

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Tim Breault, Division of Wildlife, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM: JAMES V. ANTISTA, GENERAL COUNSEL, FISH AND WILDLIFE CONSERVATION COMMISSION, 620 SOUTH MERIDIAN STREET, TALLAHASSEE, FLORIDA 32399-1600, (850)487-1764

Section II Proposed Rules

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

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|--|-------------------------|
| RULE CHAPTER TITLE: | RULE CHAPTER NO.: |
| Corporate Income Tax | 12C-1 |
| RULE TITLES: | RULE NOS.: |
| Credits for Contributions to Nonprofit Scholarship Funding Organizations | 12C-1.0187 |
| Returns; Time and Place for Filing Forms | 12C-1.0222 12C-1.051 |

PURPOSE AND EFFECT: The purpose of the proposed creation of Rule 12C-1.0187, F.A.C. (Credits for Contributions to Nonprofit Scholarship Funding Organizations), is to provide guidelines for applying for credits for contributions to nonprofit scholarship funding organizations, as provided in Section 220.187(3), F.S.

The purpose of the proposed amendments to Rule 12C-1.0222, F.A.C. (Returns; Time and Place for Filing), is to provide a definition of “just cause” and “reasonable cause” for purposes of granting of extensions of time to file Florida corporate income tax returns.

The purpose of the proposed amendments to Rule 12C-1.051, F.A.C. (Forms), is to: (1) adopt, by reference, changes to the form used by the Department in the administration of the scholarship funding tax credit authorized under section 220.187, F.S.; and (2) remove an obsolete form that is no longer used by the Department.

SUMMARY: The proposed creation of Rule 12C-1.0187, F.A.C. (Credits for Contributions to Nonprofit Scholarship Funding Organizations): (1) provides guidelines on how to apply electronically with the Department for credits for contributions to nonprofit scholarship funding organizations; (2) provides guidelines on how the Department will confirm receipt of an electronic application and notify the applicant of

the amount of the approved credit; (3) provides guidelines for approved contributions and when an approved credit must be used, including any unused credit carried forward; (4) provides when the credit may be conveyed, assigned, or transferred to another entity; and (5) provides that the Department of Education is required to submit an annual list of eligible nonprofit scholarship funding organizations to the Department of Revenue.

The proposed amendments to Rule 12C-1.0222, F.A.C. (Returns; Time and Place for Filing), provide a definition of “just cause” and “reasonable cause” for purposes of granting of extensions of time to file Florida corporate income tax returns. The proposed amendments to Rule 12C-1.051, F.A.C. (Forms): (1) adopt, by reference, changes to Form F-1160 (Application for Corporate Income Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations); and (2) remove obsolete form F-1120P (Payment Coupon).

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

Any person who wishes to provide information regarding 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: 213.06(1), 220.187, 220.51 FS.

LAW IMPLEMENTED: 213.05, 213.35, 213.755, 220.03(1), 220.11, 220.12, 220.13(1),(2), 220.131, 220.14, 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.187, 220.1895, 220.19, 220.191, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801, 220.803, 220.805, 220.807, 220.809, 221.04 FS.

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

TIME AND DATE: 10:30 a.m., December 18, 2003

PLACE: Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least 48 hours before such proceeding by contacting: Larry Green, (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4715

The Department's proposed rules are available on the Department's web site: www.myflorida.com/dor/rules.

THE FULL TEXT OF THE PROPOSED RULES IS:

12C-1.0187 Credits for Contributions to Nonprofit Scholarship Funding Organizations.

(1) An Application for Corporate Income Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations (Form F-1160, incorporated by reference in Rule 12C-1.051, F.A.C.) must be filed with the Department to receive such credit. Form F-1160 must be submitted to the Department electronically and is available from the Department's Internet site at www.myflorida.com/dor. When the application for credit has been completed and submitted electronically, a confirmation screen will provide a confirmation number and will confirm receipt of the electronic application for credit. The Department will send written correspondence to the applicant within ten working days regarding the amount of the tax credit approved or the reason the credit could not be approved.

(2) If the nonprofit scholarship funding organization named in the approval letter is unable to accept a contribution, in whole or in part, as a result of its obligations under Section 220.187, F.S., and it provides a written statement declining the contribution, the taxpayer may make the contribution, in whole or in part, to another eligible nonprofit scholarship funding organization. Contributions must be made during the tax year specified in the approval letter.

(3) If a taxpayer receives an approval letter from the Department of Revenue, but fails to make the contribution, no credit is allowed. If a taxpayer receives an approval letter from the Department of Revenue, but makes the contribution to an ineligible organization, or a nonprofit scholarship funding organization does not accept the contribution, no credit is allowed. If the contribution is made outside the tax year for which the credit was approved, no credit is allowed.

(4) A taxpayer is required to make a separate application for each scholarship funding organization it intends to support or any carry forward credit it would like to use. Any credit, including carry forward credits, allocated to a taxpayer cannot be rescinded by the taxpayer or returned to the Department for reallocation to another taxpayer.

(5) If the credit granted pursuant to this section is not fully used in any one year, the unused amount may be carried forward for a period not to exceed three years. Any taxpayer that seeks to carry forward an unused amount of credit must submit Form F-1160 to the Department electronically in the year that the taxpayer intends to use the carry forward amount. The Department will send written correspondence to the applicant within ten working days regarding the amount of carry forward credit that the taxpayer may use or the reason the Department could not approve the use of a carry forward credit.

(6) A taxpayer may not convey, assign, or transfer the credit authorized by this section to another entity unless all of the assets of the taxpayer are conveyed, assigned, or transferred in the same transaction.

(7) The Department and the Department of Education shall develop a cooperative agreement to assist in the administration of this section. The Department of Education shall be responsible for submitting to the Department, by March 15 of each year, a list of eligible nonprofit scholarship funding organizations that meet the eligibility requirements and for monitoring eligibility of nonprofit scholarship funding organizations that meet the eligibility requirements, eligibility of nonpublic schools that meet the requirements, and eligibility of expenditures under this credit provision.

Specific Authority 213.06(1), 220.187, 220.51 FS. Law Implemented 213.05, 213.35, 213.755, 220.03(1), 220.131, 220.187, 220.44 FS. History—New

12C-1.0222 Returns; Time and Place for Filing.

(1) No change.

(2)(a)1. The Process Manager for Taxpayer Services is authorized to grant a reasonable extension or extensions of time, not to exceed 6 months in the aggregate, for filing any required return. If an automatic extension is not permitted because a federal extension has not been requested or is not allowed, the application must contain sufficient facts to establish reasonable cause why the return cannot be filed on or before the original due date. The Department will apply the definition that has been developed through federal case law and Internal Revenue Service Announcements in determining "good cause" and "reasonable cause" for granting extensions of time for filing Florida corporate income tax returns. See, e.g., Internal Revenue Service Announcements 60-90 and 63-113, and United States v. Boyle, 469 U.S. 241, 246 (1985). An extension of time for filing a return does not operate as an extension of time for payment of the tax or any part thereof.

2. through (b) No change.

Specific Authority 213.06(1), 220.51 FS. Law Implemented 220.222, 220.32, 220.801 FS. History—New 10-20-73, Amended 10-8-74, 4-21-75, 3-5-80, 12-18-83, Formerly 12C-1.222, Amended 12-21-88, 12-19-89, 4-8-92, 3-18-96, 3-13-00.

12C-1.051 Forms.

(1)(a) The following forms and instructions are used by the Department in its administration of the corporate income tax and franchise tax. These forms are hereby incorporated by reference in this rule.

(b) No change.

| Form Number | Title | Effective Date |
|-------------|-------|----------------|
|-------------|-------|----------------|

(2) through (7) No change.

| | | |
|-------------|--------------------------|-------|
| (8) F-1120P | Payment Coupon (R-01/02) | 08/02 |
|-------------|--------------------------|-------|

(9) through (15) renumbered (8) through (14) No change.

~~(15)(16)~~ F-1160 Application for Corporate Income Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations
(R. ~~11/03 01/03~~) _____ ~~06/03~~

(17) through (18) renumbered (16) through (17) No change.

Specific Authority 213.06(1), 220.51 FS. Law Implemented 220.11, 220.12, 220.13(1),(2), 220.14, 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.187, 220.1895, 220.19, 220.191, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801, 220.803, 220.805, 220.807, 220.809, 221.04 FS. History—New 9-26-77, Amended 12-18-83, Formerly 12C-1.51, Amended 12-21-88, 12-31-89, 1-31-91, 4-8-92, 12-7-92, 1-3-96, 3-18-96, 3-13-00, 6-19-01, 8-1-02, 6-19-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4715

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rodney Felix, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4111

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 18, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12C-1, F.A.C. (Corporate Income Tax), were noticed for a rule development workshop in the Florida Administrative Weekly on June 6, 2003 (Vol. 29, No. 23, pp. 2279-2281). A rule development workshop was held on June 24, 2003. No one appeared to provide comment regarding these proposed rule changes. Changes were made by the Department to the proposed amendments to Rule 12C-1.0187, F.A.C. (Credits for Contributions to Nonprofit Scholarship-Funding Organizations), and Rule 12C-1.051, F.A.C. (Forms), regarding the nonprofit scholarship funding tax credit provided in s. 220.187(3), F.S.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

DEPARTMENT OF CORRECTIONS

RULE TITLE: Substance Abuse Program Services – Determination of Need
RULE NO.: 33-507.201

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to update a form incorporated by reference to provide additional information to inmates refusing admission to substance abuse programs.

SUMMARY: The proposed rule revises an incorporated form to provide additional information to inmates refusing admission to substance abuse programs.

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: 397.754, 944.09 FS.

LAW IMPLEMENTED: 397.754, 944.09 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-507.201 Substance Abuse Program Services – Determination of Need.

(1) through (4) No change.

(5) If an inmate refuses to participate in mandatory substance abuse program services, the classification officer shall ensure that this refusal is documented on Form DC5-705, ~~Statement of Refusal of Mandatory to Participate in Substance Abuse Program Services.~~ Form DC5-705 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is ~~_____ July 1, 2000.~~ Inmates who refuse to participate in mandated substance abuse services shall be subject to disciplinary action.

(a) through (9) No change.

Specific Authority 397.754, 944.09 FS. Law Implemented 397.754, 944.09 FS. History—New 1-18-95, Formerly 33-37.003, Amended 7-1-00, 4-1-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Judy Mears
 NAME OF SUPERVISOR OR PERSON WHO APPROVED
 THE PROPOSED RULE: James V. Crosby, Jr.
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: November 12, 2003
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: October 31, 2003

DEPARTMENT OF CORRECTIONS

RULE TITLE: Use of Force
 RULE NO.: 33-602.210

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify procedures for authorization and supervision of application of chemical agents, video-recording uses of force and post use of force practices.

SUMMARY: The proposed rule provides for the video-recording of all uses of force, clarifies staff responsibilities related to authorization of chemical agents and supervision of chemical agent use, and mandates the showering of inmates after application of chemical agents and examination by medical staff within specific time frames.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09, 945.35 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.210 Use of Force.

(1) No change.

(2) Physical force shall be employed only as a last resort when it reasonably appears that other alternatives are not feasible to control the situation and will not be used solely in response to verbal abuse that does not rise to a level of a disturbance. When the use of force is justified, only that amount and type of force that reasonably appears necessary to accomplish the authorized objective shall be used. All authorized use of force incidents will be video recorded ~~taped~~ in their entirety; ~~except that videotaping the administration of chemical agents is not required for use on an inmate creating a disturbance in his or her cell when the officer is attempting to~~

~~resolve the situation without extracting the inmate from the cell. Videotaping will be initiated after the final exposure to chemical agents if cell extraction or other uses of force are necessary.~~ All spontaneous use of force incidents will be videotaped from the point the video camera operator arrives at the scene. Videotaping shall continue uninterrupted until the incident is under control, the involved inmate is escorted to medical, and the inmate is subsequently returned to secure housing. Videotaping of post use of force medical exams shall be done in such a manner as to provide the privacy needed for the exam. If it is necessary to transport the inmate to an outside facility for treatment or to another department facility for secure housing purposes, videotaping shall continue until the inmate is loaded and secured in the transport vehicle.

(3) through (4) No change.

(5) The warden or, in his absence, the duty warden will be consulted and give her or his permission prior to use of physical force. In spontaneous use of force incidents when circumstances do not permit prior approval, the warden or duty warden will be notified immediately following any use of force incident. Whenever force is authorized, the employee who was responsible for making the decision to use force pursuant to subsection (1) shall prepare, date and sign the Authorization For Use of Force Report, Form DC6-232 either during, or immediately after, the tour of duty when force was used. If the authorization for force is given after normal working hours, the person authorizing the force shall complete and sign Form DC6-232 within one working day (Monday through Friday) following the incident. Form DC6-232 is incorporated by reference in subsection (20) of this rule.

(6) through (13) No change.

(14) Use of Chemical Agents.

(a) through (b) No change.

(c) In controlled situations when time constraints are not an issue, chemical agents can only be used if authorized by the warden or, in his or her absence, the duty warden. Additionally, in accordance with paragraph (k) below, certified correctional staff will be designated by the warden to carry chemical agents and will be pre-authorized to administer chemical agents in instances where chemical agents must be used for intervention in self-defense, i.e., when the officer believes that he or she is in imminent threat of bodily harm or that the use of chemical agents will prevent injury to other staff, visitors, volunteers or inmates.

(d) through (l) No change.

(m) Procedure for the use of chemical agents on disruptive inmates under controlled conditions:

1. No change.

2. If the confinement or close management lieutenant or shift supervisor's efforts to control the disorderly inmate have failed and the use of chemical agents is the least level of force that can be expected to successfully gain control of the disruptive inmate while minimizing the risk of injuries to all involved, the shift supervisor shall:

- a. No change.
- b. Contact the warden or, in his or her absence, the warden and request authorization to utilize chemical agents.
- 3. Prior to using chemical agents, the inmate again shall be counseled with by the OIC concerning his behavior.
 - a. If this attempt to counsel with the inmate is unsuccessful, the inmate will be given a final order by the OIC staff to cease his actions. The inmate will also be informed at this time that chemical agents will be administered if he continues his disruptive behavior.
 - b. through e. No change.
 - f. Except in cases of extreme emergency as determined by the warden or duty warden, the confinement or close management lieutenant or the shift supervisor shall counsel with, issue the final order, and be present during the administering of chemical agents. If the OIC is unavailable, the OIC shall provide a written explanation as to why he was not available to supervise the administration of chemical agents.

(n) Medical Requirements. Once the inmate is compliant, he shall be showered as soon as possible but not later than 20 minutes after final application of chemical agents. The inmate shall be examined by medical immediately after showering. All inmates shall be examined by medical staff as soon as possible after the chemical agent has been used but not more than one hour after the first exposure, except in cases of emergency where this may not be possible. In each instance a DC4-701C, Emergency Room Record, shall be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. If an injury is claimed or found to exist, Form DC4-708, Diagram of Injury, shall also be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. In each case, the examination shall be complete and result in a clear statement by the medical provider that there is or is not an injury, and the record shall provide sufficient documentation to support that conclusion. In those cases where an injury is claimed but not substantiated by medical examination, the statement shall indicate that, and the documentation shall be sufficient to support that no injury was found upon examination. Medical staff shall, upon completing the medical examination, make a mental health referral for each inmate who is classified S-2 or S-3 on the health profile. The referral shall be made by completing Form DC4-529, Staff Request/Referral, and sending it to mental health staff. Form DC4-529 is incorporated by reference in subsection (20) of this rule. Mental health staff shall evaluate the inmate not later than the next working day, to determine whether a higher level of mental health care (isolation management, transitional or crisis stabilization) is indicated.

- (o) No change.
- (p) Inmates exposed to chemical agents shall be ordered by the OIC ~~allowed and encouraged~~ to shower and change both inner and outer wear within 20 minutes after exposure for decontamination purposes.

- 1. If an inmate refuses to shower or change, the refusal shall result in a disciplinary report and be documented:
 - a. On Form DC6-210, Incident Report, by the shift supervisor; if the inmate is in general population;
 - b. through c. No change.
 - 2. In the event the inmate refuses to shower or change, staff shall advise the medical staff member who is responsible for examining the inmate following the use of force of this refusal and medical staff shall immediately report to the area to conduct a cell-front examination and to explain the importance of showering after exposure to chemical agents, except in case of emergency which shall be documented.
 - 3. The OIC shall again order the inmate to shower. If the inmate refuses again, this refusal shall also be documented in writing and witnessed by the OIC and medical staff.
 - 4. If medical staff determine that there is no immediate medical need for the inmate to shower, then for the next 2 hours the inmate shall be checked every 30 minutes and given the opportunity to shower. These checks shall be documented on Form DC6-229, Daily Record of Segregation.
 - 5. If health services staff determine that a medical need requires the inmate to be showered, the provisions of subsection 33-602.210(10), F.A.C., shall be followed to shower the inmate and move him to a decontaminated cell.
- (15) through (20) No change.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.35 FS. History—New 4-8-81, Amended 10-10-83, 9-28-85, Formerly 33-3.066, Amended 3-26-86, 11-21-86, 4-21-93, 7-26-93, 11-2-94, 2-12-97, 11-8-98, Formerly 33-3.0066, Amended 10-6-99, 2-7-00, 7-25-02, 8-25-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Michael Rathmann
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 9, 2003
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 10, 2003

DEPARTMENT OF CORRECTIONS

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|----------------------------|------------|
| RULE TITLES: | RULE NOS.: |
| Administrative Confinement | 33-602.220 |
| Protective Management | 33-602.221 |
| Disciplinary Confinement | 33-602.222 |

PURPOSE AND EFFECT: The purpose and effect of the proposed rules is to clarify definitions of terms related to confinement statuses, incorporate new forms, correct staff titles, clarify provisions related to conditions and privileges in confinement statuses, clarify responsibilities of staff working in confinement units, and delete obsolete language.

SUMMARY: The proposed rules clarify definitions of terms related to confinement statuses, incorporate new forms, correct staff titles, clarify provisions related to conditions and

privileges in confinement statuses, clarify responsibilities of staff working in confinement units, and delete obsolete language.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.34, 945.04 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: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULES IS:

33-602.220 Administrative Confinement.

(1) Definitions.

(a) through (n) No change.

(o) Major rule violation – for the purposes of this rule only, means any assault, battery or attempted assault or battery; any spoken or written threat towards any person; inciting or attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; and any escape or escape attempt.

(2) No change.

(3) Reasons for Placement in Administrative Confinement with time limits. Placement of an inmate in administrative confinement is authorized for the following reasons:

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

2. If the inmate submits a request for release in writing at any time during the ICT review or investigation process, the ~~area~~ housing supervisor shall provide the inmate with a Form DC6-203, Protection Waiver/Appeal Decision Form. Form DC6-203 is incorporated by reference in subsection (11) of this rule. The inmate shall complete Form DC6-203 and return it to the ~~area~~ housing supervisor for submission to the ICT along with the inmate's written request.

(c)3. through (f) No change.

(4) Administrative Confinement Facilities.

(a) The number of inmates housed in an administrative confinement cell shall not exceed the number of bunks in the cell. The only exception to this policy is during an emergency situation as declared by the warden or duty warden. The regional director of institutions and the emergency action center in central office shall be advised of the emergency. If the emergency situation exists in excess of 24 hours, the warden or

duty warden must get specific written authorization from the regional director of institutions to continue to house inmates beyond the 24-hour period. Prior to placing inmates in the same cell, the inmates will be interviewed by the housing supervisor to ensure that none of the inmates constitute a threat to any of the others.

(b) through (d) No change.

(5) Conditions and Privileges.

(a) Clothing – Inmates in administrative confinement shall be provided the same clothing and clothing exchange as the general inmate population unless there are facts to suggest that on an individual basis exceptions are necessary for the welfare of the inmate or the security of the institution. In such cases, the exceptions shall be documented on Form DC6-229 and approved by the chief of security. Shower slides may be substituted for regulation shoes. Any item may be removed from the cell in order to prevent the inmate from inflicting injury to himself or herself or others or to prevent the destruction of property or equipment. If an inmate's clothing is removed, a modesty garment shall be immediately obtained and given to the inmate. If the inmate chooses not to wear the garment, the garment shall be left in the cell and this action shall be documented on Form DC6-229. Under no circumstances shall an inmate be left without a means to cover himself or herself.

(b) Bedding and linen – Bedding and linen for those in administrative confinement shall be issued and exchanged the same as is provided to the general inmate population. Any exceptions shall be based on potential harm to individuals or a threat to the security of the institution. The shift ~~supervisor officer in charge~~ or the confinement lieutenant must approve the action initially. Such exceptions shall be documented on Form DC6-229 and the Chief of Security shall make the final decision in regard to the appropriateness of the action no later than the next working day following the action.

(c) through (e) No change.

(f) Diet and Meals – All inmates in administrative confinement shall receive normal institutional meals as are available to the general inmate population except that if any item on the normal menu might create a security problem in the confinement area, then another item of comparable quality shall be substituted. Utilization of the special management meal is authorized for any inmate in administrative confinement who uses food or food service equipment in a manner that is hazardous to him or herself, staff, or other inmates. The issuance of a special management meal shall be in accordance with Rule 33-602.223, F.A.C. Any deviation from established meal service or sSubstitutions shall be documented on the Daily Record of Segregation, Form DC6-229.

(g) through (o) No change.

(p) Exercise – Those inmates confined on a 24-hour basis excluding showers and clinic trips may exercise in their cells. However, if confinement extends beyond a 30-day period, an exercise schedule shall be implemented to ensure a minimum of three hours per week of exercise out of doors. Such exercise periods shall be documented on Form DC6-229. The ICT is authorized to restrict exercise for an individual inmate only when the inmate is found guilty of a major rule violation. ~~In this instance, a major rule violation is defined as: any assault, battery or attempted assault or battery; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; escape or escape attempt.~~ Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be for no more than 15 days per incident and for no longer than 30 days in cumulative length. If the inmate requests a physical fitness program handout, the wellness specialist or the confinement officer shall provide the inmate with an in-cell exercise guide and document such on the Daily Record of Segregation, Form DC6-229. Medical restrictions can also place limitations on the exercise periods. A disabled inmate who is unable to participate in the normal exercise program will have an exercise program developed for him or her that will accomplish the need for exercise and take into account the particular inmate's limitations. Recreational equipment may be available for the exercise period provided such equipment does not compromise the safety or security of the institution. The reasons for any exercise restrictions shall be documented on the Daily Record of Segregation, Form DC6-229.

(q) No change.

(6) Restraint and Escort Requirements.

(a) through (e) No change.

(f) Any inmate who has demonstrated behavior that is or could be harmful to himself or herself shall be designated as a special risk inmate. If the inmate demonstrates bizarre, mentally disordered, or self-destructive behavior, the medical department shall be immediately contacted to determine if special watch or suicide watch procedures shall be initiated. Suicidal inmates shall be removed to a designated area where a correctional officer or health care staff provides observation. Visual checks shall be made in accordance with medical protocols or at least every 30 minutes and shall be documented on Form DC4-650, Observation Checklist, until the inmate is no longer considered a special risk inmate. All actions taken by staff with regard to special risk inmates shall be documented on Form DC6-229 and followed with an Incident Report, Form DC6-210. Form DC6-210 is incorporated by reference in Rule 33-602.210, F.A.C. Form DC4-650 is incorporated by reference in (11) of this rule.

(g) No change.

(7) Visits to Administrative Confinement. The following staff members shall be required to officially inspect and tour the administrative confinement unit. All visits by staff shall be documented on the Inspection of Special Housing Record, Form DC6-228. Form DC6-228 is incorporated by reference in subsection (11) of this rule. The staff member shall also document his or her visit on the Daily Record of Segregation, Form DC6-229, if any discussion of significance, action or behavior of the inmate occurs or any important information is obtained which may have an influence or effect on the status of confinement. These visits shall be conducted at a minimum of:

(a) No change.

(b) Daily by the ~~area~~ housing supervisor.

(c) Daily by the shift supervisor ~~officer in charge~~ on duty for all shifts except in case of riot or other institutional emergency.

(d) through (8) No change.

(9) Administrative Confinement Records.

(a) A Daily Record of Segregation, Form DC6-229, shall be maintained for each inmate as long as the inmate is in administrative confinement. The DC6-229 shall be utilized to document any activity such as cell searches, items removed, showers, recreation, haircuts and shaves and also unusual occurrences such as refusal to come out of a cell or refusal to eat. If items that inmates in administrative confinement are not prohibited from possessing are denied or removed from the inmate, the shift supervisor ~~officer in charge~~ or the confinement lieutenant must approve the action initially. The central office ADA coordinator shall be contacted within 24 hours if any item is removed that would be considered an auxiliary aid or device that ensures a disabled inmate an equal opportunity as a non-disabled inmate. The items denied or removed shall be documented on Form DC6-229 and the Chief of Security shall make the final decision in regard to the appropriateness of that action no later than the next working day following the action. The housing supervisor ~~supervising officer~~ shall make a notation of any unusual occurrences or changes in the inmate's behavior and any action taken. Changes in housing location or any other special action shall also be noted. The DC6-229 shall be maintained in the housing unit ~~area~~ for 30 days, at which time the form shall be forwarded to the ICT for review. Once reviewed, these forms shall be forwarded to classification to be filed in the institutional inmate record.

(b) A Daily Record of Segregation – Supplemental, Form DC6-229B, shall be completed and attached to the current Daily Record of Segregation, Form DC6-229, whenever additional written documentation is required concerning an event or incident related to the specific inmate. Form DC6-229B is incorporated by reference in subsection (11) of this rule.

~~(c)(b)~~ An Inspection of Special Housing Record, Form DC6-228, shall be maintained in each administrative confinement unit area. Each staff person shall sign such record when entering and leaving the confinement unit area. Prior to leaving the confinement unit area, each staff member shall indicate any specific problems including any inmate who requires special attention. No other unit activities shall be recorded on Form DC6-228. Upon completion, the DC6-228 shall be maintained in the housing unit area and forwarded to the Chief of Security on a weekly basis where it shall be maintained on file pursuant to the current retention schedule. Form DC6-228 is incorporated by reference in (11) of this rule.

(d) A Housing Unit Log, Form DC6-209, shall be maintained in each confinement unit. Officers shall record all daily unit activities on Form DC6-209, to include any special problems or discrepancies noted. The completed Form DC6-209 shall be forwarded daily to the chief of security for review. Form DC6-209 is incorporated by reference in subsection (11) of this rule.

(10) Staffing Issues.

(a) No change.

(b) The Inspector General shall notify the warden and regional director of institutions of any officer involved in eight or more use of force incidents in an 18-month period. The regional director of institutions shall review the circumstances for possible reassessment.

(11) Forms. The following forms referenced in this rule are hereby incorporated by reference. A copy of any of these forms may be obtained from the Forms Control Administrator, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) through (g) No change.

(h) Form DC6-229B, Daily Record of Segregation – Supplemental, effective _____.

(i) Form DC6-209, Housing Unit Log, effective _____.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 945.04 FS. History—New 4-7-81, Amended 6-23-83, 3-12-84, Formerly 33-3.081, Amended 4-22-87, 8-27-87, 7-10-90, 12-4-90, 3-24-97, 4-26-98, 10-5-98, Formerly 33-3.0081, Amended 2-12-01, 2-5-02, 1-19-03, _____.

33-602.221 Protective Management.

(1) Definitions.

(a) through (p) No change.

(q) Major Rule Violation, for the purposes of this rule only, means any assault, battery or attempted assault or battery; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; and any escape or escape attempt.

(2) No change.

(3) Protective Management Facilities.

(a) The number of inmates housed in protective management housing units shall not exceed the number of beds in the cell. Exceptions may be made during an emergency situation as approved by the warden or duty warden, but such exceptions shall not continue for more than 24 hours without the specific written authorization of the regional director of institutions. Prior to placing inmates in the same cell, a determination shall be made by the housing supervisor that none of the inmates constitute a threat to any of the others and document such on Form DC6-235, Record of Protective Management.

(b) through (d) No change.

(4) Conditions and Privileges.

(a) Clothing – Inmates may wear shower slides or personal canvas shoes while in their housing units, but regulation shoes shall be required for work assignments. Otherwise the clothing for inmates in protective management shall be the same as that issued and exchanged to the general inmate population except when there is an indication of a security or health problem or when additional clothing is required for a work assignment. In such cases the exceptions shall be documented on Form DC6-235, Record of Protective Management, and approved by the chief of security. Any item may be removed from the cell in order to prevent the inmate from inflicting injury to himself or herself or others, to prevent the destruction of property or equipment, or to prevent the inmate from impeding security staff from accomplishing functions essential to the unit and institutional security. If an inmate's clothing is removed, a modesty garment shall be immediately obtained and given to the inmate. If the inmate chooses not to wear the garment, the garment shall be left in the cell and this action shall be noted on Form DC6-235, Record of Protective Management, stating the reasons for such denial. Under no circumstances will an inmate be left without a means to cover himself or herself.

(b) Bedding and linen – Bedding and linen shall be issued and exchanged for protective management inmates the same as for the general inmate population. Any exceptions shall be based on potential harm to individuals or a threat to the security of the institution. The shift supervisor officer in charge or the confinement lieutenant must approve the action initially. Such exceptions shall be documented on Form DC6-235 Record of Protective Management, and the chief of security shall make the final decision in regard to the appropriateness of the action no later than the next working day following the action.

(c) through (e) No change.

(f) Diet and Meals – Inmates in protective management shall be fed in the dining room unless individual circumstances adversely affecting the safety of a particular inmate preclude dining room feeding for the inmate. If particular security reasons as determined by institution staff prevent dining room feeding, the inmate's meal shall be served in the day room or the inmate's cell. Inmates in protective management shall

receive normal institutional meals as are available to the general population, except that if any item on the normal menu might create a security problem for a particular inmate, then another item of comparable quality shall be substituted. Any deviation from established meal service or sSubstitutions shall be documented on the Record of Protective Management, Form DC6-235.

(g) through (o) No change.

(p) Exercise – an exercise schedule shall be implemented to ensure a minimum opportunity of three hours per week of exercise out of doors. The ICT is authorized to restrict exercise for an individual inmate when the inmate is found guilty of a major rule violation. ~~In this instance, a major rule violation is defined as: any assault, battery or attempted assault or battery; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; escape or escape attempt.~~ Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be for no more than 15 days per incident and for no longer than 30 days in cumulative length. If the inmate requests a physical fitness program handout, the wellness specialist or the housing officer shall provide the inmate with an in-cell exercise guide and document such on the Record of Protective Management, Form DC6-235. Form DC6-235 is incorporated by reference in subsection (10) of this rule. Medical restrictions may also place limitations on exercise periods. A disabled inmate who is unable to participate in the normal exercise program will have an exercise program developed for him or her that will accomplish the need for exercise and take into account the particular inmate's limitations. Similar recreational equipment shall be available as is available for general population inmates for the exercise period provided that such equipment does not compromise the safety or security of the institution. The reasons for any exercise restrictions shall be documented on the Report of Protective Management, Form DC6-235.

(q) No change.

(r) Self-improvement programs – Self-improvement programs shall be available in their housing unit area, or in separate locations within the institution that conform with the need for security. Self-improvement programs include academic education, vocational training, correspondence courses or self-directed study activities, religious activities, quiet activities or letter writing.

(s) through (6) No change.

(7) Contact by Staff.

(a) The following staff members shall be required to officially inspect and tour the protective management unit. All visits by staff shall be documented on Form DC6-228, Inspection of Special Housing Record. The staff member shall also document his or her visit on the Record of Protective

Management, Form DC6-235, if, during the visit by staff, any discussion of significance, action or behavior of the inmate occurs or any information is obtained which may have an effect on the status of protective management. These visits shall be conducted at a minimum of:

1. No change.

2. Daily by the ~~area~~ housing supervisor.

3. Daily by the shift supervisor ~~officer-in-charge~~ on duty for all shifts except in case of riot or other institutional emergency.

4. through 9. No change.

(b) Any inmate who has demonstrated behavior that is or could be harmful to himself or herself shall be designated as a special risk inmate. If the inmate demonstrates bizarre, mentally disordered, or self-destructive behavior, the medical department shall be immediately contacted to determine if special watch or suicide watch procedures shall be initiated. Suicidal inmates shall be removed to a designated area where a correctional officer or health care staff provides observation. Visual checks shall be made in accordance with medical protocols or at least every 30 minutes and shall be documented on Form DC4-650, Observation Checklist, until the inmate is no longer considered a special risk inmate. All actions taken by staff with regard to special risk inmates shall be documented on Form DC6-229, Daily Record of Segregation, and followed with an Incident Report, Form DC6-210. Form DC6-229 and Form DC4-650 are ~~is~~ incorporated by reference in subsection 33-602.220(11), F.A.C.

(8) No change.

(9) Protective Management Records.

(a) No change.

(b) An Inspection of Special Housing Record, Form DC6-228 shall be maintained in each protective management unit area. Form DC6-228 is incorporated by reference in subsection (11) of Rule 33-602.220, F.A.C. Each staff person shall sign the record when entering and leaving the protective management unit area. Prior to leaving the protective management unit area, each staff member will indicate any specific problems including any inmate who requires medical attention. No other unit activities shall be recorded on Form DC6-228.

(c) A Record of Protective Management, Form DC6-235 shall be maintained for each inmate as long as the inmate is in protective management. Once the inmate is released from protective management, Form DC6-235 will be forwarded to classification to be filed in the institutional inmate record. This form shall be used to record any action, remarks or disposition made on a specific inmate. Notations shall be made on Form DC6-235 by medical staff, the ICT, the SCO or other staff dealing directly with the inmate. If items are denied or removed from the inmate, the senior correctional officer on duty must approve the action. The central office ADA coordinator will be contacted within 24 hours if any item is

removed that would be considered an auxiliary aid or device that ensures a disabled inmate of equal opportunity as a non-disabled inmate. The items denied or removed will be documented on the Form DC6-235 and the chief of security will make the final decision in regard to the appropriateness of that action no later than the next working day following this action. The housing supervisor supervising officer will document any unusual occurrences or changes in the inmate's behavior and any action taken. Changes in housing location or any other special action will also be documented.

(d) A Housing Unit Log, Form DC6-209, shall be maintained in each protective management unit. Officers shall record all daily unit activities on Form DC6-209, to include any special problems or discrepancies noted. The completed Form DC6-209 shall be forwarded daily to the chief of security for review. Form DC6-209 is incorporated by reference in Rule 33-602.220, F.A.C.

(10) No change.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.34, 945.04 FS. History—New 6-23-83, Formerly 33-3.082, Amended 3-12-84, 7-10-90, 12-4-90, 4-26-98, Formerly 33-3.0082, Amended 2-12-01, 1-19-03,

33-602.222 Disciplinary Confinement.

(1) Definitions.

(a) through (k) No change.

(l) State Classification Office (SCO) refers to a staff member at the central office level responsible for the review of inmate classification decisions including approving, modifying or rejecting ICT recommendations.

(m) Major rule violation – for the purposes of this rule only, means any assault, battery or attempted assault or battery; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; and any escape or escape attempt.

(n) Housing supervisor – the correctional officer sergeant, or above, who is in charge of the disciplinary confinement unit for a particular shift.

(2) Placement in Confinement.

(a) No change.

(b) ~~Inmates placed in D~~disciplinary confinement cells shall be physically placed in cells separate from other confinement statuses whenever possible. Whenever such location is not possible, physical barriers shall preclude the cross association of those in disciplinary confinement with those in other housing statuses. The disciplinary confinement cells shall be approximately the same square footage as utilized for general population. Disciplinary confinement units shall be built to permit verbal communication and unobstructed observation by staff. Visual inspections shall be conducted of each cell, to include at a minimum, observations for clothes lines, pictures attached to the walls and lockers, windows or

light fixtures covered with paper, clothes or towels, and air and heater vents that have been obstructed. When sufficient natural light is unavailable, interior cell lights shall be left on during day and evening hours.

(3) Disciplinary Confinement Cells.

(a) Inmates shall not be housed in disciplinary confinement cells in greater number than there are beds in the cells. The only exception to this policy is during an emergency situation as declared by the warden or duty warden. Any emergency situation shall be communicated to the regional director of institutions and to the Emergency Action Center in the central office. If this exception exists in excess of 24 hours, the warden or duty warden must get specific written authorization from the regional director of institutions to continue to house inmates beyond the 24-hour period in such conditions. Prior to placing inmates in the same cell, the inmates shall be interviewed by the housing supervisor to ensure that none of the inmates constitute a threat to any of the others.

(b) All disciplinary confinement cells shall be equipped with toilet facilities and running water for drinking and other sanitary purposes. Water in the cell can be turned off by correctional staff due to an inmate's inappropriate behavior that causes an interruption in the water system or the intentional misuse of water for an unauthorized purpose. In such event, the inmate occupant will be furnished an adequate supply of drinking water by other means to prevent dehydration. These actions shall be documented on Form DC6-229, Daily Record of Segregation. Form DC6-229 has been incorporated by reference in subsection 33-602.220(11)(40), F.A.C.

(c) Prior to the inmate's placement into, and after the inmate's removal from, a disciplinary confinement cell, the cell shall be thoroughly inspected to ensure that it is in proper order and the inmate housed in that cell will then be held responsible for the condition of the cell. The correctional officer conducting the inspection shall complete and sign Form DC6-221, Cell Inspection, attesting to the condition of the cell. Form DC6-221 is incorporated by reference in Rule 33-602.220(10), F.A.C. Routine searches of each cell are authorized at any time, but shall be conducted, at a minimum, each time an inmate is removed from the cell for a shower. All searches shall be documented on Form DC6-229, Daily Record of Segregation. All inmates shall be searched prior to entering the confinement unit and upon departure. All items entering the confinement unit shall be thoroughly searched, to include at a minimum, food carts and trays, laundry and linens, and inmate property.

~~(d) Each confinement cell shall provide for a minimum of twenty foot candles of light, including natural lighting.~~

~~(d)(e)~~ The officers assigned shall exercise care shall be exercised to maintain noise levels in confinement units at a reasonable level so as not to interfere with normal operating activities.

(4) Conditions and Privileges.

(a) Clothing. Inmates in disciplinary confinement shall be provided the same clothing and clothing exchange as the general inmate population. Exceptions shall be made on an individual basis when evidence suggests it would be in the best interest of the inmate or security of the institution. In such cases, the exceptions shall be noted on the Daily Record of Segregation, Form DC6-229, and approved by the chief of security. Shower slides may be substituted for regulation shoes. Any item may be removed from the cell in order to prevent the inmate from inflicting injury to himself or herself or to others or to prevent the destruction of property or equipment. If an inmate's clothing is removed, a modesty garment shall be immediately obtained and given to the inmate. If the inmate chooses not to wear the garment, the garment shall be left in the cell and this action shall be documented on Form DC6-229. Under no circumstances shall an inmate be left without a means to cover himself or herself.

(b) through (e) No change.

(f) Diet and Meals. Inmates in disciplinary confinement shall receive meals representative of the food served to the general population, but not necessarily a choice of every item. Any food item that might create a security problem in the confinement unit area shall be replaced with another item of comparable quality and quantity. Utilization of the special management meal is authorized for any inmate in disciplinary confinement who uses food or food service equipment in a manner that is hazardous to him or herself, staff, or other inmates. The issuance of a special management meal shall be in accordance with Rule 33-602.223, F.A.C. Any deviation from established meal service or substitutions shall be documented on the Daily Record of Segregation, Form DC6-229.

(g) Canteen Items. Inmates shall be prohibited from purchasing canteen items while in disciplinary confinement. However, non-indigent inmates shall be allowed to purchase stamps, envelopes, security pens and paper for preparation of legal documents, including inmate grievances, and for mail to notify visitors of his or her confinement status.

(h) through (j) No change.

(k) Legal Access.

1. No change.

2. Indigent inmates shall be provided paper, envelopes, and security pens writing utensils in order to prepare legal papers or notify visitors of confinement status. Typewriters or typing services are not required items and shall not be permitted in disciplinary confinement. However, an inmate with disabilities that hinder the preparation of legal correspondence will be allowed the use of auxiliary aids

(writer/reader). An inmate who is provided an auxiliary aid shall also be allowed access to a certified law clerk for the purpose of preparing legal documents, legal mail or filing a grievance.

(l) through (m) No change.

(n) Writing utensils. Inmates in disciplinary confinement shall possess only one security pen. Inmates who are in possession of working pens or pencils when placed in disciplinary confinement shall be issued a security pen. Inmates who are not indigent must purchase additional security pens when needed from the canteen. If no security pens are available, the inmate shall be allowed to sign out a regular pen from the confinement housing officer. All care shall be taken to ensure that an indigent inmate who requests a pen has access to a pen for a time period sufficient to prepare legal documents or legal mail, to file a grievance, or to notify family of confinement status. An inmate who has been provided a "writer/reader" shall be allowed access to such for the purpose of reading or preparing correspondence.

(o) Reading Material. ~~Reading materials, including~~ Scriptural and devotional reading materials and books that are in compliance with admissibility requirements in Rule 33-501.401, F.A.C., shall be permitted for those inmates in disciplinary confinement units unless there is an indication of a threat to the safety, security or sanitation of the institution. If it is determined that there is a safety, security or sanitation risk, the items will be removed. Such removal of reading materials shall be documented on Form DC6-229 in accordance with paragraph (9)(b) (8)(e) of this rule. An inmate who receives services from the Bureau of Braille and Talking Book Library shall be allowed to have their tape players and devotional and scriptural materials that are in compliance with this rule.

(p) Exercise.

1. through 2. No change.

3. The ICT is authorized to restrict exercise for an individual inmate only when the inmate is found guilty of a major rule violation. ~~In this instance, a major rule violation is defined as: any assault, battery, attempted assault or battery; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; escape or escape attempt.~~ Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be no more than 15 days per incident and for no longer than 30 days cumulative length and shall be documented on Form DC6-229, Daily Record of Segregation. Exceptions to this restriction may be made only when documented facts show that such exercise periods should not be granted. Restrictions may also be placed on the exercise periods by professional medical staff. A disabled inmate who is unable to participate in the normal exercise program will have an exercise program developed for him or her that will

accomplish the need for exercise and take into account the particular inmate's limitations. The reasons for any exercise restrictions shall be documented on the Daily Record of Segregation, Form DC6-229.

(q) No change.

(r) If items of clothing, bedding or property are removed in order to prevent the inmate from inflicting injury to himself or herself or others, ~~or~~ to prevent destruction of property or equipment, or to prevent the inmate from impeding security staff from accomplishing functions essential to the unit and institutional security, staff shall re-assess the need for continued restriction every 72 hours thereafter. The warden, based on this assessment, will make the final determination on the continued denial or return of the items. The items will be returned to the inmate when no further behavior or threat of behavior of the type leading to the restriction has occurred.

(5) Restrictions.

(a) No change.

(b) When any privilege is restricted or any item is removed from an inmate's cell, the action taken must be approved by the shift supervisor or confinement lieutenant. The action taken and the reason for it shall be documented on the Daily Record of Segregation, Form DC6-229. A copy of the Inmate Impounded Personal Property List, Form DC6-220, shall be issued to the inmate as a receipt for any property taken. This action must be reviewed and approved by the chief of security no later than the next working day following the action.

(6) Restraint and Escort Requirements.

(a) Prior to opening a cell door for any reason, including exercise, medical or disciplinary call-outs, telephone calls, recreation, and visits, all inmates in the cell shall be handcuffed behind their backs, unless documented medical conditions require that an inmate be handcuffed in front. In such cases, waist chains will be used in addition to the handcuffs and the escort officers shall be particularly vigilant.

(b) through (e) No change.

(7) Visits to Disciplinary Confinement.

(a) The following staff members shall be required to officially inspect and tour the disciplinary confinement unit. All visits by staff shall be documented on the Inspection of Special Housing Record DC6-228. Form DC6-228 is incorporated in subsection 33-602.220(10), F.A.C. The staff member shall also document his or her visit on the Daily Record of Segregation DC6-229, if any discussion of significance, action or behavior of the inmate, or any other important information is obtained which may have an influence or effect on the status of confinement. These visits shall be conducted a minimum of:

1. No change.
2. Daily by the housing ~~area~~ supervisor.
3. through 10. No change.

(b) Any inmate who has demonstrated behavior that is or could be harmful to himself or herself shall be designated as a special risk inmate. If the inmate exhibits bizarre, mentally disordered, or self-destructive behavior, the medical department shall be immediately contacted by correctional staff to determine if special watch or suicide watch procedures should be initiated. Suicidal inmates shall be removed to a designated area where a correctional officer or medical staff can provide observation. Visual checks shall be made in accordance with medical protocols or the Inmate Suicide Precautions procedure at least every 30 minutes and shall be documented on Form DC4-650, Observation Checklist, until the inmate is no longer considered a special risk inmate. Form DC4-650 is incorporated by reference in subsection 33-602.220(10), F.A.C. All actions taken by staff with regard to special risk inmates shall be documented on Form DC6-229 and followed with an incident report, Form DC6-210. Form DC6-210 is incorporated by reference in Rule 33-602.210, F.A.C.

(8) Review and Release from Disciplinary Confinement.

(a) through (d) No change.

(e) The ~~confinement~~ housing supervisor is authorized to have an inmate released from disciplinary confinement upon completion of his disciplinary confinement time, unless the ICT has determined that a need exists to modify the inmate's status to administrative confinement.

(9) Daily Record of Segregation.

(a) A Daily Record of Segregation, Form DC6-229, shall be maintained for each inmate as long as the inmate is in disciplinary confinement in the housing area for 30 days, then forwarded to the ICT for review, and then forwarded to classification for filing in the institutional inmate record.

(b) The DC6-229 shall be utilized to document any activity such as cell searches, items removed, showers, weighing of inmates, recreation, haircuts and shaves and also unusual occurrences such as refusal to come out of a cell or refusal to eat. If items that inmates in disciplinary confinement are not prohibited from possessing are denied or removed from the inmate, the shift supervisor ~~officer-in-charge~~ or the confinement lieutenant must approve the action initially. The central office ADA coordinator shall be contacted within 24 hours if any item is removed that would be considered an auxiliary aid or device that ensures a disabled inmate an equal opportunity as a non-disabled inmate. The items denied or removed shall be documented on Form DC6-229 and the chief of security shall make the final decision in regard to the appropriateness of that action no later than the next working day following the action. The housing supervisor ~~supervising officer~~ shall make a notation of any unusual occurrences or changes in the inmate's behavior and any action taken. Changes in housing location or any other special action shall also be noted. Form DC6-229 shall be maintained in the

housing unit for 30 days. After each 30-day review by a member of the ICT, Form DC6-229 shall be forwarded to classification to be filed in the institutional inmate record.

(10) A Daily Record of Segregation – Supplemental, Form DC6-229B, shall be completed and attached to the current Daily Record of Segregation, Form DC6-229, whenever additional written documentation is required concerning an event or incident related to the specific inmate. Form DC6-229B is incorporated by reference in Rule 33-602.220, F.A.C.

~~(11)~~(10) Inspection of Special Housing Record.

(a) Form DC6-228, Inspection of Special Housing Record, shall be maintained in each disciplinary confinement ~~unit area~~.

(b) Each staff person shall sign the form when entering and leaving the disciplinary confinement ~~unit area~~. Prior to leaving the disciplinary confinement ~~unit area~~, each staff member shall indicate any specific problems, including identification of any inmate who requires special attention. No other unit activities shall be recorded on Form DC6-228.

(c) Upon completion, the DC6-228 shall be maintained in the housing ~~unit area~~ and shall be forwarded to the chief of security on a weekly basis where it shall be maintained on file pursuant to the current retention schedule.

(12) A Housing Unit Log, Form DC6-209, shall be maintained in each confinement unit. Officers shall record all daily unit activities on Form DC6-209, to include any special problems or discrepancies noted. The completed Form DC6-209 shall be forwarded daily to the chief of security for review. Form DC6-209 is incorporated by reference in Rule 33-602.220, F.A.C.

~~(13)~~(11) Staffing issues.

(a) Officers assigned to a disciplinary confinement unit shall be reviewed at least every 18 months ~~by the chief of security to determine whether a rotation is necessary. The shift supervisor or confinement lieutenant shall initiate the review by having the officer complete section I of the Special Housing Unit Rotation Review, Form DC6-295. Form DC6-295 is incorporated by reference in subsection (14) of this rule. The supervisor shall conduct an interview with the officer and complete section II of Form DC6-295 and forward the form to the chief of security.~~ The chief of security shall review personnel records, to include performance appraisals, incident reports, use of force reports, and any other documentation relevant to the officer's assignment and job performance; and interview the officer and the officer's supervisors for the period of review when necessary; and shall make a recommendation to the warden as to the necessity of a rotation. The chief of security shall, upon completion of his or her review, complete section III of Form DC6-295 and forward the recommendation to the warden. The warden shall review the recommendation, request additional information if necessary, and make the final determination as to whether the officer continues in the current assignment or is rotated to another assignment. The warden's

decision shall be documented in section VI of Form DC6-295 and returned to the chief of security for action. The chief of security shall maintain the completed Form DC6-295. Any officer assigned to a confinement post shall be authorized a minimum period of five days annual leave or a five day assignment to a less stressful post every six months.

(b) The Inspector General shall notify the warden and regional director ~~of institutions~~ of any officer involved in eight or more use of force incidents in an 18-month period. The ~~r~~Regional ~~d~~Director ~~of institutions~~ shall review the circumstances for possible reassignment.

(14) Forms, Form DC6-295, Special Housing Unit Rotation Review, is hereby incorporated by reference. A copy of this form is available from the Forms Control Administrator, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of Form DC6-295 is _____.

Specific Authority 944.09 FS, Law Implemented 20.315, 944.09 FS, History-- New 3-12-84, Formerly 33-3.084, Amended 7-10-90, 4-28-96, 12-7-97, 2-12-01, 2-5-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Rathmann

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 10, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 17, 2003

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE TITLE: District Funds RULE NO.: 40C-1.004

PURPOSE AND EFFECT: The purpose and effect of this proposed rule amendment is to amend the effective date of the revision being made to District Policy 99-02.

SUMMARY: District Policy Number 99-02 is being revised to include a provision for mandatory direct deposit of employees' salaries, subject to an exception for instances of hardship. The portion of District Policy No. 99-02 pertaining to investment of funds is being deleted from District Policy No. 99-02 and established as a separate District policy. Subsection 40C-1.004(2), F.A.C., is revised to amend the title and effective date of the policy.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.553 FS.

LAW IMPLEMENTED: 373.079, 373.553 FS.

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

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

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

TIME AND DATE: Following the regularly scheduled Regulatory/Governing Board Meeting, which begins at 1:00 p.m., January 13, 2004

PLACE: St. Johns River Water Management District Headquarters, 4049 Reid Street, Palatka, Florida 32177-2529

If a person decides to appeal any decision with respect to any matter considered at the above listed public hearing, such person may need to ensure that a verbatim record of the proceeding is made to include testimony and evidence upon which the appeal is to be based.

Anyone requiring special accommodations to participate in this meeting is requested to advise the District at least 5 work days before the meeting by contacting: Ann Freeman, (386)329-4101 or (386)329-4450 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Norma K. Messer, Rules Coordinator, St. Johns River Water Management District, Office of General Counsel, 4049 Reid Street, Palatka, Florida 32177-2529, (386)329-4459, Suncom 860-4459, email:nmesser@sjrwmd.com

THE FULL TEXT OF THE PROPOSED RULE IS:

40C-1.004 District Funds.

(1) No change.

(2) District funds may be disbursed, by wire or electronic transfer according to the procedure set forth in ~~Section II, of Policy 99-02, as revised 11/11/03 2/10/99~~, entitled "~~Investment of Funds and Wire or and Electronic Transfer (W/EFT) Procedures,~~" which is hereby incorporated by reference.

Specific Authority 120.53, 373.044, 373.113 FS. Law Implemented 120.53, 373.553 FS. History--New 10-8-91, Amended 3-1-92, 1-3-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Stanley Niego, Sr. Assistant General Counsel, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)329-4153, Suncom 860-4153

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board, St. Johns River water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 11, 2003

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Medical Foster Care
 RULE NO.: 59G-4.197

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Medical Foster Care Services Coverage and Limitations Handbook, October 2003. The handbook revisions include changes required by the Health Insurance Portability and Accountability Act (HIPAA). The effect will be to incorporate by reference in the rule the Florida Medicaid Medical Foster Care Services Coverage and Limitations Handbook.

SUMMARY: This proposed rule would incorporate by reference the current Florida Medicaid Medical Foster Care Services Coverage and Limitations Handbook, October 2003. The handbook revisions include changes required by the Health Insurance Portability and Accountability Act (HIPAA).

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: 409.902, 409.903, 409.908 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: 8:30 a.m., December 16, 2003

PLACE: 2727 Mahan Drive, Building 3, Conference Room D, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jamie Lashus, Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)922-7316

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.197 Medical Foster Care.

(1) This rule applies to all Medical Foster Care (MFC) providers enrolled in the Medicaid program.

(2) All Medicaid-enrolled Medical Foster Care (MFC) providers must be in compliance with the Florida Medicaid Medical Foster Care Services Coverage and Limitations Handbook, October 2003 ~~March 2004~~, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMSHCFA-1500 and Child Health Check Up 221, which is incorporated in Rule 59G-4.0015-020, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.903~~5(2)~~, 409.908 FS. History--New 2-22-00, Amended 3-6-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Jamie Lashus
 NAME OF SUPERVISOR OR PERSON WHO APPROVED
 THE PROPOSED RULE: Rhonda M. Medows, M.D., FAAFP,
 Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: November 14, 2003
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: May 9, 2003

**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, October 2003. The handbook changes reflect the Health Insurance Portability and Accountability Act (HIPAA) policies and regulations. The effect will be to incorporate by reference in the rule the current Florida Medicaid Portable X-ray Services Coverage and Limitations Handbook.
 SUMMARY: The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Portable X-ray Services Coverage and Limitations Handbook, October 2003.
 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., December 22, 2003
 PLACE: Agency for Health Care Administration, 2728 Ft. Knox Boulevard, Building 3, Conference Room D, Tallahassee, Florida 32308
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan Rinaldi, Bureau of Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)922-7308

THE FULL TEXT OF THE PROPOSED RULE IS:
 59G-4.240 Portable X-ray Services.
 (1) No change.
 (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, October 2003 ~~March 2003~~, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS ~~HCFR-1500 and Child Health Check Up 221~~, which is incorporated by reference in Rule 59G-4.001 ~~59G-5.020~~, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.905, 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, 6-1-03, 8-5-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Susan Rinaldi, Bureau of Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)922-7308
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rhonda M. Medows, M.D., FAAFP, Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 14, 2003
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 14, 2003

**AGENCY FOR HEALTH CARE ADMINISTRATION
 Medicaid**

RULE TITLE: Prescribed Pediatric Extended Care Services
 RULE NO.: 59G-4.260
 PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Prescribed Pediatric Extended Care Services Coverage and Limitations Handbook, October 2003. The handbook was revised to include the Health Insurance Portability and Accountability Act (HIPAA) provider requirements and coding changes. The effect will be to incorporate by reference in the rule the current Florida Medicaid Prescribed Pediatric Extended Care Services Coverage and Limitations Handbook.
 SUMMARY: This proposed rule would incorporate by reference the current Florida Medicaid Prescribed Pediatric Extended Care Services Coverage and Limitations Handbook, October 2003. The handbook was revised to include changes required by HIPAA.

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 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., December 16, 2003

PLACE: 2727 Mahan Drive, Building 3, Conference Room D, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ward Peck, Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)922-7307

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.260 Prescribed Pediatric Extended Care Services.

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

(2) All Medicaid enrolled prescribed pediatric extended care service providers must be in compliance with the Florida Medicaid Prescribed Pediatric Extended Care Services Coverage and Limitations Handbook, October 2003 ~~May 1999~~, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMSHCFA-1500 ~~and Child Health Check-Up 221 and Child Health Check-Up 221~~, which is incorporated in Rule 59G-5.001 ~~59G-4-020~~, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

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

NAME OF PERSON ORIGINATING PROPOSED RULE: Ward Peck

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rhonda M. Medows, M.D., FAAFP, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 6, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 13, 2003

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Payment Methodology for Inpatient Hospital Services

RULE NO.: 59G-6.020

PURPOSE AND EFFECT: The purpose of the proposed amendment is to incorporate changes to the Florida Title XIX Inpatient Hospital Reimbursement Plan (the Plan) Payment methodology.

- 1. Effective June 7, 2003, reimbursement for adult (age 21 and over) heart and liver transplant evaluations and transplant surgery services will be paid the actual billed charges up to a global maximum rate established by the Agency. These payments will be made to physicians and facilities that have met specified guidelines and are established as designated transplant centers as appointed by the Secretary of the Agency. The global maximum reimbursement for transplant surgery services is an all-inclusive payment and encompasses 365 days of transplant related care. Only one provider may bill for the evaluation phase, and only one provider may bill for the transplant phase.

Global maximum rates for liver transplants are as follows:

Table with 3 columns: Evaluation phase, Transplant Surgery phase, and rates for Physicians, Facility, and Total.

- 2. Updates to Code of Federal Regulation (CFR) and Florida Administrative Code (FAC) references.
3. Renumbering of plan sections to include new section VI, VII, and VIII titles.

SUMMARY: Reimbursement for adult (age 21 and over) heart and liver transplant evaluations and transplant surgery services will be paid the actual billed charges up to a global maximum rate established by the Agency. These payments will be made to physicians and facilities that have met specified guidelines and are established as designated transplant centers as appointed by the Secretary of the Agency. The global maximum reimbursement for transplant surgery services is an all-inclusive payment and encompasses 365 days of transplant related care. Only one provider may bill for the evaluation phase, and only one provider may bill for the transplant phase. Also, CFR and FAC references have been updated and renumbering of plan sections to include new section VI, VII, and VIII titles.

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: 409.908 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., December 18, 2003

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robert Butler, Medicaid Program Analysis, 2727 Mahan Drive, Mail Stop 21, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.020 Payment Methodology for Inpatient Hospital Services.

Reimbursement to participating inpatient hospitals for services provided shall be in accord with the Florida Title XIX Inpatient Hospital Reimbursement Plan, Version ~~XXIII~~ ~~XXII~~, Effective Date ~~July 3, 2003~~, and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Office of the Deputy Secretary for Medicaid, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Mail Stop 8, Tallahassee, Florida 32308.

Specific Authority 409.919 FS. Law Implemented 409.908, 409.9117 FS. History--New 10-31-85, Formerly 10C-7.391, Amended 10-1-86, 1-10-89, 11-19-89, 3-26-90, 8-14-90, 9-30-90, 9-16-91, 4-6-92, 11-30-92, 6-30-93, Formerly 10C-7.0391, Amended 4-10-94, 8-15-94, 1-11-95, 5-13-96, 7-1-96, 12-2-96, 11-30-97, 9-16-98, 11-10-99, 9-20-00, 3-31-02, 1-8-03, 7-3-03,

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert Butler

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Robert Butler

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 19, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 13, 2003

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

| | |
|---|--------------|
| RULE TITLES: | RULE NOS.: |
| Seals Acceptable to the Board | 61G15-23.001 |
| Seal, Signature and Date Shall Be Affixed | 61G15-23.002 |

PURPOSE AND EFFECT: As the Legislature has deleted the requirement that seals be metal-impression type and left the selection of the fabrication material used to create a seal to the Board, the Board proposes to amend these two rules to remove obsolete restrictions on the use of seals to allow other materials in the process and to correct a reference to only apply to engineering specifications.

SUMMARY: Chapter 471, F.S., requires that all plans and prints must be sealed. These rules set forth the type and style of Seal acceptable to the Board and explain how the seal, signature and date should be affixed; how and when the different seals may be utilized; and explain when not to seal plans.

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: 471.025 FS.

LAW IMPLEMENTED: 471.025 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: Natalie Lowe, Executive Director, Florida Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULES IS:

61G15-23.001 Seals Acceptable to the Board.

(1) Pursuant to 471.025, F.S., the Board hereby establishes as indicated below the forms of embossing ~~metal-type~~ impression seals which are acceptable to the Board. Said seal shall be a minimum of 1 inches in diameter. All engineers must be utilizing the new seal prior to January 1, 2002.



(2) The type of seal in the center may be used only by registrants who are in good standing under both Chapter 471 and Chapter 472, F.S.

Specific Authority 471.025 FS. Law Implemented 471.025 FS. History--New 1-8-80, Amended 6-23-80, Formerly 21H-23.01, 21H-23.001, Amended 4-1-97.

61G15-23.002 Seal, Signature and Date Shall Be Affixed.

(1) No change.

(2) Each sheet of plans and prints which must be sealed under the provisions of Chapter 471, F.S., shall be sealed, signed and dated by the professional engineer in responsible charge. Engineers shall legibly indicate their name, address, and license number on each sheet. If practicing through a duly authorized engineering business, engineers shall legibly indicate their name and license number, as well as, the name, address, and certificate of authorization number of the engineering business on each sheet. A title block on each sheet containing the printed name, address, and license number of the engineer or if applicable, the name and license number of the engineer, and the name, address and certificate of authorization number of the engineering business will satisfy this requirement. Engineers working for local, State or Federal Government agencies shall legibly indicate their name and license number, and may indicate the name and address of the agency. A cover or index sheet for engineering specifications may be used and that sheet must be signed, sealed and dated by those professional engineers in responsible charge of the production and preparation of each section of the engineering specification or other engineering document with sufficient information on the cover sheet or index so that the user will be aware of each portion of the specifications for which each professional engineer is responsible. Engineering reports must be signed, sealed and dated on a signature page or cover letter by each professional engineer who is in responsible charge of any portion of the report. A professional engineer may only seal an engineering report, plan, print or specification if that professional engineer was in responsible charge of the preparation and production of the engineering document and the professional engineer has the expertise in the engineering discipline used in producing the engineering document in question.

(3) through (5) No change.

Specific Authority 471.025 FS. Law Implemented 471.025 FS. History--New 1-8-80, Amended 1-20-85, Formerly 21H-23.02, Amended 5-14-86, Formerly 21H-23.002, Amended 11-15-94, 8-18-98, 2-3-00, 2-22-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Engineers

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 25, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 19, 2003

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: List of Approved Forms; Incorporation

RULE NO.: 64B8-1.007

PURPOSE AND EFFECT: The proposed rule amendments are intended to incorporate two new forms and five revised forms into the rule.

SUMMARY: The proposed rule amendments incorporate new and revised forms into the rule.

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

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

SPECIFIC AUTHORITY: 120.55(1)(a),(4), 456.013, 456.036(5), 456.048(1), 458.309, 458.311, 458.312(4), 458.313(4), 458.3145, 458.315(2), 458.320(8), 458.321(2), 458.347(13), 458.351(6) FS.

LAW IMPLEMENTED: 456.013, 456.035, 456.036, 456.048, 456.073, 458.309, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.317, 458.319, 458.320, 458.321, 458.345, 458.347, 458.348, 458.351, 465.0276 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 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:

64B8-1.007 List of Approved Forms; Incorporation.

The following forms used by the Board in its dealings with the public are listed as follows and are hereby adopted and incorporated by reference, and can be obtained from the Board office by writing to the Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-1753, or by telephoning (850)245-4131:

(1) DH-MQA 1000, entitled "Board of Medicine Medical Doctor Application for Licensure ~~by Examination and Endorsement (Medical Doctor)~~" (10/03) (12/02).

(2) through (7) No change.

(8) DH-MQA 1008, entitled "Limited License Application Materials for Allopathic Physicians to be Licensed Pursuant to Section 458.317, F.S.," (10/03) ~~(6/99)~~.

(9) DH-MQA 1009, entitled "Temporary Certificate for Practice in an Area of Critical Need," (10/03) ~~(6/99)~~.

(10) through (16) No change.

(17) DH-MQA 1032, entitled "Board of Medicine Application Materials for Initial Registration & Renewal of ~~Unlicensed~~ Intern/Resident/Fellow & House Physician," (10/03) ~~(12/00)~~.

(18) through (19) No change.

(20) DH-MQA 1072, entitled "Application Materials Medical Faculty Certificate," (10/03) ~~(10/02)~~.

(21) DH-MQA 1076, entitled "Application for 1-Year Extension Temporary Physician Assistant License," (7/03).

(22) DH-MQA 1079, entitled "Temporary Certificate to Practice Medicine for Educational Purposes," (10/02).

(21) through (25) renumbered (23) through (27) No change.

Specific Authority 120.55(1)(a)(4), 456.013, 456.036(5), 456.048(1), 458.309, 458.311, 458.3124(6), 458.313(4), 458.3145, 458.315(2), 458.320(8), 458.321(2), 458.347(13), 458.351(6) FS. Law Implemented 456.013, 456.035, 456.036, 456.048, 456.073, 458.309, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.317, 458.319, 458.320, 458.321, 458.345, 458.347, 458.348, 458.351, 465.0276 FS. History—New 4-17-01, Amended 11-20-01, 8-13-02, 11-10-02, 3-19-03, 6-4-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Medicine

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

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

DATE NOTICES OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: October 17, 2003, October 24, 2003

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Application, Certification, Registration,
and Licensure Fees

RULE NO.: 64B8-3.002

PURPOSE AND EFFECT: The proposed rule amendment in intended to set forth the fee for licensure pursuant to Section 458.3137, Florida Statutes.

SUMMARY: The proposed rule amendment sets forth an application fee in the amount of \$300 for those seeking a temporary certificate pursuant to Section 458.3137, Florida Statutes.

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

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

SPECIFIC AUTHORITY: 456.013, 456.025, 458.309, 458.311, 458.313, 458.3135, 458.3137, 458.3145, 458.315, 458.316, 458.3165, 458.317, 458.345, 458.347 FS.

LAW IMPLEMENTED: 456.013, 456.025, 456.036, 458.311, 458.3115, 458.3124, 458.313, 458.3135, 458.3137, 458.3145, 458.315, 458.316, 458.3165, 458.317, 458.345, 458.347 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 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:

64B8-3.002 Application, Certification, Registration, and Licensure Fees.

The following fees are prescribed by the Board:

(1) No change.

(2) An application fee in the amount of \$ 300.00 for a person desiring to obtain a temporary certificate to practice in areas of critical need, as provided in Section 458.315, F.S., and a temporary certificate to practice in an approved cancer center, as provided in Section 458.3135, F.S., and a temporary certificate to obtain medical privileges for instructional purposes in conjunction with certain plastic surgery training programs and plastic surgery educational symposiums, as provided in Section 458.3137, F.S.

(3) through (9) No change.

Specific Authority 456.013, 456.025, 458.309, 458.311, 458.313, 458.3135, 458.3137, 458.3145, 458.315, 458.316, 458.3165, 458.317, 458.345, 458.347 FS. Law Implemented 456.013, 456.025, 456.036, 458.311, 458.3115, 458.3124, 458.313, 458.3135, 458.3137, 458.3145, 458.315, 458.316, 458.3165, 458.317, 458.345, 458.347 FS. History—New 12-5-79, Amended 11-10-82, 8-11-85, 10-24-85, Formerly 21M-19.02, Amended 12-4-86, 11-3-87, 7-4-88, 10-23-89, 11-12-89, 11-11-90, 1-16-91, 1-9-92, 2-10-92, 9-7-92, Formerly 21M-19.002, Amended 9-21-93, Formerly 61F6-19.002, Amended 2-13-95, 2-20-96, 6-24-96, Formerly 59R-3.002, Amended 6-7-98, 8-11-98, 11-22-98, 12-14-99, 1-31-01, 11-20-01, 10-19-03, 12-2-03, _____.

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

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: October 17, 2003

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Continuing Education for Biennial Renewal
 RULE NO.: 64B8-13.005

PURPOSE AND EFFECT: The proposed rule amendment is intended to address continuing education credit by Board members.

SUMMARY: The proposed rule amendment revises the rule with regard to continuing education credit for Board members.

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: 456.013(6),(7), 456.031(4), 458.309, 458.319 FS.

LAW IMPLEMENTED: 456.013(6),(7), 456.031(1)(a),(3), 458.319(4) 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 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:

64B8-13.005 Continuing Education for Biennial Renewal.

(1) No change.

(2)(a) For purposes of this rule, risk management means the identification, investigation, analysis, and evaluation of risks and the selection of the most advantageous method of correcting, reducing, or eliminating identifiable risks.

(b) Five hours of continuing medical education in the subject area of risk management may be obtained by attending one full day or eight (8) hours, whichever is more, of disciplinary hearings at a regular meeting of the Board of Medicine in compliance with the following:

1. through 2. No change.

3. The licensee must sign out with the Executive Director of the Board at the end of the meeting day or at such other earlier time as affirmatively authorized by the Board. A licensee may receive CME credit in risk management for attending the disciplinary portion of a Board meeting only if he or she is attending on that date solely for that purpose; he or she may not receive such credit if appearing at the Board meeting for another purpose. A member of the Board of Medicine may obtain 3 ~~5~~ hours of continuing medical education in the subject area of risk management and 2 hours

of continuing medical education in the subject area of prevention of medical errors for attendance at the disciplinary portion of one Board meeting.

(3) through (11) No change.

Specific Authority 456.013(6),(7), 456.031(4), 458.309, 458.319 FS. Law Implemented 456.013(6),(7), 456.031(1)(a),(3), 458.319(4) FS. History--New 9-7-86, Amended 11-17-87, 11-15-88, 1-31-90, 9-15-92, Formerly 21M-28.002, Amended 12-5-93, Formerly 61F6-28.002, Amended 3-1-95, 1-3-96, 1-26-97, Formerly 59R-13.005, Amended 5-18-99, 2-7-01, 6-4-02, 10-8-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Medicine

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 24, 2003

Section III
Notices of Changes, Corrections and
Withdrawals

DEPARTMENT OF STATE

Division of Elections

RULE NO.: 1S-2.034
 RULE TITLE: Polling Place Procedures Manual
 NOTICE OF WITHDRAWAL

Notice is hereby given that the above proposed rule published in the October 17, 2003, Vol. 29, No. 42, issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF LEGAL AFFAIRS

Florida Elections Commission

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

NOTICE OF RULE CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 29, No. 42 (Oct. 17, 2003), issue of the F.A.W.

2B-1.0025 Complaints.

(1) through (5) No change.

~~(6) Notwithstanding the provisions of subsections (4) and (5), if any complainant fails to raise all violations of the Election Code that arise from the facts alleged on the face of the complaint at the time of filing the complaint, the complainant shall be barred from filing any subsequent complaint or complaints based upon the allegations of violations of the Election Code that should have been raised based on the facts alleged on the face of the first complaint. The Complainant shall also be barred from filing any~~