Housing listed as a loss payee, in an amount sufficient to cover the amount of the EHCL loan and all superior mortgage loans and other insurance sufficient to meet the standards established in Part V, Section 106 of the Fannie Mae DUS Guide, effective September 10, 2002, which is adopted and incorporated herein by reference by the U.S. Department of Housing and Urban Development or United States Department of Agriculture (formerly the Farmers Home Administration) in the Program providing the first mortgage loan for the Development.

(7) Any violation of the terms and conditions required by Rule Chapter 67-32, F.A.C., or the loan documents constitutes a default under the loan documents allowing Florida Housing to accelerate its loan and to seek foreclosure as well as any other remedies legally available to it.

Specific Authority 420.5087(3)(c)2. FS. Law Implemented 420.5087(3)(c) FS. History—New 10-2-89, Amended 1-9-92, 2-25-96, Formerly 91-32.006, Amended 11-9-98, Repromulgated 1-2-00, Amended 12-31-00, 3-17-02.

67-32.007 Scoring, Ranking, and Funding Guidelines.

(1) Each Application received by the Application deadline shall be scored by Florida Housing staff based on the factors specified in the Application Package. Preliminary scores shall be transmitted to all Applicants.

(2) Failure to submit an Application following instructions provided in the Application Package and this rule chapter will result in rejection of the Application or a score less than the maximum available.

(3) With the exception of those items specified in the Application as mandatory elements which cannot be changed once the Application deadline has passed, Applicants will have 15 days from the date Florida Housing sends the preliminary scores to the Applicant to submit additional documentation, revised pages, and any such information the Applicant deems appropriate to address issues raised during scoring that could result in rejection of the Application or a score less than the maximum available. Where specific pages of the Application are revised or additional information is provided, each new page must be marked "revised" and an original and two copies of this additional documentation must be submitted by the deadline for Florida Housing to consider it in determining final scores. Pages of the Application that are not revised or

otherwise changed may not be resubmitted, except those documents signed by third parties shall be submitted in their entirety.

(4) Following the receipt and review of the documentation described in paragraph (3) above, Florida Housing shall then prepare final scores. In determining the final scores, no Application shall be rejected or receive a point reduction as a result of any issues not previously identified in the preliminary scores transmitted to the Applicant.

(5) The Review Committee shall prepare a scoring and ranking recommendation based on final scores and submit it to Florida Housing's Board of Directors for approval.

(6) Following the Board's action regarding the scoring and ranking, Florida Housing will transmit the scoring and ranking to each Applicant along with a notice of appeal rights.

(7) Following the Board's action on recommended orders received for all appeals resolved pursuant to Section 120.57, Florida Statutes, Florida Housing staff shall implement the Board's action by adjusting the scoring and ranking to reflect the outcome of the final orders.

(8) Applications shall be funded in the order of their scoring and ranking until all allocated funding has been awarded. However, an Application shall not be considered for funding if it does not meet threshold requirements as provided in the Application Package.

(9) Each Application received by the Application Deadline will be assigned an Application number. Each Application that is assigned an Application number will receive a lottery number at or prior to the issuance of final scores. Lottery numbers will be assigned by having Florida Housing's internal auditors run the total number of assigned Application numbers through a random number generator program. Tie-breakers will be applied to Applications with tied scores in the order listed below. For purpose of this tie-breaker, "non-profit" is defined as an Applicant or Developer whose general partner is 100% non-profit and all partners are 100% non-profit. In addition, for purposes of this provision, a limited liability company will not be considered a nonprofit unless all of its members are 100% non-profit. If two or more Applications have a tied score and fall within the funding range, Florida Housing shall fund all Applicants with tied scores. Should there be insufficient funds available to fully fund all Applications with tied scores, an award of funding will be offered to each Applicant with a tied score on a pro rata basis such that all Applicants with tied scores will be offered an equal percentage of their request amount so that remaining funds are divided among the tied Applications.

1. Preference will be given to the Application from an Applicant that has not been previously funded through the Florida Housing EHCL program.

2. Preference will be given to the Application from an Applicant that is 100% non-profit.

3. Lottery – Preference will be given to the Application with the lowest lottery number.

(10) If an Applicant rejects an offer of funding, Florida Housing will offer the funding to remaining eligible Applications in order of ranking.

(11) An EHCL Application will not be funded if there are not enough funds available to fund at least 60% of the Application's request amount. In the event that an Application is not funded for this reason, a lower ranked Application will be considered for funding

(12)(11) After all eligible Applications have been funded, any funds which have not been awarded shall be made available to Applicants under the State Apartment Incentive Loan Program.

Specific Authority 420.5087(3)(c)2. FS. Law Implemented 420.5087(3)(c) FS. History–New 10-2-89, Formerly 9I-32.007, Amended 11-9-98, 1-2-00, Repromulgated 12-31-00, Amended 3-17-02, _____.

67-32.009 EHCL Credit Underwriting Procedures.

(1) Following the appeals process, the Corporation shall issue preliminary commitment letters to those Applicants whose Developments were awarded final scores and ranking who placed them into the funding range.

(a) The preliminary commitment shall be subject to a positive recommendation by the Corporation's Credit Underwriter and approval by the Corporation's Board of Directors.

(b) The invitation to credit underwriting shall require that the Applicant submit the credit underwriting fee to the Credit Underwriter within 7 calendar days of the date of the invitation. The Corporation will, within the specified 7 calendar days, submit a copy of the Applicant's Application to the Credit Underwriter. Unless a written extension is obtained from the Corporation, failure to submit the fee by the specified deadline shall result in rejection of the Application.

(2) The Credit Underwriter shall verify all information in the Application, including information relative to the Applicant, Developer and Contractor.

(a) The Credit Underwriter shall report any inconsistencies or discrepancies or changes made to the Applicant's Application during credit underwriting. If the Board determines at any time that the changes made are prejudicial to the Development or if any discrepancy or misrepresentation is found, the Application will be rejected.

(b) If the Credit underwriter determines that special expertise is required to review information submitted to the Credit Underwriter which is beyond the scope of the Credit Underwriter's expertise, the fee for such services shall be borne by the Applicant.

(3) The Credit Underwriter shall make a written report and recommendation to the Corporation.

(4) After approval of the Credit Underwriter's recommendation by the Board of Directors or a committee appointed by the Board, the Corporation shall issue a firm EHCL loan commitment.

Specific Authority 420.5087(3)(c)2. FS. Law Implemented 420.5087(3)(c) FS. History–New _____.

67-32.010 Right to Inspect and Monitor Funded Developments.

Florida Housing or its agents shall have the right to inspect and monitor the records and facilities of all Developments. Inspections shall occur while the repairs or improvements are being made and may occur after completion of the repairs or improvements.

Specific Authority 420.5087(3)(c)2. FS. Law Implemented 420.5087(3)(c) FS. History–New 10-2-89, Formerly 9I-32.010, Amended 11-9-98, 1-2-00, Repromulgated 12-31-00, Amended 3-17-02, Repromulgated _____.

67-32.011 Fees.

(1) The following fees are required in conjunction with the Program:

(a) Application Package fee of \$20 payable to Florida Housing.

(b) Application fee of \$50 payable to Florida Housing for each Application submitted.

(c) Credit underwriting fee pursuant to contract between Florida Housing and the credit underwriter payable to the credit underwriter on or before the seventh calendar day following issuance of the preliminary commitment letter. The Credit Underwriter will not begin credit underwriting until this fee has been paid. If a Development involves units at scattered sites within a single county, a single credit underwriting fee shall be charged.

(d) A non-refundable commitment fee of \$250.00 payable to Florida Housing upon acceptance of the firm commitment. Applicants who provide a letter signed by the Applicant with an explanation of why funds will not be available prior to closing shall be permitted to pay the commitment fee at closing.

(e) Loan Servicing fees to be paid by the Applicant to the servicer pursuant to contract between Florida Housing and the servicer.

(2) Fees are part of Development cost and may be included as an eligible expense in determining total cost of the repairs or improvements.

(3) Failure to pay any fee shall cause the firm commitment to be terminated or shall constitute a default on the loan.

Specific Authority 420.5087(3)(c)2. FS. Law Implemented 420.507(19), 420.5087(3)(c) FS. History–New 10-2-89, Amended 2-25-96, Formerly 9I-32.011, Amended 11-9-98, 1-2-00, 12-31-00, 3-17-02, Repromulgated _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Vicky Brady, Multifamily Loans Manager
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Kerey Carpenter, Deputy
Development Officer
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: March 17, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: December 27, 2002

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF LEGAL AFFAIRS

Division of Victim Services and Criminal Justice Programs

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

NOTICE OF PUBLIC HEARING

The Bureau of Victim Compensation hereby gives notice of a public hearing on the above-referenced rule to be held on:

TIME AND DATE: 2:00 p.m., March 17, 2003

PLACE: Collins Building, Room G43J, 107 West Gaines Street, Tallahassee, Florida, 32301

The rule was originally published in Vol. 29, No. 4, of the January 24, 2003, Florida Administrative Weekly.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Gwen Roache, Chief, Bureau of Victim Compensation, PL-01, The Capitol, Tallahassee, Florida 32399-1050

Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact Ms. Roache at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the office using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE NOS.: RULE TITLES:
5E-14.108 Fumigation Requirements –
General Fumigation
5E-14.112 Fumigation Requirements –
Prefumigation Inspections,
Evacuation, Warning Notices
(Signs), Special Safety
Precautions and Responsibilities

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)., F.S., published in Vol. 29, No. 3, January 17, 2003, issue of Florida Administrative Weekly.

WHEN AMENDED THE PROPOSED RULE WILL READ AS FOLLOWS:

5E-14.108 Fumigation Requirements – General Fumigation.

(2) During a general fumigation, whenever the presence of two (2) persons trained in the use of the fumigant is required by the fumigant label, at least one of these persons must be either the certified operator in charge of fumigation or his designated special fumigation cardholder, and the second trained person can be a certified fumigation operator, a special identification cardholder or an identification cardholder. Two (2) trained persons shall be present at each fumigation site for the introduction of the fumigant, entry during fumigation and from the start of aeration (first opening of the seal) until the active aeration period with all operable doors and windows open, if required by the fumigant label is completed and the structure is secured for the remaining aeration period. The certified operator in charge of fumigation or his designated special identification cardholder shall be present at those times required by the fumigant label or by subsections 5E-14.108(1), 5E-14.111(4), 5E-14.112(1), and 5E-14.113(1) and (2), FAC.

(5) When crew members are present on the fumigation site, two properly functioning, positive pressure, self-contained breathing apparatus (SCBA) must be available at the fumigation site at all times when the structure is under fumigation (fumigant release, exposure period, aeration and at other times when state law or the fumigant label requires the use or presence of a SCBA). Two SCBA do not need to be present at the fumigation site for activities that do not involve worker exposure to fumigant concentrations above thresholds permitted by the fumigant label. Such activities could include, but would not be limited to, remote monitoring, using a Fumiscope, TIF leak detection, job site cleanup, DACS inspections, and Quality Assurance Reviews.

(6) Each business licensee location when performing fumigation must possess and maintain at least two, label approved, clearance devices so that at least one is properly functioning at all times in accordance with either the device manufacturer or the fumigant label directions, whichever is more restrictive.

Specific Authority 482.051 FS. Law Implemented 482.021(7)(6), (25)(20), 482.051(1), 482.152 FS. History—New 1-1-77, Amended 6-22-83, Formerly 10D-55.108, Amended 7-5-95, _____.