

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B13-11.001 Inactive Status.

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

~~(b) Pays the active status fee of subsection 64B13-6.001(4)(5), F.A.C., for each biennium during which the license was inactive;~~

~~(b)(e) Pays the reactivation fee of subsection 64B13-6.001(4)(5), F.A.C.; and~~

~~(d) If applicable, the change of status fee in subsection 64B13-6.001(14), F.A.C.~~

(3) No change.

(a) through (c) No change.

(d) Pays the ~~active status~~ fee of subsection 64B13-6.001(4)(3), F.A.C., for each biennium during which the license was inactive;

(e) Pays the reactivation fee of subsection 64B13-6.001(4)(5), F.A.C.; and

~~(f) If the request to change licensure status is made at any time other than at the beginning of a licensure cycle, pays the change of status fee of subsection 64B13-6.001(14), F.A.C.; and~~

(4) No change.

Specific Authority 456.036, 463.005(1), 463.007, 463.008 FS. Law Implemented 456.036, 463.007, 463.008 FS. History--New 11-20-86, Formerly 21Q-11.001, 61F8-11.001, Amended 12-22-94, Formerly 59V-11.001, Amended 1-22-03,_____.

DEPARTMENT OF HEALTH

Board of Optometry

RULE TITLE: RULE NO.:

Delinquent License 64B13-11.004

PURPOSE AND EFFECT: The Board proposes an amendment to the rule to remove language regarding a non-existing term.

SUBJECT AREA TO BE ADDRESSED: Delinquent Status License.

SPECIFIC AUTHORITY: 456.036, 463.005(1) FS.

LAW IMPLEMENTED: 456.036 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Joe R. Baker, Jr., Executive Director, Board of Optometry, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B13-11.004 Delinquent ~~Status~~ License.

(1) No change.

(2) The delinquent ~~status~~ licensee must affirmatively apply for active or inactive status during the biennium in which the license becomes delinquent. The failure by the delinquent ~~status~~ licensee to cause the license to become active or inactive before the expiration of the biennium in which the license becomes delinquent shall render the license null and void without further action by the board or the Department of Health.

(3) The delinquent ~~status~~ licensee who applies for an active or inactive license status shall pay to the board ~~either the active status fee of subsection 64B13-6.001(3)(4), F.A.C., or the inactive status license fee of subsection 64B13-6.001(8), F.A.C., and~~ the delinquent ~~status~~ license fee of subsection 64B13-6.001(13)(15), F.A.C., and, if applicable, the change of status fee of subsection 64B13-6.001(14), F.A.C.

(4) The delinquent ~~status~~ licensee who applies for active status license shall, in addition to complying with subsection (3) immediately above, affirm compliance with the continuing education requirements of Rule 64B13-5.001, F.A.C., for the years the licensee has been inactive or delinquent.

Specific Authority 456.036, 463.005(1) FS. Law Implemented 456.036 FS. History--New 12-22-94, Formerly 59V-11.004, Amended 8-29-99, 1-22-03,_____.

**Section II
Proposed Rules**

DEPARTMENT OF STATE

Division of Elections

RULE TITLE: RULE NO.:

Provisional Ballots 1S-2.037

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to provide a uniform provisional ballot envelope form as required by changes in Florida Law.

SUMMARY: This rule provides the content and the substantial form required for the provisional ballot envelope to be used in the state.

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: 101.048 FS.

LAW IMPLEMENTED: 101.048, 101.049 FS.

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

TIME AND DATE: 1:00 p.m., January 5, 2004

PLACE: 107 West Gaines Street, Suite 100, Tallahassee, Florida 32399-0250

Pursuant to the Americans with Disabilities Act, persons needing special accommodations to participate in this meeting should contact Sarah Jane Bradshaw, (850)245-6200, at least three days in advance of the meeting.

Proposed Form DS DE 49 (Eff. ___/___) is available on the Division of Elections' website or you may contact the Division.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sarah Jane Bradshaw, Division of Elections, Department of State, 107 West Gaines Street, Tallahassee, Florida 32399, (850)245-6200

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.037 Provisional Ballots.

The Department of State, Division of Elections, is required to establish a Provisional Ballot Envelope to be used statewide, Form DS DE 49 (Eff. ___/___), which is hereby incorporated by reference and available from the Division of Elections, The Collins Building, Room 100, 107 West Gaines Street, Tallahassee, Florida 32399.

Specific Authority 101.048 FS. Law Implemented 101.048, 101.049 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sarah Jane Bradshaw, Assistant Division Director

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Edward C. Kast, Director, Division of Elections, Department of State

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 3, 2003

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

DEPARTMENT OF STATE

Division of Elections

RULE TITLE: HAVA Violations – Complaints

RULE NO.: 1S-2.038

PURPOSE, EFFECT AND SUMMARY: The Florida Help America Vote Act Implementation Bill required that the Division of Elections prescribe a form for complaints filed under Section 97.028, F.S. A rule needs to be promulgated to prescribe the aforementioned form and create a process by which the Division will process these types of complaints.

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: 97.028 FS.

LAW IMPLEMENTED: 97.028 FS.

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

TIME AND DATE: 1:00 p.m., January 5, 2004

PLACE: 107 West Gaines Street, Suite 100, Tallahassee, Florida 32399-0250

Pursuant to the Americans with Disabilities Act, persons needing special accommodations to participate in this meeting should contact Sarah Jane Bradshaw, (850)245-6200, at least three days in advance of the meeting.

Proposed Form DS DE 59 (Eff. ___/___) is available on the Division of Elections' website or you may contact the Division.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sarah Jane Bradshaw, Division of Elections, Department of State, 107 West Gaines Street, Tallahassee, Florida 32399, (850)245-6200

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.038 HAVA Violations – Complaints.

The Department of State, Division of Elections, is required to establish a complaint form to be used for HAVA violations, Form DS DE 59 (Eff. ___/___), which is hereby incorporated by reference and available from the Division of Elections, The Collins Building, Room 100, 107 West Gaines Street, Tallahassee, Florida 32399.

Specific Authority 97.028 FS. Law Implemented 97.028 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sarah Jane Bradshaw, Assistant Division Director

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Edward C. Kast, Director, Division of Elections, Department of State

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 3, 2003

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE CHAPTER TITLE: Florida Nursery Stock and Certification Fees
 RULE CHAPTER NO.: 5B-2

RULE TITLES: Definitions
 RULE NOS.: 5B-2.001
 Registering with the Division 5B-2.002

PURPOSE AND EFFECT: The purpose of this rule revision is to provide a definition for stock dealer garden center. The effect will provide the ability to charge a registration fee that is based on the different levels of inspection workloads associated with a stock dealer such as a florist shop with a minimum number of plants as opposed to a stock dealer garden center that has several times the number of plants to be inspected. In addition, this proposed rule revision will require each stock dealer, stock dealer garden center, plant broker, and agent to obtain a certificate of registration for each outlet and pay an appropriate fee for each outlet.

SUMMARY: To provide a different fee schedule for stock dealers that have garden centers which require more inspection time than a small stock dealer such as a florist shop and to require a certificate of registration along with the appropriate fee for each outlet.

SPECIFIC AUTHORITY: 570.07(13),(23), 581.031(1) FS.

LAW IMPLEMENTED: 581.031(1),(4),(5),(6),(7), 581.083, 581.101, 581.131, 581.141 FS.

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

TIME AND DATE: 10:00 a.m., Tuesday, January 6, 2004

PLACE: Doyle Conner Building, 1911 Southwest 34th Street, Gainesville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Connie Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, P. O. Box 147100, Gainesville, FL 32614-7100

THE FULL TEXT OF THE PROPOSED RULE IS:

5B-2.001 Definitions.

For the purpose of this chapter, the definitions in Section 581.011, F.S., and the following definitions shall apply:

(1) Balled and burlapped. A term used to describe a horticultural practice whereby plants are extracted from the soil with a portion of the roots and the growing medium intact forming the ball. The ball is wrapped with burlap or other materials appropriate for supporting the ball during handling.

(2) Bare-root. Plants with roots from which the growing medium in which it was grown has been removed.

(3) Certified turfgrass. Turfgrass produced for purposes of ornamental ground cover by an individual who has requested certification in order to comply with plant quarantine restrictions or phytosanitary requirements. Pasture or forage grasses are specifically excluded from this definition.

(4) Container nursery stock. Plants established in growing media contained in containers such as clay pots, plastic pots, cans, etc.

(5) Exposed. Subject to infestation because of proximity to or contact with a plant pest.

(6) Outlet. A nursery, stock dealer, stock dealer garden center, plant broker or agent offering nursery stock for sale or distribution under the control of a parent organization, corporation, partnership, personal business, cooperative, or other legal business entity.

(7) Propagating material. Unrooted scions and cuttings in the process of developing root systems; seedlings and asexually produced plants which are being developed to a saleable size.

(8) Psorosis complex of viruses. A combination of viruses (psorosis-A, psorosis-B, and ringspot) that induce bark-scaling, internal wood staining, ringspots or irregular chlorotic patterns in the foliage, or eventual tree decline. The disease is spread primarily by propagation using infected budwood.

(9) Stock Dealer Garden Center. A stock dealer who maintains nursery stock as part of a home improvement store or other store selling garden supplies.

Specific Authority 570.07(23), 581.031(1) FS. Law Implemented 581.031 FS. History—Repromulgated 12-31-74, Amended 6-15-81, 10-28-85, Formerly 5B-2.01, Amended 6-7-95, 8-26-03, _____.

5B-2.002 Registering with the Division.

Every nurseryman, stock dealer, plant broker, and agent shall register with the division before moving, distributing or offering nursery stock for sale. All aquatic plants offered for sale or distribution at the retail level, seeds, cut flowers, cut fern, cut foliage (greens) not for propagation, and lawn and pasture grasses not produced as certified turfgrass are specifically exempted from nursery stock classification for registration purposes, when apparently free from injurious plant pests.

(1) NURSERY REGISTRATION REQUIREMENTS.

(a) Application for registration of nurseries shall be made upon a form, DACS-08004, revised 6/03, incorporated herein by reference, to be furnished by the division, which shall contain provisions with which the applicant must comply, and must be signed by the applicant or applicant's representative. Application form DACS-08004, revised 6/03, is supplied by the division for this purpose and is incorporated herein by reference. Copies of DACS-08004, Application For Certificate of Registration, may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, Florida 32614-7100.

(b) Nurserymen desiring to move, sell, distribute, or offer nursery stock for sale and obtain a certificate of registration shall request an inspection by the division at least thirty (30) days in advance of the date upon which they desire to move or offer nursery stock for sale. Nurserymen requesting immediate inspection may be charged an additional fee sufficient to defray the cost of inspection.

(c) The nursery stock must be inspected by an authorized representative of the division and found to be apparently free from plant pests of quarantine significance and to be reasonably free from common plant pests.

(d) The nursery must be in such condition, in regard to spacing, growth, and weed control, as to permit an efficient inspection for plant pests.

(e) The nurseryman must agree to comply with all rules of the division.

(f) Nurserymen, unless exempted under paragraph 5B-2.002(1)(g), F.A.C., must pay an annual certificate of registration fee. Such fee shall be determined by the amount of nursery stock inventoried in the nursery by an authorized representative during the first inspection after July 1; or for field-produced vegetable transplants, field-produced bulbs, and field-produced corms and tubers, the certificate of registration fee shall be based on the amount of planted acreage provided that the total fee does not exceed four hundred and sixty dollars (\$460). Upon meeting registration requirements, a certificate of registration may be issued by the division which shall expire twelve (12) months following date of issue. For fee purposes nursery stock shall be grouped into two categories, except for field-produced vegetable transplants, field-produced bulbs, and field-produced corms and tubers which shall be determined by planted acreage. The two categories for nursery stock shall include standard stock and propagating material. Standard stock shall include all nursery stock inventoried by unit for sale or distribution; i.e., pot, balled and burlapped, or tray (for seedlings and liners). Propagating material shall include breeding stock, stock plants, rooting beds or other growing units, production beds for seeds and aquatic plants. The fee for nurseries having both standard stock and propagating material shall be determined by converting propagative material to standard stock at a ratio of 10 to 1. The figure so determined will be added to the standard stock inventory and the fee shall be determined on the combined total. Nurseries having

standard stock, propagating material and field-produced vegetable transplants, field-produced bulbs, and field-produced corms or tubers shall have the planted acreage fee added to the fee determined for standard stock and propagating material. The combined fees shall not exceed four hundred and sixty dollars (\$460).

1. Schedule of fees determined by nursery stock inventory shall be as follows:

Number of Plant	Amount of Fee
1 – 1,000	\$25.00
1,001 – 2,500	35.00
2,501 – 5,000	46.00
5,001 – 10,000	69.00
10,001 – 25,000	92.00
25,001 – 50,000	115.00
50,001 – 100,000	173.00
100,001 – 150,000	219.00
150,001 – 200,000	265.00
200,001 – 250,000	311.00
250,001 – 300,000	357.00
300,001 – 350,000	403.00
350,001 – 400,000	449.00
Over 400,000	460.00

2. Schedule of fees determined by planted acreage for field-produced vegetable transplants, field-produced bulbs, and field-produced corms and tubers shall be as follows:

Number of Acres	Amount of Fee
1 – 5	\$25.00
6 – 10	35.00
11 – 15	46.00
16 – 20	69.00
21 – 25	92.00
26 – 30	115.00
31 – 35	172.00
36 – 40	218.00
41 – 45	265.00
46 – 50	311.00
51 – 60	357.00
61 – 70	403.00
71 – 80	449.00
Over 81	460.00

3. Schedule of fees determined by planted acreage for certified turfgrass shall be as follows:

Number of Acres	Amount of Fee
1 – 50	25.00
51 – 100	35.00
101 – 200	46.00
201 – 300	69.00
301 – 400	92.00
401 – 500	115.00
501 – 600	172.00
601 – 700	218.00
701 – 800	265.00
801 – 900	311.00
901 – 1000	357.00
1001 – 2000	403.00
2001 – 3000	449.00
Over 3000	460.00

(g) Governmental agency nurseries whose nursery stock is used exclusively for planting on government property are exempt from payment of a certificate of registration fee.

(h) All annual renewal documents for certificate of registration shall be returned not later than the anniversary date of the certificate being renewed, and accompanied by the appropriate fee.

(2) STOCK DEALERS, STOCK DEALER GARDEN CENTERS, PLANT BROKERS, AND AGENTS. Stock dealers, stock dealer garden centers, plant brokers, and agents shall comply with the following stipulations to meet certification requirements:

(a) Those persons who desire to apply for certification and registration as a stock dealer, stock dealer garden center, plant broker, or agent may make application by completing division form DACS-08004, revised 6/03. This application form should be filed with the division thirty (30) days prior to the date the stock dealer, stock dealer garden center, plant broker, or agent desires to begin operation. The completed application shall be accompanied by payment of the fee as designated in paragraph 5B-2.002(2)(e), F.A.C.;

(b) All annual renewal documents for certificate of registration shall be returned not later than the anniversary date of the certificate being renewed, and accompanied by the appropriate fee;

(c) ~~Stock dealers with more than one outlet supplied with nursery stock from a central location may register outlets by listing or attaching a list of outlets, with complete mailing address and geographical location, to the application or document for renewal form (DACS-08004, revised 6/03 or DACS-08022, revised 6/03) and remitting of the total fee payment for all outlets to be registered.~~ Application for Renewal of Nursery Stock Dealer’s Certificate of Registration form, DACS-08022, revised 6/03, is supplied by the division for this purpose and are incorporated herein by reference.

Copies of DACS-08022, may be obtained from the Division of Plant Industry, Bureau of Plant & Apiary Inspection, P. O. Box 147100, Gainesville, Florida 32614-7100;

~~(d) Stock dealers with an independent source of nursery stock supply, regardless of their affiliation with a parent person, shall apply for a certificate of registration as a separate unit and shall remit the designated fee payment;~~

~~(d)(e)~~ The certificate of registration fee for stock dealer, plant broker, and agent establishments shall be \$25.00 per outlet ~~with a \$460 maximum charge.~~ The certificate of registration fee for a stock dealer garden center shall be \$69.00 per outlet.

~~(e)(f)~~ A stock dealer, stock dealer garden center, plant broker, or agent shall comply with all the provisions of Chapter 581, Florida Statutes, and the rules of the department and shall obtain nursery stock only from certified nurseries;

~~(f)(g)~~ Stock dealer, stock dealer garden center, plant broker, and agent certificate of registration shall expire twelve (12) months from after the original registration or annual renewal date ~~date of issuance.~~

Specific Authority 570.07(23), 581.031(1) FS. Law Implemented 581.131, 581.141 FS. History—Amended 12-31-74, 6-24-75, 3-25-79, 6-15-81, 10-28-85, Formerly 5B-2.02, Amended 5-17-92, 6-7-95, 11-29-95, 6-12-00, 8-26-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Constance C. Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, Florida 32614-7100, (352)372-3505

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Craig Meyer, Deputy Commissioner for Agricultural Services, Commissioner’s Office Staff, Florida Department of Agriculture and Consumer Services, PL 10, The Capitol, Tallahassee, FL 32399-0810

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 10, 2003

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE CHAPTER TITLE: Plant Quarantine and Certification RULE CHAPTER NO.:

Entry Requirements 5B-3

RULE TITLE: Definitions RULE NO.: 5B-3.001

PURPOSE AND EFFECT: The purpose of this rule amendment is to add a definition for Shippers. The effect will define the Shipper as the producer or firm where the pest infested plant or plant products originated.

SUMMARY: The addition of a definition for shippers.

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: 570.07(23), 581.031(4), 581.091, 581.101 FS.

LAW IMPLEMENTED: 581.031(7), 581.083, 581.101 FS.

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

TIME AND DATE: 10:00 a.m., January 5, 2004

PLACE: Doyle Conner Building, 1911 Southwest 34th Street, Gainesville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Connie Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, P. O. Box 147100, Gainesville, FL 32614-7100

THE FULL TEXT OF THE PROPOSED RULE IS:

5B-3.001 Definitions.

For the purpose of this chapter, the definitions in Section 581.011, Florida Statutes, and the following definitions shall apply:

(1) Agricultural inspection station. An official inspection station operated by the department to assist in monitoring the intrastate and interstate movement of agricultural commodities.

(2) Club orders. Shipments of plant material directed through an organization or club which are consigned to their individual members or clients.

(3) House plants. Plants commonly known and recognized as house plants, grown or intended to be grown indoors which may be included as part of a passenger's baggage or household effects.

(4) Interstate movement. Movement into Florida from another state, U.S. possession or territory.

(5) International movement. Movement into Florida from any country or area outside the United States.

(6) Shippers. The producer or firm where the pest infested plant or plant products originated.

~~(7)~~(6) Sugarcane. All species of the genus Saccharum and all species of its close relatives Imperata, Miscanthidium, Miscanthus, Rapidium, Erianthus, and Sorghum and all hybrids, selections, varieties, or clones thereof.

Specific Authority 570.07(23), 581.031(1),(4),(5) FS. Law Implemented 581.011, 581.031 FS. History—Repromulgated 12-31-74, Formerly 5B-3.01, Amended 3-16-92, 7-2-95, 4-1-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Constance C. Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, Post Office Box 147100, Gainesville, Florida 32614-7100

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Craig Meyer, Deputy Commissioner for Agricultural Services, Commissioner's Office Staff, Florida Department of Agriculture and Consumer Services, PL-10, The Capitol, Tallahassee, FL 32399-0810

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 23, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 31, 2003

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE CHAPTER TITLE: Pests of Honeybees and Unwanted

RULE CHAPTER NO.: 5B-54

Races of Honeybees 5B-54.003

RULE TITLES: Regulated Honeybee Pests 5B-54.003

Registration with the Department 5B-54.010

Special Inspection and Certification Fees 5B-54.0115

Compensation for Infested or Infected Colonies 5B-54.018

PURPOSE AND EFFECT: The purpose of this rule revision is to change old scientific names to those currently in use, increase registration and certification fees to cover more of the cost and to parallel wording in the statute. The effect will be to change *Bacillus larvae* to *Paenibacillus larvae* and to change *Varroa jacobsoni* (Oudemans) to *Varroa spp.* Categories for registration will be reduced from seven to five with the following fee increases: 1-5 colonies will increase from \$5 to \$10, 6-40 colonies will increase from \$10 to \$20, 41-200 colonies will increase from \$20 to \$40, 201-500 will increase to \$70, and 501 or more will increase to \$100, which is the cap set by statute. The \$10 per yard fee for Special Inspection and Certification is eliminated and a \$25 fee per certificate issued or special inspection made for out-of-state movement of honeybee colonies is established. Tracheal mite certification is eliminated.

Under Compensation for Infested or Infected Colonies, the word "shall" is being replaced by "may" to parallel the wording of the statute. The words "per colony" are being added following the phrase "compensation shall not exceed \$30.00". To prevent a few beekeepers who are careless from bankrupting the funds for compensation, the following is added, "Compensation will be paid in full for the first 10 diseased colonies, after which payment will be discounted as follows: If the disease rate exceeds 50 percent of the total colony inventory, then the payment will be discounted 50 percent".

SUMMARY: The rule will be amended to change *Bacillus larva* to *Paenibacillus larvae* and to change *Varroa jacobsoni* (Oudemans) to *Varroa spp.* Categories for registration will be reduced from seven to five with the following fee increases: One to five colonies will increase from \$5 to \$10, six to 40 colonies will increase from \$10 to \$20, 41 to 200 colonies will increase from \$20 to \$40 and 201-500 will increase from \$35 to \$70 and 501 or more will be a flat rate of \$100, which is the cap set by statute. The \$10 per yard fee for Special Inspection and Certification is eliminated and a \$25 fee per certificate or special inspection made is issued for out-of-state movement of honeybee colonies being established. Tracheal mite certification is eliminated. Under Compensation for Infested or Infected Colonies the word “shall” is being replaced by “may” to parallel the wording of the statute and “per colony” is being added following the phrase “compensation shall not exceed \$30.00”. Also, the following is added, “Compensation will be paid in full for the first 10 diseased colonies, after which payment will be discounted as follows: If the disease rate exceeds 50 percent of the total colony inventory, then the payment will be discounted 50 percent”.

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: 586.10(2) FS.

LAW IMPLEMENTED: 586.025, 586.03(3), 586.035(1), 586.045, 586.09, 586.10(1),(2),(4),(6),(7),(9),(11),(12), 586.11, 586.115, 586.13(1), 586.14, 586.15 FS.

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

TIME AND DATE: 10:00 a.m., January 5, 2004

PLACE: Doyle Conner Building, 1911 Southwest 34th Street, Gainesville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Connie Riherd, Assistant Director, Division of Plant Industry, Post Office Box 147100, Gainesville, Florida 32614-7100, (352)372-3505

THE FULL TEXT OF THE PROPOSED RULES IS:

5B-54.003 Regulated Honeybee Pests.

Each of the following honeybee pests is found to be capable of damaging or causing abnormalities to honeybees, colonies of honeybees or beeswax and is declared to constitute a nuisance:

- (1) American foulbrood. The disease organism known as Paenibacillus ~~Bacillus~~ larvae.
- (2) The mite Tropilaelaps clareae.
- (3) Varroa mite, Varroa spp ~~Varroa jacobsoni~~ (Oudemans).

(4) Any other honeybee pest determined by the department to be a threat to the state.

Specific Authority 586.10(2) FS. Law Implemented 586.10(5) FS. History--New 11-22-88, Amended 11-4-92, 7-9-95, _____.

5B-54.010 Registration with the Department.

Each beekeeper having honeybee colonies within the state must register with the department utilizing the following procedures:

(1) Application for registration of beekeeping operations shall be made upon a form furnished by the department. The form shall contain provisions with which the applicant must comply and must be signed by the applicant or applicant’s representative. Form DACS-08176, Application for Beekeeping Registration, revised 7/03 ~~7/99~~, is hereby incorporated in this rule by reference. A copy of DACS-08176 may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.

(2) Applicant’s honeybees shall have been inspected by an authorized representative of the department within a 12-month period preceding the date of application and found to be apparently free from honeybee pests listed under Rule 5B-54.003, F.A.C., and unwanted races of honeybees listed under Rule 5B-54.004, F.A.C., and to be reasonably free from common honeybee pests.

(3) By signing the application the beekeeper agrees to comply with appropriate rules of the department. Each application for registration (DACS-08176) or renewal of registration must be accompanied by the proper registration fee based on the total number of colonies operated by the registrant as follows:

Number of Colonies	Fee
1 – 5	<u>\$10</u> 5
6 – 40	<u>\$20</u> 40
41 – 200	<u>\$40</u> 20
201 – 500	<u>\$70</u> 35
501 – 2000	<u>\$100</u> 50
2001 – 5000	75
Over 5000	100

(4) Upon approval of the application, the department will issue to the beekeeper a Certificate of Beekeeping Registration. Form DACS-08177, Certificate of Beekeeping Registration, revised 4/99, is hereby incorporated in this rule by reference. A copy of DACS-08177 may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.

(5) Application for annual renewal of the certificate must be made not later than the anniversary date of the certificate and must be accompanied by the appropriate registration fee.

(6) An application received after the anniversary date shall be accompanied by a \$10 late filing fee.

(7) Failure to register is a violation of Section 586.045, Florida Statutes, and is subject to the penalties set forth in Section 586.15, Florida Statutes.

Specific Authority 586.10(2) FS. Law Implemented 586.045, 586.10(9),(12), 586.15 FS. History—New 11-22-88, Amended 11-4-92, 6-20-00,_____.

5B-54.0115 Special Inspection and Certification Fees.

Special inspection and certification fees shall be as follows:

Special honeybee colony Inspection or certification	\$25 \$10 per <u>certificate issued or special inspection made</u> apiary or location inspected plus mileage; \$10 minimum.
Tracheal mite sampling	\$10 per sample plus mileage ¹ , \$10 minimum.
Honey sampling	\$10 per sample plus mileage ¹ , \$10 minimum.

¹Mileage shall be based on the prevailing state mileage rate.

Specific Authority 586.10(2) FS. Law Implemented 586.03(3) FS. History—New 11-4-92, Amended_____.

5B-54.018 Compensation for Infested or Infected Colonies.

(1) Florida resident owners of colonies and regulated articles destroyed due to infection or infestation with American foulbrood ~~may shall~~ be compensated at the rate of 1/2 the estimated value of the honeybees and equipment, provided funding is available for this purpose; however, compensation shall not exceed \$30.00 per colony. Also, compensation will be paid in full for the first 10 diseased colonies, after which payment will be discounted as follows: If the disease rate exceeds 50 percent of the total colony inventory, then the payment will be discounted 50 percent. The condition of the equipment to be destroyed shall be rated by the inspector and the beekeeper as good, fair, or poor. Any disagreement over the condition or value of equipment to be destroyed shall be arbitrated by the Chief of Apiary Inspection, the Cooperative Extension Service Apiary Specialist, and the Chairman of the Honeybee Technical Council. A Compensation Agreement, including the owner’s Social Security number, must be signed by the owner. The Compensation Agreement form, DACS-08062, Revised 7/99, is hereby incorporated in this rule by reference. A copy of DACS-08062 may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.

(2) Other Honeybee Pests and Unwanted Races of Honeybees. Owners shall not be awarded compensation for depopulation of colonies due to the presence of honeybee pests or unwanted races of honeybees in the colonies or their possible subjection to infestation by these organisms, except

by special provisions for compensation that may be established by state or federal legislation for damages incurred as a result of control or eradication procedures by the department.

Specific Authority 586.10(2) FS. Law Implemented 586.13, 586.14 FS. History—New 11-22-88, Amended 11-4-92, 6-20-00,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Constance C. Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, Post Office Box 147100, Gainesville, Florida 32614-7100

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Craig Meyer, Deputy Commissioner for Agricultural Services, Commissioner’s Office Staff, Florida Department of Agriculture and Consumer Services, PL 10, The Capitol, Tallahassee, FL 32399-0810

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 31, 2003

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Citrus Budwood Protection Program	5B-60
RULE TITLES:	RULE NOS.:
Citrus Budwood Technical Advisory Committee	5B-60.005
Citrus Nursery Stock Propagation and Planting	5B-60.006
Scion Trees	5B-60.009
Increase Trees	5B-60.010
Procedure for Identifying and Recording Citrus Nursery Stock	5B-60.013
Fees	5B-60.015
Exemptions	5B-60.016

PURPOSE AND EFFECT: The purpose of these rule revisions is to incorporate recommendations of changes made by the Citrus Budwood Technical Advisory Committee to the Citrus Budwood Protection Program. These changes are made to protect the Florida Citrus Industry from graft-transmissible pathogens.

SUMMARY: Additional members are added to the Citrus Budwood Technical Advisory Committee. The dooryard nursery reporting requirements are made the same as those that the commercial citrus nurseries have been using. The “Source Tree Nursery Plat” (DACS-08073) is eliminated as it is consolidated into the “Source Tree Bud Cutting Report” (DACS-08172). The evaluation fruit on screenhouse trees is clarified. Designated scion trees are required to be screen enclosed to be used for increase trees. Language is included to clarify how long records should be kept. Fees are adjusted to reflect actual costs. The labeling of Calamondins for out of state sales is clarified.

These changes necessitate updating the Citrus Budwood Protection Manual and the Citrus Budwood Testing Manual, and, therefore, changing of the rule to reflect the new revision dates of those manuals. Other changes correct rule effective dates.

SPECIFIC AUTHORITY: 570.07(23), 581.031(1),(3),(8) FS.

LAW IMPLEMENTED: 570.07(2),(13), 570.0705, 581.031(1),(14),(17),(23) FS.

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

TIME AND DATE: 10:00 a.m., January 5, 2004

PLACE: Shaw Building, 3027 Lake Alfred Road, Winter Haven, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Michael Kesinger, Chief, Bureau of Citrus Budwood Registration, Division of Plant Industry, 3027 Lake Alfred Road, Winter Haven, Florida 33881-1438, (863)298-7712

THE FULL TEXT OF THE PROPOSED RULES IS:

5B-60.005 Citrus Budwood Technical Advisory Committee.

The Commissioner of Agriculture shall name a Citrus Budwood Technical Advisory Committee of ~~sixteen~~ thirteen members selected as follows:

(1) Four members who shall be owners or employees of citrus nurseries;

(2) Four members who shall be commercial citrus fruit producers or employees of producers;

(3) ~~Four~~ Three members who shall represent the Institute of Food and Agricultural Sciences of the University of Florida or the USDA Agricultural Research Service, and who shall be non-voting advisors to the committee;

(4) ~~Four~~ Two members who shall be employees of the department, and who shall be non-voting advisors to the committee;

(5) Two alternate members, one who shall be from (1) and one who shall be from (2), and who shall be non-voting members to the committee and have voting rights only on the absence of members (1) or (2);

~~(6)~~ (5) The above appointed committee may meet when called by the committee chairman. This committee shall make recommendations to the department on matters pertaining to this rule chapter such as germplasm introduction, testing procedures, laboratory certification and other Citrus Budwood Protection Program procedures. In appointing the committee, the Commissioner will select members from various geographical areas who represent a broad cross-section of the industry and impacted businesses.

Specific Authority 570.07(23), 581.031(1),(3),(8) FS. Law Implemented 570.07(2),(23), 570.0705, 581.031(1),(14),(17),(23) FS. History--New 9-30-96, Amended 11-4-98.

5B-60.006 Citrus Nursery Stock Propagation and Planting.

(1) ~~Effective January 1, 1997,~~ It shall be unlawful for anyone to propagate or plant citrus nursery stock which is not produced in accordance with the provisions of the Citrus Budwood Protection Program. ~~Citrus nursery stock propagated prior to January 1, 1997, shall not be subject to these provisions.~~ Participation in the Citrus Budwood Protection Program shall not imply any warranty on the part of the nurserymen, certified laboratories, the department, or any employee thereof.

(2) Prior to propagating all dooryard, own-use and commercial citrus nursery stock, unless exempted in Rule 5B-60.016, F.A.C., nurserymen and growers shall make application to produce citrus nursery stock on Form DACS-08066. Form DACS-08066, Revised 9/99, is hereby adopted and incorporated by reference herein. The form may be obtained by writing or visiting the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, FL 33881-1438. Applicants must agree to comply with all the conditions which apply to the Citrus Budwood Protection Program as specified in this rule chapter.

(3) Commercial citrus nursery stock shall be propagated according to the following provisions unless exempted in Rule 5B-60.016, F.A.C.

(a) Propagative material including budwood, air-layers, and cuttings shall be from parent trees, foundation trees, scion trees, increase or validated trees for which a Certificate of Source Tree Registration (DACS-08072) has been issued as specified in Rule 5B-60.012, F.A.C. Form DACS-08072, Revised 1/02 ~~4/00~~, is hereby adopted and incorporated by reference herein. The form may be obtained by writing or visiting the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, Florida 33881-1438.

(b) Budwood shall be taken under the direct supervision of a witness authorized by the department. Budwood from each source tree shall be wrapped separately. Each bundle shall be labeled showing variety, the tree identification number, and the number of buds counted or estimated.

(c) All propagative material data shall be recorded on a Source Tree Bud Cutting Report (DACS-08172) and submitted to the Bureau of Citrus Budwood Registration at the time of collection. Form DACS-08172, Revised 7/03 ~~4/99~~ is hereby adopted and incorporated by reference herein. Persons authorized to fill out a Source Tree Bud Cutting Report (DACS-08172), shall sign a Certification To Witness Registered Budwood form, DACS-08111, Revised 12/99, and incorporated in this rule by reference. These forms may be obtained by writing or visiting the Florida Department of

Agriculture and Consumer Services, Division of Plant Industry, Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, Florida 33881-1438.

(d) Propagations from each source tree shall be maintained in nursery rows or on greenhouse benches so that each group can be traced back to an individual source tree. Nurserymen shall use permanent tags to label each separate group of propagation with the source tree registration number.

(e) When budding seedlings, only seedlings that previously have not had a bud inserted in them shall be used. If rebudding is necessary, buds from the same registered source as the original bud shall be used.

(f) Propagative material used for topworking shall be from parent trees, foundation trees, scion trees, increase trees, or validated trees.

(g) Seed used for propagation shall be from parent trees, foundation trees, scion trees, or from a seed source tree. Seed imported into the State for propagation shall be certified by an authorized representative of the department of agriculture of the state or country of origin as meeting the requirements of a seed source tree.

(h) The nurseryman may at his own risk propagate trees from a prospective scion tree at any time after the parent tree is registered and the prospective scion tree has been tested and found free of severe strains of citrus tristeza virus (registration pending). If the prospective scion tree is found not to be horticulturally true-to-type or to have any other genetic deficiency that would disqualify it for registration, the progeny of the prospective scion tree shall be destroyed by and at the expense of the owner within 30 days of the detection.

(i) Commercial citrus nursery stock shall be in compliance with Rule Chapter 5B-44, F.A.C., Nematodes of Citrus and, based on a visual inspection by the department, free of psorosis.

(j) Laboratories that submit citrus tristeza virus test results to the Citrus Budwood Protection Program shall sign a Citrus Tristeza Virus Testing Laboratory Certification Compliance Agreement DACS-08031, Revised 5/99, incorporated in this rule by reference. Form DACS-08031 may be obtained from the Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, FL 33881-1438.

(4) Dooryard citrus nursery stock shall be propagated according to the following provisions unless exempted in Rule 5B-60.016, F.A.C.

(a) Propagative material including budwood, air-layers, and cuttings shall be taken from a parent, scion, foundation, increase, validated tree, or from a dooryard source tree which meets the following conditions:

1. Based on an annual visual inspection, free of recognizable symptoms of psorosis, citrus viroids, tatterleaf virus, Florida gummosis, citrus blight, decline, leprosis, and other quarantinable pests;

2. Tested within the past 12 months and found free of severe strains of citrus tristeza virus, ~~effective May 1, 1998~~;

3. Vigorous, adequately identified to horticultural type and has borne fruit;

4. Registered on a Certificate of Source Tree Registration (DACS-08072) as specified in Rule 5B-60.012, F.A.C. ~~effective January 1, 1998~~.

(b) Tests for severe strains of citrus tristeza virus as required in subparagraph (a)2. shall be performed by certified laboratories or the department. The testing costs shall be the responsibility of the owner. Test results shall be provided by the certified laboratories to the office of the Bureau of Citrus Budwood Registration, Winter Haven, FL within 30 days of determination and not later than the expiration date of the Certificate of Source Tree Registration (DACS-08072).

(c) Budwood shall be taken under the direct supervision of a witness authorized by the department. Budwood from each source tree shall be wrapped separately. Each bundle shall be labeled showing variety, the tree identification number, and the number of buds counted or estimated.

(d) All propagative material data shall be recorded on a Source Tree Bud Cutting Report DACS-08172, Revised 7/03 and submitted to the Bureau of Citrus Budwood Registration at the time of collection. Persons authorized to fill out a Source Tree Bud Cutting Report DACS-08172, shall sign a Certification To Witness Registered Budwood form, DACS-08111, Revised 12/99.

~~(e)~~ Propagations from each dooryard source tree shall be maintained in nursery rows or greenhouse benches so that each group can be traced back to an individual source tree. Nurserymen shall use permanent tags to label each separate group of propagation with the dooryard source tree registration number.

(5) Dooryard sources are initially recorded on a Record of Validated/Dooryard Source Trees Form DACS-08255, Revised 12/99, which is adopted and incorporated herein by reference. The form may be obtained by writing or visiting the Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, FL 33881-1438.

Specific Authority 570.07(23), 581.031(1),(3),(8) FS. Law Implemented 570.07(2),(13), 570.0705, 581.031(1),(14),(17),(23) FS. History—New 9-30-96, Amended 11-4-98, 2-1-00, 6-12-00, _____.

5B-60.009 Scion Trees.

Scion trees shall be propagated from selected parent or foundation trees, be registered on a Certificate of Source Tree Registration (DACS-08072) as specified in Rule 5B-60.012, F.A.C., and must meet the following requirements:

(1) The layout, design and planting of the scion grove shall meet the requirements specified in the Citrus Budwood Protection Procedure Manual and shall be done under the supervision of the department. Scion tree planting is witnessed by the department on Growers Record of Registered Scion

Tree Movement Form DACS-08071, Revised 12/99, which is adopted and incorporated herein by reference. The form may be obtained by writing or visiting the Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, FL 33881-1438;

(2) Scion trees shall not exceed 350 trees of any one variety per registered nursery;

(3) Budwood used to propagate scion trees shall be taken under the direct supervision of the department and shall be reported on Form DACS-08172, Source Tree Bud Cutting Report, Revised 7/03 ~~10/99~~.

(4) The scion trees shall have been budded on nursery rootstocks which have not previously had a bud inserted in them. If rebudding is necessary, buds from the same registered source tree as the original shall be used;

(5) The nurseryman shall furnish the Bureau of Citrus Budwood Registration within 30 days following date of budding, the budding record location portion a nursery plat on Form DACS-08172, Source Tree Bud Cutting Report, Revised 7/03 08073, revised 10/99, which is adopted and incorporated herein by reference.

The form may be obtained by writing or visiting the Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, FL 33881-1438. The budding record location on the Source Tree Bud Cutting Report nursery plat shall identify the location in the nursery of the each progeny trees, indicating the variety, rootstock, and the source tree registration number of the source;

(6) The scion trees, as well as their registered parents, shall have at no time shown symptoms of graft-transmissible pathogens;

(7) The scion trees shall be tested negatively ~~effective January 1, 1998~~ for psorosis, citrus viroids, and tatterleaf virus, by the department at its expense and discretion, and shall be apparently free, based on an annual visual inspection, from Florida gummosis, citrus blight, decline, leprosis, evidence of unacceptable bud mutation, and other quarantinable pests;

(8) The scion trees shall be tested negatively by certified laboratories at the owner's expense annually for severe strains of citrus tristeza virus ~~effective May 1, 1997~~. Test results shall be provided by the certified laboratories to the office of the Bureau of Citrus Budwood Registration, Winter Haven, FL, within 30 days of determination and not later than the expiration date of the Certificate of Source Tree Registration (DACS-08072);

(9) The scion trees shall be vigorous, productive, and horticulturally true-to-type and have borne fruit. Screenhouse scion trees shall have a representative sample bear fruit;

(10) Seed used to propagate scion trees shall be from parent trees, scion trees, foundation trees, or from a seed source tree. Seed imported into the State for propagation shall

be certified by an authorized representative of the department of agriculture of the state or country of origin as meeting the requirements of a seed source tree;

(11) Prospective scion trees may be propagated from prospective parent trees any time after the parent tree has passed the preliminary inspection and has been tested for citrus tristeza virus and indexing is in progress for psorosis, citrus viroids, and tatterleaf virus. The prospective scion tree shall not be eligible for registration until the tree has been planted for at least two years, negatively tested for severe strains of citrus tristeza virus, has borne fruit, and the prospective parent tree has been registered. If the prospective parent tree is found to be infested with the above pathogens, the prospective scion trees will be destroyed by and at the expense of the owner within 30 days of the detection.

Specific Authority 570.07(23), 581.031(1),(3),(8) FS. Law Implemented 570.07(2),(13), 570.0705, 581.031(1),(14),(17),(23) FS. History—New 9-30-96, Amended 11-4-98, 2-1-00, 6-12-00, _____.

5B-60.010 Increase Trees.

Increase trees shall be registered on a Certificate of Source Tree Registration (DACS-08072) as specified in Rule 5B-60.012, F.A.C., provided they have been propagated as follows:

(1) Budwood must have been obtained under the direct supervision of the department from parent, foundation, or designated screen-enclosed scion trees effective January 1, 2006: (scion trees tested negatively for citrus exocortis viroid within the past 6 years) and which have borne fruit and which tested negatively for severe isolates of citrus tristeza virus within the past 12 months.

(2) Seed used to propagate increase trees must have come from parent trees, scion trees, or foundation trees, or from a seed source tree. Seed imported into the State for propagation must have been certified by an authorized representative of the department of agriculture of the state or country of origin as meeting the requirements of a seed source tree.

(3) Only seedlings that previously have not had a bud inserted in them must have been used. If rebudding is necessary, buds from the same registered source tree as the original bud must be used.

(4) Increase trees must be vigorous, productive, and horticulturally true-to-type and free of recognizable symptoms of other graft-transmissible pathogens and apparently free based on an annual visual inspection from Florida gummosis, citrus blight, decline, leprosis, evidence of unacceptable bud mutation, and other quarantinable pests.

(5) Field-grown increase trees must have been propagated in single rows, separated from other propagations, and identified with plainly visible permanent markers.

(6) There must be a minimum vacant space of 24 inches between each clone of increase trees in a field grown nursery and 12 inches between each clone of plants grown on greenhouse benches with each clone individually identified.

(7) The nurseryman must furnish the Bureau of Citrus Budwood Registration within 30 days following the date of budding, a Source Tree Bud Cutting Report, DACS-08172 Revised 7/03 ~~nursery plat (DACS-08073)~~, indicating the variety, rootstock, number of trees budded, registration number of source, location of block, and date of budding.

(8) Trees propagated as increase trees under this rule chapter must only serve as registered sources of budwood with no testing required for a period of up to 24 months from budding. Increase trees can be used for twelve additional ~~more~~ months if tested negatively between the 22nd and 24th month for severe strains of citrus tristeza virus. Test samples must be as follows:

(a) A 10 percent systematic composite sample that results in a 90 percent probability of detection of a one percent citrus tristeza virus infection rate is required;

(b) If over one percent severe isolate infection rate is found, then all individual trees being used for budwood must be tested prior to budwood being removed;

(c) All trees not tested will not qualify as source trees and shall be removed and destroyed by and at the expense of the owner within 30 days of the detection;

(d) Tests must be performed by certified laboratories or the department. The testing costs shall be the responsibility of the owner. Test results must be provided by the certified laboratories to the office of the Bureau of Citrus Budwood Registration, Winter Haven, FL not later than the expiration date of the Certificate of Source Tree Registration (DACS-08072).

(9) Nursery stock propagated from increase trees shall not serve as further sources of registered budwood.

(10) Increase trees from foundation or parent trees used for increase budwood shall qualify for scion grove planting in accordance with Rule 5B-60.009, F.A.C.

(11) Increase trees grown under protected screen enclosures can be used as budwood sources for 48 months if tested as required in (8) and then again between the 34th and 36th month.

Specific Authority 570.07(23), 581.031(1),(3),(8) FS. Law Implemented 570.07(2),(13), 570.0705, 581.031(1),(14),(17),(23) FS. History--New 9-30-96, Amended 11-4-98, 2-1-00, 3-31-02,_____.

5B-60.013 Procedure for Identifying and Recording Citrus Nursery Stock.

(1) Identification and record of movement for commercial citrus nursery stock. For the benefit of the buyer, the nurseryman or grower shall identify registered nursery stock as being the progeny of registered source trees by completing the Citrus Nursery Stock Inspection Tag (DACS-08038) at the time of delivery. If the nursery stock was propagated from a validated tree, the Citrus Nursery Stock Inspection Tag (DACS-08038) must contain this information and the statement that the validated tree was only tested for citrus tristeza virus. The nurseryman or grower shall keep a

systematic record of the movement of citrus trees (DACS-08038) which shall be available for examination by the department for a period of three years. All movements of nursery stock shall comply with all department requirements pertaining to the inspection and certification as to freedom from plant pests, as well as the use and recording of citrus invoice certificates (tags)(DACS-08038). Form DACS-08038, Revised 6/03 ~~7/99~~, is hereby adopted and incorporated by reference herein. The form may be obtained by writing or visiting the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, Florida 32614-7100.

(2) Dooryard citrus nursery stock shall have each individual tree identified with a slip-on label bearing the producing nursery's certificate of nursery registration number issued by the department.

Specific Authority 570.07(23), 581.031(1),(3),(8) FS. Law Implemented 570.07(2),(13), 570.0705, 581.031(1),(14),(17),(23) FS. History--New 9-30-96, Amended 2-1-00,_____.

5B-60.015 Fees.

An annual source tree registration fee shall be paid as follows:

Parent tree	<u>\$2.00</u> 5.00 per tree per year
Scion tree	\$2.00 per tree per year
Dooryard source tree	<u>\$2.00</u> 4.00 per tree per year
Validated source tree	<u>\$2.00</u> 4.00 per tree per year
Seed source tree	<u>\$2.00</u> 4.00 per tree per year
Additional fee:	
Reinstate a tree	<u>\$2.00</u> 5.00 plus the back annual registration fee

Miscellaneous fees for division services:

Witnessing budwood cutting	Mileage ¹ and \$5.00 per 1000 budeyes cut, \$10 minimum, <u>\$50 maximum</u>
Citrus viroid or psorosis testing	\$60 per test
Parent tree indexing	\$175 per tree
Shoot-tip grafting	\$500 <u>per selection</u>
Budwood ²	25 cents/eye, \$5.00 minimum

Cut from Citrus Budwood Foundation Groves, Screenhouses and/or Florida Citrus Arboretum

Tip cuttings (6 inches)	<u>\$1.00</u> each 50 cents
Tip cuttings (6 inches)	<u>\$2.00</u> each (Out-of-State) \$1.50 cents
New Division of Plant Industry releases	\$1.00/eye (first two years)
Budwood shipment	<u>\$2.00</u> 75 cents /eye, <u>plus a \$100 processing fee</u> \$50.00 minimum (Out-of-State/ Foreign)

Shipping and handling fee Actual cost
for budwood and seed
in Florida.

¹Mileage shall be based on the prevailing State mileage rate.

²Requests for budwood are submitted on a Budwood Order Form DACS-08218, Revised 4/03 12/99, which is adopted and incorporated herein by reference. The form may be obtained by writing or visiting the Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, FL 33881-1438.

(1) Fees shall be paid prior to obtaining a Certificate of Source Tree Registration (DACS-08072) and annually thereafter on the anniversary date of the certificate.

(2) Fees not paid within 30 days of billing shall be considered past-due. A penalty of \$10.00 or 20 percent of the unpaid balance, whichever is greater, shall be assessed on all past-due fees.

(3) Cooperating research agencies whose registered citrus trees are used exclusively for planting on government property are exempt from payment of an annual registration fee.

Specific Authority 570.07(23), 581.031(1),(3),(8) FS. Law Implemented 570.07(2),(13), 570.0705, 581.031(1),(14),(17),(23) FS. History—New 9-30-96, Amended 11-4-98, 2-1-00, 6-12-00,_____.

5B-60.016 Exemptions.

(1) Calamondins and other citrus produced from cuttings or seed for out-of-state shipment shall be exempt from the provisions of this rule chapter. All plants propagated under this exemption must be labeled “not for sale or planting in Florida”.

(2) Citrus trees produced for research purposes in field plantings shall not be exempt from the program requirements contained in this rule chapter. Research facilities shall sign a Citrus Budwood Protection Program Research Facility Compliance Agreement, DACS-08031, Revised 5/99, incorporated in this rule by reference. Form DACS-08031 may be obtained from the Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, FL 33881-1438. Requests to plant pathogen infected material for research projects shall be made on an Application and Permit To Plant Citrus Pathogen Infected Stock, DACS-08274, Revised 1/00, and incorporated in this rule by reference. Form DACS-08274 may be obtained from the Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, FL 33881-1438.

~~(3) Lime trees until five (5) years following the effective date of this Rule Chapter.~~

~~(3)(4)~~ Citrus nursery stock produced north of the Suwannee and St. Mary’s Rivers, provided it is not moved south of these rivers.

Specific Authority 570.07(23), 581.031(1),(3),(8) FS. Law Implemented 570.07(2),(13), 570.0705, 581.031(1),(14),(17),(23) FS. History—New 9-30-96, Amended 11-4-98, 2-1-00, 6-12-00,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Kesinger, Chief, Bureau of Citrus Budwood Registration, Division of Plant Industry, 3027 Lake Alfred Road, Winter Haven, Florida 33881

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Craig Meyer, Deputy Commissioner for Agricultural Services, Commissioner’s Office Staff, Florida Department of Agriculture and Consumer Services, PL 10, The Capitol, Tallahassee, FL 32399-0810

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 31, 2003

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE TITLE: Commercial Values for Penalty Assessments RULE NO.: 5E-1.016

PURPOSE AND EFFECT: The purpose of this rule is to provide the most recent market prices of fertilizer components to be used for penalty assessments of deficient fertilizer.

SUMMARY: Rule 5E-1.016, F.A.C., updates the most recent market prices of fertilizer components to be used for penalty assessments of deficient fertilizers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Costs was Prepared.

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

SPECIFIC AUTHORITY: 576.181(2), 570.07(23) FS.

LAW IMPLEMENTED: 576.051(2),(3),(7), 576.061, 576.071, 576.181 FS.

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

TIME AND DATE: 9:00 a.m., January 6, 2004

PLACE: Agricultural Environmental Services Conference Room, 3125 Conner Blvd., Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Steven J. Rutz, Director, Department of Agriculture and Consumer Services, Division of Agricultural Environmental Services, Room 130, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650, (850)488-3731

THE FULL TEXT OF THE PROPOSED RULE IS:

5E-1.016 Commercial Values for Penalty Assessments.

The commercial values used in assessing penalties for plant nutrient deficiencies are determined by the annualized average market prices published by the Chemical Market Reporter

Publication (effective 6/8/98), which is hereby incorporated by reference. Commercial Values not provided in Industry Publications will be established thru survey approved by the Fertilizer Technical Council. Copies may be obtained from the Chemical Market Reporter, 307 Southgate Court, Brentwood, TN 37027. This rule shall be reviewed annually.

(1) PRIMARY PLANT NUTRIENTS.

	Guaranteed	Commercial
	as	Values
		(Per unit*)
Total Nitrogen	N	\$ <u>5.49</u> 5.65
Nitrate Nitrogen	N	<u>5.39</u> 5.38
Ammoniacal Nitrogen	N	<u>4.60</u> 4.76
Water Soluble or		
Urea Nitrogen	N	<u>4.81</u> 4.75
Slow Release Nitrogen		
(from other SRN sources)	N	<u>14.48</u> 15.85
Water Insoluble Nitrogen	N	<u>12.32</u> 12.93
Available Phosphorus	P ₂ O ₅	<u>3.55</u> 3.62
Slow Release Phosphate	P ₂ O ₅	<u>19.10</u> 19.60
Potassium (from Muriate)	K ₂ O	<u>2.21</u> 2.30
Slow Release Potassium	K ₂ O	<u>15.04</u> 15.04
Potassium (from any		
source other than Muriate or a		
combination of sources)	K ₂ O	<u>4.31</u> 4.41

(2) SECONDARY PLANT NUTRIENTS.

	Guaranteed	Commercial
	as	Values
		(Per unit*)
Total and water Soluble		
Magnesium (from any source)	Mg	<u>\$6.53</u> \$6.55
Manganese (from sulfate)	Mn	<u>15.89</u> 16.19
<u>Manganese (from Sucrate)</u>	<u>Mn</u>	<u>11.25</u> 11.33
Manganese (from chloride)	Mn	6.10 6.10
Manganese (from oxide)	Mn	<u>6.27</u> 7.55
Manganese (from chelate in group 1**)Mn	<u>215.50</u>	231.00
Manganese (from chelate in group 2**)Mn	70.90	70.90
Copper (from sulfate)	Cu	<u>36.52</u> 42.45
Copper (from chloride)	Cu	22.15 22.15
Copper (from oxide)	Cu	<u>19.25</u> 20.50
Copper (from chelate in group 1**) Cu	156.00	156.00
Copper (from chelate in group 2**) Cu	113.20	113.20
Zinc (from sulfate)	Zn	<u>17.94</u> 17.72
Zinc (from sucrate)	Zn	<u>14.20</u> 14.20
Zinc (from chloride)	Zn	18.45 18.45

Zinc (from oxide)	Zn	<u>9.92</u> 10.05
Zinc (from chelate in group 1**) Zn	<u>188.00</u>	184.00
Zinc (from chelate in group 2**) Zn	65.00	65.00
Iron (from sulfate)	Fe	<u>12.88</u> 13.27
<u>Iron (from sucrate)</u>	<u>Fe</u>	<u>6.18</u> 6.28
<u>Iron (from humate)</u>	<u>Fe</u>	<u>16.11</u> 16.09
Iron (from oxide)	Fe	<u>3.88</u> 4.00
Iron (from chelate in group 1**) Fe	<u>244.96</u>	267.29
Iron (from chelate in group 2**) Fe	<u>82.00</u>	80.00
Aluminum	Al	<u>14.42</u> 14.00
Sulfur (free)	S	<u>2.55</u> 2.64
Sulfur (combined)	S	<u>2.21</u> 2.21
Boron	B	<u>33.74</u> 34.12
Molybdenum	Mo	<u>198.80</u> 185.50
Cobalt	Co	89.90 89.90
Calcium (from any source)	Ca	<u>.71</u> .60

(3) DOLOMITE and LIMESTONE (when sold as material).

Magnesium	MgCO ₃	<u>.18</u> .16
Calcium	CaCO ₃	<u>.09</u> .09

(4) CALCIUM SULFATE (land plaster, gypsum) (when sold as material).

Calcium	CaSO ₄	.30 .30
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*A "Unit" of plant nutrient is one percent (by weight) of a ton or 20 pounds.

**Chelates in "group 1" have aminopolycarboxylic acids, such as EDTA, HEDTA, DTPA and NTA, or related compounds as chelating agents. Chelates in "group 2" have chelating agents other than those in group 1.

Specific Authority 576.181(2), 570.07(23) FS. Law Implemented 576.051(2),(3),(7), 576.061, 576.071, 576.181 FS. History--New 1-23-67, Amended 10-22-68, 11-20-69, 10-22-70, 3-9-74, 6-28-74, 10-25-74, 7-6-76, 7-26-77, 7-22-79, 4-23-80, 10-27-80, 10-18-81, 2-16-84, 12-2-85, Formerly 5E-1.16, Amended 11-16-86, 10-8-87, 9-26-88, 11-19-89, 3-28-91, 2-25-92, 8-3-93, 7-12-94, 10-25-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dale W. Dubberly, Chief, Bureau of Compliance Monitoring, 3125 Conner Blvd., Building #8, Tallahassee, Florida 32399-1650, (850)488-8731

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Steven J. Rutz, Director, Division of Agricultural Environmental Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 31, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 14, 2003

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Forestry

RULE CHAPTER TITLE: Best Management Practices for Silviculture

RULE CHAPTER NO.: 5I-6

RULE TITLES: Purpose Approved BMPs Presumption of Compliance Notice of Intent to Implement Record Keeping

RULE NOS.: 5I-6.001 5I-6.002 5I-6.003 5I-6.004 5I-6.005

PURPOSE AND EFFECT: The purpose of this proposed rule is to effect pollutant reduction through the implementation of non-regulatory and incentive-based Best Management Practices (BMPs) which may be determined to have minimal individual or cumulative adverse impacts to the water resources of the state.

SUMMARY: The proposed rule establishes a procedure for submitting a "Notice of Intent to Implement" BMPs, that, when filed with the Florida Department of Agriculture and Consumer Services, Division of Forestry (DOF), and BMPs are implemented, provides a presumption of compliance with state water quality standards and release from the provisions of s. 376.307(5), F.S., for those pollutants addressed by the practices. Once filed with DOF, the Notice of Intent shall enable the applicant to apply for assistance with the implementations as identified in s. 403.067(7)(d), F.S. This proposed rule also provides that records maintained by the applicant confirming implementation of non-regulatory and incentive-based BMPs are subject to DOF inspection.

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 within 21 days of this notice.

SPECIFIC AUTHORITY: 403.067(7)(d) FS.

LAW IMPLEMENTED: 403.067(7)(d), 589.04(1)(a) FS.

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

TIME AND DATE: 10:00 a.m., January 7, 2004

PLACE: Doyle Conner Building-Eyster Auditorium, 3125 Conner Blvd., Tallahassee, FL

If special accommodations are needed to attend this meeting because of a disability, please contact the person listed above at least seven days prior to the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jeffery L. Vowell, Division of Forestry, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650, (850)414-9935, Fax (850)488-0863

THE FULL TEXT OF THE PROPOSED RULES IS:

BEST MANAGEMENT PRACTICES FOR SILVICULTURE

5I-6.001 Purpose.

The purpose of this rule is to effect pollutant reduction through the implementation of non-regulatory and incentive based Best Management Practices (BMPs) which may be determined to have minimal individual or cumulative adverse impacts to the water resources of the state.

Specific Authority 403.067(7)(d) FS. Law Implemented 403.067(7)(d) FS. History--New _____.

5I-6.002 Approved BMPs.

The document titled *Best Management Practices for Silviculture* (2003) is hereby incorporated and adopted by reference in this rule. Copies of the document may be obtained from the Department of Agriculture and Consumer Services, Division of Forestry, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650, (850)414-9935 or FAX (850)488-0863.

Specific Authority 403.067(7)(d) FS. Law Implemented 403.067(7)(d) FS. History--New _____.

5I-6.003 Presumption of Compliance.

In order to obtain the presumption of compliance with state water quality standards and release from the provisions of s. 376.307(5), F.S. for those pollutants addressed by the practices the applicant must:

(1) Conduct an assessment of the subject properties using the document titled *Best Management Practices for Silviculture* (2003).

(2) Submit a Notice of Intent to Implement as outlined in Rule 5I-6.004, F.A.C.

(3) Implement the non-regulatory and incentive-based BMPs identified as a result of the assessment of the subject properties and listed in the Notice of Intent to Implement.

(4) Maintain documentation to verify the implementation and maintenance of the non-regulatory and incentive-based BMPs as outlined in Rule 5I-6.005, F.A.C.

Specific Authority 403.067(7)(d) FS. Law Implemented 403.067(7)(d) FS. History--New _____.

5I-6.004 Notice of Intent to Implement.

(1) A Notice of Intent to Implement Non-Regulatory and Incentive Based BMPs identified in the document titled *Best Management Practices for Silviculture* (2003) shall be submitted to the Department of Agriculture and Consumer Services, Division of Forestry, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650, (850)414-9935 or FAX (850)488-0863. Such notice shall identify BMPs the applicant will implement. The notice shall also include: the name of the property owner; the location of the property; the property tax ID number(s); a timeline for implementation; the gross acreage on which the practices will be implemented; the name and

contact information of an authorized representative; and the signature of the owner, lease holder, or an authorized agent. This notice is a one-time notification and is not required for each and every individual silviculture activity undertaken by the applicant.

(2) Once filed with FDACS, the Notice of Intent to Implement shall enable the applicant to apply for assistance with implementation as identified in s. 403.067(7)(d), F.S.

Specific Authority 403.067(7)(d) FS. Law Implemented 403.067(7)(d) FS. History—New _____.

5I-6.005 Record Keeping.

Where silviculture BMP implementation is not physically observable in the field, participants must preserve sufficient documentation to confirm implementation of the non-regulatory and incentive based BMPs identified in the Notice of Intent to Implement. All field activities and documentation related to BMP implementation are subject to FDACS, Division of Forestry inspection.

Specific Authority 403.067(7)(d) FS. Law Implemented 403.067(7)(d) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jeffery L. Vowell, Division of Forestry, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650, (850)414-9935, Fax (850)488-0863

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael C. Long, Division of Forestry, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650, (850)922-0135, Fax (850)488-0863

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

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

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: RULE CHAPTER NO.:
Incorporation by Reference 14-15
RULE TITLE: RULE NO.:
Manual on Uniform Traffic Control Devices 14-15.010

PURPOSE AND EFFECT: This is a fast track amendment to Rule 14-15.010, F.A.C., to adopt the *Manual on Uniform Traffic Control Devices* 2003 Edition, under the provisions of Section 120.54(6), Florida Statutes.

SUMMARY: This amendment adopts the *Manual on Uniform Traffic Control Devices*, 2003 Edition, under the provisions of Section 120.54(6), Florida Statutes.

SPECIFIC AUTHORITY: 316.0745(1), 334.044(2) FS.

LAW IMPLEMENTED: 316.0745(2),(3),(7), 335.09, 335.14, 339.05 FS.

This rulemaking is undertaken pursuant to Section 120.54(6), Florida Statutes.

Written comments may be submitted within 14 days of the date of this notice to: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458.

SUBSTANTIALLY AFFECTED PERSONS MAY WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, FILE AN OBJECTION TO THIS RULEMAKING WITH THE AGENCY. THE OBJECTION SHALL SPECIFY THE PORTIONS OF THE PROPOSED RULE TO WHICH THE PERSON OBJECTS AND THE SPECIFIC REASONS FOR THE OBJECTION.

THE FULL TEXT OF THE PROPOSED RULE IS:

14-15.010 Manual on Uniform Traffic Control Devices.

The Federal Highway Administration Manual on Uniform Traffic Control Devices, ~~2003 Millennium Edition (December 2000), which became effective January 17, 2001, as amended by Errata No. 1 dated June 14, 2001, and Revision No. 1 dated December 28, 2001,~~ is hereby incorporated by this rule and made a part of the rules of the Department of Transportation. This federal document is available for downloading from the internet at the Federal Highway Administration's website as listed as follows: <http://mutcd.fhwa.dot.gov/kno-2003.htm> ~~<http://muted.fhwa.dot.gov/kno-millennium.htm>~~. A certified copy has been filed with the Department of State.

PROPOSED EFFECTIVE DATE: January 2, 2004.

Specific Authority 316.0745(1), 334.044(2) FS. Law Implemented 316.0745(2),(3),(7), 335.09, 335.14, 339.05 FS. History—New 7-15-79, Amended 1-8-81, 8-15-85, Formerly 14-15.10, Amended 11-29-89, 4-25-95, 1-15-99, 4-5-00, 3-7-01, 8-15-01, 2-13-02, 1-2-04.

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 CITRUS

RULE CHAPTER TITLE: RULE CHAPTER NO.:
Market Classification, Maturity Standards and Processing or Packing Restrictions for Hybrids 20-13

RULE TITLE: RULE NO.:
Oranges: 2003-2004 Anhydrous Acid Maturity Standards 20-13.0011

PURPOSE AND EFFECT: Amendment would extend through the end of the 2003-2004 citrus season the lower minimum acid requirement for mature fresh oranges, which was adopted by emergency rule effective October 31, 2003.

SUMMARY: Extends lower minimum acid requirement for fresh oranges through the end of the 2003-2004 citrus season.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Regulatory Cost has been prepared.

Any person who wishes to provide information regarding the statment 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: 601.10(1),(7), 601.11, 601.19 FS.

LAW IMPLEMENTED: 601.111, 601.19 FS.

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

TIME AND DATE: 10:30 a.m., January 21, 2004

PLACE: Department of Citrus Building, 1115 East Memorial Boulevard, Lakeland, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alice P. Wiggins, License & Regulation Specialist, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

THE FULL TEXT OF THE PROPOSED RULE IS:

20-13.0011 Oranges: 2003-2004 ~~2002-2003~~ Anhydrous Acid Maturity Standards.

(1) During the period beginning October 31, 2003 ~~November 1, 2002~~ up to and including July 31, 2004 ~~July 31, 2003~~, oranges shall be deemed mature when the juice sample contains not less than .36 percent of anhydrous citric acid.

(2) All other state laws applicable to the maturity of oranges shall remain in effect.

Specific Authority 601.10(1),(7), 601.11, 601.19 FS. Law Implemented 601.111, 601.19 FS. History--New 3-14-93, Amended 2-12-95, 1-17-96, 5-1-02, 2-19-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ken Keck, General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ken Keck, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 29, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 14, 2003

DEPARTMENT OF CITRUS

RULE TITLE: Agency Travel Rule RULE NO.: 20-115.001

PURPOSE AND EFFECT: New rule chapter codifying Florida Department of Citrus Fiscal Policy #304, Rev. 4-4-99, State Travel Expense, as recommended by Department of Financial Services.

SUMMARY: Department of Citrus travel rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of 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: 601.15(8)(a) FS.

LAW IMPLEMENTED: 601.15(8)(a) FS.

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

TIME AND DATE: 10:30 a.m., January 21, 2004

PLACE: Department of Citrus Building, 1115 East Memorial Boulevard, Lakeland, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alice P. Wiggins, License and Regulation Specialist, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

THE FULL TEXT OF THE PROPOSED RULE IS:

20-115.001 Agency Travel Rule.

The Department hereby adopts by reference those portions of Fiscal Policy #304, Revised 4-4-99, and as may be modified, pertaining to reimbursement of actual and necessary expenses for travel outside the state of Florida.

Specific Authority 601.15(8)(a) FS. Law Implemented 601.15(8)(a) FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ken Keck, General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ken Keck, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 29, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 14, 2003

DEPARTMENT OF CORRECTIONS

RULE TITLE: Discharge Gratuity RULE NO.: 33-601.502

PURPOSE AND EFFECT: The purpose of the proposed rule is to clarify the purpose of the discharge gratuity. The effect is to specify that the inmate's discharge transportation cost cannot be subtracted from the discharge gratuity.

SUMMARY: The proposed rule provides that the inmate's discharge transportation cost cannot be subtracted from the discharge gratuity.

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: 20.315, 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.502 Discharge Gratuity.

(1) through (3) No change.

(4) An inmate's discharge gratuity shall not be used to pay for any amount of an inmate's discharge transportation.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09 FS. History--New 10-8-76, Formerly 33-7.06, Amended 1-4-87, 1-1-89, 1-18-89, 12-20-91, 4-14-92, 4-28-99, Formerly 33-7.006, Amended 8-28-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Paula Hoisington

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 13, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 31, 2003

DEPARTMENT OF CORRECTIONS

RULE TITLE: Inmate Visiting – Definitions

RULE NO.: 33-601.713

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to revise the definition of 'institutional classification team' to correctly reflect the membership of the team.

SUMMARY: The proposed rule revises the definition of 'institutional classification team' to correctly reflect the membership of the team.

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: 20.315, 944.09, 944.23 FS.

LAW IMPLEMENTED: 944.09, 944.23 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:

33-601.713 Inmate Visiting – Definitions.

(1) through (3) No change.

(4) "Institutional Classification Team (ICT)" refers to the team at the institutional level ~~appointed by the warden~~ responsible for making local classification decisions as defined in rule and procedure. The ICT shall be comprised of the warden or assistant warden who shall serve as chairperson, a senior classification supervisor, chief of officer or higher and security member of the rank of correctional officer lieutenant or higher, and other members when appointed by the warden or designated by rule.

(5) through (16) No change.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History--New 11-18-01, Amended 5-27-02, 9-29-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jerry Hewett

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 24, 2003

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

INTERLOCAL AGENCIES

Lake Apopka Natural Gas District

RULE TITLE: Tariff

RULE NO.: 54C-1.001

PURPOSE AND EFFECT: The purpose is to develop amendments to existing Rule 54C-1.001, F.A.C., the tariff of Lake Apopka Natural Gas District (District), modifying the rate schedules for labor, equipment and material, residential sales service, residential air conditioning sales service, commercial sales service, interruptible sales service, and transportation service, including the purchased gas adjustment provision, by increasing the fees and charges made by the District and to otherwise re-adopt the existing tariff. The effect will be that all classes of customers will experience an increase in the cost of gas and gas related services. Otherwise, the tariff will remain as it currently exists.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No increase or decrease in regulatory costs is anticipated.

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: Section (12), Chapter 99-454, Laws of Florida, 1999.

LAW IMPLEMENTED: Chapter 99-454, Laws of Florida, 1999.

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

TIME AND DATE: 10:00 a.m., January 12, 2004

PLACE: Office of Lake Apopka Natural Gas District, 1320 S. Vineland Road (CR 535), Winter Garden, Florida 34787

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: George F. Crabtree, General Manager, Lake Apopka Natural Gas District, 1320 South Vineland Road (CR 535), Winter Garden, Florida 34787, (407)656-2734, Facsimile (407)656-9371

THE FULL TEXT OF THE PROPOSED RULE IS:

54C-1.001 Tariff.

The full text of the proposed rule is set forth in Resolution number ~~03-06 04-04~~ adopted by the Board of Commissioners of Lake Apopka Natural Gas District on November 24, 2003 ~~January 22, 2004~~, which is hereby incorporated herein in its entirety by reference.

Specific Authority Section (12), Chapter 99-454, Laws of Florida, 1999. Law Implemented Chapter 99-454, Laws of Florida, 1999. History--New 8-11-99, Amended 5-13-01.

NAME OF PERSON ORIGINATING PROPOSED RULE: The Board of Commissioners of Lake Apopka Natural Gas District

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: The Board of Commissioners of Lake Apopka Natural Gas District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 24, 2003

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

DEPARTMENT OF MANAGEMENT SERVICES

Commission on Human Relations

RULE TITLE: Conducting Proceedings by Communications Media Technology

RULE NO.: 60Y-1.002

PURPOSE AND EFFECT: The rule chapter provides for the commission meetings and operations. A new section is added to provide for conducting commission proceedings by Communications Media Technology.

SUMMARY: Commission meetings and operations, particularly conducting proceedings by Communications Media Technology.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the 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.

SPECIFIC AUTHORITY: 760.06(12) FS.

LAW IMPLEMENTED: 120.525, 120.54(5) FS.

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

TIME AND DATE: 9:00 a.m. (EDT), Monday, January 5, 2004

PLACE: The Commission's Main Conference Room, 2009 Apalachee Parkway, Suite 100, Tallahassee, FL 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Florida Commission on Human Relations, Attn: Jim Tait, Staff Attorney, 2009 Apalachee Parkway, Suite 100, Tallahassee, FL 32301 or call (850)488-7082, Ext. 1071

THE FULL TEXT OF THE PROPOSED RULE IS:

60Y-1.002 Conducting Proceedings by Communications Media Technology.

The Commission shall follow and conform to Chapter 28-109, F.A.C., with respect to conducting proceedings by communications media technology.

Specific Authority 760.06(12) FS. Law Implemented 120.54(5) FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: William James Tait, Jr.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cecil Howard

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 2, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 1, 2003

DEPARTMENT OF MANAGEMENT SERVICES

Commission on Human Relations

RULE TITLES:	RULE NOS.:
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PURPOSE AND EFFECT: The rule chapter provides for general procedures of the commission.

SUMMARY: Many sections have been repealed in recognition of the Uniform Rules of Procedure. Two sections have been amended to recognize current statutory law and procedures.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the 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.

SPECIFIC AUTHORITY: 120.52, 120.53, 120.54, 760.06(12), 760.11(14), 760.32(5) FS.

LAW IMPLEMENTED: 120.52, 120.53, 120.533, 120.54, 120.542, 509.092, 23.167, 119, 760.01, 760.03, 760.05, 760.06, 760.10, 760.11, 760.30 FS.

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

TIME AND DATE: 9:00 a.m. (EDT), Monday, January 4, 2004

PLACE: The Commission's Main Conference Room, 2009 Apalachee Parkway, Suite 100, Tallahassee, FL 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Florida Commission on Human Relations, Attn.: Jim Tait, Staff Attorney, 2009 Apalachee Parkway, Suite 100, Tallahassee, FL 32301 or call (850)488-7082, Ext. 1071

THE FULL TEXT OF THE PROPOSED RULES IS:

60Y-4.003 Form of Documents.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 760.06 FS. History–New 11-2-78, Formerly 22T-8.03, 22T-8.003, Repealed

60Y-4.004 Filing and Copies.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 120.57, 760.06 FS. History–New 11-2-78, Formerly 22T-8.04, 22T-8.004, Repealed

60Y-4.005 Proof of Simultaneous Service upon Other Parties.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 760.06 FS. History–New 11-2-78, Formerly 22T-8.05, 22T-8.005, Repealed

60Y-4.006 Service by Commission.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 760.06 FS. History–New 11-2-78, Formerly 22T-8.06, 22T-8.006, Repealed

60Y-4.007 Computation of Time Periods.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 760.06 FS. History–New 11-2-78, Formerly 22T-8.07, 22T-8.007, Repealed

60Y-4.008 Representation.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 760.06 FS. History–New 11-2-78, Formerly 22T-8.08, 22T-8.008, Repealed

60Y-4.009 Petitions.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 120.54, 120.565, 760.06, 760.10 FS. History–New 11-2-78, Formerly Rule 9D-8.09, Amended 6-16-83, Formerly 22T-8.09, 22T-8.009, Repealed

60Y-4.010 Miscellaneous Petitions.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 760.06 FS. History–New 11-2-78, Formerly 22T-8.10, 22T-8.010, Repealed

60Y-4.011 Answers.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 760.06 FS. History–New 11-2-78, Formerly 22T-8.11, 22T-8.011, Repealed

60Y-4.012 Parties.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 760.06 FS. History–New 11-2-78, Formerly 22T-8.12, 22T-8.012, Repealed

60Y-4.013 Intervention.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 760.06 FS. History–New 11-2-78, Formerly 22T-8.13, 22T-8.013, Repealed

60Y-4.014 Joinder of Parties.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 760.06 FS. History–New 11-2-78, Formerly 22T-8.14, 22T-8.014, Repealed

60Y-4.016 Assignment of Hearings.

(1) A hearing upon a Petition for Relief from an Unlawful Employment Practice, a Housing Discriminatory Practice or a Public Accommodation Discriminatory Practice pursuant to Rules 60Y-54.008, 60Y-8.001 and 60Y-10.005, F.A.C., respectively shall be conducted by an Administrative Law Judge ~~a hearing officer~~ designated by the Division of Administrative Hearings unless, prior to service of the Notice of Hearing pursuant to Rule 60Y-4.021, F.A.C., the

Chairperson or Chair of the Panel designates a Commissioner as the hearing officer or directs that the hearing be conducted by the Commission or Panel.

(2) A hearing upon a petition not described in subsection (1) shall be conducted by a hearing officer designated by the Chairperson or Chair of the Panel unless the Chairperson or Chair of the Panel directs that the hearing be conducted by the Commission or Panel.

(3) A hearing upon a petition not described in subsection (1) or (2) shall be conducted by a hearing officer designated by the Chairperson or Chair of the Panel unless the Chairperson or Chair of the Panel directs that the hearing be conducted by the Commission or Panel.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 760.06, 760.03(5) FS. History–New 11-2-78, Formerly 9D-8.16, Amended 2-4-82, 6-16-83, Formerly 22T-8.16, 22T-8.016, Amended.

60Y-4.017 Motions.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 760.06 FS. History–New 11-2-78, Formerly 9D-8.17, Amended 2-4-82, 6-30-83, Formerly 22T-8.17, 22T-8.017, Repealed.

60Y-4.018 Consolidation.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 760.06 FS. History–New 11-2-78, Formerly 22T-8.18, 22T-8.018, Repealed.

60Y-4.019 Discovery.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 760.06 FS. History–New 11-2-78, Formerly 22T-8.19, 22T-8.019, Repealed.

60Y-4.020 Pre-hearing Conference.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 760.06 FS. History–New 11-2-78, Formerly 9D-8.20, Amended 2-4-82, Formerly 22T-8.20, 22T-8.020, Repealed.

60Y-4.021 Notice of Hearing.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 120.57, 760.06 FS. History–New 11-2-78, Formerly 22T-8.21, 22T-8.021, Repealed.

60Y-4.022 Subpoenas.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 760.06 FS. History–New 11-2-78, Formerly 22T-8.22, 22T-8.022, Repealed.

60Y-4.023 Witness Fees.

(1) Witness fees necessary and incident to a hearing shall be paid by the party at whose instance the witness is summoned. If the Commission or the Executive Director directs that a witness be summoned as a Commission witness, that witness' fees shall be paid by the Commission. Witness fees shall be tendered, or a voucher submitted at the time of attendance. The fees allowed shall be the same as those allowed by the circuit courts of this state.

(2) Witness fees for Commission employees shall be paid in accordance with subsection 92.142(2), F.S.

Specific Authority 760.06, 120.53 FS. Law Implemented 760.06, 760.10, 92.142, 120.53, 120.57 FS. History–New 11-2-78, Amended 2-10-80, Formerly 22T-8.23, 22T-8.02, Amended.

60Y-4.024 Introduction of Evidence; Rights of Parties at Hearing.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 120.57, 760.06 FS. History–New 11-2-78, Formerly 9D-8.24, Amended 2-4-82, Formerly 22T-8.24, 22T-8.024, Repealed.

60Y-4.025 Transcript of Hearing.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 120.57, 760.06 FS. History–New 11-2-78, Amended 11-8-83, Formerly 22T-8.25, 22T-8.025, Repealed.

60Y-4.026 Recommended Orders.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 120.57, 760.06 FS. History–New 11-2-78, Formerly 22T-8.26, 22T-8.026, Repealed.

60Y-4.027 Exceptions and Briefs.

Specific Authority 120.53, 760.06(13) FS. Law Implemented 120.53, 120.57, 760.06 FS. History–New 11-2-78, Amended 2-4-82, 11-8-83, Formerly 22T-8.27, 22T-8.027, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: William James Tait, Jr.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cecil Howard

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 2, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 1, 2003

DEPARTMENT OF MANAGEMENT SERVICES

Commission on Human Relations

RULE TITLES:	RULE NOS.:
Complaints	60Y-5.001
Answer	60Y-5.0011
Investigation of Complaints	60Y-5.003
Executive Director's Investigatory Determination; Notice	60Y-5.004
Conciliation	60Y-5.005
Administrative Dismissal of a Complaint	60Y-5.006
Petition for Relief from an Unlawful Employment Practice	60Y-5.008

PURPOSE AND EFFECT: The rule chapter provides for Commission proceedings to receive, investigate and act upon complaints of unlawful employment practice.

SUMMARY: Amendments have updated rule sections to conform to current procedures and statutory requirements, including the adoption of the Uniform Rules of Procedure, and clarifying when a complaint is filed, and under what conditions, amendments, withdrawals and dismissals of complaints may be made.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the 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.

SPECIFIC AUTHORITY: 120.54, 760.06(12), 760.11(14) FS.

LAW IMPLEMENTED: 760.01-.11 FS.

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

TIME AND DATE: 9:00 a.m. (EDT), Monday, January 5, 2004

PLACE: The Commission's Main Conference Room, 2009 Apalachee Parkway, Suite 100, Tallahassee, FL 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Florida Commission on Human Relations, Attn.: Jim Tait, Staff Attorney, 2009 Apalachee Parkway, Suite 100, Tallahassee, FL 32301, (850)488-7082, Ext. 1071

THE FULL TEXT OF THE PROPOSED RULES IS:

60Y-5.001 Complaints.

(1) Who May File. A complaint may be filed by any person aggrieved by an unlawful employment practice. A complaint may also be filed by the Attorney General, a Commissioner, or the Commission. When a complaint is filed by a Commissioner, that Commissioner is the complainant, and shall not participate as a Commissioner in any subsequent proceeding upon that complaint.

(2) Time for Filing. A complaint may be filed at any time within 365 days of the occurrence of the alleged unlawful employment practice. If the alleged unlawful employment practice is of a continuing nature, the date of the occurrence may be any date subsequent to the commencement of the unlawful employment practice up to and including the date on which it shall have ceased.

(3) Place and Date of Filing. A complaint may be filed at the office of the Commission. The date of filing shall be the date of actual receipt of the complaint by the Clerk or other agent of the Commission. Any document received by the Clerk or other agent of the Commission after 5:00 p.m. (Eastern Time) shall be filed as of 8:00 a.m. on the next regular business day.

(4) Relation Back of Certain Complaints. A complaint which would not otherwise be timely may be filed if it: (a) states that another complaint naming the same respondent is properly before the Commission and identifies that other complaint, and (b) alleges the same or additional facts which describe an unlawful employment practice related to or growing out of the subject matter of the other, identified complaint, and (c) would have been timely if filed at the time

of, or other time subsequent to, the filing of the other, identified complaint. A complaint under this subsection may be filed by a new complainant and shall relate back to the date the other, identified complaint was first received.

(5) Form. The complaint must be in writing and shall be signed by the complainant. The complaint shall be verified.

(6) Contents.

(a) The complaint should contain the following information:

1. The name, address and telephone number of the person filing the complaint;

2. The name, address and telephone number of the respondent;

3. A clear and concise statement of the facts, including pertinent dates, constituting the unlawful employment practice;

4. If known, the approximate number of employees of a respondent employer;

5. If known, a statement disclosing whether proceedings involving the alleged unlawful employment practice have been commenced before a Federal, State or local agency charged with the enforcement of fair employment practice laws and, if so, the date of such commencement and the name of the agency.

(b) Notwithstanding the provision of paragraph (a) of this subsection, a complaint is sufficient if it is in writing, signed by the Complainant, verified, and is sufficiently precise to identify the parties and to describe generally the action or practice complained of.

(7) Amendments.

(a) A complaint may be reasonably and fairly amended within 60 days after filing and, thereafter, for good cause with the consent of the Executive Director.

~~(b)(*)~~ A complaint may be amended to cure technical defects, or omissions, including verification, or to clarify and amplify allegations made therein. Such amendments and amendments which describe an additional unlawful employment practice related to or growing out of the subject matter of the original complaint will relate back to the date the complaint was first received.

~~(c)(b)~~ An amendment adding or changing a respondent will relate back to the date the complaint was first received if, within the period provided by subsection (2), the new respondent (i) has received such notice of the filing of the complaint as is sufficient to avoid prejudice in a defense on the merits, and (ii) knew or should have known that, but for a mistake concerning identity of the proper respondent, the complaint would have been filed against the new respondent.

~~(e) An amendment may be filed at any time before service of a Notice of Determination. After a Notice of Determination has been served, an amendment may be filed only with the permission of the Executive Director, for good cause shown.~~

(8) Withdrawal. A complaint may be withdrawn by a complainant at any time; however, following the issuance of a Notice of Determination, withdrawal may be made only with the consent of the Executive Director.

(9) Notice to Respondent. When it is determined that a complaint is complete and has been timely filed. The Executive Director shall cause notice of the filing and a copy of the complaint to be served upon the respondent. Notice shall be served within 5 days of the date of filing. An amendment likewise shall be served upon the respondent. Commission, within 5 days of the complaint being filed, shall send by registered mail notice of the filing and a copy of the complaint to the respondent. An amendment likewise shall be sent by registered mail to the respondent.

(10) Maintenance of ~~Employment~~ Records. Once a complaint has been served on a respondent, the respondent shall preserve all ~~personnel records, production~~ records and other evidence which may pertain to the complaint until the matter has been finally determined.

Specific Authority 760.06(12), 760.11(14) FS. Law Implemented 760.06, 760.10, 760.11(1) FS. History—New 11-2-78, Amended 10-4-82, Formerly 22T-9.01, 22T-9.001, Amended 1-28-99, 2-23-00, _____.

60Y-5.0011 Answer.

(1) Responded may file an answer to the complaint within 25 days of the date of notice of the filing. The answer shall be verified.

(2) The Answer may be reasonably and fairly amended at any time prior to the issuance of a determination pursuant to Rule 60Y-5.004, F.A.C.

Specific Authority 120.53, 760.06(12) FS. Law Implemented 120.53, 760.11(1) FS. History—New _____.

60Y-5.003 Investigation of Complaints.

(1) By Whom. The investigation of the complaint shall be made by the Office of Employment Investigations or by any other person designated by the Executive Director. The Executive Director may utilize services of other public agencies, state, local or federal, which are charged with the administration of fair employment practice laws, and may utilize the information gathered by such.

(2) Statement of Complainant. During the course of an investigation, the complainant may be required to provide a statement which includes:

(a) A statement of each particular harm which the aggrieved person has suffered and the date on which each harm occurred;

(b) For each harm, a statement specifying the act, policy or practice which is alleged to be unlawful;

(c) For each act, policy, or practice alleged to have harmed the aggrieved person, a statement of the facts which lead the complainant to believe that the act, policy or practice is discriminatory.

(3) Requests for Information. During the course of an investigation, the Office of Employment Investigations may request of any person information concerning the facts and circumstances of the complaint. Requests for information may be made in the following manner:

(a) Oral interviews;

(b) Written interrogatories;

(c) Requests for production of documents;

(d) Requests for entry upon land for inspection and other purposes;

(e) Requests for a written statement or affidavit.

(4) Failure to Provide Information – Respondent. In the event a respondent fails to provide information within that person's control, which is requested pursuant to subsection (3), and reasonable notice and opportunity to cure have been given, an inference may be drawn, in a determination of reasonable cause pursuant to Rule 60Y-5.004, F.A.C., that such information is adverse to the respondent's interest.

(5) Failure to Cooperate – Complainant.

(a) Where the complainant fails to provide a necessary statement, fails or refuses to appear or be available for interview or meetings, fails or refuses to provide necessary information requested by the Office of Employment Investigations pursuant to this section or otherwise refuses to cooperate to the extent that the Office of Employment Investigations is unable to resolve the complaint, and after notice the complainant has failed to duly respond to the Office of Employment Investigations within 30 days, the Executive Director may dismiss the complaint, which shall constitute final Agency action.

(b) In the event a complainant fails to appear at or fails or refuses to participate in a fact-finding conference scheduled in the complainant's area of residence or at the place most convenient to all parties as determined by the Office of Employment Investigations, and after being provided at least fourteen days notice of such conference, which notice shall advise complainant of the provisions of this rule, the Executive Director may dismiss the complaint; provided, however, that no complaint may be dismissed pursuant to this rule where within fourteen days of the scheduled conference the complainant has filed with the Commission information establishing good cause for complainant's nonappearance or nonparticipation. Such information should include sworn statements of those individuals having direct knowledge of pertinent events causing the nonappearance or nonparticipation, as well as any other relevant evidence.

(6) Subpoena. In the event any person fails to provide requested information, the Executive Director may issue and sign a subpoena on behalf of the Commission. The subpoena shall state the name and address of the issuer, identify the person subpoenaed, the person to whom and the place, date, and time at which it is returnable. A subpoena may be returnable to a representative of the Commission.

(7) Enforcement of Subpoena. In the event the person to whom the subpoena is directed fails to obey the subpoena, the Executive Director may direct the General Counsel to apply to a circuit court for an order of compliance.

(8) Suspension of Investigation. Upon the request of the complainant or respondent, the Executive Director or his designee ~~Administrator of Employment Investigations~~ may suspend an investigation during the pendency of a grievance proceeding, on the same subject, to which the complainant and respondent are parties. This suspension shall normally be granted for not more than 45 days and only if there is reason to believe that the pending proceeding will fully resolve the matters raised by the complaint.

(9) Access to Files During Investigation. Information obtained during the investigation of a complaint shall be disclosed only to the complainant, respondent or their authorized representative, or to a witness, only when disclosure is deemed necessary for the investigation or for securing appropriate disposition of the complaint.

(10) Negotiated Settlement. During the mediation and/or investigation processes, the Commission Office of Employment Investigations shall endeavor to encourage the complainant and the respondent to settle the complaint on mutually agreeable terms. If the settlement is achieved by a Negotiated Settlement Agreement, its terms shall be reduced to writing and signed and dated by the complainant and respondent. If a settlement is achieved as a Withdrawal with Settlement, only the complainant need sign and date. A copy of the agreement shall be filed with the Clerk. A complaint which has been settled may be dismissed by the Executive Director upon such terms and at such time as may be provided in the written agreement subject to compliance.

Specific Authority 760.06(13), 760.11(14) FS. Law Implemented 760.03(7), 760.06, 760.10, 760.11(2), (12) FS. History—New 11-2-78, Amended 8-12-85, Formerly 22T-9.03, Amended 8-11-86, Formerly 22T-4.003, Amended _____.

60Y-5.004 Executive Director’s Investigatory Determination; Notice.

(1) Upon completion of an investigation, if a complaint has not been settled or withdrawn, the Office of Employment Investigations shall report the investigation, with recommendation, to the Office of General Counsel. The Office of General Counsel shall review the report and shall make a recommendation to the Executive Director as to whether there is reasonable cause to believe that an unlawful employment practice has occurred.

(2) If the recommendation is based upon lack of jurisdiction over the respondent or subject matter of the complaint or upon untimely filing of the complaint, the Executive Director may dismiss the complaint pursuant to subsection 60Y-5.006(3) or (11), F.A.C., provided that the investigation does not reveal any disputed issues of material

fact. The Executive Director shall issue a determination on the foregoing bases of lack of jurisdiction or untimeliness where disputed issues of material fact appear to exist.

(3) After a determination has been made by the Executive Director, the Clerk shall serve a Notice of Determination, with copies of the determination, upon the complainant and the respondent.

(4) A Notice of Determination of Reasonable Cause shall include an invitation to participate in conciliation and shall advise the complainant of the elective right to file either a Petition for Relief, pursuant to Rule 60Y-5.008, F.A.C., within 35 days of the date of determination or a civil action within one year of the date of determination. A Petition for Relief form, in blank, shall be provided to the complainant at the time of service of the notice.

(5) A Notice of Determination of No Reasonable Cause, No Jurisdiction or Untimeliness shall advise the complainant of the right to file a Petition for Relief, pursuant to Rule 60Y-5.008, F.A.C., within 35 30 days of the date of determination ~~service of the notice~~. A ~~form~~ Petition for Relief ~~form, hereby incorporated by reference~~, in blank, shall be provided to the complainant at the time of service of the notice.

~~(6) A Notice of Determination shall further advise the parties of the right to request redetermination, pursuant to Rule 60Y-5.007, F.A.C., within 20 days of service of the notice. If the complainant requests redetermination, the 30 day period for filing a Petition for Relief shall be tolled until service of a Notice of Redetermination.~~

~~(6)(7)~~ After service of a Notice of Determination, the parties named in the determination may inspect the records and documents, in the custody of the Commission, which pertain to the determination. The Executive Director may direct that a particular record, document or portion thereof be withheld from inspection by a party only when necessary for the protection of a witness or third party, or for the preservation of a trade secret.

Specific Authority 760.06(13) FS. Law Implemented 760.03(7), 760.06, 760.10, 760.11(2), (3), (4), (7) FS. History—New 11-2-78, Amended 6-16-83, 8-12-85, Formerly 22T-9.04, 22T-9.004, Amended _____.

60Y-5.005 Conciliation.

(1) After service of a Notice of Determination of Reasonable Cause pursuant to Rule 60Y-5.004, F.A.C., the Commission Office of Employment Investigations shall endeavor to eliminate any unlawful employment practice by informal methods of conference, conciliation and persuasion.

(2) The Commission Office of Employment Investigations shall attempt to achieve a just resolution of all violations found, and to obtain agreement that the respondent will eliminate the unlawful practice and provide appropriate affirmative relief. Where such conciliation attempts are successful, the terms of the conciliation agreement shall be reduced to writing and signed by the complainant, the respondent and the Executive Director or the person designated

by the Executive Director. The original of the signed agreement shall be filed with the Clerk, and copies shall be served upon the respondent and the complainant.

~~(3)(2)~~ A duly executed conciliation agreement shall operate as a dismissal of the complaint; however, prior to the filing of the conciliation agreement, the parties may stipulate therein to bringing the agreement before a Panel of Commissioners. The Panel in its sole discretion may adopt the conciliation agreement as a consent order.

(4) Conciliation has not been signed and the complaint has not been withdrawn or dismissed within the time period established for filing a Petition for Relief, the Executive Director shall dismiss the complaint.

~~(3) If, 30 days after service of a Notice of Determination of Reasonable Cause, a conciliation agreement has not been signed and the complaint has not been withdrawn or dismissed, the Executive Director shall cause a Notice of Failure of Conciliation to be served upon the complainant and the respondent. The 30 day period may be extended only by written stipulation of the complainant and the respondent or by the Office of Employment Investigations. The Executive Director or Administrator of Employment Investigations may shorten the 30 day period if it appears that conciliation will not be achieved. The Notice of Failure of Conciliation shall state that the complainant may file a Petition for Relief, pursuant to Rule 60Y-5.008, F.A.C., within 30 days of service of the notice. A form, Petition for Relief, in blank, shall be provided to the complainant at the time of service of the Notice of Failure of Conciliation.~~

~~(4) Where a Request for Redetermination is filed, pursuant to Rule 60Y-5.007, F.A.C., during the conciliation period, conciliation will be stayed until the Executive Director has acted upon the request.~~

Specific Authority 760.06(13) FS. Law Implemented 760.06, 760.10 FS. History—New 11-2-78, Amended 6-16-83, 8-29-84, 8-12-85, Formerly 22T-9.05, 22T-9.005, Amended _____.

60Y-5.006 Administrative Dismissal of a Complaint.

The Executive Director, on behalf of the Commission, shall ~~may~~ dismiss a complaint upon one or more of the following grounds:

(1) The complainant has failed or refused to cooperate or has failed to appear at or fails or refuses to participate in a duly noticed fact-finding conference and after notice pursuant to subsection 60Y-5.003(5), F.A.C., has failed to duly respond or show good cause for such nonappearance or nonparticipation;

(2) The complaint has been resolved by negotiated settlement pursuant to subsection 60Y-5.003(10), F.A.C.;

(3) The complaint has not been timely filed with the Commission;

(4) After service of Notice of Determination of Reasonable Cause, No Reasonable Cause, or No Jurisdiction ~~or~~ Untimeliness, the complainant has failed to file a Request for

~~Redetermination pursuant to Rule 60Y-5.007, F.A.C., or has failed to file a Petition for Relief pursuant to Rule 60Y-5.008, F.A.C.;~~

(5) Anytime after the expiration of 180 days from the date of filing the complaint when a Determination of Reasonable Cause or No Reasonable Cause has not been issued by the Commission and after the Complainant files notice of a planned, or files a, civil action in a court of competent jurisdiction, after service of a Notice of Redetermination of No Reasonable Cause, No Jurisdiction or Untimeliness, the complainant has failed to file a Petition for Relief pursuant to Rule 60Y-5.008, F.A.C.;

~~(6) after service of a Notice of Failure of Conciliation, the complainant has failed to file a Petition for Relief pursuant to 60Y-5.008, F.A.C.;~~

(6)(7) The ~~the~~ complainant cannot be located after reasonable efforts to locate have been made and there is no response from the complainant within 30 days after notice was sent by certified mail to the complainant's last known address;

(7)(8) An ~~an~~ agreement to submit to arbitration has been filed pursuant to Rule 60Y-5.009, F.A.C.;

(8)(9) The ~~the~~ complainant has voluntarily dismissed the petition for relief pursuant to subsection 60Y-5.008(7)(9), F.A.C.;

(9)(10) The ~~the~~ complainant has voluntarily withdrawn the complaint, including during the period from the issuance of the investigative determination through the final date in which a petition for relief from an unlawful employment practice may be filed; or

(10)(11) There ~~there~~ is no jurisdiction over the respondent or subject matter of the complaint.

Specific Authority 760.06(13) FS. Law Implemented 20.05, 760.06, 760.10 FS. History—New 11-2-78, Amended 6-16-83, 8-29-84, 8-12-85, Formerly 22T-9.06, Amended 8-11-86, Formerly 22T-9.006, Amended _____.

60Y-5.008 Petition for Relief from an Unlawful Employment Practice.

(1) Petition. A complainant may file a Petition for Relief from an Unlawful Employment Practice within 35 ~~30~~ days of the Date service of a Notice of Failure of Conciliation, a Notice of Determination of Reasonable Cause, No Reasonable Cause, a Notice of Determination of No Jurisdiction or a Notice of Determination of Untimeliness; or where redetermination has been requested, a Notice of Redetermination of No Reasonable Cause, a Notice of Redetermination of No Jurisdiction or a Notice of Redetermination of Untimeliness. Notwithstanding the provisions of subsection 60Y-4.004(2) and Rule 60Y-4.005, F.A.C., a A complainant who is not represented by an attorney may file a Petition for Relief without copies or proof of service, and the Clerk shall prepare copies and serve them upon all other parties.

(2) For good cause shown, the Chairperson may grant an extension of time to file the Petition for Relief from an Unlawful Employment Practice, provided the motion for extension of time is filed within the ~~35~~ 30-day period prescribed by subsection 60Y-5.008(1), F.A.C.

(3) Procedures. Petitions for Relief, and proceedings thereupon, are governed by the provisions of Chapters 28-106 and 60Y-4, Florida Administrative Code, except as otherwise provided by this section.

(4) Class Allegations.

(a) The petition may include an allegation that the respondent has acted or refused to act on grounds generally applicable to a class, in which case the petition shall also include a description of the class of persons allegedly affected.

~~(5) Answer.~~

~~(a) Each respondent shall file an answer with the Commission within 20 days of service of the petition.~~

~~(b) The answer shall include a specific admission, denial, or explanation of each allegation of the petition; or if the respondent is without knowledge thereof, it shall so state, in which case such statement shall operate as a denial. Admissions or denials may be made to all or part of a particular allegation.~~

~~(c) The answer shall include a specific, detailed statement of any affirmative defense. Failure to plead an affirmative defense shall constitute a waiver of that defense.~~

~~(d) If a respondent fails to file a timely answer, such failure shall be deemed to constitute an admission of the material facts alleged in the petition. Any allegation within the petition which is not denied in the answer shall be deemed admitted.~~

~~(e) The filing of a motion to dismiss shall not toll the time for filing an answer.~~

~~(6) Notice to Commissioners or Members of a Panel. The Clerk shall serve notice of the petition upon all Commissioners unless a Panel has been designated by the Chairperson. If a Panel has been designated, the Clerk shall serve notice upon the members of that Panel.~~

~~(b)(7) Certification of Class. If the petition contains class allegations, the administrative law judge hearing officer, on motion of a party, may include in the recommended order a proposed certification of the class if (a) the class is so numerous that joinder of all members is impractical, (b) there are questions of law or fact common to the class, (c) the claims of the petitioner are typical of the claims of the class, and (d) the petitioner will fairly and adequately protect the interests of the class. If the administrative law judge hearing officer proposes that a class be certified, the hearing officer may also include in the recommended order proposed findings and conclusions concerning the respondent's liability to the class. However, the administrative law judge hearing officer shall not~~

initially consider other class issues unless it is determined that such consideration will not cause undue delay to the completion of the hearing.

~~(5)(8) Final Orders; Relief; Remand. Upon consideration of a recommended order, the Commission or Panel may order that the petition and complaint be dismissed or may determine that an unlawful employment practice has occurred. In the event the Commission or Panel determines that an unlawful employment practice has occurred, it shall issue an order prohibiting the practice and providing relief from the effects of the practice. If the Commission or Panel finds that the proceeding is properly maintained as a class proceeding, the order of the Commission or Panel may direct a remand to the administrative law judge hearing officer of any class issue which the Commission or Panel has not determined. The order of the Commission or Panel shall constitute final agency action as to all matters except those which are remanded to the administrative law judge hearing officer.~~

~~(6)(9) Proceedings After Remand. An order of remand, pursuant to subsection (5)(7), or a subsequent order of the administrative law judge hearing officer, may direct that notice of pendency of the proceeding be served upon members of the class. Such an order shall specify the manner of service of the notice and the person responsible for service. Any member of the class who does not, within 15 days of service of the notice of pendency or within such other time as the order may provide, file with the Commission an election of non-participation in the class shall be bound by an order of the Commission or Panel made subsequent to the giving of such notice.~~

~~(7)(10) Voluntary Dismissal. A Petition for Relief may be dismissed by the Petitioner without order of the administrative law judge hearing officer, Panel of Commissioners or Commission (i) by serving, or during hearing, by stating on the record, a notice of dismissal at any time before the issuance of a recommended order Commission takes final action or (ii) by filing a stipulation of dismissal signed by all parties who have appeared in the action. The dismissal operates with prejudice with respect to Petitioner's Chapter 760, F.S., administrative remedies and constitutes final agency action.~~

Specific Authority 760.06(13) FS. Law Implemented 760.06, 760.10 FS. History—New 11-2-78, Amended 2-4-82, 6-16-83, 8-29-84, 8-12-85, Formerly 22T-9.08, 22T-9.008, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
William James Tait, Jr.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cecil Howard

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 2, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 1, 2003

DEPARTMENT OF MANAGEMENT SERVICES

Commission on Human Relations

RULE TITLE: RULE NO.:

Petition for Relief from a Discriminatory 60Y-8.001
 Housing Practice

PURPOSE AND EFFECT: The rule section provides for Petitions for Relief from a discriminatory housing practice.

SUMMARY: Amendments have updated the section to reflect the adoption of the Uniform Rules of Procedure and to current commission practices.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the 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.

SPECIFIC AUTHORITY: 120.53, 760.06 (12), 760.31(5) FS.

LAW IMPLEMENTED: 120.53, 760.34, 760.35 FS.

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

TIME AND DATE: 9:00 a.m. (EDT), Monday, January 5, 2004

PLACE: The Commission's Main Conference Room, 2009 Apalachee Parkway, Suite 100, Tallahassee, FL 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Florida Commission on Human Relations, Attn.: Jim Tait, Staff Attorney, 2009 Apalachee Parkway, Suite 100, Tallahassee, FL 32301, (850)488-7082, Ext. 1071

THE FULL TEXT OF THE PROPOSED RULE IS:

60Y-8.001 Petition for Relief from a Discriminatory Housing Practice.

(1) Petition. A complainant may file a Petition for Relief from a Discriminatory Housing Practice within 30 days of service of a Notice of Determination (No Cause) or Notice of ~~Determination (Cause) Failure of Conciliation~~. The Executive Director on behalf of the Commission may institute an action by filing ~~file~~ a Petition for Relief from a Discriminatory Housing Practice upon determining there is reasonable cause to believe that a discriminatory practice has occurred and has been unable to obtain voluntary compliance with Sections 760.20-760.37, F.S. within 30 days of Service of a Notice of Failure of Conciliation. The Clerk shall prepare copies of the petition and serve them upon all other parties named in the petition by certified mail.

(2) For good cause shown, the Chairperson may grant an extension of time to the complainant to file the Petition for Relief, provided the motion for extension of time is filed within the 30-day period.

(3) Procedures. Petitions for Relief, and proceedings thereupon, are governed by the provisions of Chapters 28-106 and 60Y-4, F.A.C., except as otherwise provided by this section.

~~(4) Answer.~~

~~(a) Each respondent shall file an answer with the Commission within 20 days of service of the petition.~~

~~(b) The answer shall include a specific admission, denial, or explanation of each allegation of the petition; or if the respondent is without knowledge thereof, it shall so state, in which case such statement shall operate as a denial. Admissions or denials may be made to all or part of a particular allegation.~~

~~(c) The answer shall include a specific, detailed statement of any affirmative defense. Failure to plead an affirmative defense shall constitute a waiver of that defense.~~

~~(d) If a respondent fails to file a timely answer, such failure shall be deemed to constitute an admission of the material facts alleged in the petition. Any allegation within the petition which is not denied in the answer shall be deemed admitted.~~

~~(e) The filing of a motion to dismiss shall not toll the time for filing an answer.~~

~~(5) Notice to Commissioners or Members of a Panel. The Clerk shall serve notice of the petition upon all Commissioners unless a panel has been designated by the Chairperson. If a Panel has been designated, the Clerk shall serve notice upon the members of that Panel.~~

~~(4)(6) Final Orders; Relief; Remand. Upon consideration of a recommended order, the Commission or Panel may order that the petition and complaint be dismissed or may determine that a discriminatory housing practice has occurred. In the event the Commission or Panel determines that a discriminatory housing practice has occurred, it shall issue an order prohibiting the practice and providing relief from the effects of the practice, including quantifiable damages and reasonable attorney's fees and costs. The order of the Commission or Panel shall be final as to all matters except those which are remanded to the Administrative Law Judge Hearing Officer.~~

~~(5)(7) Voluntary Dismissal. A Petition for Relief filed by a complainant may be dismissed by the complainant without order of the Administrative Law Judge hearing office, Panel of Commissioners or Commission (i) by serving, or during hearing, by stating on the record, a notice of dismissal at any time before the issuance of a recommended order ~~the Commission takes final action~~ or (ii) by filing a stipulation of dismissal signed by all parties who have appeared in the action. The dismissal operates with prejudice with respect to Petitioner's Chapter 760, F.S. ~~complainant's~~ administrative remedies and constitutes final agency action.~~

Specific Authority 120.53, 760.31(5) FS. Law Implemented 120.53, 760.34, 760.35 FS. History—New 1-25-90, Formerly 22T-22.001, Amended 11-18-92,

NAME OF PERSON ORIGINATING PROPOSED RULE: William James Tait, Jr.
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cecil Howard
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 2, 2003
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 1, 2003

DEPARTMENT OF MANAGEMENT SERVICES

Commission on Human Relations

RULE TITLES:	RULE NOS.:
Purpose	60Y-9.001
Housing Exemption for Persons 55 Years of Age or Older	60Y-9.005
Housing for Older Persons Registration and Documentation	60Y-9.007

PURPOSE AND EFFECT: The rule chapter provides for Commission’s implementation of the provisions of Section 760.29(4), F.S., relating to housing for older persons.

SUMMARY: Amendments are proposed to correct a statutory reference, adopt a federal rule, and correct the address of the Commission and its powers to impose an administrative fine.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the 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.

SPECIFIC AUTHORITY: 760.06(12), 760.31(5) FS.

LAW IMPLEMENTED: 760.29 FS.

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

TIME AND DATE: 9:00 a.m. (EDT), Monday, January 5, 2004

PLACE: The Commission’s Main Conference Room, 2009 Apalachee Parkway, Suite 100, Tallahassee, FL 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Florida Commission on Human Relations, Attn.: Jim Tait, Staff Attorney, 2009 Apalachee Parkway, Suite 100, Tallahassee, FL 32301 or call (850)488-7082, Ext. 1071

THE FULL TEXT OF THE PROPOSED RULES IS:

60Y-9.001 Purpose.

The purpose of the housing for older persons exemption to the general prohibition against discrimination because of familial status is to protect families with children from discrimination

in housing without unfairly limited housing choices for older persons. This Chapter, 60Y-9, F.A.C., clarifies requirements related to housing for older persons pursuant to Section 760.29(4) 760.31(5), F.S.

Specific Authority 760.31(5) FS. Law Implemented 760.29(4), 760.31(5) FS. History—New 8-15-90, Formerly 22T-23.001, Amended _____.

60Y-9.005 Housing Exemption for Persons 55 Years of Age or Older.

(1) The provisions in Sections 760.20-760.37, F.S., relating to familial status shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that the housing complies with 42 C.F.R. Part 100 as published in the Federal Register on Friday, April 2, 1999. ~~satisfies the requirements of this section:~~

~~(a) The housing facility has significant facilities and services specifically designed to meet the physical or social needs of older persons. “Significant facilities and services specifically designed to meet the physical or social needs of older persons” include, but are not limited to, social and recreational programs, continuing education, information and counseling, recreational, homemaker, outside maintenance and referral services, and accessible physical environment, emergency and preventive health care programs, congregate dining facilities, transportation to facilitate access to social services, and services designed to encourage and assist residents to use the services and facilities available to them. The housing facility need not have all of these features to qualify for the exemption under this subsection.~~

~~(b) It is not practicable to provide significant facilities and services designed to meet the physical or social needs of older persons and the housing facility is necessary to provide important housing opportunities for older persons. In order to satisfy this section, the owner or manager of the housing facility must demonstrate through credible and objective evidence that the provision of significant facilities and services designed to meet the physical or social needs of older persons would result in depriving older persons in the relevant geographic area of needed and desired housing.~~

~~(2) The following factors, among others, are relevant in meeting the requirements of this section:~~

~~(a) Whether the owner or manager of the housing facility has endeavored to provide significant facilities and services designed to meet the physical or social needs of older persons either by the owner or by some other entity. Demonstrating that such services and facilities are expensive to provide is not alone sufficient to demonstrate that the provision of such services is not practicable.~~

~~(b) The amount of rent charged, if the dwellings are rented, or the price of the dwellings, if they are offered for sale.~~

~~(c) The income range of the residents of the housing facility.~~

~~(d) The demand for housing for older persons in the relevant geographic area.~~

~~(e) The range of housing choices for older persons within the relevant geographic area.~~

~~(f) The availability of other similarly priced housing for older persons in the relevant geographic area. If similarly priced housing for older persons with significant facilities and services is reasonably available in the relevant geographic area, then the housing facility does not meet the requirements of this section.~~

~~(g) The vacancy rate of the housing facility.~~

~~(2)(3) Housing intended and operated for occupancy by at least one person 55 years of age or older per unit means:~~

(a) Housing for which at least 80% of the units in the housing facility are occupied by at least one person 55 years of age or older per unit except that a newly constructed housing facility for first occupancy after October 1, 1989, need not comply with this subsection until 25% of the units in the facility are occupied; and

(b) The owner or manager of the housing facility publishes and adheres to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older. The following factors, among others, are relevant in determining whether the owner or manager of a housing facility has complied with the requirements of this subsection:

1. The manner in which the housing facility is described to prospective residents.
2. The nature of any advertising designed to attract prospective residents.
3. Age verification procedures.
4. Lease provisions.
5. Written rules and regulations.
6. Actual practices of the owner or manager in enforcing relevant lease provisions and relevant rules or regulations.

~~(3)(4) Housing satisfies the requirements of this section even though:~~

(a) Under 80% of the occupied units in the housing facility are occupied by at least one person 55 years of age or older per unit, provided that at least 80% of the units that are occupied by new occupants on or after October 1, 1989, are occupied by at least one person 55 years of age or older.

(b) There are unoccupied units, provided that at least 80% of such units are reserved for occupancy by at least one person 55 years of age or over.

~~(4)(5) Housing satisfies the requirements of this section even though a unit is occupied by employees of the housing provider (and family members residing in the same unit) who are under 55 years of age, provided they perform substantial duties directly related to the management or maintenance of the housing.~~

Specific Authority 760.31(5) FS. Law Implemented 760.29(4), 760.31(5) FS. History—New 8-15-90, Formerly 22T-23.005, Amended.

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

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

(2) The registration and documentation letter shall contain in bold letters on the face of the envelope the words “Registration for Housing for Older Persons,” and provide the date of mailing.

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

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

(5) Failure to comply with the requirements of Section 760.29(2)(e), F.S., shall not disqualify a facility or community that otherwise qualified for the exemption provided in Section 760.29, F.S.

(6) The registration fee must be included within the completed registration letter in order to constitute a valid registration. The biennial registration fee is \$20.00. It shall be sent to: Florida Commission on Human Relations at its address provided in Rule 60Y-2.005, F.A.C., Post Office Box 3388, Tallahassee, Florida 32315-3388.

~~(7) The Commission A community or facility may impose an administrative fine not to exceed \$500 on a facility or community that knowingly submits false information in the documentation required by this paragraph. Such fine shall be deposited in the commission’s trust fund.”~~

Specific Authority 760.29(5) FS. Law Implemented 760.29(4)(e) FS. History—New 2-11-02, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: William James Tait, Jr.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cecil Howard

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 2, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 1, 2003

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE TITLES:	RULE NOS.:
Definitions	61D-11.001
Cardroom Games	61D-11.002
Dealer Responsibilities	61D-11.004
Prohibitions	61D-11.005
Tournaments	61D-11.027

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to implement changes in accordance with House Bill 1059, which became law on August 6, 2003.

SUMMARY: These rules regarding the operation of cardrooms are proposed to implement statutory changes to the definition of "authorized game" and wagering limitations contained in Section 849.086, Florida Statutes. That section now defines an "authorized game" as a game or series of games of poker. The statute has also been changed to limit wagers to two dollars with no more than three raises per round. The proposed operational rules revise definitions, responsibilities of the dealer, cardroom operators and management companies. The proposed rules also include a new rule in which a series of games of poker may include tournament play and the operational requirements therefore.

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

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

SPECIFIC AUTHORITY: 550.0251(12), 849.086(4) FS.

LAW IMPLEMENTED: 849.086 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. – 4:00 p.m., January 7, 2004

PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Board Room, 1940 N. Monroe Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the Department at least 5 calendar days before the hearing by contacting: Mary Polombo, (850)413-0750. If you are hearing or speech impaired, please contact the agency using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

Written comments or suggestions on the proposed rule may be submitted to Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1035, within 21 days of this notice for inclusion in the record of this proceeding.

THE FULL TEXT OF THE PROPOSED RULES IS:

61D-11.001 Definitions.

(1) "Button" means a circular object moved clockwise around a poker table to denote an imaginary dealer.

(2) "Chips or tokens" means a money substitute, redeemable for cash, issued and sold by a cardroom operator for use in cardroom games.

(3) "Drop" means the total amount of money, chips, and tokens removed from the drop box.

(4) "Drop Box" means a locked container permanently marked with the number corresponding to a permanent number on the card table.

(5) "Facility" means the cardroom, any storage area for card tables, cards, chips, tokens, drop boxes, tip boxes, records relating to cardroom activity, and other cardroom supplies, the count room and imprest bank.

(6) "Imprest bank" means the total amount of chips, tokens, and U.S. currency segregated for cardroom operation.

(7) "Imprest tray" means an area on a card table in which a predetermined dollar amount of chips, tokens, or U.S. currency is kept by the dealer.

(8) "Jackpot" – A jackpot occurs when the cardroom operator or the cardroom management company deducts from each hand, round, or game played a certain amount or charges a certain amount which is accumulated and placed in a separate fund from the pot and paid out when a desired result is achieved by a player or players. ~~A jackpot also occurs when the cardroom operator or the cardroom management company gives out prizes or cash awards in excess of \$10 in value when a desired result is achieved by a player.~~ The term "jackpot" does not include any game authorized under Section 849.086, Florida Statutes.

(9) "Licensee" means a person holding any license issued by the division for purposes of cardroom operations.

(10) "Pot" means the total amount wagered in a game or series of games of poker hand or round of cards. Wagering into the pot shall be conducted as provided by Section 849.086(8), Florida Statutes.

(11) "Proposition player" means a player who is employed by a cardroom licensee, but who uses his own money to initiate or play in card games.

(12) "Shill" means a player in a game provided by or employed by a cardroom licensee who only bets with money provided by the cardroom operator.

~~(13) "Token" means a money substitute, redeemable for cash, issued and sold by a cardroom operator for use in cardroom games.~~

~~(13)~~(14) "Tournament" means any competition involving a series of games of poker, consisting of more than one betting round involving more than one table, where the winner of the competition and runners-up may receive a prize or cash award

more than one round, hand, or game where the winner of the competition or the runners-up receive any prize or cash award in excess of \$10 in value.

(15) "Wager" means a sum of chips or tokens of value risked on an uncertain occurrence.

Specific Authority 550.0251(12), 849.086(4),(8) FS. Law Implemented 849.086 FS. History--New 1-7-97, Amended _____.

61D-11.002 Cardroom Games.

(1) Those games authorized by Section ~~849.086(2)(a)~~ ~~849.085(2)(a)~~, Florida Statutes, and approved by the division are the only games authorized for play at pari-mutuel facilities licensed to conduct cardroom operations.

(a) A game will be considered for approval by the division when it is authorized by Section ~~849.086(2)(a)~~ ~~849.085(2)(a)~~, Florida Statutes, and played in a non-banking manner.

(b) For each game of poker that a cardroom operator desires to conduct, it must submit BPR Form 16-001 to the division. The form shall include the name of the game of poker, the rules specifying how the game is to be played, the procedures for wagering during the conduct of the game, and the charge to each player for participating in the game.

(2)(a) All poker card games in Hoyle's Modern Encyclopedia of Card Games, by Walter B. Gibson, published by Doubleday and Company, Inc., April 1974 1st Edition hereinafter (Hoyle's) incorporated herein by reference, that are authorized by and played in a manner consistent with ~~Section 849.085(2)(a)~~ and Section 849.086, Florida Statutes, and the rules promulgated thereunder, shall be approved by the division. All ~~other card~~ poker games shall be approved by the division if the type of poker ~~card~~ games and the rules of the poker ~~card~~ games, as specified in BPR Form 16-001, meet the requirements of ~~Section 849.085(2)(a)~~ and Section 849.086, Florida Statutes, and the rules promulgated thereunder.

(b) All card games shall be consistent with ~~Section 849.085(2)(a)~~ and Section 849.086, Florida Statutes, and the rules promulgated thereunder.

(c) Any series of games of poker that are played for a single pot shall consist of poker games approved under this section. The cardroom operator shall clearly notify the participants of the number of games in the series that will be necessary to win the pot and how the rake will be taken from the pot for the series of games.

(3) The cardroom operator or management company shall furnish all cards, chips and tokens. Failure by a cardroom operator or cardroom management company to redeem chips or tokens for their cash value shall be a violation of these rules.

(a) The deck(s) being used at a given table where any game is being played shall be provided by the licensee. The design on the backs of the cards in the deck must be identical, and no card may contain any marking, symbol, or design that enables a player to know the identity of any element printed on the face of the card. The backs of the cards may contain a logo.

The backs of the cards in the deck must be designed to eliminate the ability of any person to place concealed markings on them. No cardroom operator may use cards that are taped, cut, shaved, marked, defaced, bent, crimped, or deformed.

(b) The cardroom operator shall provide a dealer for each table at the licensed cardroom operator's facility. The dealer may not make a bet or otherwise wager on any game at the licensed cardroom facility where that dealer is employed.

Specific Authority 550.0251(12), 550.0125(12), 849.085(2)(a), 849.086(4),(7),(12) FS. Law Implemented 849.085, 849.086 FS. History--New 1-7-97, Amended _____.

61D-11.004 Dealer Responsibilities.

(1) The House provided dealer shall be responsible to ensure that each bet or raise does not exceed \$2 in value. In addition, the dealer shall also be responsible for ensuring that no more than three raises are made in any round of betting. The winnings of any player in a single round, hand, or game does not exceed \$10.00. A dealer failing to comply with control of bet value and number of raises the pot size, who pays more than \$10.00 winnings to any player for a single round, hand, or game is subject to the following penalties.

(a) First offense – \$50.00 and/or 1-day suspension.

(b) Second offense – \$250.00 and/or 5-day suspension.

(c) Third offense – \$500.00 and/or suspension, not to exceed 10 days.

(d) Fourth offense – Will result in a 1-year suspension of the cardroom employee's occupational license.

(e) Any dealer who does not have a violation within 2 years from his/her most recent violation will revert to a "first offense" penalty for his/her next violation of this provision.

(2) Dealers shall not be allowed to regularly deal at the same table, and will be shifted to a different table at least every three hours.

(3) When a new dealer comes on duty at a card table, the new dealer must count all of the cash and chips or tokens in the imprest tray before accepting responsibility for it, or the new dealer must supply his or her own imprest tray.

(4) A dealer who receives currency from a player at a card table in exchange for chips or tokens must perform the following:

(a) The currency must be spread on the top of the card table by the dealer;

(b) The amount of currency must be stated by the dealer accepting it;

(c) Immediately after an equivalent dollar amount of chips or tokens has been given to the player, the cash shall be placed in the table's imprest tray.

(5) The dealer may not make a bet or otherwise wager on any game at the licensed cardroom facility where that dealer is employed.

Specific Authority 550.0251(12), 849.086(4),(8) FS. Law Implemented 849.086 FS. History--New 1-7-97, Amended _____.

61D-11.005 Prohibitions.

(1) No person shall introduce into the game any cards, chips or tokens other than those from the cardroom operator's facility.

(2) No cardroom operator or licensee shall extend credit, make a loan or grant a gift to any person playing in an authorized card game, or which enables a person to play in an authorized card game. The consideration required to participate in any card game shall be collected in full, by cash or check, in exchange for chips or tokens prior to participation at a licensed facility.

(a) Only cash shall be used to purchase chips or tokens at card tables.

(b) The practice of playing "light," or drawing chips or tokens from the pot to show how much a player owes when out of chips or tokens, is prohibited. The player shall be required to purchase additional chips or tokens in order to proceed playing.

(3) No device, apparatus, mechanism or thing which may give a participant in a card game an advantage over any other participant in that game may be used by any person.

(4) Side bets on the outcome of games are prohibited.

(a) Only persons actually playing in the card game may wager upon the outcome of the game.

(b) Wagers by persons other than those playing, which in any way involves the outcome of the game, or any aspect of the game, are prohibited.

(5) No person shall, either directly or indirectly:

(a) Employ or attempt to employ any device, scheme, or artifice to defraud any participant in a card game, or the cardroom operator.

(b) Engage in any act, practice, or course of operation as would operate as a fraud or deceit upon any participant in a game, or any cardroom operator.

(c) Engage in any act, practice, or course of operation with the intent of cheating any participant or the cardroom operator to gain an advantage in the game over a participant(s) or cardroom operator.

(6) Cardroom occupational licensees are prohibited from participating in card games, at the licensed cardroom facility where they are employed.

(7) No person shall knowingly engage in conduct that resists, obstructs, or opposes a division employee in the performance of his or her duties and responsibilities on the cardroom operator's premises.

(8) No licensee shall carry or exhibit a weapon other than as provided for in Chapter 790, Florida Statutes. Any licensee found in violation of this rule shall be disciplined in accordance with Chapter 849, Florida Statutes, and the rules promulgated thereunder. This rule does not prohibit the carrying of a weapon by any duly authorized law enforcement officer or security personnel who are licensed to carry a

weapon while engaged in their duties, or persons licensed under Chapter 790, Florida Statutes, to carry concealed weapons.

(9) ~~Tournaments and Jjacks~~pot are prohibited.

~~(10) An accumulation of \$10 values based upon the actual number or an average number of the rounds, hands, or games played during a competition where the winner of the competition and the runners-up receive the accumulated amount, a portion thereof, or a prize representing the accumulated amount or portion thereof is prohibited.~~

~~(10)(11)~~ Skills and proposition players are prohibited.

Specific Authority 550.0251(12), 849.086(4),(8),(12) FS. Law Implemented 849.086 FS. History—New 1-7-97, Amended _____.

61D-11.027 Tournaments.

(1) A series of games of poker may include tournament play. Tournaments may only be conducted at licensed pari-mutuel facilities and must comply with the following criteria:

(a) Cardroom operators must use for tournament play a game authorized for general cardroom play under Rule 61D-11.002, Florida Administrative Code. Any authorized game used for tournament play must be listed on the cardroom operator's approved license application, or on any subsequent applications/amendments that may be submitted for approval:

(b) No less than 9 players must be registered as participants at the start of play:

(c) Either a minimum of 15 hands per table per tournament, or a minimum of one hour's duration per tournament, must be played. After the minimum requirements have been satisfied, wagering shall conform to the established rules and guidelines of the cardroom operator:

(d) Tournaments must commence and conclude on the same calendar day:

(e) Only one entry per player per tournament.

(2)(a) The tournament entry fee per participant shall be based upon a maximum of \$2 per bet and three raises per betting round. The entry fee shall not exceed the maximum potential value wagered by a single player in an individual game that is being used for tournament play.

(b) A participant's elimination from a tournament is final. The cardroom operator is prohibited from allowing an eliminated participant to pay any fee to re-enter the same tournament.

(c) There shall be a designated winner for each individual hand of tournament play. The play of progressive games is prohibited.

(3) Tournaments shall be played only with tournament chips that are visually distinct from those used in normal cardroom operations, and shall be provided to the participants in exchange for an entry fee.

(a) All players shall receive an equal number of tournament chips for their entry fee.

(b) Tournament chips shall have no cash value and shall represent tournament points only.

(c) Tournament chips shall not be redeemed for cash or for any other thing of value except that the point total represented by the players' accumulations of tournament chips shall be used to determine the tournament winners and/or final place in the tournament.

(4) Prizes may not exceed the aggregate entry fees paid by the participants.

(5) No table rake shall be made during tournament play.

(6) Gross receipts for a tournament shall mean the total amount received by the cardroom operator from all entry fees.

(7) Cash received for tournament entry fees must be kept separate and apart from all other cash received by the cardroom operator or management company until such time as it is counted. The cardroom operator shall report tournament activity on BPR Form 16-008. This form shall be filed with the division by the fifth day of each calendar month for the preceding calendar month's activity.

(8)(a) The cardroom operator shall provide the tournament rules to the division, and shall furnish copies upon request to interested participants.

(b) The published tournament rules shall include, but are not limited to, information regarding the amount of the prizes using a stated percentage of gross receipts, whether the tournament's duration of play is based upon a fixed number of games or a stated time period, the use of blinds, and the wagering rules as authorized in paragraph (1)(c) above.

Specific Authority 550.0251(12), 849.086(4) FS. Law Implemented 849.086 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: David J. Roberts, Director, Division of Pari-Mutuel Wagering
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Diane Carr, Secretary, Department of Business and Professional Regulation
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 3, 2003
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 29, 2003

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE TITLES:	RULE NOS.:
Inspection of Premises, Records	61D-11.006
Cardroom Operator License	61D-11.007
Cardroom Business Occupational License	61D-11.008
Cardroom Employee Occupational License	61D-11.009
Duties of Cardroom Operators	61D-11.012

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to implement changes relating to cardroom operations and licensing.

SUMMARY: The proposed rule changes are to revise the division's rules regarding the operation of cardrooms, issuance of cardroom operator, business and employee licenses. The proposed rules strike redundant and unnecessary language in the existing rule. The proposed rules also eliminate the requirement that individuals licensed under the cardroom statutes pay an annual fingerprinting fee for renewals other than statutorily required years. The proposed rules provide that when cardroom facilities are located at a facility where more than one pari-mutuel permit is operated that the cardroom operator table fees may be paid by one or all of the permitholders. The rules also provide that an amendment to add additional tables is not effective until the table fees are paid and a license is issued by the division.

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

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

SPECIFIC AUTHORITY: 550.0251(2), 849.086(4),(5),(6) FS. LAW IMPLEMENTED: 849.086 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. – 4:00 p.m., January 7, 2004
PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Board Room, 1940 N. Monroe Street, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the Department at least 5 calendar days before the hearing by contacting: Mary Polombo, (850)413-0750. If you are hearing or speech impaired, please contact the agency using the Florida Dual Party Relay System by calling 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

Written comments or suggestions on the proposed rule may be submitted to Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1035, within 21 days of this notice for inclusion in the record of this proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

THE FULL TEXT OF THE PROPOSED RULES IS:

61D-11.006 Inspection of Premises, Records.

~~(1)~~ At any time during a cardroom operator's regular business hours, any ~~Division of Pari-Mutuel Wagering Bureau of Investigations or Bureau of Auditing~~ personnel shall be allowed to enter into the cardroom and any areas used in conjunction therewith, and:

~~(1)(a)~~ Observe a count of all monies received during the operation of the cardroom, a count of all chips or tokens, currency, and drop boxes, for the purpose of reconciliation, and inspect all receipts, reports, and records used in conjunction with the operation of said cardroom activity.

~~(2)(b)~~ Inspect any records of the cardroom operator or licensees that relate in any way to the operation of a cardroom, or any employee of the licensee that relate in any way to the operation of a cardroom.

~~(3)(c)~~ Check that licenses are prominently displayed, and that the cardroom is being operated in compliance with Section 849.086, Florida Statutes, and the rules promulgated thereunder.

~~(4)(d)~~ Inspect cardroom devices and equipment to ensure compliance with Section 849.086, Florida Statutes, and the rules promulgated thereunder.

~~(5)(e)~~ Inspect the cardroom facility for violations of Section 849.086, Florida Statutes, and the rules promulgated thereunder.

~~(2) All division employees authorized to conduct inspections must follow the "Division of Pari-Mutuel Wagering's Inspection Guidelines for Cardrooms as of August 9, 1996," herein incorporated by reference.~~

Specific Authority 550.0251(12), 849.086(4),(7),(11) FS. Law Implemented 849.086 FS. History—New 1-7-97, Amended.

61D-11.007 Cardroom Operator License.

(1) Each cardroom gaming licensee desiring to move their cardroom license, so as to change the location of the cardroom, shall first transfer in accordance with Chapter 550, Florida Statutes, the corresponding pari-mutuel wagering permit that entitles the permitholder to operate a cardroom.

(a) Upon approval of the transfer of the pari-mutuel permit, the pari-mutuel permitholder shall submit proof that a referendum was held in the county where the cardroom is to be operated and show that the majority of the electors voting on the referendum have approved the transfer to the new location.

(b) The proof of a majority vote of the electors shall consist of The Board of County Commissioners certifying the election results and making them known to the division in writing.

(2) No cardroom may be operated at a licensed pari-mutuel facility unless a valid cardroom license has been issued by the division to a licensed pari-mutuel permitholder.

Cardroom activities shall only be conducted at the same facility where pari-mutuel wagering is authorized under the pari-mutuel wagering license.

(3) Cardroom licenses are non-transferable.

(4) Cardroom licenses shall be renewed annually in conjunction with annual applications for pari-mutuel licenses, provided the applicant requests, as part of the pari-mutuel annual license application, to conduct at least 90 percent of the total number of live performances conducted by such permitholder during either the state fiscal year in which its initial cardroom license was issued or the state fiscal year immediately prior thereto.

(5) If a pari-mutuel permitholder amends its pari-mutuel license and such amended license does not satisfy the renewal application requirements required by this rule and Section 849.086(5), Florida Statutes, the cardroom license will become void upon the issuance of the amended pari-mutuel license.

(6) An applicant for an annual cardroom license shall complete a cardroom license application, BPR Form 16-002, and BPR Form 16-003, and submit a fee of \$1,000.00 for the first card table and \$500.00 for each additional card table to be operated during the license period. For cardroom facilities at which more than one pari-mutuel permit is operated during a year, table fees for the facility may be paid by one or all of the permitholders. License fees are non-refundable. For the initial cardroom license application, in addition to the application and fees submitted, the applicant shall submit its written internal control system for approval by the division. No cardroom application shall be acted upon until the cardroom applicant's system of internal control has been approved by the division.

(7) No license application, amendment to an application, or amendment to request additional cardroom tables shall be effective until payment of applicable license fees have been received by the division and the division has issued a license or amended license to operate a cardroom.

Specific Authority 550.0251(12), 849.086(4),(5),(6),(7),(16),(17) FS. Law Implemented 849.086 FS. History—New 1-7-97, Amended.

61D-11.008 Cardroom Business Occupational License.

(1) No cardroom operator may do business with any cardroom management company or cardroom distributor that does not hold a valid cardroom business occupational license.

(2) A corporation, general or limited partnership, sole proprietorship, business trust, joint venture, or unincorporated association, or other business entity may not be issued or hold a cardroom business occupational license in this state if any one of the persons or entities specified in paragraph (a) has been determined by the division not to be of good moral character, to have filed a false report to any government agency, pari-mutuel wagering or gaming commission or authority, or has been convicted of any offense specified in paragraph (b).

- (a)1. The cardroom business occupational licensee;
- 2. An employee of the licensee;
- 3. The sole proprietor operating under the license;
- 4. A corporate officer or director of the licensee;
- 5. A general partner of the licensee;
- 6. A trustee of the licensee;
- 7. A member of an unincorporated association of the licensee;
- 8. A joint venture of the licensee;
- 9. The owner of more than 5 percent of any equity interest in the licensee, whether as a common shareholder, general or limited partner, voting trustee, or trust beneficiary; or
- 10. An owner of any interest in the licensee, including any immediate family member of the owner, or holder of any debt, mortgage, contract, or concession from the licensee, who by virtue thereof is able to control the business of the licensee.

(b)1. A felony or misdemeanor involving forgery, larceny, extortion, or conspiracy to defraud, in this state or any other state or under the laws of the United States.

2. A felony or misdemeanor set forth in Section 550.105, Florida Statutes.

(3)(a) If the applicant for a cardroom business occupational licensee has received a full pardon or a restoration of civil rights in accordance with Florida law and pursuant to Section 944.292, Florida Statutes, with respect to the conviction specified in paragraph (2)(b), the conviction does not constitute an absolute bar to the issuance or renewal of a license or grounds for the revocation or suspension of a license.

(b) A corporation that has been convicted, found guilty of, or pled no contest to a felony or misdemeanor, as set forth above, regardless of adjudication, is entitled to apply for and receive a restoration of its civil rights in the same manner and on the same grounds as an individual.

(4) After notice, the division shall refuse to issue or renew or shall suspend or revoke, as appropriate, any licensee or applicant found in violation of paragraph (2)(b).

(5) All applicants for a cardroom business occupational license or renewal thereof shall be required to pay a Florida Department of Law Enforcement fingerprint processing and criminal record check fee for each person or entity as specified in paragraph (2)(a) as follows:

(a) All applicants, upon initial application, shall pay for a Florida Department of Law Enforcement fingerprint and criminal record check fee.

~~(b) All applicants for a renewal license, except for the fifth year renewal, shall be subject to and be required to pay for a Florida Department of Law Enforcement criminal record check fee.~~

~~(b)(e) Every five years after the initial license application, the applicant for a renewal license shall be subject to and pay for a Florida Department of Law Enforcement fingerprint and criminal record check fee.~~

(6) All applicants for a new cardroom business occupational license are required to submit a set of fingerprints to be taken by house security, or by a law enforcement agency, and processed through the Florida Department of Law Enforcement, and the Federal Bureau of Investigation and every 5 years thereafter. Certified Florida Law Enforcement officers are exempt from the fingerprint requirement.

(7) An applicant for an annual cardroom business occupational license shall complete a cardroom business occupational license application, BPR Form 16-004, and submit the \$250.00 fee for an annual cardroom business occupational license.

~~(8) Cardroom business occupational licenses shall expire on June 30th of every year one year from the date of issuance.~~

Specific Authority 550.0251(12), 849.086(4),(5),(6) FS. Law Implemented 849.086 FS. History—New 1-7-97, Amended _____.

61D-11.009 Cardroom Employee Occupational License.

(1)(a) Applicants for cardroom licensing for positions providing food service, maintenance and security, who do not hold a current pari-mutuel wagering occupational license, shall be required to submit a pari-mutuel wagering occupational license application, BPR Form 15-027, and apply for a pari-mutuel wagering ~~restricted~~ occupational license.

(b) All applicants in (1)(a), upon initial application, and every five licensing years shall pay for a Florida Department of Law Enforcement fingerprint and criminal record check fee.

~~(e) Every five years after the initial license application, the applicant for a renewal of a restricted pari-mutuel wagering occupational license shall be subject to and pay for a Florida Department of Law Enforcement criminal record check fee.~~

(2) All applicants for a new or renewal of a cardroom employee occupational license, shall complete a cardroom employee occupational license application, BPR Form 16-005, and submit \$50.00 for the cardroom employee occupational license. In addition to the annual license fee, each applicant shall pay a Florida Department of Law Enforcement fingerprint processing and criminal record check fee as follows:

(a) All applicants, upon initial application, shall pay for a Florida Department of Law Enforcement fingerprint and criminal record check fee.

~~(b) All applicants for a renewal license, except for the fifth year renewal, shall be subject to and be required to pay for a Florida Department of Law Enforcement criminal record check fee.~~

~~(b)(e)~~ Every five years after the initial license application, the applicant for a renewal license shall be subject to and pay for a Florida Department of Law Enforcement fingerprint and criminal record check fee.

(3) All applicants for a new cardroom employee occupational license are required to submit a set of fingerprints to be taken by house security, or by a law enforcement agency, and processed through the Florida Department of Law Enforcement, and the Federal Bureau of Investigation and every 5 years thereafter. Certified Florida Law Enforcement officers are exempt from the fingerprint requirement.

(4) Prior to transferring a current pari-mutuel wagering occupational licensee, who will be performing food service, maintenance, or security duties in the cardroom, mutuel teller or pari-mutuel management, the cardroom operator must notify the division Chief Inspector, on BPR Form BPR 16-011.

~~(a) Those pari-mutuel wagering licensees holding a current unrestricted license, and have not had a criminal record check conducted during the current licensing period, will be required to pay for a Florida Department of Law Enforcement criminal record check.~~

~~(b) Those pari-mutuel wagering licensees holding a current restricted license, shall be required to pay for a Florida Department of Law Enforcement criminal record check fee.~~

~~(c) Pari-mutuel wagering licensees transferred to perform food service, maintenance, or security duties in cardrooms, will be allowed to assume those duties while awaiting the results of the criminal record check, if they have notified the division Chief Inspector, and have paid the appropriate fingerprint and/or criminal record check fee.~~

~~(d) Pari-mutuel wagering licensees who have been transferred to cardroom food service, maintenance, or security duties must have a copy of their paid receipt, and their pari-mutuel wagering license on their person at all times while performing duties in the cardroom.~~

(5) Cardroom employee occupational licenses shall expire June 30th of every year one year from the date of issuance.

(6) Cardroom employees shall have their pari-mutuel wagering or cardroom employee occupational license in their possession at all times while on duty in the cardroom.

Specific Authority 550.0251(12), 849.086(4),(5),(6) FS. Law Implemented 849.086 FS. History—New 1-7-97, Amended _____.

61D-11.012 Duties of Cardroom Operators.

(1) All licensed cardroom operators must establish and maintain written internal controls to comply with Section 849.086, Florida Statutes, and the rules promulgated thereunder. ~~(a)~~ The written internal control system must be submitted as part of the initial license application, and approved or disapproved with comments by the division within 30 days of receipt of the written internal controls.

~~(b) Subsequent changes to the internal controls of a cardroom operator must be noticed to the division and must be approved by the division prior to implementation of such changes. The division will have 30 days from receipt of the proposed internal control changes to approve or disapprove the changes to the internal controls.~~

(2) Cardroom operators shall, prior to the initial opening of business, provide the division with a written list of all persons, including birth dates and social security numbers, employed by the cardroom operator. The cardroom operator shall furnish a job title of its employees, and provide a weekly payroll listing of all cardroom employees that worked during that payroll period, including their full name and social security number, but may exclude compensation.

(3) A cardroom operator who terminates a cardroom employee or a pari-mutuel wagering employee who works in the cardroom, shall notify the division of said termination on the weekly payroll listing submitted to the division.

(4) As part of the initial license application, the cardroom operator shall provide a listing of all distributors and cardroom management companies that are providing products or services to the cardroom. The division shall be notified in writing on BPR Form 16-006, of any change in companies providing said services within 10 days of such change.

(5) Cardroom operators shall install electronic surveillance equipment to record all activity in the cardroom bank and cage and count area. Surveillance cameras and monitors shall be able to record and observe in color or black and white.

(a) Tapes shall be labeled in chronological order by date and time.

(b) Tapes of surveillance records shall be maintained for a period of no less than 14 days. Tapes shall be kept for a longer period of time if requested by the division or any law enforcement agency.

(6)(a) The cardroom operator must display in a conspicuous location the hours of operation of the cardroom.

(b) A cardroom licensee must display in a conspicuous location the following restrictions for players:

1. A player must be at least 18 years of age;
2. No side bets are permitted; and
3. No credit is extended by the house.

(7) Cardroom operators are required to issue a photo I.D. to all cardroom employees which shall include, but not be limited to the name of the cardroom facility, the employee's full name, employee number, cardroom employee occupational license number, and expiration date of the license.

(8) If a management company is managing cardroom operations, the cardroom operator must provide written notice to the division within 20 days of any change in the management company contract.

(9) Cardroom operators shall establish an imprest banking system for cardroom operations.

(10) At the close of each shift, the currency, chips and tokens in the imprest tray at each card table shall be reconciled to their predetermined beginning balances.

(a) The last dealer shall be responsible for the currency, chip and token balance in his/her tray.

(b) The cardroom operator will document any discrepancies in the reconciliation of the imprest trays or bank on the Cardroom Daily Control Sheet, BPR Form 16-009.

(11) At the end of each shift, or the close of a table, the drop box must be locked away in a secure location until the count takes place.

(12) The count of card table revenue must be performed in compliance with the requirements set forth in the "Minimum Internal Control Standards." Each drop box must be accounted for individually in a secure designated area. Two or more persons must verify the contents of the drop box when emptied.

(13) Card tables will be restricted to area(s) specified on the cardroom license application.

Specific Authority 550.0251(12), 849.086(4),(6),(7),(8),(12) FS. Law Implemented 849.086 FS. History--New 1-7-97, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: David J. Roberts, Director, Division of Pari-Mutuel Wagering
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Diane Carr, Secretary, Department of Business and Professional Regulation
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 3, 2003
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 29, 2003

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Asbestos Consultants/Asbestos Consultant Examination

RULE TITLE: Fees; License Renewal; Active, Inactive and Delinquent Licenses; Change of Status
RULE NO.: 61E1-3.001

PURPOSE AND EFFECT: This amendment to Rule Chapter 61E1, F.A.C., implements the rule-adoption requirement contained in Section 455.02(2), Florida Statutes, which exempts spouses of members of the Armed Forces of the United States from licensure renewal provisions, in cases of absence from the state because of their spouses' duties with the Armed Forces.

SUMMARY: Pursuant to Section 455.02(2), Florida Statutes, spouses of members of the Armed Forces of the United States are exempt from licensure renewal provisions, in cases of absence from the state because of their spouses' duties with the Armed Forces.

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: 455.02(2), 469.100 FS.

LAW IMPLEMENTED: 455.02(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Eric R. Hurst, Assistant General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

THE FULL TEXT OF THE PROPOSED RULE IS:

61E1-3.001 Fees; License Renewal; Active, Inactive and Delinquent Licenses; Change of Status.

(1) through (4)(f) No change.

(g) Spouses of members of the Armed Forces of the United States shall be exempted from licensure renewal provisions, but only in cases of absence from the state because of their spouses' duties with the Armed Forces.

(5) through (6) No change.

Specific Authority 455.02(2), 469.008, 469.011 FS. Law Implemented 455.02(2), 455.271, 469.006, 469.008 FS. History--New 9-22-94, Amended 10-17-95, 10-29-97, 4-27-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Eric R. Hurst, Assistant General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Diane Carr, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 9, 2003

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Asbestos Consultants/Asbestos Consultant Examination

RULE TITLE: Inspections
RULE NO.: 61E1-5.001

PURPOSE AND EFFECT: Rule Chapter 61E1-5, F.A.C., is created to implement the rule-adoption requirement contained in Section 469.002(3), Florida Statutes, regarding the inspection of asbestos removal sites. This inspection is a safeguard put in place in conjunction with the exemption from licensure for individuals or businesses involved in the removal of Category I type floor tile.

SUMMARY: The rule implements requirements imposed by Section 469.002(3), Florida Statutes, regarding the inspection of asbestos removal sites involving Category I type floor tile, and describes relevant terms and procedures.

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: 455.2035, 469.002(3) FS.

LAW IMPLEMENTED: 469.002(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Eric R. Hurst, Assistant General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

THE FULL TEXT OF THE PROPOSED RULE IS:

61E1-5.001 Inspections.

The Department or its contractual designee may periodically inspect and oversee projects concerning the removal of asbestos-containing resilient floor cover or its adhesive. Such inspections shall be for the purposes of determining that the resilient floor covering is a Category I nonfriable material as defined in NESHAP and remains a Category I nonfriable material during removal activity and that all such removal activities are performed in accordance with all applicable asbestos standards of the United States Occupational Safety and Health Administration under 29 C. F. R., Part 1926. Upon completion of such inspections, the Department or its contractual designee shall submit a written report verifying the date, time, place and company performing the removal of the asbestos-containing resilient floor cover or its adhesive and certification that all conditions required pursuant to Section 469.002(3), F.S., have been met.

Specific Authority 469.002(3), 455.2035 FS. Law Implemented 469.002(3) FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Eric R. Hurst, Assistant General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Diane Carr, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 9, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 24, 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 Clinical Laboratory Personnel

RULE TITLES:	RULE NOS.:
Clinical Laboratory Personnel	64B3-2.002
Definitions	64B3-2.003

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

SUMMARY: The Board is specifying when a person must be licensed and is removing a definition for clinical laboratory trainee. For continuing education, a contact hour means 50 continuous minutes.

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

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

SPECIFIC AUTHORITY: 483.805(4), 483.811(2),(4) FS.

LAW IMPLEMENTED: 483.035(1), 483.803, 483.811(3),(4), 483.821, 483.823 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULES IS:

64B3-2.002 Clinical Laboratory Personnel.

(1) Director means a Clinical Laboratory Director qualified or licensed pursuant to the Board’s rules who is responsible for and assures the overall operation and administration of the clinical laboratory and fulfills the responsibilities specified in Rule 64B3-13.001, F.A.C.

(2) Supervisor means a person licensed ~~qualified to be a supervisor~~ pursuant to the Board’s rules who is responsible for the day-to-day supervision and oversight of technical and scientific operations in a clinical laboratory and fulfills the responsibilities specified in Rule 64B3-13.002, F.A.C.

(3) Technologist means a person licensed pursuant to the qualified to be a technologist under the Board's rules who represents the first level of independent practice and under general supervision, fulfills the responsibilities specified in Rule 64B3-13.003, F.A.C.

(4) Technician means a person licensed ~~qualified as a technician~~ pursuant to the Board's rules who practices the profession and may perform tests classified as highly complex pursuant to 42 CFR 493.17 (September 7, 1999), incorporated by reference herein, only when under direct supervision of a licensed technologist, supervisor, or director unless the technician meets the minimum qualifications contained in 42 CFR 493.1489 (September 7, 1999), incorporated by reference herein, and the requirements contained in subsection 64B3-5.004(5), F.A.C., and fulfills the responsibilities specified in Rule 64B3-13.004, F.A.C.

~~(5) Clinical laboratory trainee means a person enrolled in a clinical laboratory training program approved pursuant to Chapter 64B3-3, F.A.C., who is seeking to meet minimum qualifications for licensure in Florida. Trainees must perform procedures under direct supervision but they may not report test results.~~

~~(5)(6)~~ General supervision means supervision by a director or ~~licensed~~ supervisor who is available on a regular basis and who is responsible for the overall performance of laboratory testing.

~~(6)(7)~~ Direct supervision means supervision by a qualified director, ~~licensed~~ supervisor, or ~~licensed~~ technologist who is on the premises or is available to the laboratory when test procedures are being performed and is responsible for the oversight of testing and reporting of results.

Specific Authority 483.805(4), 483.811(4) FS. Law Implemented 483.035(1), 483.803, 483.811(3),(4) FS. History--New 11-4-93, Formerly 61F3-2.002, Amended 11-21-94, 7-12-95, 5-15-96, Formerly 59O-2.002, Amended 3-19-98, 12-13-98, 9-27-00, 9-9-02, _____.

64B3-2.003 Definitions.

(1) through (4) No change.

(5) Contact hour means a continuing education offering which is at least 50 continuous minutes in duration. Total number of hours cannot be added up and divided into 50 minute intervals ~~for the purpose of claiming one contact hour for each 50 minute interval.~~

(6) through (12) No change.

~~(13) An alternate provider is an agency of the state or federal government that offers continuing education courses in the subject areas listed in subsection 64B3-11.002(2), F.A.C.~~

(14) through (20) renumbered (13) through (19) No change.

Specific Authority 483.805(4), 483.811(2) FS. Law Implemented 483.803, 483.811, 483.821, 483.823 FS. History--New 11-4-93, Formerly 61F3-2.003, Amended 11-21-94, 11-30-94, 12-26-94, 5-3-95, 7-12-95, Formerly 59O-2.003, Amended 3-19-98, 12-13-98, 3-28-99, 9-12-99, 11-15-99, 3-24-02, 10-30-02, _____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 24, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 14, 2003

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLES:	RULE NOS.:
General Requirements of Clinical Laboratory Personnel Training Programs	64B3-3.001
Personnel of Clinical Laboratory Personnel Training Programs	64B3-3.002

PURPOSE AND EFFECT: The Board proposes to update the existing rule text for reorganization and to correct numbering errors.

SUMMARY: Training programs must include instruction on medical error prevention. Trainees must be registered with the Board.

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

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

SPECIFIC AUTHORITY: 483.805(4), 483.811(2) FS.

LAW IMPLEMENTED: 483.800, 483.809, 483.811 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: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULES IS:

64B3-3.001 General Requirements of Clinical Laboratory Personnel Training Programs.

(1) through (3) No change.

~~(4)(5)~~ No change.

~~(5)(6)~~ Each training program shall:

(a) through (f) No change.

(g) Include instruction on the prevention of medical errors, which shall include root-cause analysis, error reduction and prevention, and patient safety.

(g) through (o) renumbered (h) through (p) No change.

~~(6)(7)~~ No change.

Specific Authority 483.805(4), 483.811(2) FS. Law Implemented 483.800, 483.809, 483.811 FS. History--New 12-28-94, Amended 7-12-95, 4-24-96, Formerly 590-3.001, Amended 1-11-99, 11-15-99, 9-29-02, _____.

64B3-3.002 Personnel of Clinical Laboratory Personnel Training Programs.

- (1) through (3) No change.
- (4) Trainee Requirements. Trainees shall:
 - (a) No change.
 - (b) Be registered with the Board when enrolled in the practicum portion of the training program.
 - (c) through (d) No change.

Specific Authority 483.805(4), 483.811(2) FS. Law Implemented 483.800, 483.809, 483.811 FS. History--New 12-28-94, Amended 3-28-95, 7-12-95, 4-24-96, Formerly 590-3.002, Amended 9-20-98, 12-13-98, 11-15-99, _____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 24, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 14, 2003

DEPARTMENT OF HEALTH

Board of Occupational Therapy

RULE TITLE: HIV/AIDS and Medical Error Prevention

RULE NO.:

64B11-2.007

PURPOSE AND EFFECT: The Board proposes to make the medical errors education more specific to the practice of occupational therapy. As proposed the rule requires the subject matter of the rule to be more specific to occupational therapy.

SUMMARY: The rule requires the medical errors requirement to be more specific to occupational therapy.

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

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

SPECIFIC AUTHORITY: 456.013(7), 456.033, 468.204 FS.

LAW IMPLEMENTED: 456.013(7), 456.033 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: Kaye Howerton, Executive Director, Board of Occupational Therapy, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B11-2.007 HIV/AIDS and Medical Error Prevention Education for Initial Licensure.

(1) through (3) No change.

(4) All applicants for licensure shall submit to the Board proof of completion of a 2-hour course relating to the prevention of medical errors. The course must have been approved by the Board and may be one offered by a facility licensed pursuant to Chapter 395, Florida Statutes. The course shall include a study of root-cause analysis, error reduction and prevention, ~~and patient safety,~~ and for applications filed on or after July 1, 2004, must include contraindications and indications specific to occupational therapy management, including medication and side effects.

Specific Authority 456.013(7), 456.033, 468.204 FS. Law Implemented 456.013(7), 456.033 FS. History--New 12-11-96, Formerly 59R-61.016, Amended 7-28-99, 6-25-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Occupational Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 3, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 29, 2003

DEPARTMENT OF HEALTH

Board of Occupational Therapy

RULE TITLE: HIV/AIDS and Medical Error Prevention

RULE NO.:

64B11-3.005

PURPOSE AND EFFECT: The Board proposes to make the medical errors education more specific to the practice of occupational therapy. As proposed the rule requires the subject matter of the rule to be more specific to occupational therapy.

SUMMARY: The rule requires the medical errors requirement to be more specific to occupational therapy.

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

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

SPECIFIC AUTHORITY: 456.013(7), 456.033, 468.204 FS.

LAW IMPLEMENTED: 455.033, 456.013(7) 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: Kaye Howerton, Executive Director, Board of Occupational Therapy, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B11-3.005 HIV/AIDS and Medical Error Prevention Education for Initial Licensure.

(1) through (3) No change.

(4) All applicants for licensure shall submit to the Board proof of completion of a 2-hour course relating to the prevention of medical errors. The course must have been approved by the Board and may be one offered by a facility licensed pursuant to Chapter 395, Florida Statutes. The course shall include a study of root-cause analysis, error reduction and prevention, ~~and~~ patient safety, and for applications filed on or after July 1, 2004, must include contraindications and indications specific to occupational therapy management, including medication and side effects.

Specific Authority 456.013(7), 456.033, 468.204 FS. Law Implemented 455.033, 456.013(7) FS. History—New 12-11-96, Formerly 59R-62.013, Amended 4-5-98, 7-28-99, 6-25-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Occupational Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 3, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 29, 2003

DEPARTMENT OF HEALTH

Board of Occupational Therapy

RULE TITLE: Requirements for Licensee Renewal of

RULE NO.:

an Active License; Continuing Education 64B11-5.001

PURPOSE AND EFFECT: The Board proposes to move many of the continuing education requirements placed on licensees from Rule 64B1-6.001, F.A.C., to this section, where they are more suitably placed. The Board proposes to add additional methods for licensees to obtain continuing education and proposes a requirement for medical errors continuing education to be more specific to the practice of occupational therapy. The rule provides alternative means of completing continuing education requirements, places requirements found in Rule 64B11-6.001, F.A.C., in this section and adds titles to subsections in this section.

SUMMARY: The Board proposes this amendment for clarity and consistency of the rules and to offer additional options of achieving the required continuing education credit for licensure.

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

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

SPECIFIC AUTHORITY: 456.036, 468.219 FS.

LAW IMPLEMENTED: 456.013, 456.033, 456.036, 468.219 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: Kaye Howerton, Executive Director, Board of Occupational Therapy, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B11-5.001 Requirements for Licensee Renewal of an Active License; Continuing Education.

Continuing education includes attendance and participation as required at a live presentation such as workshop, seminar, conference, or in-service educational programs. It may also include participation in other continuing education activities that require a formal assessment of learning. Examples include, but are not limited to, electronic or web-based courses, formalized self-study courses and continuing education articles. An active license shall be renewed upon demonstration that the licensee has paid the renewal fee set forth in Rule 64B11-2.009 or 64B11-3.007, F.A.C., respectively, and has complied with the following requirements:

(1) through (2) No change.

(3) Home Study – A licensee may perform no more than twelve (12) hours of continuing education as home study education per biennium. Home study education is independent study and requires a certificate of completion. Home study education does not include ~~For purposes of this paragraph,~~ a web-based, satellite transmitted or online instruction program that allows or requires the licensee to interact or communicate back and forth with the instructor during the presentation of the program ~~is not home study education.~~

(4) HIV/AIDS – As part of the twenty-six hours of continuing education required herein for license renewal, the licensee shall complete one (1) hour of HIV/AIDS education as set forth in Section 456.033, F.S., or a course in end of life care and palliative health care, so long as the licensee has completed an approved one (1) hour HIV/AIDS course in the immediately preceding biennium.

(5) Medical Errors – Each licensee shall attend and certify attending a Board-approved 2-hour continuing education course relating to the prevention of medical errors. The 2-hour course shall count toward the total number of continuing education hours required for licensure renewal. The course shall include a study of root-cause analysis, error reduction and prevention, ~~and~~ patient safety and must include contraindications and indications specific to occupational therapy management, including medication and side effects.

(6) Laws and Rules – As part of the twenty-six (26) hours of continuing education required herein for licensure renewal, each licensee shall attend a two (2) hour Board approved course on laws and rules, i.e., Chapters 456 and 468, Part III, F.S., and Chapter 64B11, F.A.C.

(7) Documentation – The licensee must retain such receipts, vouchers, certificates or other papers necessary to document completion of the required continuing education for a period of not less than four (4) years from the date the course was taken. The Board will audit licensees at random to assure that the continuing education requirements have been met. Upon being audited, a licensee shall provide documentation to the Board within thirty (30) days that shows proof of compliance with the continuing education requirements imposed herein.

(8) Exemption – Those persons certified for licensure in the second half of the biennium are exempt from the continuing education requirements for that biennium, except for the two hour prevention of medical errors course requirement referenced above and required by Section 456.013, F.S., and except for the one (1) hour HIV/AIDS education or end of life care and palliative health care course referenced above as required by Section 456.033, F.S.

(9) Change of Status – Active status licensees may apply to the Board for inactive license status at any time by paying a \$50 fee to change licensure status. Additionally, the licensee shall pay any applicable inactive status renewal fee or delinquent fee.

(10) Alternative Media – A maximum of five contact hours may be awarded per biennium for approved alternative media, such as video, audio and/or software programs, prepared or updated not more than five years prior to the date of viewing or presentation. At time of course presentation, rental, or sale, the course vendor, in lieu of the certificate of completion, shall provide the licensee with a signed course validation form. The licensee shall sign this form on the date that the course is actually taken or viewed indicating full attendance and successful completion. It shall be retained by the licensee for four years.

(11) Course Presentation and Attendance at Board Meetings – A maximum of eight contact hours may be awarded per biennium for each of the following:

(a) The presentation of a continuing education course or program, academic course, peer-reviewed or non peer-reviewed workshop, seminar, in-service, electronic or web-based course, that is directly related to the practice of occupational therapy, as either the lecturer of the course or program or as the author of the course materials. Each licensee who is participating as either a lecturer or author of a continuing education course or program may receive credit for the portion of the offering he/she presented or authored up to the total hours awarded for the offering.

1. Continuing education credit may be awarded to a lecturer or author for the initial presentation of each course or program only; repeat presentations of the same continuing education course or program shall not be granted credit.

2. In order for a continuing education credit to be awarded to each licensee participating as either lecturer or author, the format of the continuing education course or program must conform with all applicable sections of this rule chapter.

3. Documentation shall include a copy of the official program/schedule/syllabus including presentation title, date, hours of presentation, and type of audience or verification of such signed by the sponsor.

4. The number of contact hours to be awarded to each licensee who participates in a continuing education course or program as either a lecturer or author is based on the 50 minute contact hour employed within this rule chapter.

(b) Attendance at Florida Board of Occupational Therapy Practice meetings. The number of contact hours awarded for such attendance is based on the definition of a contact hour as set forth in paragraph 64B11-6.001(5)(d), F.A.C.

(12) Fieldwork Experience – A licensee may earn up to 6 continuing education hours per biennium for supervision of a Level II Occupational Therapy or Occupational Therapy Assistant fieldwork student at the rate of no more than 3 hours per student. To be eligible for the credit, the licensee must participate as the primary clinical supervisor for the student. Documentation shall include verification provided by the school to the fieldwork educator with the name of the student, school, and dates of fieldwork or the signature page of the completed student evaluation form. Evaluation scores and comments shall be deleted or blocked out.

(13) Publications – A licensee may earn the following continuing education credit for publication of a peer-reviewed or non-peer reviewed book, chapter, article, or publication of instructional materials using alternative media, directly related to the practice of occupational therapy:

a. 10 hours as the author of a book,

b. 5 hours as author of a chapter,

c. 3 hours as author of a peer-reviewed article, and

d. 1 hour as author of a non peer-reviewed article.

e. 5 hours as an editor of a book.

f. 3 hours in publication of instructional material using alternative media. Documentation shall consist of full reference for publication including title, author, editor, and date of publication; or copy of acceptance letter if not yet published.

(14) Research – A licensee may earn 1 hour of continuing education credit for each 10 hours spent in development of or participation in a research project specific to and directly related to the practice of occupational therapy, up to a limit of 5 hours of credit per biennium. Documentation shall include verification from the primary investigator indicating the name of the research project, dates of participation, major hypotheses or objectives of the project, and the licensee’s role in the project.

(15) Volunteer Expert Witness – In addition to the continuing education credits authorized above, any volunteer expert witness who is providing expert witness opinions for cases being reviewed pursuant to Chapter 468, Part III, F.S., the Occupational Therapy Practice Act, shall receive 3.0 hours of credit for each case reviewed. A volunteer expert witness may not accrue in excess of 6.0 hours of credit per biennium pursuant to this paragraph.

Specific Authority 456.036, 468.219 FS. Law Implemented 456.013, 456.033, 456.036, 468.219 FS. History—New 4-17-95, Amended 10-30-95, 3-11-96, Formerly 59R-64.060, Amended 9-23-99, 10-18-01, 6-25-02, 5-7-03,

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Occupational Therapy
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Occupational Therapy
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 3, 2003
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 6, 2003

DEPARTMENT OF HEALTH
Board of Occupational Therapy

RULE TITLE: Continuing Education Program Approval
RULE NO.: 64B11-6.001
PURPOSE AND EFFECT: The Board proposes to revise the continuing education program approval standards, provide for a mandatory response by a provider to a Board continuing education audit and delete alternative continuing education activity authorizations from the rule. The rule revises provider approval standards, requires a provider response to a Board audit and deletes alternative continuing education activities from this section.

SUMMARY: The rule deletes alternative CE activities from this section, requires audited providers to respond to a Board audit and revises standards for program approval.

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

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

SPECIFIC AUTHORITY: 456.013(8), 456.025, 468.204, 468.219 FS.

LAW IMPLEMENTED: 468.219, 468.221 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: Kaye Howerton, Executive Director, Board of Occupational Therapy, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B11-6.001 Continuing Education Program Approval.

(1) through (2) No change.

(3) The provider shall maintain records of each course offering for 4 years following each licensure biennium during which the course was offered. Course records shall include a detailed course outline which reflects its educational objectives, the instructor’s name, the date and location of the course, the participants’ evaluations of the course, the hours of continuing education credit awarded for each participant and a roster of participants by name and license number. The Board, as a condition of a program or provider approval, may audit an approved provider. Upon being audited by the Board, the provider shall provide within 30 days all the documentation listed above in this subsection and such additional information as requested by the Board.

(4)(a) Programs meeting the above criteria and offered by the Florida Occupational Therapy Association (FOTA), the American Occupational Therapy Association (AOTA) and occupational therapy courses provided by an education program approved ~~accredited~~ by an accrediting body board for occupational therapy shall be approved by this Board for continuing education and shall not pay the fees required in subsection (1) of this rule.

(b) Courses sponsored by a college or university when providing a curriculum for occupational therapists or occupational therapy assistants shall be awarded 10 hours of continuing education credit per semester hour and shall be verified by official transcripts.

(5) Courses and programs not approved in subsection (1) or (4) above shall be approved as appropriate continuing education if said course or program meets the following criteria:

(a) through (e) No change.

(f) The licensee must retain such receipts, vouchers, certificates, or other papers to document completion of the required continuing education for a period of not less than four

(4) years from the date the course was taken. The Board will randomly audit licensees to assure the continuing education requirements have been met. Upon being audited, the licensee shall provide documentation to the Board within 30 days that shows proof of compliance with the continuing education requirements imposed herein.

~~(6) A maximum of five contact hours may be awarded per biennium for approved videocassette courses prepared or updated not more than two years prior to the date of viewing or presentation. The Board shall approve videocassette courses that meet the content and criteria requirements set forth in (5). At time of course presentation, rental, or sale, the course vendor, in lieu of the certificate of completion, shall provide the licensee with a signed course validation form. The licensee shall sign this form on the date that the course is actually taken or viewed indicating full attendance and successful completion. It shall be retained for four years with a copy for the department at the time of licensure renewal.~~

~~(7) A maximum of eight contact hours may be awarded per biennium for each of the following or a combination of the following:~~

~~(a) The presentation of a continuing education course or program as either the lecturer of the course or program or as the author of the course materials. Each licensee who is participating as either a lecturer or author of a continuing education course or program may receive credit for the portion of the offering he/she presented or authored up to the total hours awarded for the offering.~~

~~1. Continuing education credit may be awarded to a lecturer or author for the initial presentation of each course or program only; repeat presentations of the same continuing education course or program shall not be granted credit.~~

~~2. In order for a continuing education credit to be awarded to each licensee participating as either lecturer or author, the format of the continuing education course or program must conform with all applicable sections of this rule chapter.~~

~~3. Continuing education credit for publications is limited to continuing education courses or programs.~~

~~4. The number of contact hours to be awarded to each licensee who participates in a continuing education course or program as either a lecturer or author is based on the 50 minute contact hour employed within this rule chapter.~~

~~(b) Attendance at Occupational Therapy Board meetings. The number of contact hours awarded for such attendance is based on the definition of a contact hour as set forth in paragraph 64B11-6.001(5)(d), F.A.C.~~

~~(c) Attendance at Florida Occupational Therapy Association Leadership meetings. The number of contact hours awarded for such attendance is based on the definition of contact hour as set forth in paragraph 64B11-6.001(5)(d), F.A.C.~~

~~(8) In addition to the continuing education credits authorized above, any volunteer expert witness who is providing expert witness opinions for cases being reviewed pursuant to Chapter 468, Part III, F.S., the Occupational Therapy Practice Act, shall receive 3.0 hours of credit for each case reviewed. A volunteer expert witness may not accrue in excess of 6.0 hours of credit per biennium pursuant to this paragraph.~~

Specific Authority 456.013(8), 456.025, 468.204, 468.219(2) FS. Law Implemented 468.219(2), 468.221 FS. History--New 8-1-95, Amended 8-27-96, Formerly 59R-65.001, Amended 7-21-98, 4-25-01, 6-25-02, 10-29-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Occupational Therapy
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Board of Occupational Therapy
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: November 3, 2003
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: December 27, 2002

DEPARTMENT OF HEALTH

Board of Opticianry

RULE TITLE: RULE NO.:

Active Status Fee 64B12-11.003

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

SUMMARY: The Board decided to reduce the biennial renewal fee to \$150.00.

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

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

SPECIFIC AUTHORITY: 484.005, 484.008(1) FS.

LAW IMPLEMENTED: 484.008(1), 455.271 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: Sue Foster, Executive Director, Board of Opticianry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-11.003 Active Status Fee.

The fee for biennial renewal of an optician's active status license shall be \$150.00 ~~\$200.00~~.

Specific Authority 484.005, 484.008(1) FS. Law Implemented 484.008(1), 455.271 FS. History--New 12-6-79, Amended 6-30-82, Formerly 21P-11.03, Amended 3-30-89, 7-10-89, 7-3-91, Formerly 21P-11.003, 61G13-11.003, Amended 10-24-94, Formerly 59U-11.003, Amended 1-4-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Opticianry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 8, 2002

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

DEPARTMENT OF HEALTH

Board of Orthotists and Prosthetists

RULE TITLE: Definitions
RULE NO.: 64B14-3.001

PURPOSE AND EFFECT: The Board intends to modify the level of supervision to require a greater level of supervision by qualified supervisors for certain procedures.

SUMMARY: For certain procedures, the rule requires the physical presence of the qualified supervisor during all phases of patient contact.

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

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

SPECIFIC AUTHORITY: 456.035(1), 468.802 FS.

LAW IMPLEMENTED: 456.035(1), 468.802, 468.803, 468.805, 468.807, 468.808, 468.809 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: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-3.001 Definitions.

(1) through (11) No change.

(12) Direct Supervision – supervision while the qualified supervisor is on the premises. When measuring, fitting, or applying halos, immediate- post operative prosthetics, fracture

orthoses of the extremities, orthoses for the treatment of scoliosis or kyphosis, or spinal orthoses for fractures or post-surgery, the qualified supervisor must be physically present during all phases of patient contact.

(13) through (28) No change.

Specific Authority ~~456.035(1)~~, 468.802 FS. Law Implemented, ~~456.035(1)~~, 468.802, 468.803, ~~468.805~~, 468.807, 468.808, 468.809 FS. History--New 10-21-99, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Orthotists and Prosthetists

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 3, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 4, 2003

Section III
Notices of Changes, Corrections and
Withdrawals

DEPARTMENT OF STATE

Division of Elections

RULE NO.: 1S-2.031
RULE TITLE: Recount Procedures
NOTICE OF CHANGE

Notice is hereby given that proposed Rule 1S-2.031 published in the F.A.W., Page 4426, Vol. 29, No. 45, on November 7, 2003, has been changed to reflect comments received from the public during the hearing held on December 1, 2003.

Changes were made to Rule 1S-2.031, F.A.C., so that it now reads:

1S-2.031 Recount Procedures.

(1) All procedures relating to machine and manual recounts shall be open to the public.

(2) At least two members of the canvassing board shall be present during all times a machine or manual recount is being conducted.

(3) All recounts are to be ordered by the board responsible for certifying the results of the race or races being recounted.

(4) As used in this rule, "undervote" means that the tabulator recorded no vote for the office or question or that the elector did not designate the number of choices allowed for the race.

(5) Machine Recounts shall be conducted as follows:

(a) The canvassing board responsible to ordering the machine recount shall be responsible for notifying the candidates or committees in the affected race or races that a machine recount will be conducted. In addition, notice of the machine recount shall be posted on the door of the public