

2. The filed standards shall provide that the rebate is available and attainable by all subscribers on a nondiscriminatory basis and be without regard to the health or claim status of the insured.

3. The filing of the standards shall address the method and timing of the determination and application of the rebate.

(b)1. For purposes of rate filings, the rebate made shall be accounted as a reduction to the earned premium and clearly identified in the filing.

2. Rate filings shall include the number of contracts participating in the rebate program and the distribution of the contracts by size of rebate earned.

(c) The HMO shall provide an appropriate rebate for maintenance or improvement of health status for any program approved by the HMO as determined by agreed upon health status indicators.

(d) This rule shall be effective for all contracts issued or renewed on or after January 1, 2005 with the first rebate available January 1, 2006.

Specific Authority 641.36, 641.31(2) FS. Law Implemented 641.31(40) FS. [HB 1629]. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Richard Robleto, Bureau Chief, Life and Health Forms and Rates, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 21, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 2004

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-1.094222	Standards for Mid-Year Promotion of Retained Third Graders

NOTICE OF CONTINUATION

Notice is hereby given that the above rule, as noticed in Vol. 30, No. 34, August 20, 2004, Florida Administrative Weekly has been continued from September 21, 2004 to October 19, 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 ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
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69A-60	The Florida Fire Prevention Code
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RULE NOS.:	RULE TITLES:
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69A-60.005	Publications Referenced in NFPA 1, the Florida 2003 Edition, and NFPA 101, the Florida 2003 Edition, Added to the Florida Fire Prevention Code
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69A-60.007	Enforcement and Appeal of the Florida Fire Prevention Code
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NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to proposed Rules 69A.60.005 and 69A-60.007, F.A.C., in accordance with subparagraph 120.54(3)(d)1., Florida Statutes (2003), published in Vol. 30, No. 20, on May 14, 2004, of the Florida Administrative Weekly. These changes are being made to address concerns expressed at the two public hearings and comments by the Joint Administrative Procedures Committee.

The rule sections enumerated above are changed to read:

69A-60.005 Publications Referenced in NFPA 1, the Florida 2003 Edition, and NFPA 101, the Florida 2003 Edition editions, Added to the Florida Fire Prevention Code.

(1) No change.

(2) The following publications are hereby also adopted and incorporated by reference herein and added to the Florida Fire Prevention Code and shall take effect on the effective date of this rule:

NFPA 10, 2002 edition, Standard for Portable Fire Extinguishers

NFPA 11, 2002 edition, Standard for Low, Medium and High Expansion Foam

NFPA 11A, 1999 2002 edition, Standard for Medium- and High-Expansion Foam Systems

- NFPA 12, 2000 edition, Standard on Carbon Dioxide Extinguishing Systems
- NFPA 12A, 1997 edition, Standard on Halon 1301 Fire Extinguishing Systems
- NFPA 13, 2002 edition, Standard for the Installation of Sprinkler Systems
- NFPA 13D, 2002 edition, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes
- NFPA 13R, 2002 edition, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height
- NFPA 14, 2003 edition, Standard for the Installation of Standpipe, Private Hydrants, and Hose Systems
- NFPA 15, 2001 edition, Standard for Water Spray Fixed Systems for Fire Protection
- NFPA 16, 2003 edition, Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems
- NFPA 17, 2002 edition, Standard for Dry Chemical Extinguishing Systems
- NFPA 17A, 2002 edition, Standard for Wet Chemical Extinguishing Systems
- NFPA 20, 1999 edition, Standard for the Installation of Stationary Pumps for Fire Protection
- NFPA 24, 2002 edition, Standard for the Installation of Private Fire Service Mains and Their Appurtenances
- NFPA 25, 2002 edition, Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems
- NFPA 30, 2000 edition, Flammable and Combustible Liquids Code
- NFPA 30A, 2000 edition, Code for Motor Fuel Dispensing Facilities and Repair Garages ~~Automotive and Marine Service Station Code~~
- NFPA 30B, 2002 edition, Code for the Manufacture and Storage of Aerosol Products
- NFPA 31, 2001 edition, Standard for the Installation of Oil-Burning Equipment
- NFPA 32, 2000 edition, Standard for Dry Cleaning Plants
- NFPA 33, 2000 edition, Standard for Spray Application Using Flammable and Combustible Materials
- NFPA 34, 2000 edition, Standard for Dipping and Coating Processes Using Flammable or Combustible Liquids
- NFPA 35, 1999 edition, Organic Coatings
- NFPA 36, 2001 edition, Standard for Solvent Extraction Plants
- NFPA 37, 2002 edition, Combustion Engines and Gas Turbines
- NFPA 40, 2001 edition, Standard for the Storage and Handling of Cellulose Nitrate Motion Picture Film
- NFPA 45, 2000 edition, Standard on Fire Protection for Laboratories Using Chemicals
- NFPA 50B, 1999 edition, Standard for Liquefied Hydrogen Systems at Consumer Sites
- NFPA 51, 2002 edition, Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting and Allied Processes
- NFPA 51A, 2001 edition, Standard for Acetylene Cylinder Charging Plants
- NFPA 51B, 1999 edition, Standard for Fire Prevention During Welding, Cutting and Other Hot Work
- NFPA 52, 2002 edition, Compressed Natural Gas (CNG) Vehicular Fuel Systems Code
- NFPA 53, 1999 edition, Fires in Oxygen Atmospheres
- NFPA 54, 2002 edition, National Fuel Gas Code
- NFPA 55, 2003 edition, Storage, Use, and Handling of Compressed Gases and Cryogenic Fluids and Liquefied Gases in Portable and Stationary Containers, Cylinders, and Tanks
- NFPA 57, 2002 edition, Liquefied Natural Gas (LNG) Vehicular Fuel Systems Code
- NFPA 58, 2001 edition, Liquefied Petroleum Gas Code
- NFPA 59, 2001 edition, Utility LP-Gas Plant Code ~~Standard for the Storage, and Handling of Liquefied Petroleum Gases at Utility Gas Plants~~
- NFPA 59A, 2001 edition, Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)
- NFPA 61, 2002 edition, Standard for the Prevention of Fires and Dust Explosions in Agricultural and Food Processing ~~Products~~ Facilities
- NFPA 69, 2002 edition, Standard on Explosion Prevention Systems
- NFPA 70, 2002 edition, National Electrical Code®
- NFPA 72, 2002 edition, National Fire Alarm Code®
- NFPA 75, 2003 edition, Standard for the Protection of Information Technology Electronic Computing Equipment
- NFPA 80, 1999 edition, Standard for Fire Doors and Fire Windows
- NFPA 80A, 2001 edition, Protection from Exterior Fire Exposures
- NFPA 82, 1999 edition, Standard on Incinerators and Waste and Linen Handling Systems and Equipment
- NFPA 86, 1999 edition, Standard for Ovens and Furnaces
- NFPA 86C, 1999 edition, Standard for Industrial Furnaces Using a Special Processing Atmosphere
- NFPA 86D, 1999 edition, Standard for Industrial Furnaces Using Vacuum as an Atmosphere
- NFPA 88A, 2002 edition, Standard for Parking Structures
- ~~NFPA 88B, 1997 edition, Standard for Repair Garages~~
- NFPA 90A, 2002 edition, Standard for the Installation of Air-Conditioning and Ventilating Systems
- NFPA 90B, 2002 edition, Standard for the Installation of Warm Air Heating and Air-Conditioning Systems
- NFPA 91, 1999 edition, Standard for Exhaust Systems for Air Conveying of Vapors, Gases, Mists, and Noncombustible Particulate Solids

NFPA 96, 2001 edition, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations
NFPA 99, 2002 edition, Standard for Health Care Facilities
NFPA 99B, 2002 edition, Hypobaric Facilities
NFPA 101A, 2001 edition, Guide on Alternative Approaches to Life Safety
NFPA 110, 2002 edition, Standard for Emergency and Standby Power Systems
NFPA 111, 2001 edition, Standard on Stored Electrical Energy Emergency and Standby Power Systems
NFPA 115, 1999 edition, Laser Fire
NFPA 120, 1999 edition, Standard for Coal Preparation Plants
NFPA 130, 2000 edition, Fixed Guideway Transit System
NFPA 140, 1999 edition, Standard on Motion Picture and Television Production Studio Soundstages and Approved Production Facilities
NFPA 150, 2000 edition, Fire Safety in Racetrack Stables
NFPA 160, 2001 edition, Standard for Flame Effects Before an Audience
NFPA 211, 2003 edition, Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances
NFPA 214, 2000 edition, Water Cooling Towers
~~NFPA 220, 1999 edition Standard on Types of Building Construction~~
NFPA 221, 2000 edition, Standard for Fire Walls and Fire Barrier Walls
NFPA 230, 2003 edition, Standard for the Fire Protection of Storage
~~NFPA 231D, 1998 edition Standard for Storage of Rubber Fires~~
NFPA 232, 2000 edition, Standard for the Protection of Records
NFPA 241, 2000 edition, Standard for Safeguarding Construction, Alteration, and Demolition Operations
NFPA 251, 1999 edition, Standard Methods of Tests of Fire Endurance of Building Construction and Materials
NFPA 252, 1999 edition, Standard Methods of Fire Tests of Door Assemblies
NFPA 253, 2000 edition, Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source
NFPA 255, 2000 edition, Standard Method of Test of Surface Burning Characteristics of Building Materials
NFPA 256, 1998 edition, Standard Methods of Fire Tests of Roof Coverings
NFPA 257, 2000 edition, Standard on Fire Test for Window and Glass Block Assemblies
NFPA 259, 2003 edition, Standard Test Method for Potential Heat of Building Materials

NFPA 260, 1998 edition, Standard Methods of Tests and Classification System for Cigarette Ignition Resistance of Components of Upholstered Furniture
NFPA 261, 1998 edition, Standard Method of Test for Determining Resistance of Mock-Up Upholstered Furniture Material Assemblies to Ignition by Smoldering Cigarettes
NFPA 265, 2002 edition, Standard Methods of Fire Tests for Evaluating Room Fire Growth Contribution of Textile Wall Coverings on Full Height Panels and Walls
~~NFPA 266, 1998 edition Standard Method of Test for Fire Characteristics of Upholstered Furniture Exposed to Flaming Ignition Source~~
NFPA 267, 1998 edition, Standard Method of Test for Fire Characteristics of Mattresses and Bedding Assemblies Exposed to Flaming Ignition Source
NFPA 286, 2000 edition, Standard Methods of Fire Tests for Evaluating Contribution of Wall and Ceiling Interior Finish to Room Fire Growth
NFPA 291, 2002 edition, Fire Flow Testing and Marking of Hydrants
~~NFPA 299, 2002 edition Protection of Life and Property from Wildfires~~
NFPA 303, 2000 edition, Fire Protection Standard for Marinas and Boatyards
NFPA 307, 2000 edition, Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves
NFPA 312, 2000 edition, Standard for Fire Protection of Vessels During Construction, Repair, and Lay-Up
NFPA 318, 2002 edition, Standard for the Protection of Semiconductor Fabrication Facilities Cleanrooms
NFPA 385, 2000 edition, Standard for Tank Vehicles for Flammable and Combustible Liquids
~~NFPA 395, 1993 edition Farms, Storage of Flammable Liquids~~
NFPA 407, 2001 edition, Standard for Aircraft Fuel Servicing
NFPA 409, 2001 edition, Standard on Aircraft Hangers
NFPA 410, 1999 edition, Standard on Aircraft Maintenance
NFPA 415, 2002 edition, Standard on Airport Terminal Buildings, Fueling Ramp Drainage, and Loading Walkways
NFPA 418, 2001 edition, Standard for Heliports
NFPA 430, 2000 edition, Code for the Storage of Liquid and Solid Oxidizers
NFPA 432, 2002 edition, Code for the Storage of Organic Peroxide Formulations
NFPA 434, 2002 edition, Code for the Storage of Pesticides
~~NFPA 480, 1998 edition Standard for the Storage, Handling, and Processing of Magnesium Solids and Powders~~
~~NFPA 481, 2000-1995 edition Standard for the Production, Processing, Handling, and Storage of Titanium~~
~~NFPA 482, 1996 edition Standard for the Production, Processing, Handling and Storage of Zirconium~~
NFPA 484, 2002 edition, Standard for Combustible Metals, Metal Powders, and Metal Dusts

~~NFPA 485, 1999 edition Standard for the Storage, Handling, Processing, and Use of Lithium Metal~~

NFPA 490, 1998 edition, Code for the Storage of Ammonium Nitrate

NFPA 495, 2001 edition, Explosive Materials Code

NFPA 498, 2001 edition, Standard for Safe Havens and Interchange Lots for Vehicles Transporting Explosives

NFPA 501, 2003 edition, Standard on Manufactured Housing

NFPA 501A, 2003 edition, Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities

NFPA 505, 2002 edition, Fire Safety Standard for Powered Industrial Trucks Including Type Designations, Areas of Use, Conversions, Maintenance and Operation

~~NFPA 650, 1998 edition Standard for Pneumatic Conveying Systems for Handling Combustible Particulate Solids~~

~~NFPA 651, 1998 edition Standard for the Machining and Finishing of Aluminum and the Production and Handling of Aluminum Powders~~

NFPA 654, 2000 edition, Standard for the Prevention of Fire and Dust Explosions from the Manufacturing, Processing, and Handling of Combustible Particulate Solids

NFPA 655, 2001 edition, Standard for Prevention of Sulfur Fires and Explosions

NFPA 664, 2002 edition, Standard for the Prevention of Fires and Explosions in Wood Processing and Woodworking Facilities

NFPA 701, 1999 edition, Standard Methods of Fire Tests for Flame Propagation of Textiles and Films

NFPA 703, 2000 edition, Standard for Fire Retardant Impregnated Wood and Fire Retardant Coatings for Building Materials

NFPA 704, 2001 edition, Standard System for Identification of the Hazards of Materials for Emergency Response

NFPA 750, 2003 edition, Water Mist Fire Protection Systems

NFPA 820, 1999 edition, Wastewater Facilities

NFPA 850, 2000 edition, Recommended Practice for Fire Protection for Electric Generating Plants and High Voltage Direct Current Converter Stations

NFPA 909, 2001 edition, Standard for the Protection of Cultural Resources, ~~Including Museums, Libraries, Places of Worship, and Historic Properties~~

NFPA 1122, 2002 edition, Code for Model Rocketry

NFPA 1123, 2000 edition, Code for Fireworks Display

NFPA 1124, 2003 edition, Code for the Manufacture, Transportation, ~~and Storage, and Retail Sales~~ of Fireworks, and Pyrotechnic Articles

NFPA 1125, 2001 edition, Code for the Manufacture of Model Rocket and High Power Rocket Motors

NFPA 1126, 2001 edition, Standard for the Use of Pyrotechnics before a Proximate Audience

NFPA 1127, 2002 edition, Code for High Powered Rocketry

NFPA 1142, 2001 edition, Standard on Water Supplies for Suburban and Rural Fire Fighting, excluding NFPA 1141

NFPA 1194, 2002 edition, Standard for Recreational Vehicle Parks and Campgrounds

NFPA 1561, 2002 edition, Standard on Emergency Services Incident Management System

NFPA 1963, 1998 edition, Standard for Fire Hose Connections

NFPA 2001, 2000 edition, Standard on Clean Agent Fire Extinguishing Systems

~~NFPA 8503, 1997 edition Standard for Pulverized Fuel Systems~~

Standard Fire Prevention Code, Chapter 22, 1997 edition

Such portions of "The United States Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings," which pertain to meeting firesafety requirements without destroying the historical aspects of the building

SFPE Engineering Guide to Performance-Based Fire Protection Analysis and Design of Buildings, Society of Fire Protection Engineers, Bethesda, Maryland 2000 edition

The portions of ANSI A14.3-~~2002~~ 1992, Safety Code for Fixed Ladders, which pertain to fire escape ladders and which may be obtained at American National Standards Institute, 11 West 42nd Street, New York, NY 10036

Chapter 4, Accessible Routes, ICC/ANSI A117.1-1998, which may be obtained at American National Standard for Accessible and Usable Buildings and Facilities, American National Standards Institute, 11 West 42nd Street, New York, NY 10036

The portions of ANSI A1264.1-1995, Safety Requirements for Workplace Floor and Wall Openings, Stairs and Railing Systems, which pertain to fire escape ladders and which may be obtained at American National Standards Institute, 11 West 42nd Street, New York, NY 10036

ANSI/UL 2079, 1998 edition, Test of Fire Resistance of Building Joint Systems, which may be obtained at Underwriters Laboratories Inc., 333 Pfingsten Rd., Northbrook, IL 60062

~~The portions of ASME/ANSI A17.1-1993, Safety Code for Elevators and Escalators, including Addenda A17.1a-1994 and A17.1b-1995, and also including Interpretation No. 17, published in 1993, Interpretation No. 18, published in 1994, and Interpretation No. 19, published in 1995, which pertain to firesafety, and~~ which may be obtained at American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990

~~The portions of ASME/ANSI A17.3-2002, Safety Code for Existing Elevators and Escalators, including Addenda A17.3a-1994 and A17.3b-1995, which pertain to firesafety and~~ which may be obtained at American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990

ASTM D 2898,-94, (Reapproved 1999), Test Method for Accelerated Weathering of Fire Retardant-Treated Wood for Fire Testing, which may be obtained at American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959

ASTM E 136-1999, Standard Test Method for Behavior of Materials in a Vertical Tube Furnace at 750°C, which may be obtained at American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959

ASTM E 1537, 2001 ~~1999~~ edition, Standard Test Method for Fire Testing of Upholstered Furniture, which may be obtained at American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959

ASTM E 1590-01, Standard Test Method for Fire Testing of Mattresses, American Society for Testing and Materials, which may be obtained at 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959

ASTM E 1591-00, Standard Guide for Obtaining Data for Deterministic Fire Models, which may be obtained at American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959

ASTM F 851-1987 (Reapproved 1991), Standard Test Method for Self-Rising Seat Mechanisms, which may be obtained at American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, but only to the extent referenced in Subdivision 12.2.5.5.1 and 12.2.5.5.2 of NFPA 101, 2000 edition

~~ANSI/BHMA~~ ~~BHMA/ANSI~~ A-156.19- 2002 ~~1997~~, American National Standard for Power Assist and Low Energy Power Operated Doors, which may be obtained at Buildings Hardware Manufacturers Association, 355 Lexington Avenue, 17th Floor, New York, NY 10017-6603

16 Code of Federal Regulations, Part 1632 which may be obtained by contacting the Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0342

UL 924, Standard for Safety Emergency Lighting and Power Equipment, Underwriters Laboratories, Inc., which may be obtained at 333 Pfingsten Rd., Northbrook, IL 60062

UL 1975, Standard for Fire Tests for Foamed Plastics Used for Decorative Purposes, Underwriters Laboratories, Inc., which may be obtained at 333 Pfingsten Rd., Northbrook, IL 60062

(3) through (4) No change.

(5) Only the codes, standards, publications, or other references adopted in this chapter are enforceable as part of the Florida Fire Prevention Code. Any code, standard, publication or other reference not adopted in this rule chapter may only be enforced by a local government if it has been adopted as a local amendment of such local government in full compliance with Section 633.0215(3), 633.0215(10), or 633.025(4), Florida Statutes.

Specific Authority 633.01, 633.0215, 633.025 FS. Law Implemented 633.01, 633.0215, 633.025 FS. History—New 11-15-01, Formerly 4A-60.005, Amended _____.

69A-60.007 Enforcement and Appeal of the Florida Fire Prevention Code.

(1) through (2) No change.

(3) If deemed necessary by a fire official for a complete, accurate, and thorough firesafety plans review or inspection, the fire official may request assistance from a building, electrical, plumbing, or similar specialty inspector; however, nothing in this rule gives authority or jurisdiction to any person other than a firesafety inspector certified under Section 633.081, F.S., to perform firesafety inspections required by law, rule, ordinance, or code.

(4)(a) Section 633.01, F.S., provides that it is the intent of the legislature that there be no conflicts in the interpretation and enforcement of the Florida Fire Prevention Code and the Florida Building Code.

(b) In the event of a conflict between the Florida Fire Prevention Code and the Florida Building Code, the procedures set forth in Chapter 553, F.S., and specifically either:

1. Paragraph (d) of subsection (1) of Section 553.73, F.S., relating to conflicts in general to be resolved through mediation, or

2. Paragraphs (a) through (f) of subsection (9) of Section 553.73, F.S. relating to conflicts in the application of the Florida Fire Prevention Code and the Florida Building Code to a specific project, as applicable, shall be followed.

(5)(a) Section 633.01, F.S., provides that the State Fire Marshal may issue, and if requested in writing by a substantially affected person or by a local enforcing agency, i.e., an authority having jurisdiction, the State Fire Marshal shall issue declaratory statements to interpret the Florida Fire Prevention Code.

(b) To request an interpretation of the Florida Fire Prevention Code from the State Fire Marshal through a declaratory statement, a person who is not an authority having jurisdiction must proceed through the local appeal process and receive an adverse ruling from the local appeals board. A person does not become a substantially affected person until such person receives an adverse ruling after having completed the local appeal process because the local interpretation with which the person disagrees, if challenged, cannot be enforced until after having been upheld in the local appeal process.

(c) If the person who is not an authority having jurisdiction receives an adverse ruling after proceeding through the local appeal process, such person then becomes a substantially affected person within the meaning of Section 633.01, F.S., and may at that time petition for a declaratory statement from the State Fire Marshal.

(d) Any petition for declaratory statement that has been received by the State Fire Marshal from a person who is not an authority having jurisdiction and who has not proceeded

through the local appeal process shall be dismissed, without prejudice to re-bring the petition after such person has received an adverse ruling through the local appeal process.

(e) An authority having jurisdiction may request a declaratory statement from the State Fire Marshal at any time, regardless of whether the interpretation of the authority having jurisdiction has been challenged; however, an authority having jurisdiction must, in compliance with Section 120.565, F.S., be presented with an actual particular set of circumstances prior to petitioning for a declaratory statement. Declaratory statements are not issued on a hypothetical set of facts if the authority having jurisdiction or any other substantially affected person is not presented with an actual particular set of circumstances.

(f)1. A petition for a declaratory statement is not required to be in any particular form; however, each petition must comply fully with Section 120.565, F.S., and Chapter 28-105, F.A.C.

2. Although there is no requirement that a petition be in any particular form, a form exists on the Division of State Fire Marshal website located at <http://www.fldfs.com/SFM/> which, if used, complies in all respects with the requirements of the law and will assist the division in expediting the proceedings.

Specific Authority 633.01, 633.0215, 633.025 FS. Law Implemented 633.01, 633.0215, 633.025 FS. History—New 11-15-01, Formerly 4A-60.007, Amended _____.

Section IV Emergency Rules

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Development

RULE TITLE: RULE NO.:

Community Development Block Grant

Disaster Relief Funds

9BER04-1

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY AND WELFARE: As a result of the destruction associated with Hurricane Charley in August 2004, thousands of homes were damaged or destroyed and residents were severely impacted by flooding, damaged public facilities, downed power lines, and debris. Many businesses suffered serious damage or were destroyed, along with governmental service buildings, public housing, nursing homes and hospitals. Other infrastructure was also impacted.

The Small Cities Community Development Block Grant Program (CDBG) has made available its Neighborhood Revitalization Emergency Set-aside funds and de-obligated funds in the amount of \$4,500,000 to be used for those activities that are eligible for disaster recovery assistance resulting from damage due to Hurricane Charley under Executive Order 04-182 in the following jurisdictions:

Charlotte County

Arcadia

DeSoto County

Bowling Green

Hardee County

Wauchula

Zolfo Springs

The State of Florida, through the Department of Community Affairs, is responsible for the regular administration of the Small Cities CDBG Program under Rule Chapter 9B-43, Florida Administrative Code. As a result of Executive Order 04-182, it is necessary for the Department to implement this emergency rule to clearly differentiate between these disaster recovery funds for Hurricane Charley relief and regular Small Cities CDBG administrative requirements. The expenditure of these funds in the disaster stricken areas is essential to the health, safety and welfare of the public. This emergency rule enables the Department of Community Affairs to more quickly disburse these funds to affected local governments, so that the dire needs of the affected citizens of Florida can be promptly addressed.

REASONS FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: Promulgation of Rule Chapter 9BER04-1, using emergency rule procedures, is the only available mechanism that adequately provides for the expeditious disbursement and use of these federal funds, while addressing the urgent needs of the public.

SUMMARY: This rule enables the Department of Community Affairs to distribute and administer CDBG disaster recovery funds as expeditiously as possible. The contract period will be for six months.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Ken Reecy, Interim Program Administrator, Division of Housing and Community Development, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

THE FULL TEXT OF THE EMERGENCY RULE IS:

9BER04-1 Community Development Block Grant Disaster Relief Funds.

(1) The primary objective of this emergency rule is to address urgent housing needs of low and moderate income families who have suffered damage to or loss of housing as a result of Hurricane Charley. The State of Florida Small Cities CDBG program has Neighborhood Revitalization Emergency Set-aside funds and de-obligated funds in the total amount of \$4,500,000.00 which are being made available to assist in community recovery from the damages due to Hurricane Charley for those activities which are eligible under 24 CFR 570, Subpart I. These funds are to be used only for housing activities addressing an urgent need for assistance in alleviating existing conditions that pose a serious and