

## Section II Proposed Rules

### DEPARTMENT OF COMMUNITY AFFAIRS

#### Florida Communities Trust

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Florida Forever Program	9K-7
RULE TITLES:	RULE NOS.:
Purpose	9K-7.001
Definitions	9K-7.002
General Requirements and Eligibility Standards	9K-7.003
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Application Materials	9K-7.004
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Modification to the Project Boundary	9K-7.010
Preparation and Acceptance of the	
Management Plan	9K-7.011
Annual Stewardship Report Requirement	9K-7.013

PURPOSE, EFFECT AND SUMMARY: To improve Florida Communities Trust's efficiency in administering Florida Forever Funds and ensure the rules are user-friendly for the customers.

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: 380.507(11) FS.

LAW IMPLEMENTED: 120.55(1)(a)4., 259.105, 380.501-.515 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., October 11, 2004

PLACE: Department of Community Affairs, Room 310M, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida

Any person requiring special accommodation at the hearing because of a disability or physical impairment should contact Grant Gelhardt, Environmental Administrator, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1704, SunCom 292-1704, at least seven days before the date of the workshop. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party System, 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Grant Gelhardt, Environmental Administrator, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1704, Suncom 292-1704

THE FULL TEXT OF THE PROPOSED RULES IS:

9K-7.001 Purpose.

This rule chapter sets forth the procedures that must be followed for grant applications for Florida Forever funds awarded by Florida Communities Trust. The purpose of the program is to provide grants to local governments and non-profit environmental organizations for the acquisition of community-based projects, urban open spaces, parks and greenways to implement local government comprehensive plans.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.501-.515 FS. History--New 5-27-01, Repromulgated 5-20-02, Amended \_\_\_\_\_.

9K-7.002 Definitions.

(1) through (6) No change.

(7) "Declaration of Restrictive Covenants", formerly known as the "Grant Award Agreement", means a recordable document that states all conditions to be placed on the Project Site upon its conveyance to the Recipient using Trust Funds.

(7) through (11) renumbered (8) through (12) No change.

~~(12) "Grant Award Agreement" means a recordable document that states all conditions to be placed on the Project Site upon its conveyance to the Recipient using Trust Funds.~~

(13) through (15) No change.

(16) "Inholding" means a parcel(s) that is within or adjacent to publicly owned conservation or recreation lands that when acquired will assist in completing the overall project boundary and improve management of the adjacent publicly owned lands. The parcel(s) is relatively small in comparison with the overall publicly owned lands.

(16) through (23) renumbered (17) through (24) No change.

(25) "Neighborhood Recreation Center" means a small community oriented building, generally up to 15,000 square feet, used primarily by one or more adjacent neighborhoods. The center could provide facilities for activities such as, indoor recreational programs, after school programs, summer programs, yoga classes, dance classes, or art and craft classes.

(24) through (28) renumbered (26) through (30) No change.

~~(31)~~(29) "Project Costs" means the total of all eligible costs associated with the Acquisition of the Project Site in accordance with this rule chapter and Chapter 9K-8, F.A.C., and may include the cost of the following items: purchase price for Acquisition of all or a portion of the Project Site; certified survey containing an adequate legal description of the Project Site; any assessment or examination essential and necessary to

determine Project Site boundary; appraisal report(s) and appraisal review of the Project Site; title report and title insurance premium; reasonable real estate fees or commissions paid by the Recipient for Acquisition and environmental site assessment(s) performed pursuant to Rule 9K-8.012, F.A.C.

~~(31)(30)~~ No change.

~~(32)(31)~~ “Project Site” means the specific area(s), defined by a boundary map or legal description and Certified Survey, where Trust funds are proposed in an Application to be used for all or a portion of the Acquisition. Project Site may include non-contiguous areas, so long as connectivity through other public ownership (excluding road right-of-ways and water bodies unless parcels are directly across from each other) is demonstrated and the non-contiguous areas are part of a unified scheme of development and management, or the project includes non-contiguous parcels that are part of a local government adopted listed species habitat or riverine corridor protection plan. For listed species habitat protection plans, all parcels are required to be within two miles of each other. For riverine corridor protection plans all parcels are required to be within five miles of each other.

(32) through (33) renumbered (33) through (34) No change.

~~(35)(34)~~ “Recreational Trail System” means a network of land-based trails and adjacent support parcels connecting parks, schools, residential and commercial or retail areas for recreation and authorized alternative modes of transportation such as bicycling, walking, running, skating, and horseback riding. A Recreational Trail System shall consist of trail separated from the road and shall not include sidewalks or bike lanes on the road.

~~(36)(35)~~ No change.

~~(37)(36)~~ “Reimbursement Acquisition” means the entire Project Site or remaining portion of the Project Site will be acquired by the Applicant through a voluntarily-negotiated transaction after the application deadline and within the terms of the Grant Contract within 18 months after the Application deadline.

(37) through (41) renumbered (38) through (42) No change.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.501-.515 FS. History—New 5-27-01, Amended 5-20-02, \_\_\_\_\_.

9K-7.003 General Requirements and Eligibility Standards.

The following constitutes the general procedures for the Florida Forever Program of the Florida Communities Trust.

(1) Application Form. Application Form FCT-3 FF-2 (eff. \_\_\_\_\_ 5-20-02) is prescribed for use with these rules and is incorporated by reference. Applications for funding must be submitted on Application Form FCT-3 FF-2. Applicants may only submit one Application Applicant Form per Project Site. A copy, or instructions for receiving the Application Form in an electronic format, may be obtained by writing to the

~~Executive Director~~, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100, or by calling (850)922-2207 SunCom 292-2207).

(2) No change.

(3) All Project Sites shall be open to the public.

(4) Eligible Applicants:

(a) Local Governments;

(b) Nonprofit Environmental Organizations.

(5) Current Applications: If any Applicant has three or more active Grant Contracts at the time of the project selection meeting, the Applicant shall not be funded for additional grant Applications until one or more of the active Grant Contracts are closed.

~~(6)(3)~~ Limitation of Awards.

(a) The total amount of any Award or combination of Awards applied for by any Local Government(s) or Nonprofit Environmental Organization(s) under any Application(s) or Partnership Application(s) for any project(s) shall not exceed ten percent of the total Florida Forever Funds as advertised available for Awards in the Notice of Application Period announcing the cycle. All award(s) for Partnership Applications shall, for purposes of calculation of award limitations, be divided equally among the Local Government(s) or Nonprofit Environmental Organization(s) or:

(b) Any Applicant that submits only one application for a preacquired project may apply for up to fifteen percent of the total Florida Forever Funds as advertised available for Awards in the Notice of Application Period announcing the cycle.

~~(7)(4)~~ No change.

(8)(5) Eligible Sources of Match. The Applicant’s eligible sources of Match may include, but are not limited to, the following sources: Local Government funds; Nonprofit Environmental Organization funds; state or Federal grants or loans; private cash donations; real property owned by the Applicant or donated to the Applicant by a party other than the Applicant; or, in advance of negotiations, an owner’s commitment to the value of a bargain sale or donation of all or part of the purchase price of the Project Site. Any real property owned by the Applicant must be acquired through a Voluntarily-Negotiated Transaction within 24 months prior to, or 24 months after, the Application deadline. Additionally, any real property utilized as a Match shall be included in the Application, shall be considered part of the Project Site and shall be subject to all restrictions placed on the Project Site. Applicants may not use funds from the Florida Forever Trust Fund for any part of the Match. For any Match, Applicant may use funds generated by a Local Government, Nonprofit Environmental Organization, state or federal grants or loans, private cash donations, or the commitment by the owner(s) in advance of negotiations of the value of a bargain sale or donation of all or part of the purchase price of the Project Site. Applicants may not use funds from the Florida Forever Trust

Fund for any part of any local Match. Real property owned by the Applicant or donated by a party other than the Applicant may be an eligible source for a Match, provided that any real property owned by the Applicant has been acquired, by the Applicant through a Voluntarily Negotiated Transaction, within 24 months prior to or after the Application deadline. Further, any real property utilized by an Applicant as a Match must be included in the Application, shall be considered part of the Project Site and shall be subject to the same conditions that are placed on the remainder of the Project Site.

~~(9)(6)~~ No change.

~~(10)(7)~~ Site Management. Each Applicant is required to provide a Management Plan as outlined in this rule chapter. To ensure that future management funds will be available for the management of the site in perpetuity pursuant to Section 259.105, F.S., and Chapter 380, Part III, F.S., the Applicant shall be required to provide the Trust with Reasonable Assurance that they have the financial resources, background, qualifications and competence to manage the Project Site in perpetuity in a reasonable and professional manner. Where the Application or Partnership Application does not include at least one Local Government, the Trust shall: ~~require the Recipient to post a performance or other bond in an amount sufficient to insure performance by the Recipient that the Project Site shall be reasonably and professionally managed in perpetuity;~~ require the Recipient to establish an endowment or other fund in an amount equal to ten percent of the project cost sufficient to insure that the Project Site shall be reasonably and professionally managed in perpetuity performance; require a guaranty or pledge by ~~a the~~ Local Government, the Water Management District, the Florida Division of Forestry, the Florida Fish and Wildlife Conservation Commission, or the Florida Department of Environmental Protection ~~in whose jurisdiction the Project Site is located;~~ which shall require the Local Government, the Water Management District or the State agency to take over the responsibility for management of the Project Site in the event the Nonprofit Environmental Organization is unable to; ~~and require the Local Government, to be a named co-signer on the Grant Award Agreement;~~ or require such other assurances as the governing board may deem necessary to adequately protect the public interest.

Specific Authority 380.507(11) FS. Law Implemented 120.55(1)(a)4., 259.105, 380.505-.515 FS. History—New 5-27-01, Amended 5-20-02, \_\_\_\_\_.

9K-7.004 Submission of Application and Application Materials.

(1) Applications must be submitted by mail or delivery to the ~~Executive Director~~, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100. To be timely submitted, Applications must be received on or before the published Application deadline.

(2) No change.

(3) Applications must be transmitted with an original signature cover letter on Applicant's letterhead, signed by the appropriate representative, official or administrator, binding the Applicant to fulfill the commitments made in the Application, and identifying identify the employee of the local government or representative of the Nonprofit Environmental Organization that will act as the key contact between the Trust and the Applicant(s), and contain a statement, written by the Local Government having jurisdiction over the Project Site, that the proposed uses of the Project Site will be consistent with the Local Comprehensive Plan.

(4) through (5) No change.

~~(6) All applications must be submitted on To receive reconsideration by the Trust, all applicants must submit a completed Application Form FCT-3 FF-2, and provide the following information as exhibits to the Application:~~

(7) The following exhibits shall be provided:

(a) through (e) No change.

(f) Natural Communities map of an appropriate scale that depicts the Natural Communities on the Project Site, utilizing the Florida Natural Areas Inventory or other appropriate classification system and providing the approximate acreage of the various Natural Communities.

(g) through (m) No change.

(n) If the Applicant is a Nonprofit Environmental Organization which anticipates being designated as the management entity pursuant to subsection 9K-7.003(7), F.A.C., evidence that the Nonprofit Environmental Organization has the financial resources, background qualifications and competence existing to manage the Project Site in perpetuity or in cooperation with a Local Government as outlined in subsection 9K-7.003(7), F.A.C.

(o) If applicable, a signed statement from the owner(s) of the top priority parcels referenced in subsection 9K-7.004(7), F.A.C., indicating their willingness to consider an offer to purchase their parcel(s).

(p) If a Project Site is Pre-acquired, the applicant shall provide copies of a signed closing statement for each Pre-acquired parcel. If a closing statement is not available at the time of the application submittal then a copy of the contract for each of the Pre-acquired parcels shall be provided and a copy of the closing statements shall be provided within 14 days after the application deadline.

~~(8)(7)~~ If applicable, provide an Acquisition Plan that lists the priority parcels and the general order of Acquisition.

~~(8) If applicable, a signed statement from the owner(s) of the top priority parcels referenced in subsection 9K-7.004(7), F.A.C., indicating their willingness to consider an offer to purchase their parcel(s).~~

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.508, 380.510 FS. History—New 5-27-01, Amended 5-20-02, \_\_\_\_\_.

## 9K-7.005 Communications to the Governing Board.

After an Application has been submitted for funding under the conditions described herein, all communications to the Governing Board of the Trust regarding any Application under consideration shall be in writing and mailed or delivered to the ~~Trust Executive Director~~ for distribution to all members of the Governing Board or be presented in writing or orally to the Governing Board at the ranking and selection meeting.

Specific Authority 380.507(11) FS. Law Implemented 380.508 FS. History--New 5-27-01, Repromulgated 5-20-02, Amended \_\_\_\_\_.

## 9K-7.007 Project Evaluation Criteria.

The evaluation of Applications shall be based on the criteria set forth in this rule chapter and in Application Form ~~FCT-3 FF-2~~. Trust staff will be responsible for evaluating Applications and recommending point scores to the Governing Board. Trust staff shall utilize the information contained in the Application (including exhibits) and all information obtained during its review of the Application for scoring recommendations to the Governing Board. Personnel from other state agencies, regional planning councils, water management districts, and other public and private groups may assist the Trust staff in project evaluation as requested by Trust staff on an application-by-application basis. Unless otherwise noted, an Application shall receive all the points assigned to a particular criterion if the criterion is met; no partial scores will be given for a criterion. If a criterion does not apply to the proposed Project Site, the Applicant should state "No" in the response to the criterion.

(1) Furtherance of specified general standards (points may be awarded based on the following criteria):

(a) Designation of Parcels:

1. through 2. No change.

(b) Phased Project. The proposed project is a continuation of a previous project that was selected for ~~Trust trust~~ funding such that it constitutes a Phased Project (5 points).

(c) Providing a greater share of the Match. The Applicant is committed to:

1. No change.

2. Provide a Match between 50 percent to ~~54~~ 59 percent of the Project Costs (20 points); or

3. Provide a Match for ~~55~~ 60 percent or more of the Project Costs (25 points).

(d) No change.

(e) Innovative Acquisition. The proposed project provides for alternatives to the Acquisition of fee interests in land ~~through the acquisition of, such as Acquisition of less than fee interest of the Project Site through~~ conservation easements (5 points).

(f) Inholdings. ~~The proposed project acquires inholdings within or adjacent to existing publicly owned conservation or recreation lands (5 points). Multiple benefits. The Acquisition of the Project Site furthers the purpose(s) of a recent (within~~

~~the last 10 years) or proposed purchase of adjacent conservation or Outdoor Recreation lands by other federal, state, local, or nonprofit agencies (5 points).~~

(g) Neighborhood access. The project site is accessible by an existing sidewalk or will be connected to an adjacent sidewalk within the next 2 years (5 points).

(2) Furtherance of Outdoor Recreation, natural and cultural resources (points may be awarded based on the following criteria):

(a) Providing Outdoor Recreation or open space. The Project Site provides for Outdoor Recreation or open space:

1. Provides Outdoor Recreation areas or open space adjacent to other publicly-owned upland areas, such as existing parks, museums, schools, libraries, or public affordable housing complexes ~~or transit stations~~ (5 points);

2. Provides two or more resource-based Outdoor Recreation facilities, such as a nature trail, picnic pavilion, fishing pier, wildlife observation platform, canoe dock launch, ~~boardwalk~~ or camping area (5 points).

3. Provides two or more user-oriented Outdoor Recreation facilities on the Project Site or on adjacent publicly owned lands within 1,000 feet of the Project Site, such as playgrounds, basketball courts, tennis courts, bocci ball courts, shuffleboard courts, or volleyball courts ~~or fitness trail~~ (5 points);

4. Provides access facilities to an open water a shoreline or beach, such as a fishing pier, observation platform, dock or dune walkover, and managed for recreation uses (5 points);

5. No change.

(b) Providing Greenway ~~Greenways and Recreational Trail~~ Systems. The Project Site provides for new or enhanced ecological corridor ~~Greenways~~ or land-based Recreational Trail Systems (points may be awarded based on the following criteria):

1. through 2. No change.

3. Enhances or connects existing local, regional or statewide network of existing ecological corridors ~~Greenways~~ (5 points);

4. Furthers a locally-adopted ecological corridor ~~Greenway~~ or land-based Recreational Trail System plan (5 points).

(c) No change.

1. Provides interpretive kiosk or interpretive signs ~~that~~ ~~which~~ educates visitors about the natural environment or unique history of the Project Site (5 points);

2. Provides at least ~~12~~ 24 environmental or historical education classes or programs per year at the Project Site conducted by trained educators or resource professionals (5 points);

3. Includes a staffed Neighborhood Recreation Center, nature center or museum building that which provides year-round educational classes or programming ~~concerning the natural environment or unique history of the area~~ (5 points).

(d) Protecting natural and biological resources. The Project Site protects natural and biological resources (points may be awarded based on the following criteria):

1. No change.

2. Contains habitat identified by the Florida Natural Inventory as a Priority 1 or 2 habitat area as shown on the FNAI Potential Habitat for Rare Species map. Contains one or more Natural Communities identified by the Florida Natural Areas Inventory as “imperiled” or “critically imperiled” (5 points);

3. through 4. No change.

(e) No change.

(f) Water quality. The Project Site provides for the protection or enhancement of water quality (points may be awarded based on the following criteria):

1. The proposed project will improve the quality of surface waters or address current flooding problems occurring on, or adjacent or in close proximity to the Project Site by installing stormwater facilities that provide wildlife habitat and/or open space in a park like setting ~~the elimination of existing pollution sources, removal of impervious surfaces, or other means~~ (5 points);

2. No change.

3. The proposed Project Site will protect Class I Waters waters as identified by the Department of Environmental Protection, or the Project Site is located within a locally-designated wellfield protection zone (5 points).

(g) No change.

(3) Furtherance of Community Planning (points may be awarded based on the following criteria):

(a) Local Comprehensive Plan. Acquisition of the Project Site will assist the Local Government in furthering the Local Comprehensive Plan directives. When used in this part, the term “furthered” means that proposed project(s) will assist the Local Government in realizing the objectives or policies of the Local Comprehensive Plan. For each criterion that is furthered by an objective or policy of the Local Government Plan, the objective or policy number is to be cited in the response to the criterion and a copy of the objective or policy, and any associated exhibits or documents, shall be included as an exhibit as provided in this rule chapter. If the Project Site is located entirely in one jurisdiction, the Local Comprehensive Plan of the jurisdiction shall be evaluated for scoring purposes. If the Project Site is located in two or more jurisdictions, the Local Comprehensive Plan of each jurisdiction shall be compared for compatibility and evaluated for scoring purposes and if either each jurisdiction’s Local Comprehensive Plan is must be furthered then for points shall to be awarded. Points may be awarded based on the following criteria:

1. through 2. No change.

3. Provides new or enhanced public access to water bodies or and saltwater beaches (5 points).

4. through 5. No change.

6. Provides for coordination between the Local Government(s) and other federal, state and local agencies or non-profit organizations in acquiring or managing natural areas or open space (5 points).

7. through 9. No change.

10. Provides for the redevelopment of Directs development to a locally designated urban infill, urban redevelopment or downtown revitalization area as defined in Section 163.3164, F.S. (5 points).

(b) Hazard Mitigation. The proposed project furthers hazard mitigation (points may be awarded based on the following criteria):

1. All or a portion of the project site is located in Provides recreational opportunities and open space areas that direct residential and commercial development away from a Coastal High Hazard Area or a 100-year flood plain (5 points).

2. through 3. No change.

(c) through 8. No change.

9. Within an area subject to an adopted rate of growth ordinance, that has been approved by the Department of Community Affairs (5 points).

10. Within or adjacent to a state or federally designated area, not identified elsewhere in the Application criteria, that is intended to protect or restore natural resources, such as a spring protection zone, the Aquatic Preserve, the National Estuarine Research Reserve National Estuary Program, the Marine Sanctuary, and the American Heritage River boundaries (5 points).

(4) The proposed project furthers and exemplifies “project excellence.” Up to 10 points, based on issues not adequately addressed by the evaluation criteria established in this rule such as whether the proposed project exhibits strong community-based support, possesses exemplary characteristics, assists an otherwise disadvantaged community, or voluntarily helps resolve land use conflicts ~~and issues in a manner that was not adequately addressed by the criteria established in this rule chapter.~~

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.510 FS. History—New 5-27-01, Amended 5-20-02, \_\_\_\_\_.

9K-7.009 Project Approval.

(1) Following the ranking and selection of Applications described above but prior to approval, the Trust staff shall conduct site visits or other investigations. If such visits or investigations reveal undisclosed facts or erroneous evaluation conclusions, the Trust staff shall adjust the final score and ranking accordingly report such findings to the Governing Board. The Trust shall impose conditions based on Applicant representations and findings from site visits and other

investigations. Applicants will be advised of the conditions prior to Trust approval and completion of the Grant Contract. Any conditions imposed on the Applicant must be met prior to receiving Project Plan approval. Further, the Trust shall have the right to alter the ranking of Applications based on the site visit or investigation findings.

(2) ~~Following the ranking and selection meeting and the Trust staff's site visits as set forth in subsection 9K-7.009(1), the Trust shall publish a Final Notice of Project Approval and Funding in the Florida Administrative Weekly that shall list all the Applications considered and the funding status of each. The Trust shall publish a Final Notice of Project Approval and Funding in the Florida Administrative Weekly that shall list all Applications considered, and the amount of funding approved for each selected project.~~

~~(3) Any person with substantial interests that are or may be determined by the approval of funds for projects by the Trust may request an administrative proceeding pursuant to Section 120.57, F.S.~~

~~(3)(4)~~ No change.

~~(4)(5)~~ The established time frame for funding approval shall be for a period not to exceed 12 months. Approval shall be evidenced by a fully executed Grant Contract between the Trust and the Recipient. When the established time frame has expired and an approved project has not received Project Plan approval, the project shall be terminated and Trust funds committed to the project shall then be committed to other approved Applications. The Trust may extend the Grant Contract beyond the established time frame if the Recipient demonstrates that significant progress is being made toward Project Plan approval or that extenuating circumstances warrant an extension of time. All requests for extensions shall be made in writing to the Trust Executive Director, prior to the expiration of the established time frame, fully explaining the reason for the delay and why the extension is necessary.

(6) through (7) renumbered (5) through (6) No change.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.510 FS. History—New 6-25-01, Amended 5-20-02, \_\_\_\_\_.

9K-7.010 Modification to the Project Boundary.

Modifications to the boundary of a Project Site selected for approval will be considered by the Trust on a case-by-case basis. Requests to modify the project boundary shall be submitted to the Trust within 12 months of the approval of the Grant Contract. Requests for boundary amendments received after said deadline shall not be considered unless an exception is granted by the Trust Executive Director based upon the demonstration of good cause. Good cause shall be based on whether the boundary modification is necessary to the successful development and management of the Project Site. The following procedures are established to guide the submission and review of boundary modification requests.

(1) through (4) No change.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.510 FS. History—New 6-25-01, Amended 5-20-02, \_\_\_\_\_.

9K-7.011 Preparation and Acceptance of the Management Plan.

(1) Prior to release of Florida Forever Funds for a project, the Recipients shall submit a Management Plan for approval by the Trust. Phased Projects or additions to Trust funded projects can be combined into existing Management Plans. The Management Plan ~~shall, which is intended to~~ explain how the Project Site will be managed to further the purposes of the project and meet the terms and conditions of the Grant Contract, ~~shall include the following:~~

~~(a) An introduction containing the project name, location and other background information relevant to management.~~

~~(b) The stated purpose for acquiring the Project Site as proposed in the Application and a prioritized list of management objectives.~~

~~(c) The identification of known natural resources including natural communities, listed plant and animal species, soil types, surface and groundwater characteristics.~~

~~(d) A detailed description of all proposed uses including existing and proposed physical improvements and the impact on natural resources.~~

~~(e) A detailed description of proposed restoration or enhancement activities, if any, including the objective of the effort and the techniques to be used.~~

~~(f) A scaled site plan drawing showing the project site boundary, existing and proposed physical improvements and any natural resource restoration or enhancement areas.~~

~~(g) The identification and protection of known cultural or historical resources and a commitment to conduct surveys prior to any ground disturbing activity, if applicable.~~

~~(h) A description of proposed educational displays and programs to be offered, if applicable.~~

~~(i) A description of how the management will be coordinated with other agencies and public lands, if applicable.~~

~~(j) A schedule for implementing the development and management activities of the Management Plan.~~

~~(k) Cost estimates and funding sources to implement the Management Plan.~~

(2) through (4) No change.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.510 FS. History—New 6-25-01, Amended 5-20-02, \_\_\_\_\_.

9K-7.013 Annual Stewardship Report Requirement.

(1) Each award to a Recipient shall include a condition that, after Acquisition of the Project Site, a stewardship report is required ~~from the Recipient for a period lasting at least five years from completion of all site improvements and restoration activities identified in the approved Management Plan.~~ The stewardship report is intended to verify that conditions imposed at the time the award was made are being followed and to monitor the stewardship and use of the property. The

stewardship report shall be due ~~on January 30~~ of each year and include discussion of the following items for the year being reported:

- ~~(a) All work completed;~~
- ~~(b) All program activities conducted;~~
- ~~(c) Description of how the project protects and maintains natural resources and the results of all monitoring reports;~~
- ~~(d) Listing of gross revenues for the year, such as all fees, concessions, sales and other revenues received;~~
- ~~(e) Description of all easements, concessions and leases in effect for all or any portion of the year;~~
- ~~(f) Description of all physical improvements and activities that are behind schedule and a listing of revised start and completion dates for each improvement and activity;~~
- ~~(g) Listing of all funding sources allocated or received for management activities;~~
- ~~(h) Listing of all development and management costs expended for the year; and~~
- ~~(i) Listing of all revisions needed to the approved Management Plan and including all appropriated supporting materials as attachments.~~

(2) Once the project is fully developed as outlined in the approved Management Plan, the The stewardship report requirement for Preservation 2000 Program and Florida Forever Program projects may be phased out as follows:

(a) To initiate the three ~~five~~ year phase-out of the stewardship report requirement, the Recipient shall provide the following:

1. through 4. No change.

(b) Upon the Trust's acceptance of the Recipient's statement of completion, and timely submission of three ~~five~~ consecutive stewardship reports that have met the requirements of this rule chapter, the Trust may suspend the stewardship report requirement if the Recipient has demonstrated that the terms and conditions of the Declaration of Restrictive Covenants Grant Award Agreement and the approved Management Plan made are being followed. After suspension of the stewardship report requirement, if the Trust finds that the terms and conditions of the Declaration of Restrictive Covenants Grant Award Agreement are not being followed, the stewardship report requirement shall be reimposed for an additional two years.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.510 FS. History—New 6-25-01, Amended 5-20-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Grant Gelhardt, Environmental Administrator, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1704, Suncom 292-1704

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kathy Baughman McLeod, Community Program Manager, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1710

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 24, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 28, 2004

**DEPARTMENT OF COMMUNITY AFFAIRS**

**Florida Communities Trust**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Land Acquisition Procedures With Florida Forever Program	9K-8
RULE TITLES:	RULE NOS.:
Election by Recipient of Titleholder and Negotiating Entity; Rules Governing Acquisitions; Title	9K-8.004
Appraisal Procedures, Appraisal Report Requirements and Determination of Maximum Approved Purchase Price	9K-8.007
Preparation and Acceptance of Project Plans Examination for Hazardous Materials Contamination	9K-8.011
Closing	9K-8.012
	9K-8.014

PURPOSE, EFFECT AND SUMMARY: To improve Florida Communities Trust's efficiency in administering Florida Forever Funds and ensure the rules are user-friendly for the customers.

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: 380.507(11) FS.

LAW IMPLEMENTED: 259.105, 380.501-.515 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., October 11, 2004

PLACE: Department of Community Affairs, Room 310M, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida

Any person requiring special accommodation at the hearing because of a disability or physical impairment should contact Caroline Sutton, Community Program Administrator, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1707, SunCom 292-1707, at least seven days before the date of the workshop. If you are hearing or speech impaired, please contact the

Department of Community Affairs using the Florida Dual Party System, 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Caroline Sutton, Community Program Administrator, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1707, Suncom 292-1707

THE FULL TEXT OF THE PROPOSED RULES IS:

9K-8.004 Election by Recipient of Titleholder and Negotiating Entity; Rules Governing Acquisitions; Title.

(1) through (3) No change.

(4) If a Pre-acquired or Reimbursement Acquisition, title vests in the Recipient and Recipient will provide notification that Recipient's acquisition procedures were followed. If Recipient has no such procedures, the Recipient may follow the Acquisition procedures outlined in this rule chapter.

(5)(4) No change.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.501-.515 FS. History--New 5-27-01, Amended 5-20-02,\_\_\_\_\_.

9K-8.007 Appraisal Procedures, Appraisal Report Requirements and Determination of Maximum Approved Purchase Price.

(1) through (5) No change.

(6) The Trust shall compare the Maximum Approved Purchase Price with the cost to purchase the land as estimated in the Application. If that estimated cost is greater than the Maximum Approved Purchase Price, the Trust shall reduce the amount of the Award by a letter of notice to the Recipient ~~an amendment to the Grant Contract.~~

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.501-.515 FS. History--New 5-27-01, Amended 5-20-02,\_\_\_\_\_.

9K-8.011 Preparation and Acceptance of Project Plans.

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

(g) Additional documentation as may be requested by the Trust as Reasonable Assurance that the Recipient will be able to fulfill its obligations under the Grant Contract, the Declaration of Restrictive Covenants Grant Award Agreement, and Chapter 9K-7, F.A.C.

(2) through (3) No change.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.507(11), 380.508, 380.510 FS. History--New 5-27-01, Amended 5-20-02, 12-9-03, \_\_\_\_\_.

9K-8.012 Examination for Hazardous Materials Contamination.

(1) All sites acquired with funds from the Florida Forever Trust Fund shall be examined for hazardous materials contamination within 90 ~~45~~ days before closing.

(2) through (5) No change.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.501-.515 FS. History--New 5-27-01, Amended \_\_\_\_\_.

9K-8.014 Closing.

(1) No change.

(2) The ~~Trust Executive Director~~ shall have the authority to modify the Purchase Agreement previously approved by the Trust to extend the time for option exercise, closing date, submittal deadlines or any other time limit relating to such agreement. The ~~Trust Executive Director~~ shall also have the authority to execute or modify all documents necessary for the implementation of Trust action, such as the Purchase Agreement, letter of notification of exercise of option, leases, easements, legal descriptions, deeds, assignments, and other miscellaneous agreements and affidavits, provided the modification does not change the substance nor the scope of Trust approval, and provided the document executed or modified was either approved by the Trust or contemplated by Trust approval. Any changes in the purchase price to be paid to the Seller(s) not contemplated by the terms of the Purchase Agreement must be approved by the Trust. An extension or modification may only be made under the terms of the Purchase Agreement, or with the Seller's agreement.

(3) No change.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.501-.515 FS. History--New 5-27-01, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Caroline Sutton, Community Program Administrator, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1707, Suncom 292-1707

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kathy Baughman McLeod, Community Program Manager, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1710

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 24, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 28, 2004

**DEPARTMENT OF LAW ENFORCEMENT**

**Criminal Justice Standards and Training Commission**

RULE CHAPTER TITLE: Salary Incentive Program

RULE CHAPTER NO.: 11B-14

RULE TITLES: Definitions

RULE NOS.: 11B-14.001

General Program Provisions

11B-14.002

Authorized Salary Incentive Payments

11B-14.003

Annual Salary Incentive Compensation Report

11B-14.005

PURPOSE AND EFFECT: Clarifies definitions, revises forms, and clarifies existing rule language.



SUMMARY: Updates rule definitions; revises Commission forms; updates rule references; and makes clarification and grammar modifications.

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 working days of this notice.

SPECIFIC AUTHORITY: 943.03(4), 943.12(1), 943.22(2)(h), 943.22(j) FS.

LAW IMPLEMENTED: 943.22 FS.

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

TIME AND DATE: 1:00 p.m., September 28, 2004

PLACE: 2331 Phillips Road, Elevator Conference Room, Quad C, 3rd Floor, Tallahassee, Florida 32308-1489

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Pursuant with the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 days prior to the workshop by contacting: Donna Hunt, (850)410-8615 or TDD Number (850)656-9597.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Donna Hunt, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489, (850)410-8615

THE FULL TEXT OF THE PROPOSED RULES IS:

#### 11B-14.001 Definitions.

For the purpose of this rule chapter, the definitions of "employing agency," "law enforcement officer," "correctional officer," "correctional probation officer," and "Commission," pursuant to Section 943.10, F.S., and the definitions of "community college degree or equivalent," "bachelor's degree," and "accredited college or university or community college," pursuant to Section 943.22, F.S., shall be deemed controlling. The definition of "law enforcement officer" also includes those elected officers who, pursuant to Section 943.253, F.S., choose to participate in the Salary Incentive Program. In addition, for the purpose of this rule chapter, the term "officer" is limited to include "law enforcement officer," "correctional officer," or "correctional probation officer," pursuant to Section 943.10(14), F.S. Further, in order to provide effectively for the administration of the Salary Incentive Program, certain additional definitions are necessary, therefore, the following words or phrases shall have these meanings:

(1) "Career Development Training Course" means ~~any~~ course in the Commission-approved Career Development Training Program ~~that approved by the Commission and~~ consists of advanced or technical training related to promotion to a higher rank or position pursuant to Section 943.17(1)(c), F.S.

(2) "Federal or Private Training" means a Commission-approved training program ~~that enhances approved by the Commission to enhance~~ an officer's knowledge, skills, and abilities for the job performed and is approved by the Commission for salary incentive payment. Commission-approved Federal or Private Training Programs are listed in subsection 11B-14.002(4)(3), F.A.C.

(3) "Advanced Training Course" means a course in the Commission-approved Advanced Training Program ~~that approved by the Commission,~~ which enhances an officer's knowledge, skills, and abilities for the job performed, pursuant to Section 943.17(1)(b), F.S.

(4) No change.

(5) "Officer" means an individual who meets the statutory requirements pursuant to Section Chapter 943.13, F.S.

(6) through (8) No change.

(9) For Commission-approved Basic Recruit and Advanced Training Program Courses, ~~advanced training courses~~ the terms "successfully completed," and "successfully complete," and "pass" are defined in subsection 11B-35.001(7), F.A.C., ~~as being denoted with a "Pass" on the Training Report, form CJSTC-67, revised February 7, 2002, hereby incorporated by reference,~~ or for federal or private training programs, a letter from the agency head attached to the Certificate of Completion that confers the successful completion of a federal or private training program.

Specific Authority 943.03(4), 943.12(1), 943.22(2)(h) FS. Law Implemented 943.22 FS. History—New 8-19-72, Repromulgated 1-5-75, Amended 1-13-81, 5-16-83, 9-1-83, 1-7-85, Formerly 11B-14.01, Amended 7-13-87, 9-3-87, 12-13-92, 1-2-97, 7-7-99, 11-5-02, \_\_\_\_\_.

#### 11B-14.002 General Program Provisions.

(1) Section 943.22, F.S., establishes the Salary Incentive Program requirements for continued professional development of a full-time officer who is eligible to receive maximum aggregate monthly salary incentive payments in the amount of \$130 for completion of Commission-approved Advanced and Career Development Training Program Courses, Federal or Private Training Programs, Educational Training, and Commission-approved the Law Enforcement Basic Recruit Training Programs pursuant to Section 943.22(2)(a), F.S.

(2) Career Development Training Program Courses, as defined in subsection 11B-14.001(1), F.A.C., and Advanced Training Program Courses, as defined in subsection 11B-14.001(3), F.A.C., ~~and,~~ that have been successfully completed, as defined in subsection 11B-14.001(9), F.A.C., by eligible officers, shall be verified by the training center director or ~~the training center director's~~ designee, as defined in

paragraph 11B-21.005(8)(a), F.A.C. To verify successful completion of a Commission-approved ~~an approved~~ Advanced or Career Development Training Program; Course and to authorize salary incentive payments, a Training Report, form CJSTC-67, revised May 6, 2004, hereby incorporated by reference, shall be electronically transmitted to Commission staff through the Commission's ATMS.

(3) Pursuant to Section 943.17, F.S., Commission staff shall award 40 hours of advanced training credit for each 40 hours of criminal justice executive or management training successfully completed and approved by the Commission. Eligible officers who request to receive salary incentive payments for programs listed in paragraphs (4)(a)-(v) below, shall submit to Commission staff a written request from the officer's agency administrator and submit a copy of the officer's Certificate of Completion that indicates the hours completed. ~~The following federal or private training has been approved by the Commission and is recognized for advanced training that enhances an officer's knowledge, skills, and abilities for the job performed. Individuals successfully completing federal or private training shall submit documentation to Commission staff for a determination of course completion eligibility entitling the individual to salary incentive payments, however, the cost of these courses are not approved for expenditure from the Criminal Justice Standards and Training Trust Fund Officer Training Monies pursuant to Rule Chapter 11B-18, F.A.C.:~~

(4) The following Commission-approved federal or private training is recognized as training that enhances an officer's knowledge, skills, and abilities for the job performed. Individuals successfully completing federal or private training shall submit documentation to Commission staff for determination of course completion eligibility entitling the individual to receive salary incentive payments. However, the cost is not approved for expenditure from the Criminal Justice Standards and Training Trust Fund Officer Training Monies pursuant to subsection 11B-18.0053(3), F.A.C.: Full-time officers are eligible to receive training and educational salary incentive payment based on their date of certification, provided the officer notifies the agency of his or her eligibility to receive salary incentive payments.

<u>Federal or Private Training</u>	<u>Code</u>	<u>Hours</u>
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(a) through (v) No change.

(5) Training Salary Incentive Payments.

(a) Full-time officers are eligible to receive training salary incentive payment based on their date of certification, provided the officer notifies the agency of his or her eligibility to receive salary incentive payments. The date of eligibility for salary incentive payments shall be determined by:

1. Determined by the ~~The~~ date of "successful completion," defined in subsection 11B-14.001(9), F.A.C., of a Commission-approved training course, ~~pursuant to subsection 11B-14.001(9), F.A.C.,~~ indicated on the Training Report form

CJSTC-67, ~~which has been~~ issued by a Commission-certified training school, or the date of certification, whichever is later; or-

2. Determined by the ~~The~~ date indicated on a Commission-approved training Certificate(s) of Completion, or the date of certification, whichever is later; and-

3. No change.

(b) through (c) No change.

(d) Salary incentive monies for Commission-approved Advanced Training Program Courses are transferable from one discipline to another.

(6) Educational Salary Incentive Payments.

(a) No change.

~~(b) To claim eligibility for educational salary incentive payment, an officer shall provide the employing agency an official transcript(s) issued by the institution conferring the degree, or providing academic credit for successful completion of courses.~~

~~(b)(e)~~ The employing agency is responsible for ensuring that the documents submitted for educational salary incentive payments are authentic and accurately reflect the credit given for academic courses successfully completed by the officer, and shall submit or electronically transmit to Commission staff through the Commission's ATMS ~~to Commission staff,~~ a completed Higher Education for Salary Incentive Report, form CJSTC-63, revised May 6, 2004, ~~February 7, 2002,~~ hereby incorporated by reference.

~~(c)(d)~~ Educational salary incentive payments shall begin on or after the date of notice of eligibility indicated on the transcript approval or the date of certification, whichever is later, pursuant to Section 943.22(2)(f), F.S., and no other date shall be used to calculate educational training salary incentive payments.

~~(d)(e)~~ The employing agency shall obtain an official sealed transcript directly from the educational institution conferring the degree, or providing the academic credit for successful completion of courses. The employing agency shall not forward the transcript to Commission staff.

(7) through (11) No change.

(12) Workers' compensation. An officer that is paid while on workers' compensation is entitled to salary incentive payments in the same proportion as a paid salary, pursuant to Section 943.22(2)(h), F.S.

(13) No change.

(14) Sheriffs eligible to qualify for special qualification salary, pursuant to Sections 943.253, F.S., and 145.071, F.S., are authorized to ~~may~~ request salary incentive payment pursuant to Section 943.22(2)(d), F.S., and shall be entitled to salary incentive payment under the programs provided in subsection (3) of this rule section. However, any executive or management courses completed to satisfy the requirements of Section 145.071, F.S., regarding special qualification salary for sheriffs, shall not be credited for salary incentive payments.

~~Documentation shall be provided to sheriffs, by Commission staff, that verifies Commission staff shall provide sheriffs with documentation that verify the number of hours credited for salary incentive payments pursuant to Section 943.22(2)(d), F.S., and the number of hours credited toward continuing education pursuant to Section 145.071(2)(c), F.S.~~

(15) All forms referenced in this rule chapter may be obtained on the following web site: [http://www.fdle.state.fl.us/cist/rules\\_and\\_forms/index.html](http://www.fdle.state.fl.us/cist/rules_and_forms/index.html) or by contacting the Florida Department of Law Enforcement, Criminal Justice Professionalism Program, Post Office Box 1489, Tallahassee, Florida 32302-1489, Attention: Bureau of Standards, Forms Liaison.

Specific Authority 943.03(4), 943.12(1), 943.22(2)(h) FS. Law Implemented 943.22 FS. History—New 10-16-78, Amended 9-11-79, 1-13-81, 5-16-83, 1-7-85, Formerly 11B-14.02, Amended 7-13-87, 9-3-87, 5-23-88, 5-14-92, 12-13-92, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, \_\_\_\_\_.

11B-14.003 Authorized Salary Incentive Payments.

Full-time law enforcement, correctional, and correctional probation officers satisfying the certification requirements of ~~Section Chapter~~ 943.13, F.S., who are not excluded from eligibility pursuant to Section 943.22(4), F.S., shall be eligible to participate in the Salary Incentive Program.

(1) No change.

(2) Pursuant to Sections 943.22(2)(b) and (c), F.S., the maximum amount of educational salary incentive payments an officer may receive shall be limited to \$80 each month for a bachelor or higher degree. Full-time officers who possess an associate degree or equivalent, or a higher degree from an accredited post-secondary institution, are eligible for educational salary incentive payments. ~~However,~~ state officers whose job specifications require a four-year degree are not eligible to receive educational salary incentive payment pursuant to Section 943.22(2)(e), F.S. Pursuant to Section 943.22, F.S., the employing agency is responsible for verifying that the accrediting association is recognized.

(3) Section 943.22(1)(c), F.S., defines an associate college degree or equivalent as “graduation from an accredited community college or successful completion of 60 semester hours or 90 quarter hours and eligibility to receive an associate degree.” To qualify for educational salary incentive payment, a letter from the awarding institution shall be submitted to the employing ~~criminal justice~~ agency, defined in Section 943.10, F.S., stating that the hours completed by the officer are equivalent to a two-year degree and would qualify the officer for a degree if the institution had a two-year degree program.

(4) Pursuant to Section 943.22(2)(d), F.S., officers shall receive the sum of \$20 each month for each successfully completed 80-hour unit of Commission-approved Advanced or Career Development Training, which has been verified by the employing agency, defined in Section 943.10, F.S., agency

through the Commission’s ATMS. Commission staff shall recognize, only once, the successful completion of any specific training course for salary incentive payment.

(5) The maximum amount of salary incentive payments an officer is entitled to receive each month is based on the completion of the following Commission-approved training:

Commission-approved Training	Maximum Salary Incentive Payment
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(a) No change.

(b) Career Development Training

<u>Program</u> Courses on or before June 30, 1985	\$120 maximum
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Advanced Training Program Courses on or after July 1, 1985 Federal or Private Training

(c) through (d) No change.

Specific Authority 943.03(4), 943.12(1), 943.22(2)(h) FS. Law Implemented 943.22 FS. History—New 9-11-79, Amended 1-13-81, 5-16-83, 9-1-83, 4-26-84, 1-7-85, Formerly 11B-14.03, Amended 7-13-87, 1-2-97, 7-7-99, 8-22-00, 11-5-02, \_\_\_\_\_.

11B-14.005 Annual Salary Incentive Compensation Report.

(1) Employing agencies, defined in Section 943.10(4), F.S., shall be responsible for the correct salary incentive payments to full-time officers pursuant to Section 943.22(2)(j), F.S., and shall annually submit to the Commission a Salary Incentive Compensation Report that contains information relative to compensation of full-time officers pursuant to Section 943.22(2)(i), F.S.

(2) Salary incentive courses successfully completed by an officer are reported on the Annual Salary Incentive Compensation Report and are denoted by a code that corresponds with the course code reported by a Commission-certified training school, defined in Section 943.10(16), F.S., or a code that corresponds with federal or private training.

(3) The active Commission-approved Advanced Training Program Courses ~~advanced training courses~~ approved for salary incentive payments are listed in subsection 11B-35.006(2)(4), F.A.C.

(4) The following inactive Advanced Training Program Courses ~~advanced training courses~~ were eligible for salary incentive payments for the dates as indicated:

<u>Course Title</u>	<u>Course Code</u>	<u>Course Hours</u>	<u>Course Inactive Date</u>
Field Training Officer <del>40 hours</del>	051	40	7/1/02

Specific Authority 943.03(4), 943.12(1), 943.22(2)(i) FS. Law Implemented 943.22 FS. History—New 11-5-02, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Ms. Donna Hunt, Government Operations Consultant, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489, (850)410-8615

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Bureau Chief Vickie Marsey, Florida Department of Law Enforcement, Criminal Justice Professionalism Program

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 23, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 9, 2004

**DEPARTMENT OF LAW ENFORCEMENT**

**Criminal Justice Standards and Training Commission**

RULE CHAPTER TITLE: Criminal Justice Standards and Training Trust Fund

RULE CHAPTER NO.: 11B-18

RULE TITLES: Operational Definitions

RULE NOS.: 11B-18.003

Regional Training Areas

11B-18.004

Establishment of Regional Training Councils

11B-18.005

Development of Budgets

11B-18.0052

Officer Training Monies Budget and Expenditure Categories

11B-18.0053

Development of Officer Training Monies Budgets and Required Reports

11B-18.0071

Areas of Responsibility

11B-18.008

Criminal Justice Standards and Training Commission Fiscal Program Audits and Instruction and Facility Evaluations

11B-18.010

PURPOSE AND EFFECT: Clarifies rule language, creates a new Commission form, clarifies membership criteria, and revises audit procedures.

SUMMARY: Revises operational definitions; revises voting requirements for regional training councils; updates agency list of eligible support personnel allowed to use trust funds; creates Commission form CJSTC-311; makes grammatical and clarification modifications; revises the requirements for reporting operating capital outlay; and revises the fiscal program audit process regarding letter of censures.

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 working days of this notice.

SPECIFIC AUTHORITY: 943.03(4), 943.12(1),(2), 943.25(2),(4),(5),(b) FS.

LAW IMPLEMENTED: 943.12(5), 943.25, 943.25(4),(5) FS.

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

TIME AND DATE: 1:00 p.m., September 28, 2004

PLACE: 2331 Phillips Road, Elevator Conference Room, Quad C, 3rd Floor, Tallahassee, Florida 32308-1489

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Pursuant with the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 days prior to the workshop by contacting: Donna Hunt, (850)410-8615 or TDD Number (850)656-9597.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Donna Hunt, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489, (850)410-8615

THE FULL TEXT OF THE PROPOSED RULES IS:

11B-18.003 Operational Definitions.

For the purpose of this rule chapter, the definitions of "Auxiliary Law Enforcement Officer," "Auxiliary Correctional Officer," "Auxiliary Correctional Probation Officer," "Commission," "Correctional Officer," "Correctional Probation Officer," "Criminal Justice Training School," "Commission staff," "Program," "Employing Agency," "Law Enforcement Officer," "Officer," "Part-time Law Enforcement Officer," "Part-time Correctional Officer," "Part-time Correctional Probation Officer," "Private Criminal Justice Training School," "Public Criminal Justice Training School," "Support Personnel," and "Training Center Director," pursuant to Section 943.10, F.S., shall apply. The operational definitions are as follows:

(1) "Advanced Training Program" means Commission-approved courses that are curriculum approved by the Commission that is limited to training that enhances courses enhancing an officer's knowledge, skills, and abilities for the job an officer performs pursuant to Section 943.17(1)(b), F.S.

(2) through (4) No change.

(5) "Criminal Justice Standards and Training Trust Fund" means "Officer Training Monies" appropriated by the Legislature to provide Commission-approved Advanced and Specialized Training Program Courses for law enforcement, correctional, and correctional probation officers pursuant to Section 943.25(2), F.S.

(6) through (21) No change.

(22) "Advanced Training Course" on or after July 1, 1985, means a Commission-approved course in the Advanced Training Program Course approved by the Commission that enhances an officer's knowledge, skills, and abilities for the

job performed, pursuant to Section 943.17(1)(b), F.S., and for the purpose of this rule chapter, means shall means Commission-approved Training Program Courses.

(23) "Commission-certified training school" means shall mean a training school pursuant to Section 943.10(16), F.S.

(24) "Training funded with Officer Training Monies" means Commission-approved Advanced and Specialized Training Program Courses funded in whole or in part with Officer Training Monies.

(25) "Student fees funded with Officer Training Monies" means payment for tuition, lab fees, and other related fees, for Commission-approved Advanced and Specialized Training Program Courses that have been approved by a community college or school district.

Specific Authority 943.03(4), 943.12(1),(2) FS. Law Implemented 943.12(5), 943.25(4) FS. (Supp. 1998). History—New 1-13-81, Amended 7-28-82, 1-26-83, 1-7-85, 1-28-86, Formerly 11B-18.03, Amended 7-13-87, 5-23-88, 12-13-92, 1-2-97, 7-7-99, 8-22-00, 11-5-02, \_\_\_\_\_.

11B-18.004 Regional Training Areas.

For the purposes of Officer Training Monies activities, there are established the following sixteen regional training areas:

(1) through (12) No change.

(13) Region XIII.

(a) No change.

(b) Commission-certified training school within Region XIII: Broward Community College Criminal Justice Institute of Public Safety and Broward Sheriff's Office Institute for Criminal Justice Studies.

(14) through (16) No change.

Specific Authority 943.03(4), 943.12(1),(2) FS. Law Implemented 943.25(5) FS. (Supp. 1998). History—New 1-13-81, Amended 7-28-82, 1-7-85, Formerly 11B-18.04, Amended 7-13-87, 1-2-97, 7-7-99, 8-22-00, 11-5-02, \_\_\_\_\_.

11B-18.005 Establishment of Regional Training Councils.

(1) through (4) No change.

(5) Each Local Regional Training Council shall be comprised of the following:

(a) through (b) No change.

(c) Not more than three members representing Commission-certified training schools. Members representing Commission-certified training schools shall be training center directors.

(d) A single Commission-certified training school, correctional agency, or law enforcement agency shall not have more than two voting members. one representative unless, in the view of the Commission, the addition of other representatives from the same agency does not adversely impact the representative nature of the Regional Training Council.

(e) through (g) No change.

(6) through (7) No change.

Specific Authority 943.03(4), 943.12(1),(2) FS. Law Implemented 943.25(5) FS. History—New 1-13-81, Amended 7-28-82, 1-7-85, (7),(8) Transferred to 11B-18.051, Formerly 11B-18.05, Amended 7-13-87, 5-23-88, 10-17-90, 12-13-92, 1-2-97, 7-7-99, 8-22-00, 11-5-02, \_\_\_\_\_.

11B-18.0052 Development of Budgets.

(1) through (3) No change.

(3) All forms referenced in this rule may be obtained on the following web site: [http://www.fdle.state.fl.us/cjst/rules\\_and\\_forms/index.html](http://www.fdle.state.fl.us/cjst/rules_and_forms/index.html) or by contacting the Florida Department of Law Enforcement, Criminal Justice Professionalism Program, Post Office Box 1489, Tallahassee, Florida 32302-1489, Attention: Bureau of Standards, Forms Liaison.

Specific Authority 943.03(4), 943.12(1),(2), 943.25(4),(5)(b) FS. Law Implemented 943.25 FS. History—New 1-13-81, Amended 7-28-82, 1-26-83, 1-7-85, Formerly 11B-18.052(2)(a),(b), Amended 1-28-86, 7-13-87, 10-17-90, 12-13-92, 1-2-97, 7-7-99, 8-22-00, 11-5-02, \_\_\_\_\_.

11B-18.0053 Officer Training Monies Budget and Expenditure Categories.

(1) through (2) No change.

(3) Category II, Training Expenses. Each region shall not budget less than 80% of the total regional allocation of Officer Training Monies for the purpose of delivering regional Commission-approved Advanced Training Courses and Specialized Training Program Courses.

(a) Criminal justice officers and support personnel, pursuant to Section 943.10, F.S., are authorized to expend Officer Training Monies to attend Advanced Training Courses and Specialized Training Program Courses delivered through a Commission-certified training school, provided ~~that~~ the support personnel does ~~do~~ not displace a certified officer. The Criminal Justice Standards and Training Commission has further authorized the following personnel to attend courses funded with Officer Training Monies:

1. through 3. No change.

4. Department of Banking and Finance, Office of Financial Investigations, on a space available basis, provided a Florida officer is not displaced.

(b) Officer Training Monies, pursuant to subsection 11B-18.003(24) or (25), F.A.C., shall be expended for Commission-approved Advanced Training Courses and Specialized Training Program Courses set forth in Rules 11B-35.006 and 11B-35.007, F.A.C., and shall not be used for reoccurring expenses incurred by a Commission-certified training school.

(c) Each training region shall offer Commission-approved Advanced Training Courses and Specialized Training Program Courses funded with Officer Training Monies, to officers within its respective region, prior to accepting officers or support personnel from other regions.

(d) No change.

(e) If ~~Commission-approved~~ Advanced Training Courses and Specialized Training Program Courses are funded with Officer Training Monies, the training and room or board costs may not be assessed against the officer, support personnel, or their employing agency, pursuant to Section 943.25(6), F.S. If an officer is not employed or appointed by an employing agency of Florida, the officer may attend a course funded with Officer Training Monies, provided the officer pays for all training costs associated with course attendance, pursuant to Section 943.25(6)(b), F.S. Reimbursement of these costs, excluding out-of-state tuition, shall be deposited in the Commission-certified training school's Officer Training Monies account.

(4) Category III, Operating Capital Outlay Expenses. Each region shall not budget more than 15% of the total regional allocation to purchase items that are non-consumable and non-expendable. Category III Operating Capital Outlay Expenses fall into the following categories:

(a) "Expense" Operating Capital Outlay. Expense operating capital outlay purchases that cost less than \$500 with a life expectancy of one year or more, shall be limited to items purchased that are required for delivery of ~~Commission-approved~~ Advanced Training Courses and Specialized Training Program Courses. Officer Training Monies shall not be used for training school expenditures used to fulfill the certification and recertification requirements of Rule 11B-21.005, F.A.C.

(b) No change.

(c) Operating Capital Outlay property purchased for use other than for the direct support of ~~Commission-approved~~ Advanced Training Program Courses pursuant to Rule 11B-35.006, F.A.C., and Specialized Training Program Courses pursuant to Rule 11B-35.007, F.A.C., are not appropriate purchases.

(d) No change.

(e) Operating Capital Outlay Property shall not be disposed of or transferred without prior notification to and approval by Commission staff. An Operating Capital Outlay Property Disposal Request, form CJSTC-311, created May 6, 2004, hereby incorporated by reference, shall be completed and submitted to Commission staff when disposing or transferring Operating Capital Outlay Property.

1. Usable Operating Capital Outlay Property. ~~Usable Disposal of all usable~~ property shall be offered to other Commission-certified training schools in Florida prior to selling or disposing of the property. To transfer Operating Capital Outlay Property from one training school to another, the transferring training school shall forward to Commission staff a completed form CJSTC-311, which shall be signed by the training center director a letter identifying the property, the value of the item, purchase date, present physical location, and proposed transfer location. The training center director and Regional Training Council Chairman shall sign the letter.

2. Obsolete ~~or Unusable~~ Operating Capital Outlay Property. A Commission-certified training school shall notify Commission staff on form CJSTC-311, in writing to request disposal of obsolete property. A written verification of the condition of the property shall be included. Commission staff shall physically view the property and approve the written verification of the condition of the property prior to disposal or trading of the property. Obsolete property may be traded for credit on the purchase of new property. Money received from the disposal of property purchased with Officer Training Monies shall be returned to Commission staff for deposit into the Criminal Justice Standards and Training Trust Fund.

3. No change.

(f) Audit of Operating Capital Outlay ~~Property~~. Operating Capital Outlay ~~Property~~ purchased by a Commission-certified training school, using Officer Training Monies, shall be made available to Commission staff and inventoried during the audit for the fiscal year the property was purchased.

1. No change.

2. ~~Annual audits shall be completed and submitted to Commission staff by October 1 each year.~~ Commission staff is authorized to may also conduct spot inventories, on demand, of items purchased with Officer Training Monies.

3. through 5. No change.

Specific Authority 943.03(4), 943.12(1),(2), 943.25(2),(4),(5) FS. Law Implemented 943.25 FS. History--New 11-5-02, Amended.

11B-18.0071 Development of Officer Training Monies Budgets and Required Reports.

(1) Operating Budget. No later than February 1 of each year, the Officer Training Monies Operating Budget, form CJSTC-310, revised February 7, 2002, hereby incorporated by reference, shall be submitted to Commission staff by each Regional Training Council and shall reflect the region's proposed operating budget for the upcoming fiscal year, beginning July 1 and ending June 30 of the next year, based on the Officer Training Monies available and projected for the region pursuant to subsection 11B-18.0052(1), F.A.C. The region shall also include a request to expend the previous year's accrued interest pursuant to subsection (5) of this rule section. Each Regional Training Council is responsible for including in its approved budget, the Criminal Justice Standards and Training Commission's priority budget issues as they relate to the training needs of the region. The region's projected annual operating budget shall list items in order of priority within each budget category as set forth in Rule subsections 11B-18.0053(1) and (2), F.A.C. A region that fails to meet the required deadline, or fails to receive an extension of the submission deadline from Commission staff, shall forfeit the opportunity to propose an operating budget for the region and Commission-certified training schools for that fiscal year. Officer Training Monies forfeited by a region due to noncompliance with the February 1 deadline shall be

distributed to other regions in the state based on the statewide distribution formula set forth in subsection 11B-18.0052(2), F.A.C.

(2) Budget Amendment and Programmatic Change. The Officer Training Monies Programmatic Change and Budget Amendment, form CJSTC-302, revised February 7, 2002, hereby incorporated by reference, shall be used by a Commission-certified training school through its Regional Training Council to reflect changes to its annual operating budget.

(a) through (c) No change.

(3) No change.

(4) Year-End Fiscal Report. Each Regional Fiscal Agent shall submit to Commission staff a completed Officer Training Monies Year-End Fiscal Report, form CJSTC-301, revised February 7, 2002, hereby incorporated by reference, reporting all expenditures, to include a list of all Operating Capital Outlay ~~P~~roperty purchased pursuant to subsection 11B-18.0053(4), F.A.C. The report shall be filed by October 30 of each year and shall include interest earned for the previous fiscal year ending June 30.

(a) No change.

(b) Unencumbered Officer Training Monies. Officer Training Monies not expended and not encumbered on June 30, shall be reported on form CJSTC-301 and filed by a training school on or before October 30 of each year. The training school shall attach a check or warrant payable to the Criminal Justice Standards and Training Trust Fund in the amount equal to the unexpended unencumbered funds for the year.

(5) Interest Earned. A training school may deposit Officer Training Monies in interest bearing accounts based on the authority granted by the State Comptroller. Interest earned shall be expended consistent with Category II and Category III expenditures set forth in subsections 11B-18.0053(3) and (4), F.A.C., and are not subject to the distribution formula. A separate operating budget for accrued interest shall be submitted by the Regional Training Councils. The training school shall report interest earned and corresponding expenditures to Commission staff on the following forms:

(a) The Officer Training Monies Semi-annual Expenditure Report; form CJSTC-300, pursuant to subsection 11B-18.0071(3), F.A.C., submitted to Commission staff no later than 45 days after the end of the two reporting periods of June 30 and December 31, shall include a report of all expenditures made during the interest budget period the interest was accrued. Interest earned by a training school shall be expended by June 30 of the year the Commission approved the expenditure. Interest earned shall ~~can~~ not be encumbered, and if not expended, shall be returned to the Commission no later than 90 days following June 30, which is the close of the fiscal year.

(b) No change.

Specific Authority 943.03(4), 943.12(1),(2), 943.25(4),(5) FS. Law Implemented 943.25 FS. History—New 1-13-81, Amended 7-1-81, 7-28-82, 1-7-85, 1-28-86, Formerly 11B-18.071, Amended 7-13-87, 5-23-88, 10-17-90, 12-13-92, 1-2-97, 7-7-99, 8-22-00, 11-5-02, \_\_\_\_\_.

11B-18.008 Areas of Responsibility.

With regard to the Criminal Justice Standards and Training Trust Fund Officer Training Monies, the following entities shall have responsibilities outlined in subsections ~~paragraphs~~ (1)-(3) of this rule section.

(1) through (2) No change.

(3) The responsibilities of ~~the~~ Commission-certified training schools are to:

(a) through (d) No change.

(e) Begin training courses, for which Officer Training Monies are expended, funded with Officer Training Monies on or before June 30 of the current fiscal year.

(f) through (g) No change.

Specific Authority 943.03(4), 943.12(1),(2), 943.25(5) FS. Law Implemented 943.25 FS. History—New 1-13-81, Amended 7-1-81, 7-28-82, 1-7-85, 1-28-86, Formerly 11B-18.08, Amended 7-13-87, 5-23-88, 10-17-90, 12-13-92, 1-2-97, 7-7-99, 8-22-00, 11-5-02, \_\_\_\_\_.

11B-18.010 Criminal Justice Standards and Training Commission Fiscal Program Audits and Instruction and Facility Evaluations.

Commission staff conducts a fiscal and program audit and instruction and facility evaluation of training schools within each region. The audit and instruction facility inspection performed by Commission staff shall establish a comprehensive analysis of training schools to ensure compliance with Chapter 943, F.S., and Rule Chapter 11B-18, F.A.C.

(1) through (4) No change.

(5) Failure to respond to, and continued non-compliance with applicable Florida Statutes and Commission rules shall result in punitive action by the Criminal Justice Standards and Training Commission to include:

(a) When training schools fail to respond in writing to the audit, Commission staff shall write a letter of concern to the training center director requesting a written response to the audit ~~to the administrative head of the training school requesting a written response to the audit. Copies of the letter shall be sent to the administrative head of the agency or entity, fiscal agent, and the regional chairperson.~~

(b) No change.

(c) Continued failure for three years to comply with Chapter 943, F.S., and Rule Chapter 11B-18, F.A.C., shall result in the Commission writing a letter of censure to the administrative head of the entity and to the training center director ~~training school~~ requesting a written plan for compliance with applicable Florida Statutes and Commission rules.

(d) If compliance is not achieved by following paragraphs (5)(a)-(c) of this rule section, the Commission shall take disciplinary action pursuant to the disciplinary guidelines set forth in Rule 11B-21.018, F.A.C.

Specific Authority 943.03(4), 943.12(1),(2), 943.25(4),(5) FS. Law Implemented 943.12(5) FS. History—New 11-5-02, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ms. Donna Hunt, Government Operations Consultant, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489, (850)410-8615

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Bureau Chief Vickie Marsey, Florida Department of Law Enforcement, Criminal Justice Professionalism Program

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 23, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 9, 2004

**DEPARTMENT OF LAW ENFORCEMENT**

**Division of Criminal Justice Information Systems**

RULE CHAPTER TITLE: Criminal History Records  
 RULE CHAPTER NO.: 11C-6

Dissemination Policy  
 RULE TITLE: Retention of Applicant Fingerprints  
 RULE NO.: 11C-6.010

PURPOSE AND EFFECT: Creation of the rule is required by statute. The rule specifies the manner in which applicant fingerprints will be retained by the Department of Law Enforcement.

SUMMARY: Specifies manner in which applicant fingerprints submitted for criminal history background checks will be retained in the Applicant Fingerprint Retention and Notification Program, searched against incoming arrest fingerprints, notification given to the submitting agency when a match is found, and in which the submitting agency will be charged for this service.

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 working days of this notice.

SPECIFIC AUTHORITY: 1012.32(3), 1012.465, 1012.56 FS.

LAW IMPLEMENTED: 1012.32(3), 1012.465, 1012.56 FS.

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

TIME AND DATE: 1:00 p.m., September 28, 2004

PLACE: 2331 Phillips Road, Elevator Conference Room, Quad C, 3rd Floor, Tallahassee, Florida 32308-1489

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Pursuant with the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 days prior to the workshop by contacting: Donna Hunt, (850)410-8615, TDD Number (850)656-9597.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Martha Wright, Bureau Chief, User Services Bureau, Criminal Justice Information Services, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, Florida 32302

THE FULL TEXT OF THE PROPOSED RULE IS:

CRIMINAL HISTORY RECORDS  
 DISSEMINATION POLICY

11C-6.010 Retention of Applicant Fingerprints.

(1) The Florida Department of Law Enforcement shall enter and retain in the Automated Fingerprint Identification System (AFIS) the applicant fingerprints submitted for state and national criminal history checks by agencies having statutory authorization, as indicated in the Law Implemented section below, to participate in the Applicant Fingerprint Retention and Notification Program (AFRNP) for current and prospective employees, contractors, volunteers, and persons seeking to be licensed or certified.

(2) Such applicant fingerprints shall be submitted on paper or in a digitized format for entry into AFIS, and shall be retained in the AFRNP database, in such a manner as to be distinct from the criminal history record database.

(3) Agencies submitting applicant fingerprints in accordance with the authorizing statute, as indicated in the Law Implemented section below, shall notify individual applicants of the requirements of participation in the AFRNP.

(4) When the subject of fingerprints submitted for retention under this program is identified with fingerprints from an incoming Florida arrest, as confirmed by fingerprint comparison, the Department shall immediately advise the agency which submitted the applicant fingerprints of the arrest in writing. Arrests made in other states or by the federal government will not result in notification, as access to these arrests is restricted by federal law. The information on arrests for these applicants in other states and by the federal government is available only upon a fingerprint submission to the Federal Bureau of Investigation.

(5) The annual fee for participation in the AFRNP shall be \$6 per individual record retained.

(6) The initial entry of an applicant's fingerprints into the AFRNP database must be accompanied by a state and national criminal history records check. There is no additional fee for the first year of participation in the program. For each succeeding year, the \$6 per record annual fee will be charged.

(7) Governmental agencies will be charged this fee in one of two ways according to the agency's preference:



(a) Annually in advance on October 1; or

(b) Annually in advance on the anniversary of the individual applicant's initial entry into the program.

(8) As a condition of participation in the AFRNP, the agency must inform the Department in writing and receive written confirmation from the Department of all persons with retained fingerprints who are no longer employed, licensed, certified, or otherwise associated with the agency in order that such persons may be removed from the AFRNP database. With respect to any person previously entered in the database for whom the Department does not receive notification of removal by September 29 in the case of the first billing option above at paragraph (7), or by two days prior to the anniversary date in the case of the second billing option, the annual fee must be paid.

Specific Authority 1012.32(3), 1012.465, 1012.56 FS. Law Implemented 1012.32(3), 1012.465, 1012.56 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: John Booth, Assistant General Counsel, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308, (850)410-7676

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Martha Wright, Bureau Chief, User Services, Criminal Justice Information Services, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 23, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 9, 2004

**DEPARTMENT OF LAW ENFORCEMENT**

**Division of Local Law Enforcement Assistance**

RULE TITLES:	RULE NOS.:
Definitions	11D-8.002
Approval of Breath Test Methods and Instruments	11D-8.003
Approval of Alcohol Reference Solution and Sources	11D-8.0035
Approval of Dry Gas Standards Source	11D-8.0036
Department Inspection and Registration of Breath Test Instruments	11D-8.004
Agency Inspection of Breath Test Instruments	11D-8.006
Approved Breath Test Instruments – Access, Facility Requirements, Observation Period, and Operational Procedures	11D-8.007
Agency Retention of Records	11D-8.0075
Breath Test Operator and Agency Inspector Qualifications for Instructors	11D-8.008
Blood Alcohol Permit – Analyst	11D-8.013
Denial, Revocation, and Suspension of Permits	11D-8.015
Forms	11D-8.017

PURPOSE AND EFFECT: Revisions to the above rules are necessary to address new instrumentation for use in Florida and recent developments in the field of alcohol testing.

SUMMARY: Revisions to Chapter 11D-8, F.A.C., pertain to the regulation and implementation of Florida's implied consent and alcohol testing program. The revisions govern definitions based on scientific and common usage; standards for issuance and regulation of permits; evaluation and approval of breath and blood alcohol analysis methods; approval, use, and inspection of breath test instruments and records; and training requirements and qualifications.

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 working days of this notice.

SPECIFIC AUTHORITY: 316.1932(1)(a)2., 316.1932(1)(f)1., 322.63(3)(a), 327.352(1)(b)3., 327.352(1)(d) FS.

LAW IMPLEMENTED: 316.1932(1)(b), 316.1933(2)(b), 316.1934(3), 322.63(3), 327.352(1)(e), 327.353(2)(b), 327.354(3) FS.

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

TIME AND DATE: 1:00 p.m., September 28, 2004

PLACE: 2331 Phillips Road, Elevator Conference Room, Quad C, 3rd Floor, Tallahassee, Florida 32308-1489

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Pursuant with the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 days prior to the workshop by contacting: Donna Hunt, at (850)410-8615, TDD Number (850)656-9597.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Rafael E. Madrigal, Assistant General Counsel, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, Florida 32302

THE FULL TEXT OF THE PROPOSED RULES IS:

11D-8.002 Definitions.

(1) Acceptable Range – ~~means~~ the results of alcohol reference solutions ~~agency or department inspections~~ and dry gas standard analyses which fall within the following ranges at each alcohol vapor concentration: 0.05 g/210L range is 0.045 to 0.055 g/210L; 0.08 g/210L range is 0.075 to 0.085 g/210L; 0.20 g/210L range is 0.190 to 0.210 g/210L; or the Alcohol Reference Solution gas chromatographic results which fall within the following ranges: 0.0605 g/100mL range is 0.0586

to 0.0623 g/100mL; 0.0968 g/100mL range is 0.0938 to 0.0997 g/100mL; 0.2420 g/100mL range is 0.2347 to 0.2492 g/100mL.

(2) through (9) No change.

(10) Analyst – a person who has been issued a ~~Blood Analyst~~ permit by the Department to conduct blood alcohol analyses.

(11) through (12) No change.

(13) Authorized Repair Facility – an entity authorized by the breath test instrument manufacturer to service and repair such breath test instrument.

(14) through (19) No change.

(20) Dry Gas Standard – a standard consisting of a mixture of alcohol and gas which produces a known alcohol vapor concentration used to verify the calibration of a breath test instrument.

(21) through (23) No change.

(24) Permit – when issued by the Department, certifies that the holder has met all necessary qualifications, remains in full compliance with these rules and is authorized to perform all related duties. A permit is issued only to a qualified applicant and remains valid and in full effect until determined otherwise by the Department. ~~An inactive permit remains valid, but the permit holder is not authorized to perform duties related to the permit until satisfaction of the applicable requirements.~~

(25) through (26) No change.

Specific Authority 316.1932(1)(a)2.,(f)1., 316.1933(2)(b), 316.1934(3), 322.63(3)(a),(b), 327.352(1)(b)3. FS. Law Implemented 316.1932(1)(b)2., 316.1933(2)(b), 316.1934(3), 322.63(3)(b), 327.352(1)(e), 327.353(2), 327.354(3) FS. History–New 10-31-93, Amended 1-1-97, 7-6-99, 7-29-01, 11-5-02, \_\_\_\_\_.

11D-8.003 Approval of Breath Test Methods and Instruments.

(1) No change.

(2) The Department approves breath test methods and new instrumentation to ensure the accuracy and reliability of breath test results. The Department has approved the following breath test instrumentation instrument(s) for evidentiary use: CMI, Inc. Intoxilyzer 5000 Series – including any or all instruments using one of the following programs: 5000 Basic Software Program; Florida Software Program; R-Software Program; and CMI, Inc. Intoxilyzer 8000 using software evaluated approved by the Department in accordance with Instrument Evaluation Procedures FDLE/ATP Form 34 – Rev. March 2004 2002.

(3) No change.

~~(4) The determination to evaluate an evidentiary breath test instrument for use in the State of Florida will be made by the Department. Upon notification by the Department that an evidentiary breath test instrument will be evaluated, the instrument's manufacturer shall submit the following to the Department:~~

~~(a) The method of analysis upon which the instrument is based;~~

~~(b) The instrument's model designation;~~

~~(c) At least two (2) instruments for evaluation and a certificate of calibration for each instrument;~~

~~(d) A description of the instrument;~~

~~(e) The operator's/technician's manual;~~

~~(f) A schematic design and a mechanical drawing of the instrument;~~

~~(g) The instrument's maintenance manual, if published;~~

~~(h) Any accessories and materials necessary to use the instrument for breath testing;~~

~~(i) The maximum and minimum temperatures at which the instrument provides accurate results;~~

~~(j) The name and description of the software used.~~

~~(4)(5) A Department inspection performed in accordance with Rule 11D-8.004, F.A.C., validates the approval, accuracy and reliability of an evidentiary breath test instrument manufacturer whose instrument has been previously approved by the Department shall notify the Department in writing prior to making any modification or adding a new option to such instrument. The Department shall evaluate such modifications or options to an approved breath test instrument and determine whether they affect the instrument's method of analysis or analytical reliability.~~

~~(5)(6) The Department shall conduct evaluations for approval of new instrumentation under subsections (4) and (5) in accordance with Instrument Evaluation Procedures FDLE/ATP Form 34 – Rev. March 2004 2002.~~

~~(6)(7) The availability or approval of new instruments, software, options or modifications does not negate the approval status of previously approved instruments, software, options or modifications.~~

Specific Authority 316.1932(1)(a)2.,(f)1., 322.63(3)(a),(b), 327.352(1)(b)3. FS. Law Implemented 316.1932(1)(b)2., 316.1934(3), 322.63(3)(b), 327.352(1)(e), 327.354(3) FS. History–New 10-31-93, Amended 1-1-97, 7-29-01, 11-5-02, \_\_\_\_\_.

11D-8.0035 Approval of Alcohol Reference Solution and Sources.

(1) The Department shall approve a source of alcohol reference solution for use by agencies in the State of Florida. The source approved by the Department shall be an entity that manufactures alcohol reference solutions and meets the following requirements:

(a) The source must prepare alcohol reference solution, and be capable of producing a minimum batch volume of 800 bottles, each containing at least 500 milliliters, to produce the following vapor alcohol concentrations: 0.05 g/210L, 0.08 g/210L, and 0.20 g/210L, using only distilled or deionized water;

~~(b) The source must use reagent grade or U.S.P. grade ethanol in the preparation of the alcohol reference solution;~~

(e) ~~The source must be capable of producing a minimum batch volume of 800 bottles, each containing at least 500 milliliters, to produce the following vapor alcohol concentrations: 0.05 g/210L, 0.08 g/210L, and 0.20 g/210L;~~

~~(b)(4) The source must have performed and documented tests that demonstrate that the alcohol reference solutions are reliable for at least two years from the date of manufacture.~~

(2) The Department shall approve each lot of alcohol reference solution prior to distribution for use in Florida.

(a) No change.

(b) The Department shall notify the source that the approved lots may be distributed for use in Florida, and shall issue a Certificate of Assurance, FDLE/ATP Form 32 – Rev. March 2001. ~~Upon a determination by the Department that a lot of alcohol reference solution fails to meet the requirements for approval, the Department shall notify the source approved by the Department.~~

(3) through (4) No change.

Specific Authority 316.1932(1)(a)2., 316.1932(1)(f)1., 322.63(3)(a), 327.352(1)(b)3., 327.352(1)(d) FS. Law Implemented 316.1932(1)(b)2, 316.1934(3), 322.63(3)(b), 327.352(1)(e), 327.354(3) FS. History–New 7-6-99, Amended 7-29-01, \_\_\_\_\_.

#### 11D-8.0036 Approval of Dry Gas Standards Source.

(1) The Department shall approve a source of dry gas standards for use by agencies in the State of Florida. The source approved by the Department shall be an entity that manufactures dry gas standards and meets the following requirements:

(a) The source must produce dry gas standards which are traceable to comply with specifications of the National Institute of Standards and Technology.

(b) Each dry gas standard ~~lot~~ ~~eylinder~~ produced by the source must be certified by the source as to its contents and ~~vapor~~ alcohol concentration.

(c) The source must be capable of producing a minimum of ~~300~~ 800 cylinders of dry gas standard during a thirty day period at ~~an a vapor~~ alcohol concentration of 0.08 g/210L.

(d) No change.

~~(e) The Department shall verify using infrared spectroscopy or another scientifically accepted method the vapor alcohol concentration in a minimum of ten sample cylinders of dry gas standard produced by the source. Ten (10) analyses will be performed on each sample cylinder of dry gas standard using an approved breath test instrument. All analytical results must fall within the dry gas standard acceptable range. The calibration of the breath test instrument shall be verified prior to analysis of the dry gas standards by obtaining two results of alcohol reference solution concentrations of 0.05 g/210L, 0.08 g/210L, and 0.20 g/210L.~~

(2) Dry gas standard cylinders produced by the approved source must not be used in agency or Department inspections beyond ~~within two years of the expiration date of manufacture.~~

Specific Authority 316.1932(1)(a)2.,(f)1., 322.63(3)(a),(b), 327.352(1)(b)3. FS. Law Implemented 316.1932(1)(b)2., 316.1934(3), 322.63(3)(b), 327.352(1)(e), 327.354(3) FS. History–New 11-5-02, Amended \_\_\_\_\_.

#### 11D-8.004 Department Inspection and Registration of Breath Test Instruments.

(1) The Department shall register and inspect a breath test instrument prior to such instrument being initially placed into evidentiary use by an agency. The inspection validates the instrument's approval for evidentiary use, and the registration denotes an instrument approved pursuant to these rules and shall reflect the registration date, the owner of the instrument, the instrument serial number, the manufacturer, and the model designation. A new registration is required to reflect a change of ownership of an evidentiary instrument.

(2) Registered breath test instruments shall be inspected by the Department at least once each calendar year, and must be accessible to the Department for inspection. Any evidentiary breath test instrument returned from an authorized repair facility shall be inspected by the Department prior to being placed in evidentiary use. The inspection validates the instrument's approval for evidentiary use.

(3) Department inspections shall be conducted in accordance with Department Inspection Procedures FDLE/ATP Form 35 – Rev. March ~~2004~~ ~~2002~~ for the Intoxilyzer 5000 Series, or Department Inspection Procedures – Intoxilyzer 8000 FDLE/ATP Form 36 – March ~~2004~~ ~~2002~~ for the Intoxilyzer 8000.

(4) No change.

Specific Authority 316.1932(1)(a)2.,(f)1., 322.63(3)(a), 327.352(1)(b)3. FS. Law Implemented 316.1932(1)(b)2., 316.1934(3), 322.63(3)(b), 327.352(1)(e), 327.354(3) FS. History–New 10-31-93, Amended 1-1-97, 7-29-01, 11-5-02, \_\_\_\_\_.

#### 11D-8.006 Agency Inspection of Breath Test Instruments.

(1) Evidentiary breath test instruments shall be inspected by an agency inspector at least once each calendar month. The agency inspection shall be conducted in accordance with Agency Inspection Procedures FDLE/ATP Form 16 – Rev. March ~~2004~~ ~~2002~~ for the Intoxilyzer 5000 Series, or Agency Inspection Procedures – Intoxilyzer 8000 FDLE/ATP Form 39 – March ~~2004~~ ~~2002~~ for the Intoxilyzer 8000.

(2) through (3) No change.

Specific Authority 316.1932(1)(a)2.,(f)1., 322.63(3)(a), 327.352(1)(b)3. FS. Law Implemented 316.1932(1)(b)2., 316.1934(3), 322.63(3)(b), 327.352(1)(e), 327.354(3) FS. History–New 10-31-93, Amended 1-1-97, 7-29-01, 11-5-02, \_\_\_\_\_.

#### 11D-8.007 Approved Breath Test Instruments – Access, Facility Requirements, Observation Period, and Operational Procedures.

(1) Evidentiary breath test instruments shall only be accessible to a person issued a valid permit by the Department and to persons authorized by ~~in the presence of~~ a permit holder. This section does not prohibit agencies from sending an instrument to an authorized repair facility.

(2) through (5) No change.

Specific Authority 316.1932(1)(a)2.,(f)1., 322.63(3)(a), 327.352(1)(b)3. FS. Law Implemented 316.1932(1)(b)2., 316.1934(3), 322.63(3)(b), 327.352(1)(e), 327.354(3) FS. History–New 10-31-93, Amended 1-1-97, 7-29-01, 11-5-02,\_\_\_\_\_.

11D-8.0075 Agency Retention of Records.

(1) Each agency shall maintain the following records for at least three years from the last entry date: agency inspection reports and agency inspection print cards, breath test logs, and breath test instrument repair records. The breath test instrument registration shall be retained by an agency for at least three years after the instrument is removed from evidentiary use. Dry gas standard certificates of analysis shall be retained by an agency for at least three years after receipt.

(2) The above records shall be accessible to the Department upon request. At least once each calendar month each agency shall electronically transmit to the Department all breath tests conducted on that agency’s Intoxilyzer 8000 evidentiary breath test instruments.

(3) No change.

Specific Authority 316.1932(1)(a)2.,(f)1., 322.63(3)(a), 327.352(1)(b)3. FS. Law Implemented 322.63(3), 327.354(3) FS. History–New 7-29-01, Amended 11-5-02,\_\_\_\_\_.

11D-8.008 Breath Test Operator and Agency Inspector.

(1) Qualifications for Breath Test Operator Permit – An applicant for a breath test operator permit must meet the following qualifications:

(a) through (b) No change.

(c) Present employment by an agency, or the Department; ~~or documentation from an agency head certifying that the person will be employed or authorized by the agency to conduct breath tests or agency inspections;~~

(d) No change.

(e) Submit to the Department a complete written ~~or electronic~~ application and proof copies of the certificate of course completion, examination results, proficiency testing documentation and proof of age upon successful completion of the breath test operator course, but no later than ninety days after completion. The applicant shall also provide the above documentation to the applicant’s employing agency.

(2) Qualifications for Agency Inspector Permit – An applicant for an agency inspector permit must meet the following qualifications:

(a) through (b) No change.

(c) Submits to the Department a complete written ~~or electronic~~ application and proof copies of the certificate of course completion, examination results and proficiency testing documentation upon successful completion of the agency inspector course, but no later than ninety days after completion. The applicant shall also provide the above documentation to the applicant’s employing agency.

(d) Present employment by an agency or the Department.

(3) Breath Test Operators and Agency Inspectors must satisfy continuing education requirements in order to maintain valid permits, ~~and must provide proof of compliance to their employing agencies.~~ Continuing education requires successful completion of the applicable Commission-approved Renewal Course by June 30 following the ~~fourth~~ four (4) year permit anniversary date, and during each subsequent four-year cycle. Successful completion of the Commission-approved Agency Inspector Course or Agency Inspector Renewal Course also satisfies an Agency Inspector’s breath test operator continuing education requirements.

(4) Any Breath Test Operator or Agency Inspector who fails to satisfy the continuing education requirements shall not perform any duties authorized by the permit, ~~and such permit shall become inactive~~ until successful completion of the applicable renewal basic course ~~in subsection (1)(d) or (2)(b) above. Any permit that remains inactive under this section for more than three (3) months shall be revoked.~~

~~(5) A breath test operator or agency inspector must notify the Department in writing of any change of employment within thirty days of such change.~~

~~(5)(6)~~ Permits to conduct breath tests and inspect breath test instruments issued pursuant to former Rule 11D-8.008, F.A.C., shall remain valid until such permits expire or otherwise become invalid in accordance with those rules.

~~(6)(7)~~ Agency Inspectors are responsible for compliance with Chapter 11D-8, F.A.C., rules governing agency custody, care, and inspection of breath test instruments and related records.

~~(7)(8)~~ Any breath test operator or agency inspector who fails to successfully complete the Commission-approved renewal course shall not perform any duties authorized by the permit until successful completion of the ~~Commission-approved renewal course if within the continuing education cycle, or Commission-approved basic course if beyond the continuing education cycle.~~

(8) Members of the Department’s Alcohol Testing Program who instruct Commission-approved breath test courses may use such course instruction to satisfy their continuing education requirements under this section.

Specific Authority 316.1932(1)(a)2.,(f)1., 322.63(3)(a), 327.352(1)(b)3. FS. Law Implemented 316.1934(3), 322.63(3)(b), 327.354(3) FS. History–New 10-31-93, Amended 1-1-97, 7-29-01, 11-5-02,\_\_\_\_\_.

11D-8.010 Qualifications for Instructors.

(1) No change.

(2) Unless exempted by the Commission, at least once every four years each breath test instructor must successfully complete the Commission-approved breath test instructor certification renewal course in order to remain qualified for a breath test instructor certification. Successful completion of the Commission-approved breath test instructor certification course or breath test instructor certification renewal course satisfies that person’s agency inspector and breath test operator

continuing education requirements. Each breath test instructor must also successfully complete all Department breath test instructor update courses.

(3) No change.

Specific Authority 316.1932(1)(a)2.,(f)1., 322.63(3)(a), 327.352(1)(b)3. FS. Law Implemented 316.1934(3), 322.63(3)(b), 327.354(3) FS. History--New 10-31-93, Amended 1-1-97, 7-29-01, 11-5-02,\_\_\_\_\_.

11D-8.013 Blood Alcohol Permit – Analyst.

(1) No change.

(2) Qualifications for blood analyst permit – To qualify, the applicant must meet all of the following requirements:

(a) Department approval of analytical procedure(s). All proposed analytical procedures will be reviewed and a by the Department. ~~The determination of approval will be made by the Department after considering the recommendation made by the reviewer(s);~~

(b) through (d) No change.

(3) The department shall approve gas chromatographic analytical procedures and enzymatic analytical procedures based on alcohol dehydrogenase which meet the following requirements:

(a) through (b) No change.

(c) A statement of the Employs a concentration range over which the procedure is calibrated with documentation supporting that the calibration is linear over the stated range. The calibration curve must be linear over the stated range employ a standard less than 0.04 g/100mL and a standard greater than 0.20 g/100mL;

(d) Uses a new or existing calibration curve. The new calibration curve must be generated using at least three (3) standards of different alcohol concentrations: one at 0.05 g/100mL or less, one between 0.05 and 0.20 g/100mL (inclusive) and one at 0.20 g/100mL or higher, and must be verified using at least a minimum of two (2) controls, one (1) control containing alcohol at 0.05 g/100mL or less and one at 0.20g/100mL or higher. The existing calibration curve must be verified using a minimum of two (2) controls containing alcohol, one at 0.05 g/100mL or less and one at 0.20g/100mL or higher;

(e) Includes the analysis of an a blank, alcohol-free control, and the analysis of a whole blood or serum control. The whole blood or serum control may be used to satisfy the control requirement(s) in subsection (d);

(f) through (g) No change.

(4) through (5) No change.

Specific Authority 316.1932(1)(a)2.,(f)1., 316.1933(2)(b), 316.1934(3), 322.63(3)(b), 327.352(1)(b)3. FS. Law Implemented 316.1932(1)(b), 316.1933(2)(b), 316.1934(3), 322.63(3)(b), 327.352(1)(b),(e), 327.353(2), 327.354(3) FS. History--New 10-31-93, Amended 4-1-94, 2-1-95, 1-1-97, 11-5-02,\_\_\_\_\_.

11D-8.015 Denial, Revocation, and Suspension of Permits.

(1) Notwithstanding an applicant's qualifications, the Department shall deny an application for an original permit where the applicant:

(a) through (c) No change.

(d) Had the permit previously revoked under section (3) below.

(2) The Department is authorized to suspend any permit ~~for a period of six months~~ for any of the following reasons:

(a) through (c) No change.

(3) The Department is authorized to revoke any permit for any of the following reasons:

(a) through (c) No change.

(d) Performing the duties of a breath test operator, agency inspector, ~~breath test instructor,~~ or analyst with knowledge that the applicable permit is suspended or in violation of continuing education requirements.

(e) No change.

(4) through (6) No change.

Specific Authority 316.1932(1)(a)2.,(f)1., 316.1933(2)(b), 316.1934(3), 322.63(3)(a),(b), 327.352(1)(b)3. FS. Law Implemented 316.1933(2)(b), 316.1934(3), 322.63(3)(b), 327.353(2), 327.354(3) FS. History--New 10-31-93, Amended 1-1-97, 7-29-01, 11-5-02,\_\_\_\_\_.

11D-8.017 Forms.

The following forms referenced in these rules are hereby incorporated by reference:

FDLE/ATP Form 13 – Breath Test Log – Effective January 1997.

FDLE/ATP Form 14 – Breath Test Result Affidavit – Revised March 2002.

FDLE/ATP Form 16 – Agency Inspection Procedures – Revised March ~~2004~~ 2002.

FDLE/ATP Form 24 – Agency Inspection Report – Revised March 2001.

FDLE/ATP Form 32 – Certificate of Assurance – Revised March 2001.

FDLE/ATP Form 34 – Instrument Evaluation Procedures – Revised March ~~2004~~ 2002.

FDLE/ATP Form 35 – Department Inspection Procedures – Revised March ~~2004~~ 2002.

FDLE/ATP Form 36 – Department Inspection Procedures – Intoxilyzer 8000 – March ~~2004~~ 2002.

FDLE/ATP Form 37 – Operational Procedures – Intoxilyzer 8000 – March ~~2004~~ 2002.

FDLE/ATP Form 38 – Breath Alcohol Test Affidavit – Intoxilyzer 8000 – March ~~2004~~ 2002.

FDLE/ATP Form 39 – Agency Inspection Procedures – Intoxilyzer 8000 – March ~~2004~~ 2002.

These forms may be obtained by contacting the Florida Department of Law Enforcement, Alcohol Testing Program, P. O. Box 1489, Tallahassee, Florida 32302. Agencies will be provided blank forms upon request and without cost for their alcohol testing program use.

Specific Authority 316.1932(1)(a)2.,(f)1., 316.1933(2)(b), 316.1934(3), 322.63(3)(a),(b), 327.352(1)(b)3. FS. Law Implemented 316.1932(1)(b), 316.1933(2)(b), 316.1934(3), 322.63(3)(b), 327.352(1)(e), 327.353(2)(b), 327.354(3) FS. History--New 10-31-93, Amended 2-1-95, 1-1-97, 9-29-01, 11-5-02,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rafael Madrigal, Assistant General Counsel, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308, (850)410-7676

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael Ramage, General Counsel, Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 23, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 9, 2004

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

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

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Inmate Trust Fund

RULE NO.: 33-203.201

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to: implement HB 1875, which amends Section 944.516, F.S., to allow the department to charge inmates an administrative processing fee for banking services; and to increase the deposit amount that requires a hold before funds are available.

SUMMARY: The proposed rule provides for a \$4.00 administrative processing fee for banking services and increases from \$300.00 to \$400.00 the deposit amount that requires a hold before funds are available.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09, 944.516, 945.091 FS.

LAW IMPLEMENTED: 57.085, 717, 944.09, 944.516, 945.091, 945.214 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:

33-203.201 Inmate Trust Fund.

(1) The following are the policies of the department with respect to money received for the personal use or benefit of inmates:

(a) through (g) No change.

(h) Pursuant to Section 944.516, F.S., each inmate shall be charged an administrative processing fee of \$4.00 per month for banking services.

(2)(a) All monies (cashiers checks, money orders, or certified bank drafts only; no cash or personal checks allowed) that are mailed to the Bureau of Finance and Accounting, Inmate Trust Fund Section, for an inmate shall be initially deposited in the Inmate Trust Fund. Funds must be mailed with the completed deposit form and made payable to the Inmate Trust Fund and include the inmate's name and DC number. Once the deposit is posted to the inmate's account, a receipt will be printed at the institution and provided to the inmate. Funds will become available for the inmate's use within ten working days after receipt by the Bureau of Finance and Accounting, Inmate Trust Fund Section, in Tallahassee. Every effort shall be made to have funds available sooner. Any money order, cashiers check, or certified bank draft in the amount of ~~\$400~~ ~~\$300~~ or higher posted to an inmate's account will have a ten day hold placed on the funds. After ten days the funds will be available for the inmate's use. Deposits mailed to institutional or other department addresses other than the Bureau of Finance and Accounting, Inmate Trust Fund Section will be returned to the sender. In order to deposit the funds the sender shall complete Form DC2-303, Inmate Trust Fund Deposit Form. Form DC2-303 is hereby incorporated by reference. This form may be obtained from any institution, facility, or by requesting in writing from the Bureau of Finance and Accounting, Inmate Trust Fund Section, Centerville Station, P. O. Box 12100, Tallahassee, Florida 32317-2100, or the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is July 13, 2003. Other items found in the incoming mail will be returned to the sender and will not be forwarded to the inmate.

(b) through (12) No change.

Specific Authority 944.09, 944.516 945.091, 945.215 FS. Law Implemented 57.085, 717, 944.09, 944.516 945.091, 945.215 FS. History--New 1-27-86, Amended 7-16-89, 5-1-90, 3-2-92, 6-2-92, 8-25-92, 10-19-92, 4-13-93, 5-28-96, 6-15-98, Formerly 33-3.018, Amended 5-7-00, 7-13-03, 10-20-03,\_\_\_\_\_.



Reference Intakes of the Food and Nutrition Board are hereby incorporated by reference. A copy of the ~~Recommended Dietary Allowances or the Dietary Reference Intakes~~ may be obtained from the Bureau of Institutional Field Support Services, Food Service Section, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. ~~The effective date of the Revised Recommended Dietary Allowances is January 18, 1989. The Dietary Reference Intakes were copyrighted in 2001.~~

- (a) through (e) No change.
- (4) Sanitation.

(a) All food service areas shall meet the standards of the Food Hygiene State Sanitary Code, Department of Health, Chapter 64E-11, F.A.C. Food and beverages shall not be consumed in food preparation areas.

(b) Personnel assigned to food service shall meet the standards set by the Food Hygiene State Sanitary Code, Department of Health Rule 64E-11.005, F.A.C.

~~(c) The individual responsible for food service at the institution or facility shall be responsible for the following:~~

~~1. Writing instructions for the operation and cleaning of the physical plant, equipment and utensils. Instructions shall be in compliance with the State Sanitary Code, Department of Health Rule 64E-11.005, F.A.C.~~

~~2. Preparing a frequency chart for the regular periodic cleaning of the physical plant, equipment and utensils, and ensuring that cleaning is done according to the frequency chart; and~~

~~3. Daily inspection of the food service areas, including the recording of the temperatures of coolers, freezers, dishwashers, and hot tap water.~~

~~(d) Weekly sanitation inspections of food service areas shall be performed by a person or team assigned by and reporting to the warden.~~

~~(5) Maintenance of Equipment. The person in charge of the maintenance department shall prepare a schedule for periodic, preventative maintenance of the physical plant and equipment. The preventative maintenance program shall include inspection, lubrication, replacement of parts as necessary, and any other maintenance to extend equipment life as suggested by manufacturer's instructions. The person in charge of food service will ensure that equipment is utilized properly, abuse of equipment is minimized, and that sanitation standards are maintained. It will be the responsibility of the person in charge of maintenance to ensure that the preventative maintenance program operates effectively. He or she will maintain a file on each piece of major equipment denoting when and what was done and at what cost.~~

~~(6) Security. The chief of security shall write and post a plan and schedule for supervision of inmates during meals. The chief of security shall be responsible for enforcement of the written plan to ensure control of inmates.~~

- (7) through (8) renumbered (5) through (6) No change.

~~(9) National Child Nutrition Program:~~

~~(a) It is the intent of the department that all institutions that qualify will participate in the National Child Nutrition Program. To qualify, an institution will have a sufficient number of offenders qualified to be NCNP participants so that adequate revenues will be generated to offset the costs associated with implementing program requirements.~~

~~(b) The National Child Nutrition Program master menu will be utilized to provide enhanced nutrition to program participants who are under the age of 21.~~

Specific Authority 20.315, 944.09 FS. Law Implemented 20.315, 944.09 FS.; Child Nutrition Act of 1966, 42 USC § 1773, Richard B. Russell National School Lunch Act, 42 USC § 1751 et seq. History—New 1-18-89, Amended 7-21-97, Formerly 33-30.003, Amended 8-9-00, 11-16-00, 10-2-01, 2-18-02, 7-2-03, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Tina Hayes

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 29, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 13, 2004

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Cash Meals and Special Group Meals

RULE NO.: 33-204.005

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to delete unnecessary language from the rule.

SUMMARY: Instructions for documenting receipt of free meals are being deleted from the rule.

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: 20.315, 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:

33-204.005 Cash Meals and Special Group Meals.

(1) The cost of meals for employees or volunteers shall be borne by the individual being provided with the meal, except as provided in subsection (2) of this section. Employees or



volunteers served meals shall be charged the predetermined amount as designated in the current food services contract approved by the Department of Corrections for all meals. Meals shall be purchased with cash and the employee or volunteer will sign a "Daily Meal Roster", DC2-406, to indicate a meal was purchased and consumed by them. Persons eligible for free meals will be identified on the Daily Meal Roster by noting the words "no charge" next to the individual's signature. Form DC2-406 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, FL 32399-2500. The effective date of this form is May 21, 2000.

(2) No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 20.315, 944.09 FS. History--New 1-18-89, Formerly 33-30.005, Amended 5-21-00, 6-26-03, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tina Hayes

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 29, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 13, 2004

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Early Termination of Supervision

RULE NO.: 33-302.111

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to delete unnecessary language.

SUMMARY: Unnecessary language is being deleted from the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-302.111 Early Termination of Supervision.

(1) No change.

(2) ~~In order for an officer to request an~~ ~~Once a recommendation for early termination of supervision from the sentencing or releasing authority, approval must be obtained from the officer's~~ ~~is approved by a supervisor, the circuit administrator, a request must be sent to the State Attorney's Office, and the victim, if applicable requesting their approval.~~

~~(a) If the offense involved a victim, the officer will request the State Attorney's Office to obtain the victim's consent to the early termination. The Recommendation to Early Terminate Probation or Community Control, Form DC3-272, or a letter that contains the information required in Form DC3-272, shall be forwarded to the State Attorney's office, citing the officer's justification for an early termination of supervision. Form DC3-272 is hereby incorporated by reference. A copy of this form may be obtained from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is 11-26-01.~~

~~(b) If the State Attorney's office denies the request, or the victim opposes the early termination, the officer shall notify the offender that the department will not proceed with the early termination recommendation. The officer shall not disclose a victim's objection to the offender.~~

~~(3) If the State Attorney's Office approves the recommendation, and the victim does not oppose the early termination, the officer shall prepare an Order Terminating Probation, Form DC3-257, and a letter to the judge outlining the offender's history of supervision and reasons for recommending the early termination. Form DC3-257 is hereby incorporated by reference. A copy of this form may be obtained from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is 6-29-03.~~

~~(4) If the State Attorney's office is unable to contact the victim, the officer shall attempt to contact the victim by telephone or by certified letter to provide the victim with an opportunity to have input on the offender's early termination request. If no response is received from the victim, this shall be reported to the judge in the officer's letter.~~

~~(3)(5) The officer shall notify the offender of the judge's decision upon receipt of the judge's response, and if the petition for early termination is granted, the officer will provide the offender with a copy of Form DC3-257. If the offender was adjudicated guilty, the officer shall review the restoration of civil rights process with the offender. The officer and the offender shall sign and date Form NH-027, Notification of Restoration of Civil Rights Review Process. In~~

~~addition to Form DC3-257, the officer shall provide the offender with a termination of supervision letter and Form NH-027. Form NH-027 is hereby incorporated by reference. A copy of this form may be obtained from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is 6-29-03.~~

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History--New 11-26-01, Amended 6-29-03, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Beth Atchison

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 26, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 6, 2004

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Inmate Death Notification Process

RULE NO.: 33-602.112

PURPOSE AND EFFECT: The purpose and effect of the proposed rule repeal is to eliminate language that is unnecessary or duplicative of statutes.

SUMMARY: A rule addressing notification responsibilities in the event of an inmate death is being repealed as the provisions are either found in statute or constitute internal management memoranda.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 406.50-.54 FS., Article 37 of the Vienna Convention on Consulate Relations

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.112 Inmate Death Notification Process.

Specific Authority 944.09 FS. Law Implemented 406.50-.54 FS., Article 37 of the Vienna Convention on Consulate Relations. History--New 10-8-76, Amended 9-24-81, Formerly 33-3.009, Formerly 33-401.301, Amended 3-25-02, 9-9-03, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Tina Hayes

NAME OF SUPERVISOR OR PERSON WHO APPROVED

THE PROPOSED RULE: James V. Crosby, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: August 20, 2004

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Holding Cells

RULE NO.: 33-602.224

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify provisions related to conditions of holding cell use and maintenance of records and to delete unnecessary language.

SUMMARY: The proposed rule eliminates unnecessary provisions concerning location of holding cells, deletes obsolete language concerning initiation of holding cell logs, and requires that inmates placed in holding cells in conjunction with medical or mental health care not be left unattended at any time.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.224 Holding Cells.

(1) No change.

(2) ~~Holding cells may be constructed in medical areas, security buildings, confinement areas, dormitories and other areas that the warden determines will enhance the physical security of the institution.~~ All holding cells must be in compliance with the following design requirements:

(a) through (f) No change.

(3) No change.

(4) A holding cell log will be maintained at the holding cell location ~~initiated any time an inmate is placed in the holding cell for a period exceeding 30 minutes.~~ Each institution will be responsible for using the Holding Cell Log, Form DC6-208, to record the reasons for placement in the cell, the length of time held in cell, and the record of frequent

checks. Form DC6-208 is hereby incorporated by reference. A copy of this form is available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. Requests for forms to be mailed must be accompanied by a self-addressed stamped envelope. The effective date of this form is 2-3-00.

(5) through (8) No change.

(9) An inmate who is placed in a holding cell in response to a medical or mental health emergency or while awaiting admission to a medical or mental health unit shall not be left unattended at any time. Inmates declaring a medical or psychological emergency while in a holding cell shall not be left unattended at any time. Medical personnel shall be notified immediately. Medical personnel attending to an inmate in a holding cell will sign the holding cell log. If no log has been initiated, the information will be documented on the housing unit log. If the holding cell is in an area that does not have a housing unit log, a notation will be made on the control room log.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History--New 2-3-00, Amended 8-7-03, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tina Hayes

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 29, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 13, 2004

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: RULE NO.:

Intermediate Care Facility for the Developmentally Disabled Services, ICF/DD 59G-4.170

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Intermediate Care Facility for the Developmentally Disabled Services (ICF/DD) Coverage and Limitations Handbook, as revised October 2003. The revised handbook contains changes required by the Health Insurance Portability and Accountability Act (HIPAA). Information relating to Specialized ICF/DDs has been deleted. The effect will be to incorporate by reference in the rule the revised Florida Medicaid Intermediate Care Facility for the Developmentally Disabled Services (ICF/DD) Coverage and Limitations Handbook.

SUMMARY: The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Intermediate Care Facility for the Developmentally Disabled Services (ICF/DD) Coverage and Limitations Handbook, as revised October 2003. The revised handbook contains changes

required by the Health Insurance Portability and Accountability Act (HIPAA). Information relating to Specialized ICF/DDs has been deleted. The current handbook was adopted in rule July 2000.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908, 409.913 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. – 11:00 a.m., Monday September 27, 2004

PLACE: 2727 Mahan Dr., Building #3, Conference Room “C”, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Henderson, Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)414-9756

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.170 Intermediate Care Facility for the Developmentally Disabled Services, ICF/DD.

(1) No change.

(2) All Intermediate Care Facility for the Developmentally Disabled (ICF/DD) Services providers enrolled in the Medicaid program must comply with the Florida Medicaid Intermediate Care Facility for the Developmentally Disabled (ICF/DD) Services Coverage and Limitations Handbook, October 2003 ~~July 2000~~, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, Institutional 021, ~~September 1996~~, which is incorporated by reference in Rule 59G-4.200, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

(3) through (11) No change.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908, 409.913 FS. History--New 8-31-76, Amended 1-1-77, 10-16-77, 7-7-81, 4-12-83, 1-12-84, 7-2-84, 7-1-85, Formerly 10C-7.49, Amended 7-19-88, 6-4-92, 5-11-93, Formerly 10C-7.049, Amended 11-27-95, 10-4-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen Henderson

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Alan Levine, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 7, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 12, 2003

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: RULE NO.:

Payment Methodology for ICF/MR-DD 59G-6.040  
 Services in Publicly Owned and  
 Publicly Operated Facilities

**PURPOSE AND EFFECT:** The purpose and effect of the proposed amendment is to incorporate changes to the Florida Title XIX Intermediate Care Facilities for the Mentally Retarded and the Developmentally Disabled (ICF/MR-DD) Facilities publicly owned and publicly operated Reimbursement Plan (the Plan) payment methodology.

The purpose and effect of the proposed amendment is to incorporate changes to the Florida Title XIX ICF/MR-DD Services in Publicly Owned and Publicly Operated Facilities Reimbursement Plan (the Plan) payment methodology.

1. In accordance with Chapter 2004-344, Laws of Florida (SB 1064, 2004-05 Florida Legislature) Section 7(6), COST REPORTS – For any Medicaid provider submitting a cost report to the agency by any method, and in addition to any other certification, the following statement must immediately precede the dated signature of the provider’s administrator or chief financial officer on such cost report: “I certify that I am familiar with the laws and regulations regarding the provision of health care services under the Florida Medicaid program, including the laws and regulations relating to claims for Medicaid reimbursements and payments, and that the services identified in this cost report were provided in compliance with such laws and regulations.”

2. Change from “Health Care Financing Administration (HCFA)” to “Centers for Medicare and Medicaid Services (CMS).”

3. Updates to Code of Federal Regulation (CFR), Florida Administrative Code (FAC), and Florida Statute references.

**SUMMARY:** Certification of cost reports and updates to regulatory references.

**SUMMARY OF ESTIMATED REGULATORY COSTS:** A statement of estimated regulatory cost has not been prepared.

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

**SPECIFIC AUTHORITY:** 409.919 FS.

**LAW IMPLEMENTED:** 409.908 FS.

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

**DATE AND TIME:** 9:00 a.m., September 27, 2004

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robert C. Butler, Bureau Chief, Medicaid Cost Reimbursement, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2106-B, Tallahassee, Florida 32308, (850)414-2759

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.040 Payment Methodology for ICF/MR-DD Services in Publicly Owned and Publicly Operated Facilities.

Reimbursement to participating ICF/MR-DD facilities for services provided shall be in accord with the Florida Title XIX ICF/MR-DD Reimbursement Plan for Publicly Owned and Publicly Operated Facilities, Version VIII, Effective Date ~~March 14, 1999~~, and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to Deputy Secretary for Medicaid ~~Medicaid Cost Reimbursement~~, Agency for Health Care Administration, Mail Stop 8 P. O. Box 12400, Tallahassee, Florida 32308 ~~17-2400~~.

Specific Authority 409.919 FS. Law Implemented 409.908 FS. History—New 7-1-85, Amended 2-25-86, Formerly 10C-7.491, Amended 11-19-89, 8-14-90, 12-26-90, 9-17-91, 1-27-94, Formerly 10C-7.0491, Amended 11-15-94, 3-14-99.

**NAME OF PERSON ORIGINATING PROPOSED RULE:**  
 Robert C. Butler

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

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** August 19, 2004

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** August 6, 2004

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: RULE NO.:

Payment Methodology for County 59G-6.090  
 Health Departments

**PURPOSE AND EFFECT:** The purpose and effect of the proposed amendment is to incorporate the following changes to the Florida Title XIX County Health Department Reimbursement Plan:

1. In accordance with Chapter 2004-344, Laws of Florida (SB 1064, 2004-05, Florida Legislature) Section 7(6), COST REPORTS – For any Medicaid provider submitting a cost report to the agency by any method, and in addition to any other certification, the following statement must immediately precede the dated signature of the provider’s administrator or chief financial officer on such cost report: “I certify that I am familiar with the laws and regulations regarding the provision of health care services under the Florida Medicaid program, including the laws and regulations relating to claims for Medicaid reimbursements and payments, and that the services identified in this cost report were provided in compliance with such laws and regulations.”

2. Editorial updates to Florida Statute, Florida Administrative Code, and Code of Federal Regulation references.

SUMMARY: Requires a signed certification of cost reports and updates to regulatory references.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

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

TIME AND DATE: 10:00 a.m., September 27, 2004

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.090 Payment Methodology for County Health Departments.

Reimbursement to participating county health departments for services provided shall be in accordance with the Florida Title XIX County Health Departments Reimbursement Plan Version IV ~~III July 21, 2002~~ and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Deputy Secretary for Medicaid, 2727 Mahan Drive, Building 3, Mail Stop 8, Tallahassee, Florida 32308.

Specific Authority 409.919 FS. Law Implemented 409.908 FS. History--New 6-3-93, Formerly 10P-6.090, Amended 7-21-02,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert Butler

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 19, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 6, 2004

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Medicaid Contracts for Prepaid Health Plans  
 RULE NO.: 59G-8.100

PURPOSE AND EFFECT: The purpose of the proposed amendment is to incorporate changes to the Payment Methodology for Participating Medicaid Managed Health Care Plans, effective July 1, 2004, to provide the following changes based on House Bill 1843, 2004-2005 Florida Legislature.

The Agency is amending the rule to:

1. Revise the methodology regarding trend factors;
2. Revise fee-for-service (FFS) base for groups enrolled for part of a year;
3. Update discount factors applied to FFS base.
4. Revise methodology for administrative load consideration.

SUMMARY: The proposed amendment to rule number 59G-8.100 revises payment methodology for participating Medicaid managed health care plans.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of estimated regulatory cost has not been prepared.

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

SPECIFIC AUTHORITY: 409.9124, 409.919 FS.

LAW IMPLEMENTED: 409.9124(1) FS.

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

TIME AND DATE: 2:00 p.m., September 28, 2004

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robert Butler, Medicaid Program Analysis, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2120B, Mail Stop 21, Tallahassee, Florida 32308, (850)414-2756

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-8.100 Medicaid Contracts for Prepaid Health Plans.

(1) through (16) No change.

(17) Payment Methodology for Covered Services. Capitation payment rates are calculated annually by the agency based on historical fee-for-service expenditures adjusted forward to the contract period. The agency shall not pay more for a defined scope of services to a defined number of enrollees under a capitation arrangement than the projected cost of providing those same services on a fee-for-service basis. The payment methodology, entitled "Agency for Health Care Administration, Payment Methodology for Participating Medicaid Managed Health Care Plans", July 2004~~2~~, is incorporated herein by reference.

(18) through (24) No change.

Specific Authority 409.9124, 409.919 FS. Law Implemented 409.9124(1) FS. History—New 3-9-81, Amended 7-9-84, Formerly 10C-7.524, Amended 4-5-89, Formerly 10C-7.0524, Amended 8-4-02.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Mr. Robert Butler  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Robert Butler  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 15, 2004  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 18, 2004

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Pilot Commissioners**

RULE TITLE: Exemption from Licensure Renewal Provisions for Spouses of Members of the Armed Forces of the United States  
RULE NO.: 61G14-12.003

PURPOSE AND EFFECT: The proposed rule is intended to address an exemption from licensure renewal provisions for spouses of members of the Armed Forces.

SUMMARY: The proposed rule sets forth an exemption from licensure renewal provisions for spouses of members of the Armed Forces.

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: 310.185(1), 455.02(2) 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: Anthony Spivey, Executive Director, Board of Pilot Commissioners, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G14-12.003 Exemption from License Renewal Provisions for Spouses of Members of the Armed Forces of the United States.

(1) As used in this rule, the following definitions shall apply:

(a) "Pilot" shall include both licensed state pilots and certified deputy pilots.

(b) "Armed forces" shall include the Army, Navy, Marine Corps, Air Force, Coast Guard and National Guard.

(2) A pilot who is the spouse of a member of the Armed Forces of the United States shall be exempt from all licensure renewal provisions and placed on inactive status for any period of time which the pilot is absent from the State of Florida due to the pilot's spouse's duties with the Armed Forces, subject to the following conditions:

(a) Copies of the military orders requiring the absence of the pilot's spouse from the port where the pilot is licensed or certified are submitted to the Board office.

(b) The licensed state pilots at the port affected by the seeking of an exemption under this provision shall, in consultation with customers of the affected port, jointly submit to the Board a plan to provide adequate piloting during the inactive status of the pilot seeking exemption. This plan shall include recommendations concerning:

1. Cross-licensing of additional pilots from other ports;
2. Declaration of a port opening for the next scheduled examination;
3. Combination of the affected port with another port; or
4. Other measures designed to assure the provision of adequate piloting during the inactive status of the pilot seeking exemption.

(3) Withing 45 days of completion of duty with the Armed Forces outside the State of Florida by the pilot's spouse, and prior to resuming duties as a pilot, the affected pilot shall:

(a) Ensure that all physical examinations and reports, as required by Rule 61G14-20.001, F.A.C., are current and on file.

(b) If the period of absence from piloting duties exceeds 365 days, complete, under the guidance of a licensed state pilot of that port, four familiarization transits of the port where licensed or certified.

Specific Authority 310.185(1), 455.02(2) FS. Law Implemented 455.02(2) FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Pilot Commissioners

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 8-9, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 6, 2004

**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."



THE FULL TEXT OF THE PROPOSED RULE IS:

64B11-2.006 Examination; Passing Grade.

The examination to be used for licensure by examination shall be that examination developed prepared by the National Board for Certification in Occupational Therapy (NBCOT). Professional Examination Services, pursuant to contract with the American Occupational Therapy Association. ~~The passing score shall be a sealed score of 450 points.~~ Every applicant for licensure by examination shall obtain at least the passing score as determined by NBCOT. Every applicant shall request the scores be sent to the Board by the professional examination service. Licensure shall not be granted without proof of score. Applicants approved for licensure contingent upon passage of the examination shall have twelve months from the date of approval by the Board to take the examination and submit proof of scores. Any requests for information concerning examination results (areas of weakness, if failed, etc.) should be sent directly to the professional examination service.

Specific Authority 456.017, 468.204, 468.211(4) FS. Law Implemented 456.017, 468.211(3), (4) FS. History–New 4-28-76, Amended 9-9-85, Formerly 21M-13.11, Amended 7-23-91, Formerly 21M-13.011, 61F6-13.011, Amended 4-11-95, Formerly 59R-61.011, Amended \_\_\_\_\_.

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: August 2, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAW: February 13, 2004

**DEPARTMENT OF HEALTH**

**Board of Occupational Therapy**

RULE TITLE:

Examination; Passing Grade

RULE NO.:

64B11-3.004

PURPOSE AND EFFECT: The Board proposes to clarify and update the name of the organization that develops the national examination for licensure as an occupational therapy assistant, as well as specify that the passing score is set by the organization that develops the exam.

SUMMARY: The rule clarifies and updates the identity of the national exam developing organization as well as the passing score on the exam, which is set by the test developer.

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: 456.017, 468.204, 468.211(4) FS.

LAW IMPLEMENTED: 456.017, 468.211(3),(4) FS.

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

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

64B11-3.004 Examination; Passing Grade.

The examination to be used for licensure by examination shall be that examination developed prepared by the National Board for Certification in Occupational Therapy (NBCOT). Professional Examination Services, pursuant to contract with the American Occupational Therapy Association. ~~The passing score shall be a sealed score of 450 points.~~ Every applicant for licensure by examination shall obtain at least the passing score as determined by NBCOT. Every applicant shall request the scores be sent to the Board by the professional examination service. Licensure shall not be granted without proof of score. Applicants approved for licensure contingent upon passage of the examination shall have twelve months from the date of approval by the Board to take the examination and submit proof of scores. Any requests for information concerning examination results (areas of weakness, if failed, etc.) should be sent directly to the professional examination service.

Specific Authority 456.017, 468.204, 468.211(4) FS. Law Implemented 456.017, 468.211(3),(4) FS. History–New 4-28-76, Amended 9-9-85, Formerly 21M-13.11, Amended 7-23-91, Formerly 21M-13.011, 61F6-13.011, Amended 4-11-95, Formerly 59R-61.011, Amended \_\_\_\_\_.

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: August 2, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAW: February 13, 2004

**DEPARTMENT OF HEALTH**

**Board of Occupational Therapy**

RULE TITLE:

Requirements for License Renewal of an

RULE NO.:

64B11-5.001

Active License; Continuing Education  
PURPOSE AND EFFECT: The Board proposes to clarify the time within which a licensee must respond to a continuing education audit, while allowing a longer period of time for audits where the notice of audit is sent to the licensees before the renewal date. The Board also proposes to clarify the law that imposes the continuing education requirements on licensees.



SUMMARY: The rule sets the time limits for response to continuing education audits and clarifies the law that imposes the requirements.

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 License 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 (6) No change.

(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, within 30 days, or longer period of time if specified in the audit notice, provide documentation to the Board ~~within thirty (30) days~~ that shows proof of compliance with the continuing education requirements imposed by this chapter and Chapter 64B11-6, F.A.C. herein.

(8) through (15) No change.

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, 3-28-04,

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: June 4, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 13, 2004

**DEPARTMENT OF HEALTH**

**Board of Orthotists and Prosthetists**

RULE TITLE: Provisional License RULE NO.: 64B14-4.200

PURPOSE AND EFFECT: To repeal an unnecessary rule.

SUMMARY: This rule is being repealed as it no longer has statutory authority.

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: 468.802 FS.

LAW IMPLEMENTED: 468.805(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: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-4.200 Provisional License.

Specific Authority 468.802 FS. Law Implemented 468.805(2) FS. History–New 12-10-98, Amended 6-22-99, Repealed \_\_\_\_\_.

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: July 23, 2004

**DEPARTMENT OF HEALTH**

**Board of Orthotists and Prosthetists**

RULE TITLE: Continuing Education Course Criteria  
 RULE NO.: 64B14-5.003

PURPOSE AND EFFECT: The Board proposes to authorize one-half hour of credit for twenty- five minute courses. The Board proposes to lower the amount of time spent in clinical or laboratory instruction needed to attain one hour of continuing education credit.

SUMMARY: The proposed rule authorizes earning one-half hour continuing education credits and reduces the amount of instruction time needed to earn an hour of credit in a clinical or laboratory course.

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, 468.802, 468.806 FS.

LAW IMPLEMENTED: 456.013(8), 468.806 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:

64B14-5.003 Continuing Education Course Criteria.

(1) through (3) No change.

(4) Course length shall be sufficient to provide meaningful education in the subject matter presented. Courses must include 25 minutes for one-half credit hour ~~50 minutes~~ of didactic instruction or 50 ~~100~~ minutes of lab/clinical experience for each hour of credit awarded. ~~All courses must be at least 50 minutes in length.~~

(5) through (8) No change.

Specific Authority 456.013, 468.802, 468.806 FS. Law Implemented 456.013(8), 468.806 FS. History—New 5-18-00, Amended 11-11-02,

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: July 23, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 26, 2004

**DEPARTMENT OF HEALTH**

**Board of Orthotists and Prosthetists**

RULE TITLES: Standards of Practice Citations  
 RULE NOS.: 64B14-7.001 64B14-7.004

PURPOSE AND EFFECT: The Board proposes to delete the rule sub-section in Rule 64B14-7.001, F.A.C., that restricts delegation to unlicensed personnel, because of a possible conflict with Section 468.808, F.S. The Board proposes to modify the citation provision in Rule 64B14-7.004, F.A.C. to raise the fine penalty and delete the requirement for making up deficient continuing education credits, while changing the requirements for citing an offense related to failing to provide patient records.

SUMMARY: The change to Rule 64B14-7.001, F.A.C., removes a standard of practice restriction on delegation of regulated activities by licensed practitioners to unlicensed personnel under the direct supervision of those practitioners. The change to Rule 64B14-7.004, F.A.C., raises the fine penalty and removes the requirement for making up deficient continuing education credits by those who accept a citation for failing to obtain the required credits. The change also modifies the requirements for eligibility to receive a citation instead of prosecution for failing to provide patient records.

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: 456.077, 468.802 FS.

LAW IMPLEMENTED: 456.063(1), 456.072(1)(o),(u), 456.077, 468.802 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 Orthotists and Prosthetists, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULES IS:

64B14-7.001 Standards of Practice.

(1) No change.

(2) The orthotist, prosthetist, or pedorthist’s professional responsibilities include:

(a) through (e) No change.

~~(f) Delegation of appropriate tasks. Prosthetists, orthotists and pedorthists shall not delegate any function or task which requires the skill, knowledge, and judgment of the prosthetist, orthotist or pedorthist to any unlicensed personnel.~~

(g) through (j) renumbered (f) through (i) No change.

(3) through (4) No change.

Specific Authority 468.802 FS. Law Implemented 456.063(1), 456.072(1)(o),(u), 468.802 FS. History—New 7-1-98, Amended \_\_\_\_\_.

64B14-7.004 Citations.

Pursuant to Section 456.077, F.S., the Board designates the following as citation violations:

(1) Failure to furnish patient records in a timely manner in violation of Section 456.057(4), F.S.: If corrected within 15 days, ~~if not corrected, referral to the Board's probable cause panel.~~

(2) through (4) No change.

(5) ~~First time~~ Failure of the licensee to satisfy continuing education requirements established by the board: Fine of \$500 ~~250 and within 180 days provide one additional hour of continuing education for each hour not completed or completed late.~~

(6) through (7) No change.

Specific Authority 456.072, 456.077 FS. Law Implemented 456.072, 456.077 FS. History—New 7-1-98, Amended 3-19-02, \_\_\_\_\_.

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: July 23, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 26, 2004

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLES:	RULE NOS.:
Requirements for an Automated Pharmacy System in a Community Pharmacy	64B16-28.141
Remote Medication Order Processing for Class II Institutional Pharmacies	64B16-28.606

PURPOSE AND EFFECT: The Board proposes new rules to address advances in pharmacy practice.

SUMMARY: The new rules set forth the requirements for community pharmacies and institutional pharmacies engaged in automated and remote order processing pharmacy systems.

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

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

SPECIFIC AUTHORITY: 465.005, 465.0155, 465.022 FS.

LAW IMPLEMENTED: 465.018, 465.019, 465.022, 465.026 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: Danna Droz, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULES IS:

64B16-28.141 Requirements for an Automated Pharmacy System in a Community Pharmacy.

(1) Definitions.

“Automated pharmacy system” means a mechanical system, located within the confines of the pharmacy, that performs operations or activities, other than compounding or administration, relative to storage, packaging, dispensing, or distribution of medication, and which collects, controls, and maintains all transaction information.

(2) General Requirements.

A pharmacy may use an automated pharmacy system provided that:

(a) The pharmacy develops and maintains a policy and procedure manual that includes:

1. The type or name of the system including a serial number or other identifying nomenclature.

2. A method to ensure security of the system to prevent unauthorized access. Such method may include the use of electronic passwords, biometric identification (optic scanning or fingerprint) or other coded identification.

3. A process of filling and stocking the system with drugs; an electronic or hard copy record of medication filled into the system including the product identification, lot number, and expiration date.

4. A method of identifying all the pharmacists or pharmacy technicians involved in the dispensing process.

5. Compliance with a Continuous Quality Improvement Program.

6. A method to ensure that patient confidentiality is maintained.

7. A process to enable the prescription department manager or designee to revoke, add, or change access at any time.

(b) The system ensures that each prescription is dispensed in compliance with the definition of dispense and the practice of the profession of pharmacy.

(c) The system shall maintain a readily retrievable electronic record to identify all pharmacists, pharmacy technicians, or other personnel involved in the dispensing of a prescription.

(d) The system shall provide the ability to comply with product recalls generated by the manufacturer, distributor, or pharmacy. The system shall have a process in place to isolate affected lot numbers including an intermix of drug product lot numbers.

Specific Authority 465.005, 465.022 FS. Law Implemented 465.018, 465.022 FS. History—New \_\_\_\_\_

64B16-28.606 Remote Medication Order Processing for Class II Institutional Pharmacies.

(1) Definitions.

(a) “Remote Medication Order Processing” includes any of the following activities performed for a Class II Institutional Pharmacy from a remote location:

1. Receiving, interpreting, or clarifying medication orders.
2. Entering or transferring medication order data.
3. Performing prospective drug use review.
4. Obtaining substitution authorizations.
5. Interpreting and acting on clinical data.
6. Performing therapeutic interventions.
7. Providing drug information.
8. Authorizing the release of a medication for administration.

(b) “Medication” means a medicinal drug or proprietary preparation.

(c) “Prospective drug use review” means an evaluation of medication orders and patient medication records for:

1. Over-utilization or under-utilization of medication.
2. Therapeutic duplication of medication.
3. Drug-disease contraindications.
4. Drug interactions.
5. Incorrect drug dosage or duration of drug treatment.
6. Clinical abuse or misuse of medication.

(2) General requirements.

(a) All pharmacists participating in remote medication order processing shall be Florida licensed pharmacists.

(b) A Class II institutional pharmacy may utilize remote medication order processing if the pharmacist performing the remote medication order processing has access to sufficient patient information necessary for prospective drug use review and approval of medication orders.

(c) A pharmacist shall perform the final check of a medication order.

(d) If the pharmacist performing remote order processing is not an employee of the Class II Institutional pharmacy, the Class II Institutional pharmacy must have a written agreement or contract with the pharmacist or entity employing the pharmacist. The written agreement or contract shall:

1. Outline the services to be provided.

2. Delineate the responsibilities of each party including compliance with federal and state laws and regulations governing the practice of pharmacy as well as state and federal medical privacy requirements.

3. Require that the parties adopt a policies and procedures manual.

4. Provide that the parties have access to or share a common electronic file such that the pharmacist performing remote medication order processing has sufficient patient information necessary for prospective drug use review and approval of medication orders.

(3) Policy and Procedures.

A policy and procedures manual shall:

(a) Be accessible to each party involved in remote medication order processing.

(b) Be available for inspection by the Board or an authorized agent of the Department.

(c) Outline the responsibilities of each party involved in remote medication order processing.

(d) Include a current list of the name, address, telephone number, and license number of each pharmacist involved in remote medication order processing.

(e) Include policies and procedures for:

1. Protecting the confidentiality and integrity of patient information.

2. Ensuring that a pharmacist performing prospective drug use review has access to appropriate drug information resources.

3. Ensuring that medical and nursing staff understand how to contact a pharmacist.

4. Maintaining records to identify the name, initials, or identification code of each person who performs a processing function for a medication order.

5. Complying with federal and state laws and regulations.

6. Operating or participating in a continuous quality improvement program for pharmacy services designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems.

7. Reviewing the written policies and procedures and documenting the review every year.

(4) Records.

(a) A Class II Institutional Pharmacy involved in remote medication order processing shall maintain a record that identifies the name, initials, or identification code of each person who performed a processing function for every medication order. The record shall be available by medication order or by patient name.

(b) The record may be maintained in a common electronic file if the record is maintained in such a manner that the data processing system can produce a printout which identifies every person who performed a processing function for a medication order.

(c) The record shall be readily retrievable for at least the past two (2) years.

(d) The record shall be available for inspection by the Board or an authorized agent of the Department.

Specific Authority 465.005, 465.0155, 465.022 FS. Law Implemented 465.019, 465.022, 465.026 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Pharmacy  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Pharmacy  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 28, 2004  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 12, 2004

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLE: \_\_\_\_\_ RULE NO.: \_\_\_\_\_

Transmission of Starter Dose Prescriptions for Patients in Class I Institutional or Modified II B Facilities 64B16-28.503

PURPOSE AND EFFECT: The Board proposes a new rule to address the transmission of starter dose prescriptions.

SUMMARY: The new rule set forth definitions and requirements for the transmission of starter dose prescriptions by vendor pharmacies to starter dose pharmacies for patients in Class II Institutional or Modified II B facilities.

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

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

SPECIFIC AUTHORITY: 465.005, 465.022 FS.

LAW IMPLEMENTED: 465.018, 465.019, 465.022 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: Danna Droz, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-28.503 Transmission of Starter Dose Prescriptions for Patients in Class I Institutional or Modified II B Facilities.

(1) Definitions.

(a) “Vendor pharmacy” means a community pharmacy or special closed system pharmacy which has a contract to dispense a medicinal drug to a patient in a facility holding a Class I Institutional Permit or Modified II B Permit.

(b) “Starter dose pharmacy” means a pharmacy that dispenses a medicinal drug pursuant to a starter dose prescription to a patient in a facility served by the vendor pharmacy.

(c) “Starter dose prescription” means a prescription transmitted by a vendor pharmacy to a starter dose pharmacy for the purpose of initiating drug therapy for a patient in a facility served by the vendor pharmacy.

(2) A vendor pharmacy may transmit a starter dose prescription to a starter dose pharmacy if the vendor pharmacy:

(a) Has written authorization from the facility to utilize a starter dose pharmacy.

(b) Has a written contract with the starter dose pharmacy.

(c) Has written authorization from a prescribing practitioner to act as the practitioner’s agent for the purpose of transmitting a starter dose prescription.

(d) Possess a valid prescription from the prescribing practitioner prior to transmitting the starter dose prescription.

(e) Maintains a record of each starter dose prescription.

(f) Maintains a policy and procedure manual that references starter dose prescriptions.

(3) A starter dose pharmacy may dispense a medicinal drug pursuant to a starter dose prescription for a patient in a facility that holds a Class I Institutional Permit or Modified II B Permit if the starter dose pharmacy:

(a) Has a written contract with the vendor pharmacy.

(b) Maintains a record of each starter dose prescription.

(c) Maintains a policy and procedure manual that references starter dose prescriptions.

(4) The contract between a vendor pharmacy and a prescribing practitioner shall:

(a) Be in writing.

(b) Identify each facility served by the vendor pharmacy for which the authorization is valid.

(c) Authorize the vendor pharmacy to transmit, as an agent of the practitioner, a starter dose prescription to a starter dose pharmacy.

(d) Be on file at the vendor pharmacy, at the facility served by the vendor pharmacy, and with the prescribing practitioner.

(e) Be available for inspection by agents of the Department of Health or the Board of Pharmacy.

(5) The contract between the vendor pharmacy and the starter dose pharmacy shall:

- (a) Be in writing.
- (b) Identify each facility served by the vendor pharmacy.
- (c) Assign the responsibility for prospective drug use review required by Rule 64B16-27.810, F.A.C., to the vendor pharmacy.
- (d) Assign the responsibility for patient counseling required by Rule 64B16-27.820, F.A.C., to the vendor pharmacy.
- (e) Be referenced in the Policy and Procedure Manual of the vendor pharmacy and of the starter dose pharmacy.
- (f) Be updated as necessary to identify facilities or practitioners.
- (g) Be on file at the vendor pharmacy, at the starter dose pharmacy, and at the facility.
- (h) Be available for inspection by authorized agents of the Department of Health and the Board of Pharmacy.
- (6) A record of each starter dose prescription shall be:
  - (a) Readily retrievable.
  - (b) Maintained for two years.

Specific Authority 465.005, 465.022 FS. Law Implemented 465.018, 465.019, 465.022 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Pharmacy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 28, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 14, 2004

**DEPARTMENT OF HEALTH**

**Board of Respiratory Care**

RULE TITLE: Exemptions and Student Registration

RULE NO.: 64B32-1.005

PURPOSE AND EFFECT: To repeal a currently obsolete rule.

SUMMARY: The Board proposes to repeal this rule pursuant to Chapter 2004-299, Laws of Florida.

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: 468.353, 468.355(3), 468.368(8) FS.

LAW IMPLEMENTED: 468.368, 468.355(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: Kaye Howerton, Executive Director, Board of Respiratory Care, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B32-1.005 Exemptions and Student Registration.

Specific Authority 468.353, 468.355(3), 468.368(8) FS. Law Implemented 468.368, 468.355(3) FS. History—New 5-12-88, Amended 5-10-92, Formerly 21M-33.008, Amended 1-2-94, Formerly 61F6-33.008, Amended 9-29-94, Formerly 59R-70.008, 64B8-70.008, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Respiratory Care

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2004

**DEPARTMENT OF HEALTH**

**Board of Respiratory Care**

RULE TITLE: Issuance of Temporary Certificates

RULE NO.: 64B32-2.002

PURPOSE AND EFFECT: To repeal a currently obsolete rule.

SUMMARY: The Board proposes to repeal this rule pursuant to Chapter 2004-299, Laws of Florida.

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: 468.353(1), 468.355(3) FS.

LAW IMPLEMENTED: 468.355(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: Kaye Howerton, Executive Director, Board of Respiratory Care, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B32-2.002 Issuance of Temporary Certificates.

Specific Authority 468.353(1), 468.355(3) FS. Law Implemented 468.355(3) FS. History—New 4-29-85, Formerly 21M-34.03, 21M-34.003, 61F6-34.003, 59R-71.003, 64B8-71.003, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Respiratory Care
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Respiratory Care
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2004

DEPARTMENT OF HEALTH

Board of Respiratory Care

RULE TITLE: Issuance of Temporary Certificates
RULE NO.: 64B32-3.004

PURPOSE AND EFFECT: To repeal a currently obsolete rule.
SUMMARY: The Board proposes to repeal this rule pursuant to Chapter 2004-299, Laws of Florida.

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: 468.353(1), 468.355(3) FS.

LAW IMPLEMENTED: 468.355(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: Kaye Howerton, Executive Director, Board of Respiratory Care, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B32-3.004 Issuance of Temporary Certificates.

Specific Authority 468.353(1), 468.355(3) FS. Law Implemented 468.355(3) FS. History--New 4-29-85, Amended 10-20-85, Formerly 21M-35.04, Amended 5-12-88, Formerly 21M-35.004, 61F6-35.004, Amended 12-28-94, 8-27-95, Formerly 59R-72.005, 64B8-72.005, Amended 4-27-00, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Respiratory Care
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Respiratory Care
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2004

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF STATE

Division of Elections

RULE NO.: 1S-5.001
RULE TITLE: Voting System Equipment Regulations

NOTICE OF CHANGE

Notice is hereby given that proposed Rule 1S-5.001, F.A.C., published in the F.A.W., Page 2175, Vol. 30, No. 22, on May 28, 2004, has been changed to reflect comments received from JAPC and the public during the hearing held on June 18, 2004. Changes were made to Form DS-DE 101, incorporated by reference to Rule 1S-5.001, F.A.C., as follows:

- (1) Clarify the language in the Standards section. Specifically the paragraph on Control Subsystem tests at the polling place. Page 37 of the proposed rule.
(2) Update the standard to be applied when testing for equipment resistance to sand and dust. Page 67 of the proposed rule.

The revised proposed rule language may be obtained from the Division of Elections' website at http://election.dos.state.fl.us or by contacting: David Drury, (850)245-6220.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-6.03028
RULE TITLE: Development of Individual Educational Plans for Students with Disabilities

NOTICE OF CHANGE

Notice is hereby given that the following amendments have been made to the proposed rule in accordance in subparagraph 120.54(3)(d)1., F.S., published in Vol. 30, No. 7, of the February 13, 2004, issue of the Florida Administrative Weekly. Subparagraphs (3)(b)1.,2., and paragraphs (4)(h),(7)(i), and (7)(j), and subsection (8) and paragraph (8)(e) were amended to read:

- (3) No change.
(b) No change.

1. For a student with a disability beginning at age 14; (or younger if determined appropriate by the IEP team), the notice must also indicate that a purpose of the meeting will be the development of a statement of the transition services needs of the student as required in paragraph (7)(i) of this rule and the notice must indicate that the school district will invite the student.